

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

August 12, 2008

Paul Campos, Chair – District 4
Virginia Vigil – District 2
Michael Anaya – District 3
Harry Montoya – District 1
Jack Sullivan – District 5

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:07 p.m. by Chairman Paul Campos, 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 Paul Campos, Chair
Commissioner Virginia Vigil, Vice Chairman
Commissioner Jack Sullivan,
Commissioner Harry Montoya
Commissioner Mike Anaya

Members absent:

[None]

V. INVOCATION

An invocation was given by County Chaplain Jose Villegas.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

CHAIRMAN CAMPOS: Mr. Abeyta, any changes to the agenda?

ROMAN ABEYTA (County Manager): Mr. Chair, we do have some items that have been tabled. The first coming under XII. Staff and Elected Officials' Items, A. Growth Management Department, item number 5, which is an ordinance approving a Santa Fe County economic development project and project participation agreement with MW Holdings, LLC. That has been tabled.

Under Public Hearings, XIII. A. Growth Management Department, staff is recommending that item number 9, EZ Case #S 07-4411, Concierto at Las Campanas, be tabled, and item 10, LCDRC Case #MP 06-5212, Santa Fe Canyon Ranch, be tabled. Those are the recommended changes from staff.

CHAIRMAN CAMPOS: Commissioners, any changes?

COMMISSIONER MONTROYA: Move for approval as amended.

COMMISSIONER VIGIL: Second.

CHAIRMAN CAMPOS: Any discussion?

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

VIII. APPROVAL OF MINUTES

A. July 7, 2008

CHAIRMAN CAMPOS: Is there a motion to approve?

COMMISSIONER ANAYA: So moved?

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN CAMPOS: Okay, there's a correction on the cover page for me. It's District 4 instead of 5. Any discussion?

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

B. July 8, 2008

COMMISSIONER SULLIVAN: I have some typographical corrections.

CHAIRMAN CAMPOS: Typographical only?

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN CAMPOS: Okay. Any others? Is there a motion to approve, subject to the typographical corrections submitted by Commissioner Sullivan?

COMMISSIONER VIGIL: So moved.

COMMISSIONER MONTROYA: Second.

CHAIRMAN CAMPOS: There's a motion and a second.

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

IX. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIRMAN CAMPOS: We're here for Matters of Public Concern. Ladies and gentlemen, if you have any issues that you'd like to raise that are not on the agenda, this is an opportunity to briefly present these issues to the County Commission. So anybody who would like to present I'd ask you to stand up, come up to the front row and take a seat. Anybody else? One gentleman is coming up. Sir, come up, please state your name and your address for the record.

JOHN WHITBECK: Thank you. My name is John Whitbeck. My address is #5 Alcalde Loop, Santa Fe, New Mexico, 87508. And the reason I'm here is I live in Eldorado, I'm one of the riders on the Eldorado Express and I came to see if I could address concerns that I and other riders have about the management of the NCRTD and our experience with that over the past 15 months.

CHAIRMAN CAMPOS: Could you do so briefly I'd appreciate that. You have some concerns, how much time do you need?

MR. WHITBECK: I don't believe I need too much time. I wanted to review a few events that I'm not sure people are really aware of.

CHAIRMAN CAMPOS: Okay. Please proceed.

MR. WHITBECK: Okay. Thank you. In March of 2007 there were several community meetings held in Eldorado introducing the Eldorado Express. In those meetings there were probably about 100 people between both meetings. Many of the people in those meetings asked about mid-day transportation between Eldorado and Santa Fe and so on. As clarified by NCRTD at that time is that this was a commuter service, therefore for people commuting work, which made sense to enough people that we've been I think fairly successful in developing a ridership and having – there's a lot of support I think in Eldorado for public transportation.

The problem that we have is in our experience, as I said, this started in April of 2007. After a month or two the bus driver announced on a Thursday afternoon that this bus would no longer stop at St. Vincent Hospital. There were more passengers getting off at St. Vincent Hospital than there were at DOT. When we asked why this was happening he said, I don't know – I'm the driver. That's just what I was told. That following Monday they did stop providing service to St. Vincent's, which is one of the largest employers in Santa Fe. A lot of the people there of course, well, are a doctors and nurses or whatever who are working at the hospital. So we started calling them, asking them what this was about, and so they did reinstate it several days later, but we were never given a reason for that event, and it didn't seem to make much sense as far as like really developing or promoting public transportation, rural transportation in Santa Fe County or any other county, actually in New Mexico.

Okay, after that occurred the next event was we were told that this was a 54-passenger bus. We were up to about 20 passengers at that time and that in July it was likely we would no longer have a bus because we didn't have enough people riding that bus. So that's when a number of us started asking questions. We were told that there was no money available to

promote this bus service. So then several of us attended meetings of the Santa Fe Transit Advisory Board. We brought up the same issues there several times.

They did continue providing a bus; they gave us a smaller bus, which makes sense because at least the smaller bus at that time was half-full. The problem was that in riding that bus there were a series of events that kept occurring. One was the suspension system didn't work correctly. So what that meant was when you got on the bus in the morning and you were going down I-25 the body of the bus in the back kept bouncing off of the rear wheels. Okay, so then they would take it into the shop and then it would be fixed and it would go back and forth. At one point, after this had gone on for several weeks we said, well, maybe we should start calling to find out if the bus will be there in the afternoon. At one occasion I called, the bus driver told me that the bus was going into the shop. I called to see if they would arrive on their regular route. I was told the bus wasn't in the shop. Finally, I asked for a mechanic and the mechanic said, Oh, yeah. The bus is in the shop. So it seems like there's some kind of failure in communicating with people who need this service.

So after we went through that experience – those are some of the some of the concerns that we have. There's no doubt in our mind, in fact I met recently with another passenger with the Eldorado board and they're very interested in doing what they can to promote public transportation regardless of what the County is doing, whether it's Santa Fe County or any other county. I think definitely if we look at those individuals who really need transportation because they're working somewhere and they have to feed their family, we should do everything we can to support it. But I think we're running into issues. For example, I checked with one of the City Councilors, who checked with the bus service in Santa Fe to say what are the real numbers, what is this really costing the taxpayer, because in the City Council meeting that happened in early July one of the Councilors, Patti Bushee asked NCRTD directly what are the costs per passenger per trip between Eldorado and Santa Fe? And the person who was asked the question said he had no idea. They asked the guy from the City whose name is Jon Bulhuis, he said it was \$47.

That caught our attention. So I went back again to the Santa Fe Transit Authority, or Advisory Board, and said, if this is public information does the public have a right to know what it's costing to have this service managed by this group. They said that they had done their – they'd taken the fact that they'd provided as far as ridership, that they had a number, \$42, but they said that when they factored in the new services that are going up through northern New Mexico that that was really running \$100 a trip. So for a person to get on a bus, there were two of them just coming down the street when I was walking over here. For someone to get on the bus and travel north and have one trip going north \$100 another one coming back, I don't understand why it would cost \$200 to move somebody between Santa Fe and somewhere north of here.

And as far as providing this for any community or rural community, regardless of what county it's in, if you look at the fact that we were told this is only for people who are commuting to work, if you look at their webpage it says take the blue bus to Taos for a fun day on the slopes. Well, I don't know how many people are being paid to do that as a job. If

you look at the actual routes, and I can give this to you, you can see where there are routes leaving at 9:57, 10:22, all throughout the day, between Los Alamos, Española and Santa Fe. Now, as far as people commuting to work, Park & Ride has been in place for a number of years to take people both to Los Alamos and to Española. So it gets confusing to me and I think to other people here, looking at this new tax increase, and I think we have a right to know how is the money being spent? How is it being managed? Why is there no real promotion going on if we're really interested in providing public transportation for the citizens of any of the counties here including Los Alamos, Taos County and Rio Arriba County.

I think regardless of what county a person's in I think the citizens of New Mexico have a right to some transparency in government. They have a right to ask for accountability and I think we have, based on some 15 months of experience, legitimate concerns about the way this service has been managed. So I haven't seen much of that in the past and I wanted to bring it to your attention.

The other thing as far as transparency, again, going back to the website, the last public information on the website about any financial dealings of this organization was done in November of 2007. I think we need to ask these questions about how it's being managed this way. Another issue, actually now that I remember, was we were told at one time they spent \$10,000 to develop brochures for the Moriarty-Edgewood run, when that started. I asked for some of those. I received a small handful. Two of the people who ride to Edgewood and Moriarty were asked to take a few handfuls and deliver them to the rest of the community. I don't know how much brochures cost but it seems like \$10,000 is a lot of money for a very small result. I just don't see any real activity saying Let's really get behind public transportation and get the public to support it. So those are my comments. Thank you very much.

CHAIRMAN CAMPOS: Thank you, sir. Okay, that ends the public concern period.

X. MATTERS FROM THE COMMISSION

A. Consideration and Approval of Resolution No. 2008-125. A Resolution Rejoining the North Central Regional Transit District [*Exhibit 1: Potential Alternative Language*]

MR. ABEYTA: Mr. Chair, as directed by the Commission at the last Board meeting staff has brought forward the resolution rejoining the North Central Regional Transit District. There's a resolution that's in your packet and also we have received some feedback from one or more of you regarding additional language that the Commission may want to consider that County Attorney Ross has put together.

CHAIRMAN CAMPOS: Okay, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think, Mr. Chair, that you have a copy of

the revised resolution that Mr. Abeyta is referring to. I'm sorry I wasn't present at the last meeting and I could only be present by phone, but in taking a look at the minutes of the July 7th meeting, when I looked at those, and you might want to refer back to them if you care to, on page 17 Commissioner Montoya brought up three issues that he felt were important and that we had discussed in the negotiating meetings as issues that Santa Fe County wanted to include in the JPA. And he reiterated those items in his discussion, and they're outlined, those three points on page 17.

So I asked if Mr. Ross would put together a resolution that included those three points that we had talked about for some time, the resolution from the RTD only addressed one of those, which was the 86/14 split. The RTD resolution that their board passed a couple of weeks ago addressed the 86/14 split. It didn't address the other two points that Commissioner Montoya brought up on July 7th and one of those had to do with what would happen if Santa Fe County decided to create its own transit district some time in the future. We wanted to be sure that that funding stream, that revenue, would continue to come to Santa Fe County from that 1/8 GRT. And the other issue was one that in the event there was to be any additional GRTs proposed that the RTD would first get the concurrence of this County Commission on that, particularly if we were thinking about forming our own district some time in the future.

So those two items were included in this revised resolution. Other than that it's exactly the same. There's nothing in here that we haven't discussed in great deal I think at a number of meetings, and that Commissioner Montoya discussed as well on the 7th of July.

CHAIRMAN CAMPOS: Mr. Abeyta, do we have any copies available for public review of the revised ordinance?

MR. ABEYTA: Mr. Chair, no. I'll make copies.

CHAIRMAN CAMPOS: Could you make about five copies for anybody?

MR. ABEYTA: Yes.

CHAIRMAN CAMPOS: Okay. Commissioner Montoya, do you want to address that? The proposed changes?

COMMISSIONER MONTOYA: Mr. Chair, I guess what I would like to know is if the Regional Transit NCRTD board is willing to accept the addition. That's not what they provided back to us, and I had asked at the meeting previous to this meeting if they could address those questions and they didn't; they weren't allowed to, so I would like to have them address those questions right now if that's possible, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya, you're saying that you had addressed these issues to the North Central employees and that they had not responded by adopting those recommendations in the resolution?

COMMISSIONER MONTOYA: Yes. Well, what was adopted by their board did not reflect what was in my statement.

CHAIRMAN CAMPOS: Okay. Let me get some Commissioner comments. Commissioner Anaya, do you want to talk? Commissioner Vigil?

COMMISSIONER VIGIL: I actually – I guess the comments I would make thus far with where the hearing's going is I appreciate John coming forth before the

Commission and I would just like to sort of underscore that at least he had an experience with the transportation district. Eldorado was created as a priority to address transportation. There are many districts throughout our region who have not had that opportunity. If there are lessons that can be learned from that I think we can actually move forward with those lessons, but I don't think you throw out the baby with the bathwater here. You keep the baby if the bathwater needs to be thrown out. So I'm still in a strong position that we need to remain in the regional transit district and hope that we maintain that position of a multi-jurisdictional transit district as the statute provides for us.

CHAIRMAN CAMPOS: Okay, is the director of North Central here? Would you come forward and please state your name and address and position for the record.

JOSETTE LUCERO: Josette Lucero, North Central Regional Transit District.

CHAIRMAN CAMPOS: Commissioner Montoya, could you ask your questions?

COMMISSIONER MONTOYA: Josette, the questions that I had asked you and Councilor Herrera and actually stated it in the meeting on July 7th was would you be willing to include verbatim all of what was requested in terms of my concerns?

MS. LUCERO: Okay. A couple of points, Mr. Chair, members of the Commission, thank you. On July 7th you read verbatim on the minutes all those items and after that meeting you and I had a couple of meetings to discuss the 86 percent and the 14 percent and that's all we discussed. We didn't discuss the last two paragraphs, so when we were emailing back and forth with Steve Ross and Roman Abeyta and you on the resolution, I received confirmation from the County that the resolution to move forward to the board was fine. And then on the July 29th meeting, this Commission meeting, Commissioner Sullivan was on the phone bringing up those two points and your opinion to that was that your concerns had been taken care of.

So what we had put in the resolution was what we were addressing as far as your concerns and not the other two. Since then, you and I have made communications on the other two paragraphs, so we did talk to our council attorney, and obviously, we have to do everything by statute and legally, and our attorney believes, and sent this to Steve Ross, if the Commission would add to paragraph 1, the language: "In accordance with the Regional Transit Act, 73-25.1 NMSA 1978," that he thinks that the NCRTD board would approve that. And we've got a meeting at 5:00 that will discuss this with the board to get their approval.

On paragraph #2, that is not within the RTD law, so legally, #2 cannot be done.

CHAIRMAN CAMPOS: Ms. Lucero, you're looking at the revised resolution?

MS. LUCERO: I just got the revised resolution two minutes ago.

CHAIRMAN CAMPOS: Let's look at that. If you need a minute to look at this we can take a minute.

COMMISSIONER MONTOYA: The original one, if she could maybe begin with addressing the original one as you are right now, because that's what I'm following you on right now.

MS. LUCERO: The original one that's in your packet?

COMMISSIONER MONTROYA: The one that's in our packet, yes.

MS. LUCERO: Does somebody have that?

COMMISSIONER MONTROYA: Is that the one you're referring to?

MS. LUCERO: No, I just received the revised one.

CHAIRMAN CAMPOS: So you're talking about the revised version?

MS. LUCERO: Yes, that's what was just handed out to me.

CHAIRMAN CAMPOS: Okay. So we're looking at the revised version,
paragraph 2.

MS. LUCERO: Okay.

CHAIRMAN CAMPOS: Ms. Lucero, you're looking at this?

MS. LUCERO: No, I'm looking at the one that's in your packet.

CHAIRMAN CAMPOS: Okay. So you're looking at the one that's in your
packet.

MS. LUCERO: And then I also have in front of me, Mr. Chair, the revised
one.

CHAIRMAN CAMPOS: When you say #2, you're talking about the one in the
packet.

MS. LUCERO: It was paragraph #2, let me just see if I can find it – I'm
hearing it's #7 on the revised.

CHAIRMAN CAMPOS: There's only four after the Therefore be it resolved,
unless you're talking about a whereas clause.

MS. LUCERO: I was just referring when I say paragraph #1, #2, those were
the last two paragraphs that had not been discussed with Commissioner Montoya.

CHAIRMAN CAMPOS: You're talking about the whereas clauses or the
therefore clauses? Why don't we take a minute to get the paperwork straightened out. Five
minute break.

[The Commission recessed from 3:35 to 3:40.]

CHAIRMAN CAMPOS: We're going to reconvene at this time. Ms. Lucero,
you had some comments.

MS. LUCERO: Yes.

CHAIRMAN CAMPOS: And we're using the updated draft.

MS. LUCERO: Correct, Mr. Chair, and I think we're straight. The paragraphs
that had been alluded to are #7 and #8, Mr. Chair. And for #7, at our 5:00 board meeting we
will go in and request the board approve #7, but with adding a sentence at the beginning, and
the sentence would add: "In accordance with the Regional Transit Act, 73-25-1 NMSA 1978,
and then follow the paragraph that you have in your resolution. We believe, Mr. Chair, that
the NCRTD board would approve that paragraph.

For #8 –

COMMISSIONER MONTROYA: Excuse me, Mr. Chair. I don't have a #8.

MS. LUCERO: This is on the revised, page 3.

COMMISSIONER MONTOYA: Is there a revised revised? Got it.

MS. LUCERO: And the #8 was the #2 I was referring to, and our contract counsel does not believe that legally we can do this with the current – the way the current RTD law is written. He believes that since Santa Fe County and the City of Santa Fe have the majority on the board that you guys already have the decision to say if you want to go for another increment in the tax or not. So you would have a say-so up-front anyway. So those are my two comments, Mr. Chair, on those two paragraphs that are in concern.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Would you agree with that assessment on #8?

STEVE ROSS (County Attorney): Mr. Chair, Commissioner Montoya, I'm not sure I fully agree with that, but you have to understand that the paragraph, when it was originally written was written in the context of a joint powers agreement, where the parties were going to contract pursuant to the joint powers agreement. At that time I thought that the County and the RTD and the Rio Metro could agree.

COMMISSIONER MONTOYA: Okay. So in this context we don't necessarily need that, being that we're addressing #7 in accordance with the New Mexico Transit Act.

MR. ROSS: Right. We're not really signing an agreement or a joint powers agreement at this point, we're basically trading resolutions back between the two boards. It's not the same context. And it certainly isn't a joint powers agreement, which is a forum where you can share powers.

COMMISSIONER MONTOYA: So, Mr. Chair, I would recommend that in that case we would strike #8 completely. And then, Josette, you're in agreement from 1 through 7 with the addition of that language on #7?

MS. LUCERO: Mr. Chair, on the revised, there seems to be three added paragraphs. Am I correct? #2, #5, and #6? That again was just given to me moments ago.

COMMISSIONER MONTOYA: Which pretty much addresses the language that I had stated at the July 7th meeting, but it's broken up a little bit more than it was.

MS. LUCERO: Okay, #2, if I may, Mr. Chair, read it. The request to rejoin the North Central Regional Transit District is conditioned up on the NCRTD agreeing to all provisions of this resolution. Mr. Vice Chair, do you have a – I think we'll take this to the board. Adding #2 should be fine. #5 is new. Let me read it real quick.

COMMISSIONER MONTOYA: And it was the #2.

MS. LUCERO: Mr. Chair, I believe that the City of Santa Fe and Santa Fe County can contract out with Rio Metro if you chose to. That's all up to you all to do that. So I think that would be fine. #6 goes in line with what we've been talking about so I think #6 is fine also, Mr. Chair, Commissioner.

COMMISSIONER MONTOYA: Mr. Chair, I would then move for approval of this resolution with this revised copy, deleting #8 and adding the language that Josette had

mentioned, "In accordance with the New Mexico Transit Act, etc., etc."

CHAIRMAN CAMPOS: Let's have some discussion before we go to the motion. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think it's fine with me, other than in #8, if there's some uncertainty, Mr. Ross, could that be structured to read that the transit district and the County shall pursue a JPA to do that? In other words, if what you're saying or what their attorney is saying is that this resolution is not the venue for that, can we simply agree to agree that there will be a JPA that would address that issue? Or an MOU?

MR. ROSS: Mr. Chair, Commissioner Sullivan, it would have to be a joint powers agreement to agree to something like that. An MOU wouldn't do it.

COMMISSIONER SULLIVAN: Okay. So I guess what my suggestion is is that one option for #8 is that it could read that Whether a regional transit district is formed with Santa Fe County by the County and City or not, the district and the County shall pursue a JPA whose terms shall be that the district shall not request any additional gross receipts tax increments within Santa Fe County without express advance written authorization of the Board of County Commissioners prior to the approval of the resolution authorized by NMSA 1978, Section 7-20-E-23(A). So just making it into a commitment between the two entities to pursue a JPA, not tying them down at this point in time to that JPA. Would that meet legal muster, Mr. Ross?

MR. ROSS: Mr. Chair, Commissioner Sullivan, I guess so. It's an agreement to agree in the future, only of limited enforcement.

COMMISSIONER SULLIVAN: It's an agreement to pursue an agreement. And I guess if there were legal impediments to doing that then it wouldn't be pursued. But if we have the commitments of both parties to pursue that at least then that's a step in the right direction. That's all I had, Mr. Chair. When we get to the motion I would suggest some consideration of that.

CHAIRMAN CAMPOS: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. There is a section in the original resolution that stated that the Board of County Commissioners instructs staff to work with the Regional Planning Authority to amend the joint powers agreement to provide a forum for the City and County discussions concerning the use of the revenue from the 86 percent. That was not included in the new one. I wonder if Commissioner Montoya, you would consider including that language as the original maker of this motion.

It seems to me that that would further clarify who will be drafting and negotiating the service agreement, and because it will be between the City and the County, that probably should be included in this. Commissioner Montoya, would you be willing to include this as an amendment?

COMMISSIONER MONTOYA: Mr. Chair, Commissioner Vigil, yes, absolutely. That was an oversight that I did notice during the break that we should include as part of our agreement. So it would actually replace the current #8, so that there would still be eight on the revised resolution.

MS. LUCERO: Mr. Chair, we'll be fine with that.

COMMISSIONER VIGIL: Okay. And the amendment would include that entire section.

COMMISSIONER MONTOYA: #4, yes.

CHAIRMAN CAMPOS: Any further comments, Commissioner Vigil?

COMMISSIONER VIGIL: That's it.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Josette, on #6, the 14 percent – was it always the intention – and refresh my memory – was it always the intention that 14 percent would be used for what's stated here? Or was it for the overhead and administration only?

MS. LUCERO: Mr. Chair and Commissioner, it was supposed to be used for the connective service, and the language that was originally in the JPA also had overhead and administrative costs so we agreed to that also. But it was originally supposed to be for connective services from the RTD side. But the County wanted to add the overhead and administrative costs and we agreed to that.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Okay, Commissioner Montoya, do you want to restate your motion?

COMMISSIONER MONTOYA: Yes, Mr. Chair. I would again move for approval of the resolution that has been amended to include item #2, #5, #6, and #7 with the language that – did we get the language that Josette –

CHAIRMAN CAMPOS: In accordance with the Regional Transit Act, and then they have an NMSA quote.

COMMISSIONER MONTOYA: Right. Okay, so that. And then #8 would be replaced by the #4 that's in our original packet that talks about the staff working with the RPA to amend the JPA for the City and County discussions of the 86 percent.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER VIGIL: Second.

CHAIRMAN CAMPOS: Any discussion?

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

CHAIRMAN CAMPOS: The motion is adopted.

COMMISSIONER MONTOYA: Mr. Chair, I just want to thank staff for being patient, mainly with me, on both sides, and I think overall it's going to work out for everyone in this whole region. So thank you.

MS. LUCERO: Thank you all very, very much. It's been a big challenge and I'm glad you gave us this challenge and we look forward to working with you.

COMMISSIONER VIGIL: I'd also, Josette and Jack and Councilor Herrera, really appreciate all the work that you put into this. I think we're at a place where we're going

to realize a benefit for the region, which was my position originally, but I also think that no matter what the outcome is, Santa Fe stands to be the greatest beneficiary of this transit district, no matter what the breakdown is, and I think the numbers will start showing as we start developing it, and hopefully from the regional transit districts that we've had we can piece things together and build a really good system. Thank you so much for all your work.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I think that the problems with the management structure of the North Central Regional Transit District still exist, notwithstanding this resolution. And I don't think we can afford \$100 a trip costs to promote so-called regional transit. I think it needs to be demand-driven. I think it's fine to make generalizations about regional cooperation, but I don't think that that, given the history that we've seen in front of us and the comments and figures or lack of figures and lack of transparency is showing, at least to me, the best use of the taxpayers' dollars. Certainly the taxpayers will be able to decide that issue on November 4th, and also whether they want to support the operations of the Rail Runner with this money as well. But I think this resolution as the best compromise doesn't solve management problems that are still existent. They were existent when I was on the board. I have that background. They were certainly made clear during the negotiations for those sessions which I attended, and they're still there. So we have to think of the next step here between now and November. I think if there are those who want this tax to pass as to how the votes are informed, and how they are to be convinced that this is the best place to invest their money. And I don't think we have the answer to that yet. Thank you.

CHAIRMAN CAMPOS: Thank you, Commissioner Sullivan. This is just for the Commissioners so I'm going to leave it right there. Mr. Abeyta, we do need to put on the agenda appointment of a member to the NCRTD, probably soon.

MR. ABEYTA: Mr. Chair, we'll do that at our administrative meeting at the end of the month.

X. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN CAMPOS: Okay, Commissioner Vigil, comments.

COMMISSIONER VIGIL: None.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Comments about?

CHAIRMAN CAMPOS: Commission comments.

COMMISSIONER MONTOYA: About what just happened or –

CHAIRMAN CAMPOS: No. Matters from the Commission, comments?

COMMISSIONER MONTOYA: Pass for now.

CHAIRMAN CAMPOS: We've already gone beyond the resolution. We're

past that issue now. If you have any other comments.

COMMISSIONER MONTOYA: No. Pass.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Yes, thank you, Mr. Chair. First of all I want to congratulate Santa Fe County for being back in the RTD. I think it was a good step in the right direction. Let's move forward. Let's start campaigning to educate the public so we can get this tax passed and keep our constituents moving.

I want to just say thank you to the Santa Fe County Fair. The people that ran the fair, the Manager, thank you for all your support. It was a success. Thank you, Commissioners and the parents that had children in the fair. They worked very hard. The fair board, Pat Torres and all his crew. I'd also like to thank the interim people that worked for Santa Fe County this summer. I forget the total amount but I know they helped our office out and they helped out various offices around the County and I really appreciate their help and they loved it, the people that I talked to.

One other issue and that was the Town of Edgewood is asking for some monies to run the town library. I know that Santa Fe County supplies the City of Española with \$20,000. Santa Fe County supplies the City of Santa Fe with \$20,000, and Santa Fe County helps out our Vista Grande Library with \$40,000. And I'm asking if we could find \$20,000 to put in the Town of Edgewood to help them out with their operating a town library which would cost \$41,000 per year. If we could pay – if we could find some money to help fund that. Mr. Chair, that's all I have.

CHAIRMAN CAMPOS: Okay. We'll have that put on the agenda for discussion at some point.

MR. ABEYTA: Yes, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan, Matters from the Commission.

COMMISSIONER SULLIVAN: No matters.

CHAIRMAN CAMPOS: Okay, I'd like to say a couple of things. One, I'd like to thank Commissioners Montoya and Sullivan for raising issues about North Central. I think we're in a better position today to move forward. I think it is a compromise. I have always been in favor of a separate regional transit district but I'm going to work forward to see if we can make this successful. So I thank you two Commissioners because it was your hard work and your stands that resulted in the changes that we've seen today.

I have an announcement, that there's going to be on Saturday, August 23rd, from 10:00 a.m. to 4:00 p.m. the Santa Fe County Water Conservation Fair. It's going to be at the Santa Fe Community College Campus Center, Jemez Rooms 1 and 2. You're going to be able to learn how to make a rain barrel, how much water you use from your domestic well, learn the latest technology in rainwater harvesting and graywater harvesting, and find out more about permaculture. It's going to be a really good class. There's going to be a lot of speakers, presenters, and if you have any questions please call Laurie Treviso at 995-2718. Thank you very much.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one other announcement that I forgot about. Senator Jeff Bingaman is going to be out at the Public Works Department building Friday from 9:00 to 10:00 and I think we'll have staff members there and they'll be providing tours of the facility, so any of the Commissioners who can make that are certainly invited to see our investment in that Public Works facility and if there's more than three, obviously let the staff know so that it can be noticed. But anyone who can make it and support Senator Bingaman will certainly be appreciated.

CHAIRMAN CAMPOS: I'll just add that the Public Works building is going to be energy-efficient. It's going to be water-efficient and it's something to see. It's great progress for the County of Santa Fe, and Senator Bingaman will be there at 9:00 for a public tour. Commissioner Montoya.

COMMISSIONER MONTOYA: Commissioner Campos, I just wanted to mention that this Thursday, Commissioner Vigil and I will be meeting with the Secretary for Indian Affairs to discuss what we've been doing here in Santa Fe County and that's how to expand the intergovernmental summits beyond Santa Fe County to other parts of the state.

And I also wanted to mention that on August 26th at 6:00 we'll be having our first public hearing on the Buckman Direct Diversion project. That's the joint City-County project on providing water for Santa Fe County and the City of Santa Fe. So that will be at 6:00 on the 26th at the Genoveva Chavez Center. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, we're done with Matters from the Commission. We don't have a Consent Calendar.

XII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Growth Management Department

1. Appointment and Reappointments of Pojoaque Valley Development Review Committee Members (Renee Villarreal, Growth Management Department)

RENEE VILLAREAL (Community Planner): Good afternoon, Mr. Chair, Commissioners. I'm here to request the Board action for the newly appointed members to the Pojoaque Valley Development Review Committee. It will now be formed pursuant to the adoption of the Pojoaque Valley Traditional Community District Ordinance, 2008-5. There are five positions open and we'll need five appointments today. There were six applicants, and you should have received them in your packet material.

CHAIRMAN CAMPOS: Ms. Villareal, you have six names and you want five appointments?

MS. VILLAREAL: That's correct.

CHAIRMAN CAMPOS: So these are all the people who applied. No more.

MS. VILLAREAL: Correct. No more.

CHAIRMAN CAMPOS: What did you do to get interest in applying for these positions?

MS. VILLAREAL: Mr. Chair, Commissioners, we sent out notifications in the newspaper. There were about five different days we sent out the information in the Pojoaque edition of the *New Mexican* as well as the regular *New Mexican*. I sent out notifications through my list serve, which is made up of about 100 people; the majority are from the Pojoaque area, and through various sources, through the Pojoaque Valley Planning Committee just spreading the word throughout the valley.

CHAIRMAN CAMPOS: Okay, Commissioners?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: I would like to recommend for appointment the four asterisked individuals. They were very active in the whole planning for the Pojoaque Valley Community Plan, in addition to Elaine Benavides.

CHAIRMAN CAMPOS: Okay, Commissioners, any discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Commissioner Montoya, you're saying the four stars plus Elaine?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER ANAYA: I was going to say four stars plus Suzanne.

CHAIRMAN CAMPOS: Let's go to the four stars then first. Is there a motion to approve the four candidates with asterisks to the right?

COMMISSIONER VIGIL: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: And that's David Dogruel, Vicente Jasso-Roybal, Sandra Massengill and Marylou Williams. There's a second.

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

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just get in the record, for those who don't have this in front of them, what the asterisk means is those applicants have been participants or active members of the Pojoaque Valley Planning Committee. That's all the asterisk means.

CHAIRMAN CAMPOS: Okay, Commissioner Montoya, you have a candidate. Who is that?

COMMISSIONER MONTOYA: I would recommend Elaine Benavidez.

CHAIRMAN CAMPOS: Would you make your pitch?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: There's a second. Okay. Any further discussion or is

there a consideration of any other nominee? Okay, there's a motion and second for Elaine Benavidez as a fifth member?

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

CHAIRMAN CAMPOS: Do we need a substitute member?

MS. VILLAREAL: At this time we're going to have the sixth applicant on the record and if there's one member that drops off then we will notify that sixth applicant.

CHAIRMAN CAMPOS: Okay. Thank you very much.

MS. VILLAREAL: Thank you, Board. The other thing, just to let you know, we're still trying to figure out meeting dates to coincide with the other CDRC and LDRC meeting times, so at this point we are suggesting – it's not set in stone – but the second Thursday is when we'll possibly have the PVDRC at 3:00 pm until the EZC is dissolved. We're still working that out and we'll let you know as soon as that occurs. Thank you.

CHAIRMAN CAMPOS: Thank you, Ms. Villareal.

XIII. A. 2. Presentation of Draft Zoning Strategy Concepts (Growth Management Department) [Exhibit 2: Power Point Presentation]

JACK KOLKMEYER (Land Use Administrator): Thank you, Mr. Chair, good afternoon. The Growth Management Department is here this afternoon to present to you the final element of the growth management strategic plan, our recommendations on possible land uses policies and zoning strategies for the County. These recommendations come at a critical time as we consider not only growth issues in general – the proliferation of residential and non-residential uses, wells, septic tanks and roads, but also the concern for continuing hard rock mining and oil and gas drilling, particularly in the Galisteo Basin. Penny Ellis-Green and Robert Griego will take you through our recommendations in just a moment, and after that you will have an opportunity to hear from Dr. Bob Freilich again with an update on the interim Oil and gas Ordinance.

Our County-wide strategic planning process was started with a comprehensive staff retreat at the Vista Clara Ranch in Galisteo way back in September of 2003. This retreat began almost two years of intensive work that focused on two basic strategies. Number one, the reorganization of County government to provide a more efficient and streamlined way of working for the benefit of the County residents, and secondly, what we called at that time a unified growth management strategy that would involve all relevant County departments and divisions to collectively figure out how to grow into the future.

Reorganization is essentially completed and among other things resulted in the creation of a Growth management Department combing Land Use and Public Works and Utilities. The unified growth management has been an effort to identify the strengths and weaknesses of the 1999 growth management plan and to recommend appropriate changes. The primary purposes of the growth management plan have been two-fold. One, to identify and study the important

geographic and population settings throughout the county and to evaluate each setting in regard to its ability to accommodate growth. We pay particular attention to the traditional and contemporary communities, and to the growth areas designated in the 1999 growth management plan, especially the Community College District.

Secondly, we evaluated existing systems, both natural and human-made on the assumption that future growth needs to occur where systems can accommodate it. This has allowed us to understand where growth might occur in the present and in the future and where growth might need to be limited or more tightly controlled. This set the framework to begin to develop a tier system for future land use and zoning. As a result of this work, two important issues have come into our focus. One, the need to keep open space separations between settlement areas to eliminate sprawling land use conditions, and secondly, the need to evaluate and make decisions about the location of future infrastructure and services.

We've completed all of that work and have arrived at specific recommendations for land use and zoning options which we'll present to you this afternoon. This work and the options we have suggested can now be used to create specific area plans for the four growth management areas that we previously outlined for you. This information and our recommendations will now be particularly useful to the consultants you have hired to create a growth management area plan and update our existing growth management plan.

To provide our recommendations I want to present first Penny Ellis-Green, the manager of our Planning and Zoning Section, and then Robert Griego, who is now our new Planning Director, who this week replaced Judy McGowan who retired last week. So we'll continue with our slide presentation. The next portion will be presented by Penny. Thank you.

PENNY ELLIS-GREEN (Deputy Land Use Administrator): Thank you, Mr. Chair, Commissioners. First I'm going to outline the need the make changes by identifying the weakness of the existing zoning, provisions and cost of infrastructure and services, and excess of approved lots.

The weakness of the existing zoning: Lots and subdivisions are not located near services. The review process for divisions does not necessarily consider where services are already located. Large-scale developments can locate outside of growth and service areas. The County then has to react to development rather than having directed where the development can locate and how it is developed. The community is then faced with the development in rural areas where it's not expected. Water limitations have been exceeded in certain areas resulting in the need for supplemental water in the future. That's for either water quality or water quantity. And base densities have been exceeded since the Code came into effect in 1981, and density increases are allowed for water conservation. Water conservation should be a standard for all development now, not a reward or to give a bonus. The Code allows 2.5-acre lots anywhere in the county with hydrology approval.

This map indicates the lots that are currently below the minimum lot size throughout the county, so that's lots that are below 2.5 acres in the basin, below 12.5 in the basin fringe, below 20 in the mountain area, and below 40 in the homestead. We circled the areas with large numbers of lots below the minimum lot size.

Provision and cost of infrastructure and services: Road and utility deficiencies are widespread. Many areas of the county lack water and sewer systems including large subdivisions on wells and/or septic tanks. Development that does not require offsite improvements is a major contributor to this. Significant emergency access problems: Many roads are impassible in bad weather. Increased demands on County resources making budgeting difficult for provision of community services. And lack of consistency and predictability. For example, the Fire Department's five-year plan assumes growth in planned areas. They then need to react to where development actually happens, which may be inconsistent with their plan.

Excess of approved lots: There are 16,142 vacant lots in the unincorporated area of the county. That does not include recently approved large-scale master plans; it's only platted lots. We issue between 500 and 700 residential units permitted annually. The average growth is two percent per year, so by 2020 we'd need 3,784 units, and by 2030, 6,448 units would be required. The existing vacant lots can supply approximately 50 years of growth.

This map shows the vacant lands within the county. The gray areas are either developed public lands or incorporated areas. The colors are all vacant land. You'll note the areas northwest of the city and south of Cerrillos. These are two enlargement maps. The first one is an enlargement northwest of the city. There's approximately 2,150 lots that are vacant in this area. An enlargement of the area around Cerrillos, Madrid and San Marcos has approximately 1,100 vacant lots in this area.

ROBERT GRIEGO (Planning and Zoning): Mr. Chair, Commissioners, so what happens if we don't make these changes? Development at the current base densities would allow approximately 100,000 lots. This could accommodate growth for approximately 140 years. The base density with the current water conservation adjustments could increase this significantly. This would result in a low-density land use pattern, or sprawl. This would continue to make provision of services expensive and difficult to plan for.

This map is an example of where lots could develop over the next 40 years. It's a computer model, but it shows what could happen under the current Code based on estimated demand for residential lots. The yellow and the purple on the map indicate how possible new developments disperse, and you can see significant purple areas dispersed all throughout the county.

COMMISSIONER VIGIL: Can you explain what the yellow and purple areas are?

MR. GRIEGO: The yellow and the purple areas indicate possible new development that could be dispersed throughout the county and the example on the map shows where development could occur if we continue based on the way that growth has been happening if we don't create defined areas for growth. This is a computer model that shows how development could happen in the county.

So what are the proposed changes? The proposed growth policy and zoning strategy includes the following planning elements: direct growth to those areas where services can be more economically delivered; zone to maintain the rural economy and separations between communities; direct and phase growth necessary for County to manage its operations and

budget, but capital and operating.

Zoning strategy: Zoning densities will not be tied solely to water availability or implementation of water conservation measures. We will eliminate the use geohydro reports to increase densities. Zoning densities will be based on a variety of environmental and development suitability factors, including soils, slopes, distance from services and roads, protection of environmentally sensitive areas, as well as hydrology.

So the zoning strategy includes tier concepts, tier zones to direct growth. This would redefine the development patterns in the base rural zones to limit sprawl. Areas would be defined for high growth, for limited growth, for cluster areas, and for the areas to remain rural and to maintain separation between communities. The zoning strategy also would retain the zoning district as adopted by the Board to implement the community and district plans.

So what are the next steps? We plan to continue to coordinate with the consultant to draft the Galisteo Basin area plan. Define base densities. Not only will we be considering hydrology we will also be considering all of the environmental and location suitability factors for determining the base densities. Establish the tiers – growth areas, rural areas and conservation areas. Add a timing element. We would need to determine which areas will be developed initially and which areas will be developed subsequently. We'll also use the Galisteo Basin area plan as a template for the three remaining growth management areas, as identified earlier. The next step would be to amend the growth management plan to add strategic elements and area plans.

This concludes our presentation and we stand for questions from the Board.

CHAIRMAN CAMPOS: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, staff for bringing forth thus far what's been worked on and I like the sense of direction that we're going with the zoning strategy. I'm highly concerned. Let me just ask a couple of technical questions and then I'll get to an overriding issue. With regard to – these aren't numbered, but the weakness of the existing zoning. It says base densities have been exceeded. Penny, are we – is this because of lot splits? Big subdivisions? Family transfers? Probably a combination of all of those, as I say that. But what is most impacting our base densities?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Vigil, the Code allows a number of ways that you can exceed base densities. They established base densities throughout the county. They allow you to go to a quarter of that size with water conservation. Another section allows you to go as small as 2.5 acres, even in the homestead which has a base density of 160 acres. So development has followed all of those alternatives to create lots smaller than the base density. Family transfer, the small-lot family transfers have also done that.

COMMISSIONER VIGIL: Okay. And I guess what's really glaring for me, and I know we've created such a strong emphasis for the Galisteo Basin, but there's a critical management area that this map indicates, and it's in my district. And it's the north part of 599, and it looks like from Robert's report the area – it's in the El Centro District, and it looks like that whole area in that El Centro District is a critical area for potential management. Is that correct, Robert?

MR. GRIEGO: Mr. Chair, Commissioner Vigil, I'd like to maybe see if I could bring that map back up on there, but you're looking at the map with the enlargement of the area northwest of the city? Is that correct?

COMMISSIONER VIGIL: That's correct. It's in the El Centro District.

MR. GRIEGO: And what that map is showing is the significant number of vacant lots that are in that area. This map shows the environmental suitability. This is mainly the vacant land map.

COMMISSIONER VIGIL: Right, right. And I'm looking, when you say vacant land that that's land for potential growth. And my concern for that particular area is when you look at potential growth and have that many lots available what you may be promoting, unless you're actually looking at growth management strategies such as looking through our zoning ordinance, which you may be promoting, is serial subdivisions. And that could very easily happen – actually I think it's happening now where lots are being sold and then they're being divided, and so we're not able to look at what would be conservation, what would be protected zones. We're not being able to be pro-active. We're still being reactive, and that in particular is happening in the area north of 599, and I think one of the most critical issues with regard to that area, and I'm talking about the Piñon Hills, somewhat west, somewhat east of that. What's really happening in that area, how you can see where we're being impacted without any sure-fire planning is just by looking at some of the straws that have been placed in the aquifer there. Those are all wells over there.

There's some community water systems, but most of those are private wells. And if you were to see an overlay of the wells that have been built there you'll see that it's horrendous, the difference between ten years ago and 20 years ago and certainly 30 years ago. That particular area – and this may not be so true in the southern part of the county or further north, but it certainly is true in that particular area, and I would just ask for those of you in the Land Use Department, it's been my experience just from hearing my constituency that that is what's happening to that area, and I actually requested some information with regard to how many lots splits have occurred at least in one particular area and this is only one area, and I've gotten some information on that. But it seems to me that part of the data that we actually need is what this is asking for, and the growth management strategy, and my sense is that through our zoning authority – I guess my question would be to Steve Ross – through our zoning authority can we identify like a critical area to start working towards these tier zones that I think need to be taken care of in particular areas of the county, and I think they're going to be different from the north to the south and from the west to the east.

MR. ROSS: Mr. Chair, Commissioner Vigil, that's exactly what this process is designed to reveal, problems like you've just described, and the project is intended to bring you tools to address those problems.

COMMISSIONER VIGIL: Okay.

MR. ROSS: That's exactly what's on everybody's minds.

COMMISSIONER VIGIL: I guess my question is a little more specific than that. As we're looking at this and you've identified four different reasons, it seems to me that

there are some areas of the county that are more critical, critically in need of looking at our zoning tier zones. And I guess what I'm saying is I'm hearing that it's that north area of 599 and I don't know if other Commissioners are hearing this in their district, but we need to do something for that particular area.

MR. KOLKMEYER: Mr. Chair, Commissioner Vigil, that's exactly the point and one of the reasons why we wanted to divide the county up into four growth management areas because that gives us a real clear picture, a geographic picture of the particulars of these areas. There's probably critical portions of each of the growth management areas. The Santa Cruz Valley area, right outside of Española, for example. Now with the racetrack coming into the Moriarty area, that southern corridor along the southern part of 285 will become critical, and what we'll do as we develop area plans for each of these will be to look at those specific areas, particularly regarding the two things that I mentioned when I started this discussion, was particularly for the role of open space. Because we're really concerned that the sprawling effects out there could turn these into areas in which there's no separation of settlement areas, and that's a really critical concern that we've had as we've investigated this area. And secondly, infrastructure and the role of infrastructure becomes critical then at this point because we're going to need to serve populations that are not only expanding but they're also spreading out. And then they're also, you know, because you've been involved in this a lot are the problems that we've had with the lack of offsite improvements because of some of the lot splits and family transfers that we have done. That's again really an infrastructure problem and we'll look at all those in detail as we go through now each of the area plans.

COMMISSIONER VIGIL: And this is probably for Mr. Ross. In that particular area that I'm referencing we do have an adopted ordinance through the Tres Arroyos Plan. To move forward with our tier zones, would we amend the Tres Arroyos Plan or would we create a separate ordinance in order to exert our zoning authority for this planning tier zone concept?

MR. ROSS: Mr. Chair, Commissioner Vigil, I believe the Tres Arroyo Ordinance is an overlay but the details of those particular ordinances would apply to a growth management plan and ordinance hasn't been determined yet although we have some ideas. Those ideas are going to start to be fleshed out and delivered to you pretty soon. But we understand the problem and we're working through it.

COMMISSIONER VIGIL: Okay. And I guess maybe just so that I'm not feeling that I'm steering myself and everyone else in the wrong direction, from your experience in identifying the four areas for growth management is there a way that you would be capable of prioritizing a particular area for immediate attention?

MR. KOLKMEYER: Mr. Chair, Commissioner Vigil, that will be done really as we look at the relationship of where we believe that growth can occur in relation to infrastructure again, and that's the reason for creating a capital improvements program, which will give us an idea of the cost of these things and the phasing of them and the prioritization of them will come as we work through that process.

COMMISSIONER VIGIL: Okay. Thank you very much.

CHAIRMAN CAMPOS: Comments or questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, the only two things that I would add here for the staff to think about. Commissioner Vigil brought up how do we deal with serial subdivisions and of course the reason serial subdivisions come about is to get around the requirements for water and sewer service that we have that only apply to subdivisions in excess of 24 lots. And so that's really the only incentive to do a serial subdivision. So I think we certainly need to revisit, as we did about a year ago, the issue of do we still feel that that water allocation and that subdivision mechanism that we have in our ordinance is a good one whereby any subdivision up to 24 lots can use well, and then the next subdivision next to it and can do the same thing, and so forth and so forth. Or do we need to think more comprehensively about as these areas grow, as we did in the Community College District, we simply say you can't use wells; we have another plan there. And so wells are out.

But you have to have a plan before you can say that, obviously. You can't just say no wells, you have to have an alternate plan that provides the needed services that you would otherwise get by drilling a well and putting in a septic tank. So I think that needs to be revisited. That's a very weak part of our ordinance.

And the second thing that I think you want to think about and I didn't see it mentioned here in the presentation is family transfers. We're talking about – I think, by the way it's a great idea to not simply base lot sizes on the hydrologic zoning, although I'm very much in favor of the value of hydrologic zoning. That's extremely important to set a base density, but what the hydrologic zoning has become is a right of entitlement, so that if our poor, frazzled hydrologist says no, your hydrology doesn't prove up to this, we get a raft of attorneys telling us how our hydrologist is wrong. So it becomes an entitlement, not something where we simply say, period. There's not water there and you can't create lots of any smaller size. So I think that's a good idea to look at water as a component in setting the base densities, period, and that's that. And not have to jiggle around with whether you've got permeability factors that are x or y and those kinds of technical arguments.

But we still have not addressed the family transfer issue. What is the rationale if an appropriate, hydrologically consistent, sustainable lot size is, let's say one acre – what's the rationale that if a family wants to subdivide that for a family transfer that now the appropriate, sustainable lot size is a half an acre? What's the rationale of that? The only rationale that I've ever heard in 7 ½ years on the Commission is we need more lots, and we need more affordable housing. Well, I think first of all, what you've shown us here is we've got plenty of lots. We've got thousands of lots. We don't need more lots. What we need is a better plan for those lots and a way to interconnect them and a way to provide them with services and a way to prevent these from becoming sprawl.

The second component of that is affordable housing. Okay. Is providing a family lot split, is that the way we plan to solve affordable housing? Well, this Commission has said no over the years. This Commission has passed a comprehensive affordable housing ordinance which is one of the best in the country and others are looking at it as an example. So we've gone beyond that now. I don't think we use family transfers anymore as our way of providing affordable housing to Santa Feans. I don't think anyone has that view anymore.

So we really need to say if we have an appropriate lot size and zoning based on all these factors of environment, of compatibility, of open space in between, of serviceability and so forth, then that should be lot size, period. We should have decided as a governing body and based on staff input that that's what's appropriate for this area. And not have it by just arbitrary means.

So those are two things that I think we really need to bite the bullet on. One is water context of how we're going to – what subdivision sizes are we going to allow to continue to use wells? And the State Engineer and this lawsuit on wells may solve that before we get around to solving it. I'm not sure. And the second is how long are we going to continue family transfers as a means of providing smaller lots? If we can get a handle on those two issues then I think we've sent a serious message to everyone: Look, we have growth areas, we have other areas, we have four zones that each have their different perspective, so we need to address them differently, and it's not one size fits all, because Santa Fe County is just so diverse. So I think we have a really credible plan if we look at those things.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, just real briefly. I would just caution that we not probably place too little emphasis on water availability in terms of the zoning. I still think that we should have a heavy emphasis on that solely. And we're saying that it's not going to be tied solely, that we're going to use some environmental and developmental sustainability factors, and then we're eliminating geohydro reports which is probably good because they're pretty costly for a person to have to get done and then at the same time it is not going to help in terms of the water availability.

Mr. Chair, my question would be what are some of the environmental and developmental suitability factors that are being considered as part of the zoning strategy that is going to tie in to the water availability?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Montoya, some of the environmental suitability that we're looking at as well as groundwater availability: septic tank limitations of soils, erodability of soils, slopes, flood zones, fire risks, so if it's in a wildfire area, landslide area hazard, and visual quality, archeological significance, wetlands and riparian habitat, wildlife species, agricultural capability of soils. And then the locational includes distance to nearest water or sewer lines, proximity to municipal boundaries, proximity to highways and other major roads and paved roads, proximity to interchanges and to bus routes, the Rail Runner, to public schools, to fire stations, to community facilities. Those are the locational ones.

COMMISSIONER MONTOYA: A number of different things.

MS. ELLIS-GREEN: That's correct.

COMMISSIONER MONTOYA: And then how will this tie in to our water management plan?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Montoya, I'm not sure exactly how it's going to tie in to the water plan though we would assume that our growth areas would be served by water systems.

COMMISSIONER MONTROYA: Okay. I guess I would just throw that out there in terms of as we develop our water development plan that this be tied in closely with that as well so that we're not going on two different tracks. So thank you, Mr. Chair. Thank you, staff.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: No comments.

CHAIRMAN CAMPOS: Okay. I'd like to ask a couple of questions about public comment. There are a lot of folks, I think that are very interested in these issues. If they would like to begin commenting, Mr. Kolkmeier, what do you recommend? And also would you address the issue of timeline? When do you think we'll have a firm plan to present?

MR. KOLKMEYER: As I understand, Mr. Chair, as I understand the timeline so far, we're looking to try to have a draft plan for the first area plan at the end of September. Is that correct, Mr. Ross? The end of September, right. So this now, just kind of having our policies done at this point sets the stage for the consultants now really address the first area plan. And if people – there will be a series of other public workshops and things. I'm sure that Dr. Freilich will address some of this next after us, but people are always welcome to of course send their comments to me as the Land Use Administrator or to Stephen Ulibarri, the public information officer, and we'll make sure that everybody's comments get passed to the appropriate channel. In the Planning and Development Division, as the Land Use Administrator I'm happy to be a focal point for those comments and I'll pass them on.

CHAIRMAN CAMPOS: Okay. I have a question for you. This is a plan I've advocated for for years and I think it's overdue. We need to act quickly. The issue is existing lots. There's so many existing lots out there. You can create growth areas, but I think in the Galisteo you have some areas that have many lots that are just vacant. How do you deal with that issue? Can you? These are legal lots of record, I assume.

MR. KOLKMEYER: Mr. Chair, yes, these are legal lots of record and that's again part of the problem. The way that we deal with this, again, comes back primarily to infrastructure. And that's the reason for you using a tier system here. We can determine that in the future lots for our designated areas of whatever growth it is, whether it be low growth or moderate growth or higher growth are going to be dependent on infrastructure. So we can tier them in a way that we can say, infrastructure is going to go to Area A first, and that area then can develop those lots. And the areas that we can't provide infrastructure – and services as well. Infrastructure and services, they're going to have to wait for another phase until we can develop them. That's one technique.

Also, as we've been looking at through the contemporary community plans in particular, there's a concern that we have expressed for years about these areas being only residential, and we're now recognizing with the cost of gas and transportation issues that we need to relook at some of these areas, and this is not a popular subject, is to reconsider mixed uses, so that non-residential uses, institutional uses can be considered in some of those areas so that you don't have to drive as far and you become more centered. They become places in a different respect. We need to reopen that thinking and those discussions again because the provision of services is equally as important as the provision of infrastructure.

And again, as we look at some of those areas you saw on the map there is the proliferation of lots in areas where in fact we didn't expect it ten or fifteen years ago. And then the issue of open space comes in again. If we don't want all of these areas to be just interconnected residential subdivisions we need to also put the provision of open space back into our site as well. Those three things.

CHAIRMAN CAMPOS: Thank you. I favor what you're doing. I agree with your guidelines and your policies and your values and I'd like to know if other Commissioners share that, and if anyone has any serious concern about these basic principles. Because this is going to be a tough row to hoe. It will be controversial. It's a big departure from where we're at. It's going to be a lot of political pressure placed on the Commission, and it's going to be hot. So I think if we give staff direction we'd better take a firm position that this is how we want to go and this is a road map that we want to follow. Commissioner Montoya.

COMMISSIONER MONTOYA: I agree with you, Commissioner. I think this is certainly providing a good road map for Santa Fe County and the way we need to manage our growth and our lands in a controlled way.

CHAIRMAN CAMPOS: Commissioner Vigil.

COMMISSIONER VIGIL: I want to thank staff for doing this again. I actually think the overriding issue here is that we're being pro-active rather than reactive, and that's going to feel very, very good to Commissioners once this is finally developed because in fact we'll have further guidelines to help us make decisions. And I hope we do tangle more with some of these issues such as family transfers. I think the intent of the family transfer is very, very good, and if it serves its purpose it's very good. The problem we're having with family transfers is that the divisions are occurring and the lots are being sold, and that really sabotages its original intent. There's an innate, inherent unfairness to that. So I'm not sure how we will tangle with that because we also have to work with what authority we have within the state statutes and the Family Transfer Act is quite liberal. It's very difficult to convince legislators that it should be narrowed because they represent the entire state where family transfers, again, are sought after for their original intent as something that they advocate for.

So I want to know through this process, and I'll probably be asking some really tough questions with regard to what our authority is. How far can we go so that we can create a growth management strategy that will really let us know what our boundaries are and really let us know what decisions we can make within those boundaries and provide the guidance for it. Thank you. I think this is the direction we're going and I feel confident that if we get that kind of product that it's going to be a wonderful community to live in. We'll have a lot more predictability.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair, staff. I think that there – I don't understand it all completely, but I'd like you to set up a meeting with Jennifer so that I can meet with you personally to talk about some issues. I know we're trying to plan ahead, but I kind of have an issue with telling people what to do with what they want on their land. So maybe you can explain more what you're exactly trying to do and if you could set that up I'd be

happy to meet with you. Thank you.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair. I think the general thrust here is exactly where we want to go. The real challenge now is to take these general concepts and tie them into something that results in specific zoning and in growth area designations and all of that. And let me suggest one way to do that, and that is on your very last page, on your next steps, you say Tie to CIP. Kind of by the way, tie it to the CIP plan. I want to tell you, that is the big Kahuna there. Because if you can get the plan to a point where you can go over to Doug Sayre and the Water Department and say, Okay, Doug. Here is where we need the water line and here's how many houses are going to be out there, here's how many people are going to be there, Doug will say, Great. Here we go. Now we know where to go with the water line. We've been eight years for you to tell us where to go with this water line.

So if you can get to that point, or work backwards from that point or whatever you feel is the appropriate mechanism, you will then have gotten to a point where you can say, Okay, now we know where we're going to provide services. And of course that's what persons who are involved in land development will want to know as well, and that's going to impact their phasing. So if you can get your plan to that point where you can tie to a CIP plan, so you really have a definitive plan that you can bring forward to people and say Here's where, over the next 20 years water is going, sewage treatment is coming, here's the area that's going to benefit by that, and here's the areas that are not, that's going to be really useful. And I think if you can get to that point this whole planning exercise will have gone exactly where we wanted it to go.

CHAIRMAN CAMPOS: Thank you, Jack. Thank you very much for your presentation.

XII. A. 3. Briefing On the Progress Since Adoption of the Interim Development Ordinance Relating to Oil and Gas (Dr. Robert H. Freilich)

ROBERT FREILICH: Good afternoon, almost good evening. I want to thank you for allowing me to appear. Secondly, I apologize for not being with you at the last meeting. I think many of you will recall that I came down with some form of food poisoning here. I won't mention the restaurant, but I had to go to the hospital overnight and hence I missed your meeting.

Let me just say that it's actually very exciting to see the progress that's going on and particularly the report that you just had from Planning is very exceptional and it's fitting exactly into the way in which we're handling the oil and gas issue as well as the general plan, capital improvement programming, timing, sequencing – the issues that we're going through. And let me remind you again, this whole thing started with, as far as oil and gas, last October, you had a four-month moratorium. The County Attorney asked me to review the permanent ordinance. I made my suggestions. I suggested that we go to a one-year additional interim

development ordinance so that we can develop a number of systems for dealing with the oil and gas situation, other than simply: What do we do with the hole?

And if you'll recall, the interim ordinance calls for the creation of, number one, general plan objectives – goals, objectives and policies, that will essentially relate to such things beyond the hole as what is the – where are capital improvements going to be located? So one of the things the interim ordinance calls for in your final ordinance is a definitive capital improvement program for the Galisteo Basin. Secondly, you are discussing this. I've been involved in over 200 growth management systems in the United States and my primary role is not only developing policies but as some of you have asked, implementing those policies so that they're carried out legally and through the proper mechanisms.

One of the things about capital improvement programming is you can tie subdivision approval process, you can tie zoning amendments, you can tie general plan amendments, site plans, to the availability of adequate public facilities as shown on the capital improvement program. So if sewer and water is not coming to an area for five years, or the roads are not going to be coming for three to five years, you can time – and that's what Jack was talking about – you can time development approvals to the availability of those capital facilities so that sprawl does not outrun the ability of the County to locate its facilities and utilities where it wants to locate them.

Now, obviously, capital improvement planning is dependent upon, to some degree, the market. Neither one is 100 percent in charge. You just don't simply follow: here's where all the family transfers are – and I'm going to get to that in a minute – and here's where all the sprawl is, so therefore we just follow it and locate our capital facilities. The thing about the tier system that's so important is the Supreme Court case that I won in the US Supreme Court in 1972 says is you can take a county, you can divide it into three six-year capital improvement programs. One through six, seven to 12, 13 through 18, and basically, the subdivision of land follows where those capital facilities are. And until that occurs you keep the base densities or what you have in place, but you do not allow these higher densities to fill in in a sprawl pattern.

Secondly, I think what's very, very important is the constitutionality of that, against takings challenges and others was upheld by the Supreme Court and there are many, many cases that have been involved all over the nation. I've been involved with handling most of those cases.

The second thing we talked about was creating an assessment district in the Galisteo Basin. That assessment district, because your impact fee laws are so limited in New Mexico, that assessment district will basically provide the mechanism for charging new development with the cost of fire, police, roads, sewer, water, other utilities, necessary to carry out the tiered structure and the capital improvement program. So we're going into a new universe, which is a universe to use the improvement district concept in a far more flexible way than has ever been used, but there are examples in this state as well as examples all across Arizona, Colorado, California, etc. that you can be following.

So in essence, regardless of whether it's oil and gas, because when we're doing this

Galisteo Basin area plan, we're doing it to carry out the growth management strategy. We're going to have the goals, objectives and policies of growth management in there. We're going to have the policies to the tiers, we're going to have – when we talked about that interim ordinance the first thing we identified was changes to the general plan. You have no policies about oil and gas but you have no policies in the general plan because this tier structure for capital improvement program is for financing, so the whole question of how do you deal with all of these environmental suitability factors that you mentioned, all of this needs to have a structure in the plan.

You also need to say in your zoning code, your land and development code, that the code, that all zoning decisions, not just your zoning map, but all of your approval decisions will be consistent with your plan. That's critical. It doesn't appear now. So the New Mexico Supreme Court says, well, the plan is just a guide. You don't have to follow it, etc. So one of the critical tests you're going to be facing here is are you going to live up to those policies and those strategies that you yourself say We want to see happen? And are you going to implement them, not just in the zoning and the use and the location but also in the approval process that goes along with that?

The third thing we talked about in the plan was to create – and this is very important – a relationship with the State. As you know, the Governor also in the Galisteo Basin issued a moratorium. They have extended that moratorium by six months, so ironically, our IDO, interim ordinance, and the Governor's moratorium, end on February 15, 2009. So we are going to present to you the first draft. We're going to present to you the general plan goals, objectives and policies, a draft of that. We're going to present to you a draft area plan. We're going to present to you the zoning ordinance changes and subdivision approval changes needed to carry out the area basin plan, and lastly, we're going to have the permanent zoning ordinance changes for oil and gas as well as to deal with the whole question of development. And we'll have that by the end of September.

We've made major progress. There are a few areas where we need to coordinate a little more. We've got now over 400 documents into our database. If you ever want to see it just go to the website that's been set up for the oil and gas project. And it's not just an oil and gas project. I think what Steve Ross, the County Attorney is saying to you is everything we're doing for oil and gas, which is dependent upon capital improvement programming, dependent upon financing of that, dependent upon locations of sites. How do you deal with environmental factors so that you don't get oil and gas interfering with corridors and flora and fauna and your hillsides, slopes and fire zones, and how do you get emergency fire and police and services, etc. All of these things are tied directly in.

So as we do the oil and gas we're also implementing your growth management strategy. And that I think is the double benefit of all of this. I want to tell you that the teams that we've been working with are exceptional. First of all, the staff. I want to commend the staff because they've done a wonderful job in cooperation with us and we hope that we've done a wonderful job in cooperating with your goals. And we've tried very hard to achieve that. As I said when I first came here, I may know a lot about growth management. I know a

lot about systems and legality all over the county, but I'll never know one-tenth of what you know about your County, maybe even one-hundredth. So it is an interplay of your judgment, your experience, your knowledge, and our ability to tell you how it can be done, what can be done, what the choices and options are.

Now, secondly, we've met with over 50 groups. We've had focus workshops for days. We've met with every one of the State agencies. We've met with all of the tribal or Pueblo units. We've met with all of the County staff agencies. We've met with citizens groups. I've opened my door. I get emails from every one of the groups, from cranks to people who are making excellent suggestions. The door has been opened. We have been very, very open to public comment and to public exchange.

Now, I understand that whatever comes out at the end of September, and I'm going to have to talk to you about certain legal problems in an executive session, because I can't go into those today, about some of the litigation problems and challenges that are facing us. But I do want to say to you that nobody is going to be 100 percent happy with the oil and gas situation. Because there are some people who want to see a simple ordinance saying no oil and gas anywhere in Santa Fe County. Now, we're going to have to talk about the legality of that, the litigation prospects and everything.

There are some people on the industry side who way there should be no restrictions whatsoever on oil and gas drilling. Now, remember, you've got thousands and thousands of these mineral estates severed from the surface, separate mineral estates, all of which or many of which who have now leased their mineral estates for oil and gas, and they're arguing that you can't restrain my mineral estates because if you do that then I have no use of that land and that's a taking. I'll go over the circumstances and situation later.

Number one, we can definitely state that there will be no land in this county that will be permitted as of right to have oil and gas drilling. No land in the county will be permitted as of right to have oil and gas drilling. That means they can't just go to the State, get their ATD and start drilling with whatever supplemental hole regulations we may adopt. We are going to be looking at this problem and examining – we haven't reached the final conclusion – but how do we relate to the cultural, archeological, historical artifacts that are in this great basin? How do we refer to where the water aquifers and water resources are? Where is water coming from? The water availability, I'm dealing strictly with that. In your growth management plan we're going to have water assessments, water availability is going to be required for subdivisions.

So the problem of the family transfers and the serial subdivisions, we're going to put in a requirement of cumulative counting. It's very simple. You take a piece of property and you divide it, and you divide it the second or third time and you're now a major subdivision, because we count back to where you started from and we count the cumulative transfers. Now you're going to have to have the sewer and water, the adequate facilities, the other things. A lot of people, I think the chairman said, are going to come out of the woodwork and say, Well, that interferes with state policy. On the contrary, we're going to make sure that family transfers stay in the family. But if you want to subdivide and you want to be in the

business of subdivision through the family transfer so you can sell it to the open market, you're going to have to deal with that the same way you deal with subdivisions.

Now that is going to change dramatically the whole question. Now, the question about vacant lots, I want to make it very clear to you, the growth problem that you have in the county today is not a problem of the size of the lots, it's a problem of the number of lots that you have. Now, if we could in fact say that only so many lots are going to build per year based on adequacy of public facilities, services, environmental needs, water availability, etc. It doesn't make any difference whether the lots we're approving are ten-acre lots, 2.5-acre lots or half-acre lots, because the number of lots is going to be the same. And as a matter of fact, what we're going to try to suggest to you is the whole concept of conservation subdivisions. That if you don't want sprawl and you want to be able to locate development closer to where there are adequate public facilities, the idea of basically saying, Well, if I've got a 40-acre site and I can divide that into ten four-acre lots, we're going to let you maybe built ten half-acre lots, and the rest of it will be open space to create separation.

Because we have the same number of people, the same number of units, same number of septic tanks, same number, but now if we cluster them better we can have more walkability, more services closer to facilities, etc. All of these issues that we are addressing they will all be before you by the end of September. So that's a pretty steep road that we've undertaken and I want to thank the County Attorney's office, particularly Steve Ross and Rachel Brown, for the incredible assistance they've given to my team and I want to say to you that I think you're going to see both of these problems solved at the same time. How do you create these quadrants? How do you create these tier systems? And how do you deal with the oil and gas at the same time? How do you develop growth management and oil and gas?

I want to just say one thing. If you think about it, what is important about growth management is that you have certain areas that are already built. We call these the existing built up areas. Tier 1, whatever you want to call it. You can accommodate a lot of infill back into those areas. You already have sewer and water in many of those areas, you already have road systems, you already have fire and police service. It will be to your great advantage if what you do on the outside is far more important than all the bribery you do on the inside. If you want you want to get people to infill, come back to the city because the County is working with the City to encourage growth in the city as well and to encourage rational growth. You're partners. What you do on the outside with regards to sprawl, a lack of services and subdivisions and serial subdivisions and so forth, if you let that go wild you'll never get the infill, you'll never get the city development that makes what you do so much more important.

So number one is, think about it, it's a unified understanding. What you do on the outside is more important than all of the incentives, all of the tax increment finance schemes, all of the redevelopment schemes you're going to do on the inside. The second thing is where do we grow now? Where does the future growth go? Years one to ten, years ten to twenty. Beyond that, nobody in mankind can predict what technology we're going to have 20 years from now. What the situation is going to be with transportation, with energy, with any of this.

Now, you want to be able to say, where do we grow? How much population do we expect, and where does that population rationally go? And that's what this tier system is all about. So Tier 2 is basically a tier that says this is the urbanizing. Tier 1 is the urbanized; it's already been built. We want to infill. Tier 2 is how are we urbanizing, where do we urbanize? Where do we put our facilities? Where do we put our infrastructure? Tier 3 is basically a rural area, because until the end of year 20 we don't know what we want. But we want to know what that rural area can be. A part of it, it's possible could be a future urbanizing area, in which event you certainly want to encourage cluster subdivision there because if it's going to be urban later you want to be able to say to the landowner, cluster your development and then if we get the sewer and water to you we can give you more development on that parcel because that's basically where we want growth to occur.

You also need the market. The market is trying very hard in this town. I've talked to a lot of developers and others, trying to build this new urbanism, trying to build walkable communities, it's trying to build mixed-use communities. They're trying to build higher density in a number of areas. So we want to encourage the market, and we have to understand that the market is not solely large-lot, single-family development on the fringe. That's not what the market is going to be in this country in the next 20 years. It's going to be a combination of things, but it's not exclusively going to be what we saw before.

And so the growth management is going to have to be adapted to understand change and to be able to take into account that change. And lastly, there's going to be this rural area but there's also going to be these environmental zones. They're a tier. Where do we want not to build at all, because of the preciousness of our water aquifers, the steep slopes, the problems of our rivers, our cultural artifacts, our habitat – we're identifying all of them. We have so much information we probably have too much information. But we know where all of these things are now, and we basically are going to bring them into consideration when we consider where development occurs. It's going to be part of the environmental standard, performance standard that's been talked to you about.

So even in growth areas where there are significant or other problems, there may not be development uniformly throughout any given tier, if there are environmental problems or concerns. Now, that's how this system is going to relate to each other and how it's going to be implemented. There will be changes in your subdivision regs; there'll be changes in your Land Development Code for zoning and the zoning approval process. Other things we're looking at are some of your processes too, because right now, everything just dumps on the Commission. So you're going longer – I know; I've been looking at your agendas – longer and longer and longer sessions. So we're going to try to do a number of things if possible. We're going to try to streamline the process. So if I need a general plan amendment, an area plan amendment, I need to get a rezoning and I need subdivision approval. Maybe I can do it all at the same time. I have one, consolidated hearing. I do all the fact-finding, get all of the considerations, etc. but why do we need to stretch things out into multiple, multiple, multiple hearings? Which only makes you go over the same issues over and over again, four times, five times. That's not being efficient from your perspective and it's certainly not helping the

development community because these are unnecessary. The public should have full right to comment on everything.

We're going to look at a few changes also in terms of mandatory meetings before an application is filed, between developers and the community, so they can resolve issues, deal with things that don't necessarily have to come up all the time. See if we can't get mediation going so that when issues do come before the Board they're more limited, more focused and you begin to decide what are the critical decision points. I'm just trying to give you an idea about the change. It's going to be substantive. It's going to be process. And it's going to be both the growth management strategy and the oil and gas. I know I've spoken to you for a considerable period of time. I'd be happy to answer any questions that any of the Commissioners might have. And thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, Doctor, for coming here. Any quick questions? We've covered a lot of area but we have a long night ahead of us and we're going to meet with Dr. Freilich in executive session, so I would ask that we move on. Thank you, Dr. Freilich.

DR. FREILICH: Thank you very much.

XII. A. 4. Consideration and Approval of Resolution No. 2008-126. An Inducement Resolution for IRB Financing to Benefit MW Holdings LLC (Bicycle Technologies International Ltd.)

MR. GRIEGO: This resolution before you is an inducement resolution for an industrial revenue bond. MW Holdings, LLC, Bicycle Technologies International, Ltd. submitted an IRB bond application in accordance with our IRB ordinance and bond issuance policies. The application includes the requirements of the resolution, including their projections, their financial information. The IRB application also includes a cost/benefit analysis that was completed through Southwest Planning and Marketing.

This resolution before you is an inducement resolution only. We have today our bond counsel to answer any questions specifically regarding the IRB inducement resolution. We also have BTI representatives, if there's any questions.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTROYA: Second.

CHAIRMAN CAMPOS: Discussion?

COMMISSIONER SULLIVAN: Mr. Chair, I'd just like to see if there's any issues that bond counsel would like to alert us to.

CHAIRMAN CAMPOS: Okay.

PETER FRANKLIN (Bond Counsel): Mr. Chair, Commissioner Sullivan, I don't have any special issues with this inducement resolution. I'd just make a couple brief points about it. It does declare the Commission's non-binding intent to consider a bond ordinance some time in the future to authorize industrial revenue bonds for this project. As I

say, the resolution is non-binding but it does enable the developer to get what are known as non-taxable transaction certificates to equip the project without paying gross receipts tax. Now, if the Commission decided not to go forward with the bond ordinance, the developer would be obligated then to pay the gross receipts tax on the equipment purchases that it had made.

Basically, the next step, if you should adopt this resolution, is to work with the – it's basically for Robert and the County Manager and the company to work out a schedule to go forward with the bond ordinance consideration. I guess maybe the one other thing I should add is that as we've discussed here before, industrial revenue bonds are not a debt obligation of the County. It's really what we call a conduit financing in which the debt service on the bonds is payable solely from the company that's using the project. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anything else.

COMMISSIONER MONTOYA: Mr. Chair, I just want to say I think this is a step in the right direction in terms of something that is going to impact Santa Fe County in a very positive and significant way in terms of economic development. The industry that these gentlemen have brought to Santa Fe County is just going to be expanded and the growth exponentially over the next few years is going to certainly add to our tax base. So I think this is an excellent, excellent economic development venture for Santa Fe County to assist in.

CHAIRMAN CAMPOS: And Commissioner, when you add this to the film studios, these two projects in that area will really stimulate growth in the Community College District, which is one of our growth areas.

COMMISSIONER MONTOYA: Absolutely.

CHAIRMAN CAMPOS: This is Resolution 2008-126.

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

XII. B. Matters From the County Manager

1. Update On Various Issues

MR. ABEYTA: Mr. Chair, the only thing I have is to remind the Commission that on Friday afternoon, the County Employee Benefit Committee will be hosting its annual County picnic at Nambe Falls and the Commissioners are certainly invited to join myself and some of the other County employees that are going to be there. And it will be at 12:00, Nambe Falls, on Friday.

CHAIRMAN CAMPOS: Thank you.

MR. ABEYTA: That's all I have.

COMMISSIONER MONTOYA: Mr. Chair, I just have a question for Roman. In terms of the affordable housing ordinance, I know we had talked about that some time back, and I know we've got a lot of things going on, but I was just wondering, can you give us more or less an estimated time when that might come to fruition?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, myself and Steve Ross have been working with Ron Sandoval on a timeline that we can present to you, and so I would hope to have that if not this week, early next week. I know that's important to you and we'll move on it.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Is that it?

COMMISSIONER MONTOYA: Yes.

XII. C. 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 Montoya 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 Anaya seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Montoya, Sullivan and Campos all voting in the affirmative. [Commissioner Vigil was not present for this action.]

[The Commission met in executive session from 5:20 to 6:35.]

Commissioner Anaya moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Sullivan seconded. The motion passed by unanimous voice vote. [Commissioner Vigil was not present for this action.]

XIII. PUBLIC HEARINGS

A. Growth Management Department

- 1. Authorization to Publish Title and General Summary of an Ordinance Adopting the Santa Fe County Regional Transit Gross Receipts Tax**

MR. ABEYTA: Mr. Chair, this is the first step, now that we have voted to rejoin the North Central Regional Transit District. This would be the title and general summary of an ordinance that we would bring forward, which would impose a 1/8 gross receipts tax. That proposal would be for the November election.

CHAIRMAN CAMPOS: Okay. Any questions from the Commission? This is

a public hearing. Anyone in the public who would like to comment about this please come forward and sit in the front row.

MR. ROSS: Mr. Chair, actually, you can hear from the public if you'd like, but authorization to publish title and general summary –

CHAIRMAN CAMPOS: You're right. It is under public hearings but we truly do not need public comment at this point in time.

MR. ROSS: Right. And I should also add for the record that I just received Resolutions 2008-12 and 2008-13 from the Regional Transit District Board. They just concluded their meeting. In 12 they accept and approve the County of Santa Fe's request to join the NCRD pursuant to their conditions contained in Santa Fe Resolution 2008-125. And then their Resolution 2008-13 provides that the County of Santa Fe needs to adopt within 75 days the identical ordinance that's calling for a joint election and the question of imposing a 1/8 percent gross receipts tax. And these two ordinances are identical with the ordinances that are going to be considered in the other three counties.

CHAIRMAN CAMPOS: The one we're looking at right now?

MR. ROSS: Yes.

CHAIRMAN CAMPOS: Okay. So is there a motion to authorize to publish title and general summary?

COMMISSIONER ANAYA: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Discussion?

The motion passed by majority [2-1] voice vote with Commissioner Sullivan casting the nay vote. [Commissioner Vigil was not present for this action.]

XIII. A. 2. Authorization to Publish Title and General Summary of an Ordinance Calling for the Santa Fe County Regional Transit Gross Receipts Tax Election

COMMISSIONER ANAYA: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Is this – this is just an authorization. Discussion?

The motion passed by majority [2-1] voice vote with Commissioner Sullivan casting the nay vote. [Commissioner Vigil was not present for this action.]

MR. ROSS: Mr. Chair, these ordinances will come back to you for adoption on September 9th.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I'd just like to recognize two Commissioners or Councilors in the audience. Commissioner Jim West from Los Alamos County is in the back over there. Thanks for being here, Commissioner. And Councilor Alfred Herrera from Española. Thank you.

CHAIRMAN CAMPOS: Thank you for being here. Appreciate it very much.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: I take it we were reaccepted or back in the fold of the NCRTD.

MR. ROSS: Mr. Chair, we were. I have the resolution right here in front of me.

COMMISSIONER MONTOYA: Oh, okay.

XIII. A. 3. Ordinance 2008-12. An Ordinance Replacing Resolution No. 2003-123 Establishing Permit and Review Fees within Santa Fe County. (Wayne Dalton, Growth Management Department) (Second Public Hearing)

SHELLEY COBAU (Building & Development Services Manager): I wasn't here for the first public hearing that you had in July. I was on vacation, so I assume that Mr. Dalton went through each one of the exhibits that you have in your packet outlining the increases and the percentage increases. So if it is fine with you guys, I'll just answer questions and open it to the public if there's anyone here to speak.

CHAIRMAN CAMPOS: Questions from the Commission.

COMMISSIONER MONTOYA: Mr. Chair, Shelley, were there any changes from the last meeting to what is in our packet now?

MS. COBAU: No, Mr. Chair, Commissioner Montoya, but I did find a typo as I was going through this again today. There's a dollar sign missing which we will fix if this is adopted, under the application fees, very first column in Table 3, where there should be a dollar sign in front of the \$300,000 fee and also in front of the \$250,000 fee. So those are the only minor changes that I could find.

COMMISSIONER MONTOYA: So other than that, all of the figures remain the same.

MS. COBAU: That's correct.

CHAIRMAN CAMPOS: And corrections have been made to the attached ordinance?

MS. COBAU: They will be before it's recorded. I'd just like to note that we will be adding those two dollar signs.

CHAIRMAN CAMPOS: Public hearing. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I discussed at the last public

hearing about the increase shown here in the cost for someone to protest a decision or a ruling, and that's gone up dramatically. I think it's much like a developer, we're requiring someone who has a bona fide protest to currently I believe, pay \$75 just to make that protest and now I think it's \$150 or \$175. And I can't see how that relates to the staff time, where we have a development review process. We have staff that are expending time to go through the review and see if it meets the criteria. Well, they've done all of that and now someone has a protest. So there's some time of course in processing that but I think we ought to be a little more receptive to having and not discouraging people to come forward and question some decision regarding a development. So I would like to see that fee stay where it is currently.

CHAIRMAN CAMPOS: Any further discussion from the Commission?

Commissioner Anaya.

COMMISSIONER ANAYA: Shelley, on the first page – actually it's the third page on the draft part, application fee under single-family residential, courtesy inspection, \$100.

MS. COBAU: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: What does that mean?

MS. COBAU: Is somebody has a question, if they want staff to go out and identify if the lot that they're going to build on for example has a buildable area, if there's going to be issues with their driveway, we want to establish a fee for that to offset the cost of fuel and staff time required to go out and meet the property owner out in the field.

COMMISSIONER ANAYA: And then initial inspection, \$45?

MS. COBAU: Initial inspection, as part of our process we currently go out in the field on every single project. Code Enforcement or Land Development staff will go out and do a preliminary inspection as part of our development process. And that fee is currently \$45.

COMMISSIONER ANAYA: So when we go out there now for an initial inspection we charge \$45?

MS. COBAU: That's correct.

COMMISSIONER ANAYA: And then pre-final inspection, and then final.

MS. COBAU: Pre-final inspection and final inspection are new fees. We didn't have those in the past. This is part of our implementation to improve our process and to provide more review on items that we haven't – that CID doesn't check. So we need to go out during the construction process. For example, if they're placing an underground cistern, make sure that that placement is going per plan, and then go out and do a final inspection and make sure everything's working on facilities like that and on just the total construction site. And that will just serve to allay future problems.

COMMISSIONER ANAYA: And the reason that we're charging \$100 courtesy inspection –

MS. COBAU: For a single-family residential.

COMMISSIONER ANAYA: Courtesy inspection means – I would think courtesy is not charging. You're saying that if somebody has a question on a single-family

residential property, they call the County and they say, Hey, could you come out and look at this, and they say, Yeah, for \$100.

MS. COBAU: We try to be more diplomatic about it than that, but basically that's the bottom line, Commissioner. If somebody wants us to come down to Edgewood and look at their property, it's a good deal of staff time and a good deal of fuel cost to go down there and do that and we're just trying to make sure that development, even if it's a single-family residential development has some responsibility in paying for itself.

COMMISSIONER ANAYA: I don't know. I have a problem with that. Why are we – is this the last public hearing? So if we adopt this today that means we start charging these fees?

MS. COBAU: We would start charging these fees 30 days from when this was recorded, so that's correct.

COMMISSIONER ANAYA: And the reason we're charging the fees is because gas prices and – I guess what I'm looking at is what happened to the days when we were giving advice and we were helping our constituents? Now we're charging for every little thing. Are we in the business now of being a business?

MS. COBAU: The ordinance that we're replacing or the resolution that we're replacing with this ordinance did have a courtesy inspection fee but it was \$15. So we have been charging a courtesy inspection fee. We did a study. We did a bunch of research, Wayne Dalton and myself on other fees in other communities and found that we were charging some of the lowest fees of anywhere in the desert Southwest. Our fees were way, dramatically lower than other counties like Pinal County which is about the same size we are in Arizona. We tried to keep the per-lot development fee to a reasonable amount where if the per-lot development fee is currently, say, \$65 after we wrap all these fees together. If it's currently \$65 we're taking it up to maybe \$115.

So it's reasonable. It really hasn't kept pace with inflation and building costs at all. If we were to raise our fees commensurate with inflation and building costs they'd be dramatically higher than we're proposing. I think we've really tried to be reasonable and I think we're still very reasonable in the fees. And I think that it's going to be really crucial to us to be able to do this so that we can hire the staff that we need to follow through with the NPDES program, to get more code enforcement on the ground, to try to improve the service to people who have problems with their neighbors right now that we can't – we're operating right now complaint-driven with our three code enforcement officers. The only time an area gets any attention is if someone calls and complains about it. We have one guy trying to go out there and monitor hundreds of acres. So if we can get more people through these minor costs I think that it's a real service to the County.

I did do a spreadsheet that isn't in your packet, and it shows a comparison of, for example, a family transfer land division for two lots, the current fee is \$105. The proposed fee is \$320. So people right now are getting lots that are worth \$250,000 or \$150,000, and we're getting a staff review fee for the County of \$52. We're only asking now for a fee of \$110 for them or \$160 apiece. It seems marginal when we take into consideration the total

cost of developing a lot and land. Our fees are a marginal portion of that cost.

COMMISSIONER ANAYA: How many counties do this?

MS. COBAU: All counties have development fees. Some – Doña Ana County does it very similar to what we have proposed here. Taos County, very similar. Most counties have very similar fee schedules to the one we're proposing.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Vigil.

COMMISSIONER VIGIL: I actually think some of those are higher fees, and certainly we don't even match what our City government does with these new proposed fees. I really have to support this, because when I look at it I look at the big picture. If we don't do a fee-for-service type ordinance as we're doing here we're going to have to make it up some other way. And we'll have to look at increased taxes. We'll have to look at other ways. We are a Class A, growing county and in order to provide the appropriate services we need to operate professionally and responsibly and fairly, and I think this is the way to do it. I appreciate you bringing forward, and Mr. Chair, I would support it.

CHAIRMAN CAMPOS: Okay, we're going to go to public comment if there are no other questions. Anybody who wants to comment on this ordinance please step forward at this time. Okay, no one having stepped forward the public hearing is done. Is there a motion to adopt Ordinance 2008-12?

COMMISSIONER ANAYA: Mr. Chair, I had a question. It looks like the courtesy inspection – I'm just using this as an example. That has to be done by Santa Fe County. So in order for somebody to build they've got to go to us; they have no other choice. Nobody else can go out there and do the inspection for \$10, \$15, \$20. I'm asking that – we are approving this or talking about this and we are the only inspection. So they have no choice. If they want something done, they've got to pay the \$100. Period. Is that what you're getting at?

CHAIRMAN CAMPOS: That's what the proposed ordinance says, Commissioner Anaya.

COMMISSIONER ANAYA: So I guess we're telling our residents that if you want us to go out there you're going to pay \$100 no matter what. You have no other place to go. This is what we charge, and you can't go anywhere else.

MS. COBAU: Mr. Chair, Commissioner Anaya, they're not required to have a courtesy inspection. They can make an application to us without a courtesy inspection. They're not required to have that. That's only if they would like our input before they make their application, if they would like us to come out and look at their property to give them advice prior to their making an application. So they're not required – the courtesy inspection is not a requirement. That's only if they want it.

COMMISSIONER ANAYA: That's what I was getting at. Thank you for clarifying that.

CHAIRMAN CAMPOS: Okay, is there a motion to adopt Ordinance 2008-12?

COMMISSIONER SULLIVAN: Move to adopt Ordinance 2008-12 with one exception that the cost of the appeal remain at the current \$75.

COMMISSIONER MONTOYA: Instead of?

COMMISSIONER SULLIVAN: Instead of \$150 and \$125. They're currently being proposed as an appeal of a development review committee decision at \$150 and the appeal of the Land Use Administrator's decision at \$125. And I feel that \$75 is adequate for reimbursement of staff for their time to process the appeal.

CHAIRMAN CAMPOS: Give us a specific place.

COMMISSIONER SULLIVAN: I was reading it off Mr. Dalton's comments in the meeting of July 8th on page 19. But I think we can probably find it –

MS. COBAU: It's the final table.

COMMISSIONER SULLIVAN: It's 3.1.8, which would be the final table.

CHAIRMAN CAMPOS: Okay, there's a motion. Do I hear a second? Okay, there's no second. Is there another motion?

COMMISSIONER VIGIL: I move we approve the recommended position of staff and adopt Ordinance 2008-12.

CHAIRMAN CAMPOS: As presented?

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay, that was seconded by Harry Montoya.

The motion to approve Ordinance 2008-12 passed by unanimous [5-0] voice vote with Commissioners Anaya, Montoya, Sullivan, Vigil and Campos all voting in the affirmative.

- XIII. A. 4. **AERDC CASE # V 07-5410 Joe Mier Variance - Joe and Carmella Mier, Applicants, Paramount Surveys (Paul Rodriguez), Agent, Request a Variance of Article III, Section 2.4.1a.2.B (Access) to Allow Access through Camino Dos Antonios which is a Legal Non-Conforming Road Which Does Not Meet Current County Standards for a Three-Lot Family Transfer Land Division. The Property is Located in the Village of Agua Fria Traditional Historic Community at 1800 Camino Dos Antonios, which is off Agua Fria Street, within Section 32, Township 17 North, Range 9 East, (Commission District 2). Vicente Archuleta (VOTE ONLY)**

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chair. This case was scheduled for a vote only, but staff has changed their recommendation, so I would like to read the new report if possible.

CHAIRMAN CAMPOS: I want to ask you a couple of questions. Who was

absent at the last vote?

COMMISSIONER VIGIL: I was.

CHAIRMAN CAMPOS: And who were the yes and who were the noes?

MR. ARCHULETA: Mr. Chair, I believe it was Commissioner Sullivan and yourself.

CHAIRMAN CAMPOS: Voting no?

MR. ARCHULETA: Voting no.

CHAIRMAN CAMPOS: Okay. Please continue, Mr. Archuleta.

MR. ARCHULETA: Thank you, Mr. Chair. On March 13, 2008, this case was heard by the Board of County Commissioners. There were four members of the BCC present at the meeting, two members voted to deny and two members voted to approve. Under Section I.B.7 of Santa Fe County Resolution No. 2004-62 if a vote results in a tie and one or more members are absent for a reason other than voluntary or involuntary disqualification the item shall be tabled until the next meeting at which a greater number of members are present, or a special or emergency meeting if necessary. Therefore this case is back on the agenda for another vote.

Section 7.B states: "A member need not be present at discussion, debate or testimony on the matter taken for vote."

On January 2, 2008 the Agua Fria Development Review Committee met and acted on this case. The decision of the AFDRC was to recommend approval.

Joe and Carmella Mier are requesting a variance to be allowed to use Camino Dos Antonios which is a legal non-conforming road of approximately 10 to 12 feet in width, to access their property in order to create a three-lot family transfer. There are at least 15 properties that take access from this road, however there are six properties that have to cross the Santa Fe River via a bridge that does not meet SF County Standards for Emergency Vehicle crossing

The applicant's agent states: "We would like to appeal the decision of the Santa Fe Fire Marshal to deny access to our subject property through a concrete bridge on Camino Dos Antonios. All we would like to do is have an access to these lots which has already been a long standing access to these properties off Camino Dos Antonios."

The applicants have submitted for a three-lot family transfer land division which is dependent on the variance. The bridge was constructed in 1998 without a permit. Had the owners approached the County for a permit on the structure compliance with Ordinance 1998-1 would have been required. An engineer's analysis demonstrating that the bridge placement would not adversely affect adjacent properties or result in an increase to the 100-year WEWSL of the Santa Fe River, and application to FEMA would be required. The structural stability would have been added at that time.

Article III, Section 2.4.1.a.2.b states: "All development sites created under this section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code."

While family transfer land divisions are not subject to providing offsite improvements if held for three years per Article III, Section 2.4.2b.3(c) which states: "Offsite improvement requirements do not apply to lots created by family transfer for the first lot per immediate family member, small-lot family transfer, or small-lot inheritance transfer provided that the recipient does not sell or transfer such lot for three years from time the plat is recorded. For second and consequent lots and for lots sold or transferred by the recipient prior to such three year period off-site improvement requirements of this Code shall be met at the time of sale." For family transfers to be exempt from off-site road improvements for the first lot, the person transferring the lot shall file an affidavit as described in Article II, Section 4.3.2b.v.

Recommendation: Article III, Section 2.4.1.a.2.b states: "All development sites created under this section shall demonstrate that access for ingress and egress, utility service and fire protection whether by public access and utility easement or direct access to a public right-of-way can be provided and meet the requirements of this Code." The decision of the Agua Fria Development Review Committee was to recommend approval of this request. With an alternate emergency access staff could process this request administratively as a variance would not be required. Therefore, staff recommends the BCC require the following note be placed on the plat: "Prior to construction of any kind on Tract 1, 2, or 3 of the proposed family transfer for Joe and Carmella Mier, the owners of these tracts shall secure alternate emergency access." Should the BCC approve this variance request without the requirement for alternate emergency access for Tracts 1, 2, and 3, staff recommends the following conditions. May I enter those into the record?

[The conditions are as follows:]

1. The applicant must submit for review a disclosure statement outlining access limitations and releasing Santa Fe County of all liability. The disclosure statement must be signed and notarized by the applicant and must be recorded with the County Clerk. This document is required in order to disclose this information to any future property owner.
2. The following notes must be placed on the plat of survey and included in the disclosure statement:
 - a. This property is not accessible by emergency vehicles. Santa Fe County assumes no liability for the structures, structure contents or personal injury that may result due to lack of access for emergency vehicles.
 - b. Homes constructed on these lots shall have fire protection either by a fire suppression system or a water storage tank with hydrant. The size of the storage tank shall be determined by the Fire Marshal.

COMMISSIONER ANAYA: So moved.

COMMISSIONER VIGIL: Second.

CHAIRMAN CAMPOS: Hold on. It's a public hearing.

COMMISSIONER ANAYA: Vote only.

CHAIRMAN CAMPOS: Not anymore. Not if the recommendation has been

changed.

COMMISSIONER VIGIL: Is that correct, Mr. Ross?

MR. ROSS: Mr. Chair, I think this is a vote only situation. I know the staff has changed its recommendation but unless you want to open it up to public comments and have a full-blown public hearing.

CHAIRMAN CAMPOS: Last time we had a 2-2 vote on the question of variance. Now staff is suggesting that all we have to do is add a condition and not address the variance. It's a different issue, isn't it?

MR. ROSS: Well, it might be a different issue, but the problem is I don't think this has been noticed for a public hearing.

CHAIRMAN CAMPOS: This has not been noticed. I think it was noticed for vote only.

MR. ROSS: Right.

CHAIRMAN CAMPOS: So that does not allow us to do anything.

MR. ROSS: Well, I think that what's been proposed is a minor change but there is an obvious problem with the way this is noticed.

CHAIRMAN CAMPOS: Okay. Well, then there's a motion to permit the action requested subject to the language proposed by staff. Is that right?

COMMISSIONER VIGIL: That's what my second was.

CHAIRMAN CAMPOS: Is that what the motion was?

COMMISSIONER VIGIL: Yes.

CHAIRMAN CAMPOS: Mr. Archuleta, has the applicant agreed to this?

MR. ARCHULETA: Mr. Chair, the applicant is here.

CHAIRMAN CAMPOS: Is the applicant here? Would you stand up, sir and come forward. State your name for the record and address.

[Duly sworn, Joe Mier testified as follows:]

JOE MIER: Joe Mier, 2209 Brillante, Santa Fe, 87505.

CHAIRMAN CAMPOS: Mr. Mier, do you agree with that additional condition?

MR. MIER: Yes.

CHAIRMAN CAMPOS: Okay. Thank you very much. Okay, there's a motion and a second.

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

CHAIRMAN CAMPOS: Thank you, Mr. Mier.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: On that last case, I just wanted to say for the record, staff is categorizing that thing as a bridge and it's best categorized as a slab. That access, I've driven over it and I can assure you it's not a bridge; it's a slab. It's a slab with a

very limited clearance in the event of flooding. So an alternate access is absolutely critical to the safety of those residences. Thank you.

XIII. A. 5. EZ CASE # DL 08-4120 Maes Family Transfer Land Division – Cindy Maes, Applicants, Request Plat Approval to Divide 4.99 Acres into Three (3) Lots. The Lots Will Be Known as Lot 1-A (1.662 Acres, More or Less), Lot 1-B (1.662 Acres, More or Less), and Lot 1-C (1.662 Acres, More or Less). The Property is Located at 82 Calle Estevan in the Piñon Hills Subdivision, within Section 25, Township 17 North, Range 8 East, (2 Mile EZ, District 2

CHAIRMAN CAMPOS: Mr. Larrañaga, could you just summarize this as opposed to reading the whole thing?

JOSE LARRAÑAGA (Review Specialist): Yes, Mr. Chair. The applicant is asking for a family transfer within the Piñon Hills Subdivision. We are, as far as the all-weather crossing, there's going to be an all-weather crossing per the last testimony by September on this. They have owned the property for over five years, since 2002, and it's to adult children.

CHAIRMAN CAMPOS: And this is in accord with the Code?

MR. LARRAÑAGA: Yes, Mr. Chair. We are recommending approval with staff conditions.

[The conditions are as follows:]

1. No development may occur within the limits of the FEMA designated 100-year special flood hazard area. All development must meet the criteria set forth in Ordinance 2008-10.
2. The applicant must record Water Restrictive Covenants on Lots 1A, 1B, and 1C simultaneously with the plat imposing 0.25 acre-feet per year water restrictions per Article III, 10.1.1 and 10.1.2 of The Land Development Code. Water meters must be installed on all Lots and meter readings must be submitted to the Land Use Administrator annually by January 31st of each year.
3. The onsite access road must have a minimum 38' easement with a 20' driving surface and must be developed meeting Section 3.5 of the Extraterritorial Subdivision Regulations (Road Requirements and Standards). Prior to recording the plat the applicant must construct the road or provide Santa Fe County with a certified engineer's cost estimate for roadway improvements. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included. Prior to recording the plat, the applicant must realign the existing access road within the platted easement.
4. The final plat shall be recorded within the eighteen (18) month of date of final approval, per Section 3.3.5.c.9 (Final Plat Procedures) of the Extraterritorial

Subdivision Regulation

5. The applicant must address all minor corrections as shown on the proposed plat. The redlines have been delivered to the applicant by John Lovato, Development Review Specialist. These redlines must be resubmitted with the Mylar prior to recordation

CHAIRMAN CAMPOS: Okay. It meets all conditions of the Code?

MR. LARRAÑAGA: Yes, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Is the applicant here? Would you please step forward?

[Duly sworn, Cindy Maes testified as follows:]

CINDY MAES: Cindy Maes, 82 Calle Estevan.

CHAIRMAN CAMPOS: You're the owner that wants to divide?

MS. MAES: Yes, I bought the property so I could subdivide it for my three children.

CHAIRMAN CAMPOS: And do you understand all the conditions and accept the conditions as set by staff?

MS. MAES: Yes, I do.

CHAIRMAN CAMPOS: Public hearing. Anybody in the public who would like to comment? Okay, no one having come forward, public hearing is closed. Is there a motion?

COMMISSIONER ANAYA: So moved.

COMMISSIONER VIGIL: Well, I have a question.

CHAIRMAN CAMPOS: Okay, Ms. Vigil has a question.

COMMISSIONER VIGIL: And this is probably for staff. Does the family transfer meet the minimum lot size requirement?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, yes it does. A family transfer would be 1.25 acre. Minimum lot size would be 2.5 acres and that would be half of the minimum lot size.

COMMISSIONER VIGIL: Okay. Mr. Ross, I wonder if it could be certified in some way that this property will go to a family member. What do we do in Land Use to certify that?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, at the time of recording we do record a Family Transfer Affidavit. It is recorded as a family transfer with the plat and deeds are transferred.

COMMISSIONER VIGIL: And is there a minimum amount of time that we place on that or is that in perpetuity?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, are you saying like for resale?

COMMISSIONER VIGIL: Right.

MR. LARRAÑAGA: We do not have a holding for resale. They could

possibly –

COMMISSIONER VIGIL: That's what the problem is, Mr. and Mrs. Maes. I represent you in your district, and while I'm a strong advocate for family transfers, the problem that we're having in that district is that there are people who are subdividing for family transfers just for resale purposes, and that sort of undermines the purpose of the family transfer. A family transfer was intended to be turned over to families for the purposes of families staying together, being together, and as long as those purposes are met I fully support the family transfer. But if property turns around and gets sold – and I'm not saying that you are violators, but we do see this over and over, where people have purchased the property with the intent of family transfer and gone five years, the minimum requirement, gone to family transfers, given it to their family, and turned around and sold it. That's sort of unfair to your neighbors. It's unfair to the County. It's unfair to yourself, if your intent is to keep it for your children or whatever family member is.

At the same time I have to applaud you for investing in something like this if this is your full intent. Do you have any response to that?

MS. MAES: That is my full intent. I don't have any – about letting them sell it or, no, that wouldn't be an option. It's got to stay in my family.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Where did staff go? Did you say, did I catch what the holding period was prior to the family transfer split?

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, they have owned the property since 2002. It needs to be in the family proper for five years to meet that requirement.

COMMISSIONER SULLIVAN: Okay. So they met that requirement and then what you testified was there's no requirement on the backend. It can be sold the next day that it's transferred to a family member.

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: The only other question I had was we received a letter from the West Santa Fe Association opposing this particular split. *[Exhibit 3]* One of the comments they bring up is about the unsafe egress and access which I understand Public Works is now planning to correct that with a new culvert.

Another item that the West Santa Fe Association brings up is the fact that Santa Fe County has no system in place to monitor compliance with water use restrictions. So my question to staff would be: Is that true or do we have some system in place to monitor water use restrictions that we place on these lots?

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, with the plat, the applicant, the three lots will be restricted to quarter acre-foot water restrictions with a shared well agreement and they must put a meter on the well for each lot. They're supposed to be sending in water – documentation of their water use to the County Hydrologist every year.

COMMISSIONER SULLIVAN: And if they don't do that do we have some

process in place to monitor that and tell them that they need to submit their records?

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, I do not believe we have any way to monitor other than sending in the readings from the meter, possibly with the new we'll have a way to do it.

COMMISSIONER SULLIVAN: The ordinance is in place. We have an ordinance that imposes fines and so forth, but that ordinance is not very effective if we don't have anyone to assure compliance with it. Can anyone offer any hope here that we're going to monitor and enforce our own ordinance? Do we just make them up here?

MS. COBAU: Mr. Chair, Commissioner Sullivan, with the new fee ordinance, as part of the final inspection, we will be verifying that we have a meter on the well and Laurie does have a database that's set up and she's carefully tracking now who's turning in meter readings. So I think we have a better handle on the well metering program than we've had in a number of years and I think you'll see a dramatic improvement in the coming months.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

COMMISSIONER VIGIL: What Land Use staff does, I guess before the recordation of the plat is require the applicant to sign an affidavit of transferring only to family members. Is that enforceable, to the extent that it's evidentiary of –

MR. ROSS: Well, Mr. Chair, Commissioner Vigil, it is enforceable. It's a difficult process, but if somebody has sworn in an affidavit and an affidavit is of course a sworn statement essentially, if they have sworn in support of an application to the County their intent at the time they swore the application out is to keep the property within the family and then they turn around the very next day and sell the property, we might be able to assert in a court of law that the approval was based on fraud, and therefore be able to negate the approval and unrecord the plat. We'd have to do that through a court though, district court.

COMMISSIONER VIGIL: Okay.

MR. ROSS: Shelly just mentioned that as a part of the recordation process the applicant is also required to present a deed to the family member and they establish through this method that the person who is receiving the property on the deed is indeed a permitted a family. That is yet another thing. But the affidavit is an important component of that because it establishes, at least as of the time of the making of the affidavit what the intent was.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN CAMPOS: Mr. Ross, a follow-up on that. Would it be possible to make a condition that would state that if the applicant violates this and issues a deed to a non-family member that the County would the right to collect attorney fees and court costs in the proceeding against the applicant for the misrepresentation?

MR. ROSS: Mr. Chair, that wouldn't be an enforceable condition but it could be an enforceable provision in an ordinance. If we made that a matter of law through an ordinance it would probably be enforceable.

CHAIRMAN CAMPOS: Because that would give us some leverage and some teeth to the ordinance.

MR. ROSS: Right. Attorneys' fees have to be established through some law, through some mechanism of law. So if we passed –

CHAIRMAN CAMPOS: Well, context, but I guess not by condition.

MR. ROSS: Right.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: One other comment on this same issue that the Santa Fe Association made was that – and I wanted to see whether this was true or not – that they state that we have put conditions on other subdivisions in Piñon Hills of a ten-year minimum holding period on any lot sales after transfer. And Shelley, is that –

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, there have been in the past, I know of a couple that there have been, a two-year or three-year, but I haven't heard of anything of a ten-year. At the last BCC meeting I did bring another family transfer to this Commission and that was brought up also. But there has been in the past some holding period for the family members.

COMMISSIONER SULLIVAN: And the one you brought up last time, how many years was that?

MR. LARRAÑAGA: There was no holding period on that one.

COMMISSIONER SULLIVAN: There was no holding period on that one. So, can anyone recall a ten-year holding period in the past? There have been some-year holding periods.

MR. ROSS: Mr. Chair, I have seen a number of different holding periods including ten years, but they're not enforceable.

COMMISSIONER SULLIVAN: Even if the applicant agrees to them?

MR. ROSS: Well, possibly if the applicant agreed to them it might be enforceable, but then there's always the question of whether the applicant's agreement with that was coerced because of the pressures of the situation.

COMMISSIONER SULLIVAN: So what they say is accurate but marginally, if at not all enforceable. Okay. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, is there a motion to approve the division of land with the conditions set by staff?

COMMISSIONER SULLIVAN: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTROYA: Second.

CHAIRMAN CAMPOS: Discussion?

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

XIII. A. 6. CDRC CASE # MIS 08-3120 Lamy Station Café Liquor License. Michael Gintert, Applicant, Requests Approval of a Restaurant Liquor License to Serve Beer and Wine with Meals. The Subject Property is Located at 150 Old Lamy Trail, within Section 33, Township 15 North, Range 10 East, (District 5). Jose E. Larrañaga, Case Manager

MR. LARRAÑAGA: Thank you, Mr. Chair. On November 8, 2005 the Board of County Commissioners granted the Lamy Station Café master plan, preliminary development plan. The approval of the master plan by the BCC allowed the sale of liquor on this site. The applicant is requesting approval of a restaurant liquor license. The Lamy Station Café will not have a bar but will serve beer and wine with meals. The issuance of a liquor license will not increase the intensity of the restaurant as there is not any proposed expansion of the existing site.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6-B-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 liquor license at this location.

Recommendation: The applicant's request for a restaurant liquor license to serve beer and wine at the existing Lamy Station Café complies with the master plan zoning granted by the BCC and has met the State of New Mexico's requirements for noticing, distance from schools and churches. Therefore staff recommends approval of this request.

CHAIRMAN CAMPOS: Thank you, sir. Okay, questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Jose, is this a new license?

MR. LARRAÑAGA: Mr. Chair, Commissioner Montoya, yes, this is a new license that would be issued to this restaurant.

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

CHAIRMAN CAMPOS: Any other questions? Okay, applicant.

[Duly sworn, Michael Gintert testified as follows:]

MICHAEL GINTERT: Michael Gintert, and my address is 63 Sabino Gonzales, Valencia.

CHAIRMAN CAMPOS: Any questions for the applicant?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Mr. Gintert, how many liquor licenses are out there already, let's say within a five-mile radius?

MR. GINTERT: Galisteo Inn has one, and Copa de Oro, and Gumby's in Eldorado. So those are about five miles or more in each direction from the Lamy Station Café, which is across the street from the old Legal Tender.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Okay. Public hearing. Anybody here to comment about this case. Please come forward now. Okay, no one having come forward the public hearing is closed. Is there a motion to approve?

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion?

The motion passed by majority 4-1 voice vote with Commissioner Montoya casting the negative vote.

COMMISSIONER MONTOYA: Mr. Chair, I would just like to see what we can do – when this came before us the first time I think there was some discussion about not having beer and wine to be sold at that point and it would just be food that would be sold. I would like for us to look at what in the future can be done when we allow these kinds of licenses originally for food and then they come back and because of whatever circumstances, aren't making it financially and decide to sell beer and wine.

To me it's a sad state if we have to have a restaurant survive based on sales of wine and beer, because it's certainly something that is a societal problem already as it, and now we have another license going in in this area. And I would like to know how many licenses we have in Santa Fe County. I think the number is probably pretty astronomical in terms of per capita in our population that we have here in this county. I know Rio Arriba has enough liquor licenses to serve the City of New York. So I'm just wondering how we do in comparison to that sort of a statistic and here we are granting more and more, and sure, maybe we're making some progress with DWI but certainly I don't feel a significant enough progress is being made in terms of every day there's something in the news about somebody drinking or driving or getting killed as a result of drunken driving. So we just continue to talk about the problem but don't do anything about it. I'd like to see what this Commission can actually be able to do in the future. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Vigil.

COMMISSIONER VIGIL: I'd like to actually direct staff to request – I don't know if it's going to be for a presentation meeting – Alcohol and Gaming Division to come here to give us an overview of licenses in Santa Fe County. And I know beer and wine, I don't think there's a cap or a limit to that but I know the ones that have the alcohol service, there is a cap. Those wines are brokered. They're brokered throughout the state. But I'd like some more information and I'd like some clarity in terms of our authority. It seems like I'm feeling like we just rubber-stamp these and I know the criteria for it, it has to be away from a school zone. But there's also criteria I believe in the statute that allows us to look at these. I'm sorry, Mr. Lamy, this just brings up the issue. This isn't about you. This is really an overall issue. I wish you luck and I think you are within an appropriate radius for serving beer and alcohol. But in other cases there is an alcohol statute that says we can look at the

safety/health issues. But I'm not sure how narrow that is or how broad.

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, if I may, I have been trying to get in contact with Alcohol and Gaming. I have a number for the director, left several messages, because I'd like to meet with him also to answer some of those questions and maybe have him come and present and to answer Commissioner Montoya's question of how many alcohol or liquor licenses we have in the county. It's hard to get that information from the County Clerk because you have to register after – like Mr. Gintert got his beer and wine license. Tomorrow we would have to take it down to the County Clerk and they would have to register it and we do get a fee for that every year when registered with the County. So we have a count of how many liquor licenses or package liquor and full-fledged or beer and wine licenses. But as soon as I get in contact with Alcohol and Gaming I'd be happy to ask them if they'd like to present to us and get more information.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER MONTOYA: Great. Thank you.

CHAIRMAN CAMPOS: Commissioner, I would recommend a private briefing as opposed to a public hearing. We have plenty of stuff on our public hearing agenda.

COMMISSIONER VIGIL: We could do it in a presentation meeting.

CHAIRMAN CAMPOS: We could do it at a private briefing for any Commissioner who wants to attend. And if they think they want to go to the legislature they can do so.

COMMISSIONER MONTOYA: I think this is significant, Mr. Chair. Certainly something I think should warrant some sort of a public hearing. People are here to be able to listen to that type of a presentation. I think they'll probably be alarmed.

XIII. A. 7. CDRC CASE # MP/PDP 07-5390 Valle de los Caidos Coffee Shop- Jimmy Rivera, Applicant Requests Master Plan Zoning Preliminary Development Plan Approval to Allow a 2,000 Square Foot Building to Be Used as a Coffee Shop and Civil War Museum On One (1.0) Acre within the Traditional Community of Glorieta. The Property Is Located at 154 NM 50, within Section 35, Township 16 North, Range 11 East (District 4). Jose E. Larrañaga, Case Manager

CHAIRMAN CAMPOS: Mr. Larrañaga, could you summarize?

MR. LARRAÑAGA: Thank you, Mr. Chair, yes. Mr. Rivera is asking for master plan, preliminary development plan to zone the property and build a coffee shop on one acre with a Civil War Museum. This property is within the traditional community of Glorieta. We do have reviews on parking, signage, lighting, existing development, adjacent property, access, terrain management, water, liquid and solid waste, fire protection,

landscaping, archeological.

Staff is recommending approval for master plan and preliminary development plan with final development plan to be done administratively with some conditions.

[The conditions are as follows:]

1. All Staff redlines 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 (Site Plans & Building Plans)
 - f) State Historic Preservation Division
 - g) Development Review Services Comments and Conditions
3. The applicant must submit a final development plan to be approved administratively prior to the issuance of any permits for grading or building permit.
4. The applicant will be required to submit a financial guarantee, in an amount approved by the County, for all improvements including but not limited to fire protection, roads, retention pond and landscaping prior to permit issuance. The financial guarantee for landscaping and re-vegetation will be kept until the plantings have taken, for a minimum of one year after installation.

CHAIRMAN CAMPOS: Questions for Mr. Larrañaga?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: The conditions are agreed to by the applicant?

MR. LARRAÑAGA: Mr. Chair, Commissioner Montoya, at CDRC the applicant did agree to the conditions.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions on the various staff reports. One indicated that the submittal didn't comply with the County's water harvesting ordinance. Has that been corrected, or I don't see that as a condition. What do we know about that?

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, that will be corrected at the final development plan done administratively. The applicant didn't quite have the gallons that we needed for his cistern and placement and a detention pond after than for the overflow. So that would be calculated as far as the roof drainage and be shown on the final development plan.

COMMISSIONER SULLIVAN: So that doesn't need to be a condition? That's taken care of?

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: Okay. Another comment from the State Archeologist was concern – the Arrowhead Lodge where this is located indicating that they didn't have too much concern about that but that they had some issues with the cabins which were part of the Arrowhead Lodge which they felt had some historic value and they didn't want them to be destroyed. I was looking at the map, Exhibit J, and I didn't see any cabins, but could you perhaps point out what they're talking about there?

MR. LARRAÑAGA: Mr. Chair, Commissioner Sullivan, I believe what they're talking about is this property was split and the one we're dealing with is a one-acre lot and maybe Mr. Rivera can explain that a little better, but I believe –

COMMISSIONER SULLIVAN: Which one is the lot in Exhibit J?

MR. LARRAÑAGA: The lot in question – there's the house and I believe this is the cabin area, if I'm not mistaken.

COMMISSIONER SULLIVAN: Behind? So they're all in a line? All in a row there? Looks like one building. Is that right?

MR. LARRAÑAGA: That's correct.

CHAIRMAN CAMPOS: Mr. Larrañaga, what exhibit is that?

COMMISSIONER SULLIVAN: J.

CHAIRMAN CAMPOS: For the record, Exhibit J.

COMMISSIONER SULLIVAN: So Arrowhead Lodge is the one that's shown on our map in kind of a yellow color? I'll wait until the applicant comes up and he can answer.

CHAIRMAN CAMPOS: Any other questions for Mr. Larrañaga? Would the applicant please step forward.

[Duly sworn, Jimmy Rivera testified as follows:]

JIMMY RIVERA: Mr. Chair, Commissioners, members of the staff also, my name is Jimmy Rivera and I'm the applicant for the Valle de los Caidos Coffee Shop in Glorieta. I've been at this thing now for over a year and I probably started the wrong way without all the proper, necessary documentation that was needed. But the deeper I got –

CHAIRMAN CAMPOS: Mr. Rivera, do you understand the conditions set forth?

MR. RIVERA: No.

CHAIRMAN CAMPOS: You do not.

MR. RIVERA: No, but I'm beginning to understand most of them now. There have been quite a few. I started this about a year ago and –

CHAIRMAN CAMPOS: Do you think we ought to table this? Have you talked to the staff and understand them?

MR. RIVERA: Well, we've had a little lack of communication, but I think we're getting there.

CHAIRMAN CAMPOS: Well, we're here at the hearing today, Mr. Rivera.

MR. RIVERA: That's right.

CHAIRMAN CAMPOS: Okay. So you don't understand them.

MR. RIVERA: Well, I understand what we're doing here, yes.

CHAIRMAN CAMPOS: Do you understand the conditions, is the question.

MR. RIVERA: I don't understand the question.

CHAIRMAN CAMPOS: Do you understand the conditions that staff made on the approval of your application? Okay. Let's move on. Let's defer this action for a few minutes, have Mr. Larrañaga talk to Mr. Rivera.

[See page 63.]

XIII. A. 8. AFDRC CASE # V 07-5470 Robert Casados Variance- Robert Casados, Applicant, is Requesting a Variance of Article XIV, Section 10.6 (Density and Dimensional Standards) of the Land Development Code in Order to Place a Second Dwelling Unit on .32 Acres. The Property is Located at 4096 Agua Fria Street, within the Agua Fria Traditional Community, within Section 31, Township 17 North, Range 9 East (Commission District 2) Vicki Lucero

VICKI LUCERO (Residential Development Case Manager): Thank you, Mr. Chair. Robert Casados, is requesting a variance of Article XIV, Section 10.6 (Density and Dimensional Standards) of the Land Development Code in order to place a second dwelling unit on .32 acres. The property is located at 4096 Agua Fria Street, within the Agua Fria Traditional Community, within Section 31, Township 17 North, Range 9 East, Commission District 2.

On March 5, 2008, the AFDRC met and acted on this case. The decision of the AFDRC was to recommend denial of the variance and removal of the structure from the site. On January 2, 2008, the Agua Fria Development Review Committee tabled this case in order to conduct a site inspection on January 24, 2008. Through the site inspection it was determined that the structure had been moved in as a modular type of unit. Questions were raised by committee members whether the applicant has obtained the proper connections to City sewer and the Agua Fria community water system.

On June 22, 2007, the applicant was issued an after-the-fact development permit for an accessory structure by the Land Use Permits and Inspections Division. All properties within the county are allowed an accessory structure with either a restroom or a kitchen, but not both. The applicant signed and notarized a development affidavit which is in Exhibit E, stating that this structure was to be used for storage, and that he would not convert the structure into a dwelling unit at any time without the prior written approval of the Santa Fe County Land Use Administrator. The plans submitted by the applicant represented the structure without a kitchen area. On November 11, 2007, responding to a complaint, Santa Fe County Code Enforcement conducted a site inspection and found the structure to be non-compliant with the approved plans. The structure contained a kitchen area along with a second bathroom and a laundry room. The applicant was issued a notice of violation and is now requesting a density

variance to allow two homes on .32 acres.

The subject property is served by the Agua Fria Community Water Association and City of Santa Fe sewer. Article XIV, Section 10.6 of the County Land Development Code allows one dwelling unit per .33 acres if both community water and community sewer are utilized. There is an existing dwelling unit on the front end of the property totaling approximately 1425 square feet. The proposed second dwelling unit totals approximately 1050 square feet.

The applicant states in his Letter of Intent that the variance request is for his disabled son whose only income is from Social Security. The applicant wants his son to learn to live on his own and to become more independent in case anything was to happen to either him or his wife.

Article II, Section 3 of the County Code states that, "Where in the case of proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance." This section goes on to state, "In no event shall a variance, modification or waiver be recommended by a development review committee, nor granted by the Board if by doing so the purpose of the Code would be nullified."

The applicant has not demonstrated that an extraordinary hardship exists and this request is not the result of unusual topography.

Recommendation: Article XIV, Section 10.6 of the Land Development Code states the minimum lot size in this area is .33 acres per dwelling unit with community water and community sewer. The lot size is already at the minimum size for one dwelling unit; therefore the proposed request is not in conformance with the Code. Staff's recommendation and the decision of the AFDRC is to deny the request.

The AFDRC also recommended that the second structure be removed from the site. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you. Any questions for Ms. Lucero? Okay, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one correction for the record. The affidavit that Vicki referred to is Exhibit F, not Exhibit E.

CHAIRMAN CAMPOS: Okay. For the record. Commissioner Vigil.

COMMISSIONER VIGIL: Vicki, could you explain to me why we issue, why we went out and issued a permit? Is that a non-conforming permit?

MS. LUCERO: Mr. Chair, Commissioner Vigil, the applicant actually submitted – well, after the fact. They had already started doing the foundation work out there and we received a complaint, so we went out and issued a notice of violation. The applicant came in to request a permit but it was a permit for an accessory structure, which showed just a bathroom and it didn't have a kitchen facility, so it qualified as an accessory structure. So County staff – it was in conformance with the Code, so County staff issued the permit, and when the applicant brought the modular building onto the site, it had a kitchen in it and

apparently he added a second bathroom to it. So at that point it became – it wasn't in conformance with the permit that the County had issued.

COMMISSIONER VIGIL: Thank you. I needed that clarified.

CHAIRMAN CAMPOS: Any other questions? Okay, applicant, please state your name, address.

[Duly sworn, Robert Casados testified as follows:]

ROBERT CASADOS: Robert Casados, 4096 Agua Fria.

CHAIRMAN CAMPOS: You are the applicant?

MR. CASADOS: First on this, she mentioned that it was an after-the-fact permit and the violation – do you have a copy of violation on it? Do you guys have a copy of the violation that was issued before June 22nd?

CHAIRMAN CAMPOS: Mr. Chair, would you address the Commission? What is your position?

MR. CASADOS: Me? I'm one of the owners.

CHAIRMAN CAMPOS: I understand that. What is your position about this case and why you want this variance and why we should give you this variance?

MR. CASADOS: It is for my brother that is disabled and is currently, it's me and my mom that own the property is what it is.

CHAIRMAN CAMPOS: So is that the only argument you have?

MR. CASADOS: Well, what's happened is my mom is going to be moving out of town because she is – has health problems and all that stuff. And he is living here. So that's the reason we are requesting it for him, to live there. Because he is unable to afford the cost of living here in Santa Fe.

CHAIRMAN CAMPOS: Any other arguments?

MR. CASADOS: No.

CHAIRMAN CAMPOS: Okay. Any questions for the applicant? I'll give you a couple of minutes to make any argument you want.

MR. CASADOS: Okay. On this one also, when I did go through the Agua Fria Development Committee it did say that there was an after-the-fact permit and I never did get a – I didn't get cited till November 13, 2007. And you did say it was –

CHAIRMAN CAMPOS: The after-the-fact permit was not relevant at this point. It's the request for the variance that we're addressing. Please address that issue.

MR. CASADOS: Okay. Well, what it is is my brother, since he's on a limited income, he can only afford so much so I'm pretty much going to – we're going to help him out to be able to have a place to live, because he does stay in Santa Fe, because he does a little bit of work, like tinwork, classes in that, and he wants to stay here at the time.

CHAIRMAN CAMPOS: Questions for Mr. Casados? Okay, thank you very much. This is a public hearing. Anybody want to speak for or against this particular case – everybody who wants to come forward please come up and sit up here. We'll swear you all in together if you want.

[Duly sworn, Ray Olguin testified as follows:]

RAY OLGUIN: My name is Ray Olguin. I live at 4094 Agua Fria Street, right next to the site where the Casados put the second property. I've got some pictures here that I'd like to show the Commissioners of the modular house that was in there too, and I'd like to distribute a copy of my documentation. *[Exhibit4]*

CHAIRMAN CAMPOS: What's your documentation?

MR. OLGUIN: It's just the speech that I'm going to say and then the timeline of the circumstances.

CHAIRMAN CAMPOS: Let's look at the pictures and if you have copies and if you have copies of your presentation we just ask that you make it brief and to the point.

MR. OLGUIN: This is not a matter involving Tres Lobos private road and the access point to the road. This is not a matter about the number of housing rental units Casados operates. This is not a matter about permits to transfer the structure to Casados' property. This is not a matter about traffic and trash generated by tenants of rental units. This is not a matter about family misfortune based on unsubstantiated allegations concerning the possible developmentally disabled or physical handicapped child. The parents want to provide a separate home instead of adding to their existing home to provide additional living space for the child who may eventually inherit the residence.

This is not a matter about windows and individual privacy so long as building codes, property setback lines are observed to protect neighboring properties from encroachment. This request for a variance to existing development restrictions is about deception by a property owner to unilaterally and knowingly commence a non-conforming use structure project inconsistent with his sworn affidavit and thereby pressure County officials to approve it because the emotionally difficult but legally correct alternative is to force removal of this structure.

If the removal of the Casados' non-conforming structure is not ordered then the County will have abdicated all control over building density and quality of life protection for current property owners, taxpayers, and voters. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Who wants to be next? Please state your name and your address.

[Previously sworn, Rebecca Parsons testified as follows:]

REBECCA PARSONS: My name is Rebecca Parsons. I have been a property owner at 2455 Alamo Lane in Agua Fria Village since 1981. I have two rental units and a pottery studio there. At present I am there almost every day and often in the evenings. The building Mr. Casados is proposing is directly behind my property, off an access road, which also serves the back of my property. The presence of his new structure concerns me for the following reasons: privacy, congestion and noise. One, it violates existing County restrictions on the type of building he can add to his property. Only a studio can be added there, meaning a building with a bath or a kitchen, but not both. Existing County regulations govern City and land use to protect homeowners from developers who try to take over areas for their own profit.

Why should Mr. Casados be given a variance when the County already says no to what he's doing? It seems to me that his structure is intended to become a rental property or a building for sale, both of which go against the concept and spirit of the County regulations.

Furthermore, the Village of Agua Fria is at the moment trying to keep its small, friendly quality of life, which is being threatened by the kind of crowding and over-development that Mr. Casados is proposing.

I might also add that in November this building was installed about six feet from my back fence. I arrived one day just to find it there. That was my notification – a huge building. And no one has approached me to discuss this. I would like to give you just three photographs to illustrate what I look at all the time. *[Exhibit 5]* Thank you very much. I understand this is the third or fourth time this has come up before you.

CHAIRMAN CAMPOS: Mr. Ross, shall we make these photos part of the record?

MR. ROSS: If the person submitting the photos wants them to remain in the record we can certainly do that.

CHAIRMAN CAMPOS: Do you want to make these part of the record? Okay.
[Previously sworn, William Mee testified as follows:]

WILLIAM MEE: I'm William Mee, 2073 Camino Samuel Montoya. I'm the president of the Agua Fria Village Association. Thank you, Mr. Chair and Commissioners. I wrote a couple of letters on behalf of the Association. I'm sure they're in your packets. But our last letter was just sort of simply that we developed a community plan, and this particular variance would be in violation of the community plan. If we don't stand firm on this decision of the AFDRC to deny this request and remove this structure then we've just thrown this community plan out.

As an elected member of the neighborhood association I stand for the needs of the constituents and if they can't believe in their community plan why should they adhere to it. So this is a real test case for us down in Agua Fria Village, and I would just like to see the Commission uphold the Agua Fria Development Review Committee decision.

This has been going on for several months. We've had two AFDRC meetings. We've had several Agua Fria Village Association meetings. We've had unanimous approval of me coming down to address the Commission on this issue and just really say that we need the Commission to affirm this community plan by denying this request. Thank you.

CHAIRMAN CAMPOS: I have a question for Ms. Lucero. This is a variance request, right?

MS. LUCERO: Mr. Chair, that's correct. It's a variance request to allow that second dwelling or second unit to remain as a dwelling unit.

CHAIRMAN CAMPOS: Is there an issue of removal in this case, as presented by staff?

MS. LUCERO: That's what the Agua Fria Development Review Committee recommended, that the structure be removed all together.

CHAIRMAN CAMPOS: But is that an issue in front of us today?

MS. LUCERO: If the variance is denied – the permit that the County issued was for an accessory structure, so it was in compliance with that. So the variance before you is to use that accessory structure as a dwelling unit.

CHAIRMAN CAMPOS: So they can still use it as an accessory unit. Is that right, Mr. Ross, or are we looking at removal?

MR. ROSS: Mr. Chair, if it has a kitchen and is habitable – what do the rules say? It can't have a kitchen or a bathroom. I knew there was a rule. And if it possessed those items then it can't remain as an accessory structure.

CHAIRMAN CAMPOS: So it has to be removed?

MR. ROSS: Well, I guess they could convert it. That's the ultimate result of all this, but the request that's before us is for a variance.

CHAIRMAN CAMPOS: Only.

MR. ROSS: And that's really not part of the request.

CHAIRMAN CAMPOS: So if we deny the variance, is there going to be an action to remove this?

MR. ROSS: There'll be subsequent proceedings.

CHAIRMAN CAMPOS: By the County?

MR. ROSS: By the County, Code Enforcement folks.

CHAIRMAN CAMPOS: Okay.

MR. ROSS: Through our department probably.

CHAIRMAN CAMPOS: Next speaker. Mr. Mee.

MR. MEE: One more point. What we were also thinking of is if the structure wasn't removed, if the water and sewer were somehow disconnected and then the County officials would review that disconnection. That might be an acceptable alternative.

CHAIRMAN CAMPOS: Okay.

[Duly sworn, Mark Gonzales testified as follows:]

MARK GONZALES: Mark Gonzales, 2130 Callejon de Rita. I'm also a board member on the Agua Fria Development Review Committee. And many of the board members, several of the board members wanted to come tonight but were unable to. As you know, County Code doesn't allow us to all show up for meetings and it's very rare that we do show up to these meetings, but our concern – my reasoning, my reason for being here tonight is to answer any questions that you may have that came up at the meeting discussing this issue.

We do have a concern primarily because it concerns the master plan for the village. The concern is that we come in with what you would consider after-the-fact requests for variances. We have several of those pending in the village right now, one right next to Mr. Mee's house and mine that the County is looking into. So when an applicant applies for one permit and then turns around and does something else, and then Code Enforcement has to come in and kind of deal with the issue after the fact.

Now, our concern is is that if this variance is approved tonight it's going to set a precedent, especially with our master plan that you all approved, because, should this variance go through it's going to open the door to several issues that may be coming before you within the next year or so, regarding other cases. And what we don't want to do is we want to follow the master plan but we don't want to set a precedent or open doors on issues like this. If a permit is requested, a certain permit is requested then we should stand by the permit that was

issued, and it goes back to the thing of asking for forgiveness instead of for permission. We need to stop that. We need to stop that because it's creating a lot of issues in the village.

I can tell you right now that the board, because of that, denied this. A permit was requested for one thing and it turned out being something else, and the village has said, Enough. So we're asking that you uphold this denial that the board requested and take whatever action is necessary to ensure that it doesn't happen. We were kind of confused when it came before our board because the variance was for one thing; it ended up being another. Then it wasn't clear to us as to who would be living in the structure during the meeting. They had stated on one of the meetings I was at that it was for the son. Then it turned out to be for somebody else, now it's back to the son. So we're not even clear on that, who it was for.

That's why there was no consistency. So based on that the board recommended denial of this variance because mark my word, if this variance passes you're going to have two or three coming at you and the next ones – if you're going to do it for one, they way many of us look at it, then you're going to have to do it for everybody else. And that's what we don't want to open the door to. So we would like to follow our master plan. It took several years to develop it. Commissioner Vigil knows it. We worked on it very, very hard and we need to set the standards and go by those standards that were set in the master plan. If you have any questions of me, sir, I'd be more than happy to answer.

CHAIRMAN CAMPOS: Thank you, Mr. Gonzales. Next person, the last witness, please state your name and your address.

[Duly sworn, Julie Casados testified as follows:]

JULIE CASADOS: My name is Julie Casados. My address is 4096 Agua Fria. That's what we're talking about.

CHAIRMAN CAMPOS: What's your relationship to the case?

MS. CASADOS: I am their mother. I am Robert's mother.

CHAIRMAN CAMPOS: Are you one of the owners?

MS. CASADOS: Yes. I'm one of the owners. And the reason we bought this structure. It's a stick-built; it's not a modular home. And it came with the kitchen and the bathrooms already in the house. It's not something that we went and planned it that way and decided to put it in. We didn't do that. It came like that. And what happened is they started working on the outside of the building and putting stucco and so forth, but we didn't do anything to the inside, and then I got sick. I have a respiratory problem that there's some doctor reports over here that I have to move to a lower climate. The altitude is very high for me, because I have to be on oxygen 24/7.

And that's when we decided that if we could change the variance for my son to live there, because he's 40 years old. He's not a child. And he can't afford to buy a house because he only gets about 800 and some dollars per month. So it's almost impossible for him to qualify for a house and to pay for one. So this is something you know that I would like to do for him, but under the circumstances, the way they have treated us with the Agua Fria Village, I am just not sure this is going to work out or not. Because he feels intimidated now.

And I've got the paperwork over here that I wanted to show you. [Exhibit 6]

CHAIRMAN CAMPOS: What is the documentation about again?

MS. CASADOS: The documentation – I’ve got two doctors stating my son’s illness and my illness too, with my medical doctors. And if we cannot –

CHAIRMAN CAMPOS: We’re going to make this packet of information part of the record.

MS. CASADOS: And if we cannot use it as a residence for my son, that’s fine. I understand your position. We’ll just take the kitchen off and leave the bathroom, and we’ll use it as a studio, because my son is working, doing tinwork, santos, with the Santa Fe Community College, under the Disability Act.

CHAIRMAN CAMPOS: Thank you very much. Ms. Lucero, can an accessory structure be used for someone living inside it?

MS. LUCERO: Mr. Chair, an accessory structure is not to be used as a dwelling unit.

CHAIRMAN CAMPOS: Okay. Public hearing is closed and we’re ready to make a decision. Commissioner Sullivan.

COMMISSIONER SULLIVAN: The issue of an accessory structure has been one that we’ve had to grapple with before. In District 5 we’ve had a similar situation and I can give you the scenario on the next step and the next step is the applicant takes out either the kitchen of the bathroom. And it’s usually the kitchen. So the bathroom, the plumbing and so forth is still there. They then put in a microwave oven or a convection oven. And they wash their dishes in the bathroom and they live there. And we don’t have any way to enforce that unless our Enforcement staff responds to continued complaints from nearby residents. It’s just an untenable situation brought about by our own Code, our own regulations. I think we really need to be clear.

It’s obviously not going to impact this case because in this case because in this case we’re dealing with our regulations as they exist today, but we’ve got to give some thought as to how we deal with this because these guesthouses are popping up all over the county and as soon as the enforcement officer leaves the so-called studio or the accessory structure is reconverted to a full-time residence. This problem is more than just this particular case. I don’t know, Mr. Kolkmeier, is there any solution for this? Is this going to be part of the evaluation that you and staff are working on in Growth Management?

MR. KOLKMEYER: Mr. Chair, Commissioner Sullivan, I think that’s kind of a two-part question. First of all, we do have an ordinance that we should adhere to and it’s pretty clear what it is. We try to make the recommendations as we have in this case that are fairly clear in that situation. In terms of what we’re going to do in the future, I think this is probably something we’re going to have to relook at as we get closer to the Code rewrite. Because it is a problem and you’re right. In a lot of the cases where we monitor them again, that is in fact what has occurred. Take out one and make use with the remaining portion for whatever your other needs are and it’s hard for us to monitor them once we make a decision. So I think we will have to look at this because it is a Code issue in some regards. But in these cases, the issue is clear. Either a kitchen or a bathroom and not both, and an accessory unit cannot be used as a

residence. Those are pretty much the facts that are clear in this case.

COMMISSIONER SULLIVAN: Perhaps we need to redefine accessory structure. I think the problem is that we see an accessory structure as perhaps a day studio or a building to store your ATV in or something of that sort, and they turn into houses.

MR. KOLKMEYER: We tried that too, Commissioner, and they can be barns or whatever, and still people end up living in them. So I think the bottom line is they are not residential dwelling units.

COMMISSIONER SULLIVAN: Well, if one definition could prohibit sewer and water that would make the barns a little less desirable to live in. It may not totally solve the problem but it might mitigate it somewhat. That's just some thoughts. Thank you.

CHAIRMAN CAMPOS: Okay, ready to make a decision? Is there a motion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER ANAYA: I guess that's why they elected us Commissioners because we've got to make tough decisions.

CHAIRMAN CAMPOS: That's right.

COMMISSIONER ANAYA: I've been following this case for about six months and I am going to make a motion to go with staff recommendations, and I am also going to go with the recommendations of the Agua Fria Development Review Committee, and that is to remove the second dwelling. I don't like the fact that some people out there just go ahead and do whatever the heck they want, and make us look like fools. And I think that we need to send a strong message that if you're going to do something you need to come to the County and pull a permit.

Because there's a lot of people that just go out there and add on and put homes wherever they want, and I think that that needs to stop. We were elected to make the tough decisions and usually I try to help people. I really do. This is one of these rare occasions where I'm going to vote no. And I just – I've had many conversations with many neighbors telling me everything that you have done. Tearing fences down, not putting them back up, not following the rules. And that's my motion.

CHAIRMAN CAMPOS: There's a motion to deny the variance and to remove the structure. Is that the motion?

COMMISSIONER ANAYA: That's the motion.

CHAIRMAN CAMPOS: Mr. Ross, is that an appropriate motion to order removal at this point, or is that a separate process?

MR. ROSS: Mr. Chair, it is a separate process, but I think it's an appropriate motion. It certainly expresses the sentiment of Commissioner Anaya. So we'll take the appropriate action.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER VIGIL: I'll second.

CHAIRMAN CAMPOS: Discussion?

COMMISSIONER VIGIL: Mr. Chair, most of what I'm going to say is going to

be addressed to the Casados Family, because I represent you. I represent the Agua Fria Development Review Committee. I represent the Agua Fria Village Association. I have been a part of the process that this community has been engaged in and being from Santa Fe and a native Santa Fean I know what's happened to this community and what's happened repeatedly to this community is just exactly what you have done. Overlooked any authority whatsoever and brought in a structure that is invasive.

Looking at the pictures, it's very invasive. And here's a community who's worked very hard to maintain their traditional historic values. And part of those values is having some predictability in what the density is going to be, what neighbors are going to do, how neighbors are going to get along, those kinds of thing. So what's really difficult for me is because I recognize your situation and your problem, and it would have been nice to have been able to work something out. And unfortunately you might have been able to, if you worked really closely with staff. You might have been able to if, when you first came to us for a permit, they would be able to tell you what an accessory structure is, what your limitations are with that. But rather than working with our staff, this unit was brought into your property and of course in violation of our Code, of everything that this community has stood for.

I hope there is something you can work out. I agree with Commissioner Anaya. These cases are hard and you always empathize, especially if you have a son who needs the support and the help. But this is one of the most flagrant violations that I have seen as a Commission of a Code enforcement issue. So I'm saying this with regards to – in deference to the community, and also in hopes that you may be able to follow up with staff and create some kind of a remedy or a resolution. I don't know that that can happen. But with what we have here I can't support it.

CHAIRMAN CAMPOS: Okay, we have a motion and we have a second.

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

- XIII. A. 7. **CDRC CASE # MP/PDP 07-5390 Valle de los Caidos Coffee Shop- Jimmy Rivera, Applicant, Requests Master Plan Zoning Preliminary Development Plan Approval to Allow a 2,000 Square Foot Building to Be Used as a Coffee Shop and Civil War Museum On One (1.0) Acre within the Traditional Community of Glorieta. The Property Is Located at 154 NM 50, within Section 35, Township 16 North, Range 11 East (District 4)**

CHAIRMAN CAMPOS: Mr. Larrañaga, did you have an opportunity to speak with Mr. Rivera?

MR. LARRAÑAGA: Mr. Chair, I did. He did have a copy of the conditions that were stated in the staff report.

CHAIRMAN CAMPOS: Does he understand them?

MR. LARRAÑAGA: Yes, Mr. Chair.

CHAIRMAN CAMPOS: And does he accept them?

MR. LARRAÑAGA: He told me that he accepted them.

CHAIRMAN CAMPOS: Mr. Rivera, would you come forward. You have been sworn. You understand the conditions?

MR. RIVERA: Yes, sir, I do.

CHAIRMAN CAMPOS: Do you accept them?

MR. RIVERA: Absolutely.

CHAIRMAN CAMPOS: And you understand that staff is recommending approval?

MR. RIVERA: Thank you, yes.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Is there anybody out there who would like to talk about this, for or against?

COMMISSIONER SULLIVAN: Mr. Chair, I had a question that the applicant said he could answer for me, which was to show me the property in question and where the cabins were.

MR. RIVERA: Yes. That's the ones in the photo there in the larger portion of the old Arrowhead Lodge. Are you familiar with the buildings down there?

COMMISSIONER SULLIVAN: I've driven by them, but which is which? Which ones are the cabins and which one is the Arrowhead Lodge?

MR. RIVERA: The cabins belong to the National Park now. I sold that to them about three years ago. Or they took them over by condemnation, as they probably will with this property I have anyway, so this may be a moot situation.

COMMISSIONER SULLIVAN: But the Arrowhead Lodge is not the –

MR. RIVERA: That's the larger building, yes.

COMMISSIONER SULLIVAN: That's the larger building that's sort of in a yellow color?

MR. RIVERA: Yes, that's right.

COMMISSIONER SULLIVAN: Okay. But you're saying that the property immediately below that –

MR. RIVERA: Adjacent to it.

COMMISSIONER SULLIVAN: Or adjacent to it – has been sold to the Park Service?

MR. RIVERA: No, that's where the proposed coffee shop is going to be at.

COMMISSIONER SULLIVAN: Oh, okay. Where are the cabins?

MR. RIVERA: There's no cabins to speak of that – no longer – do you have a copy of this? Are you looking at this copy?

COMMISSIONER SULLIVAN: I'm looking at this Exhibit J.

MR. RIVERA: There's a blue cabin across the street there that I built over four or five years ago that was taken in condemnation. They're knocking that down. That's no longer there.

COMMISSIONER SULLIVAN: I was just reading the –

MR. RIVERA: Trying to locate it?

COMMISSIONER SULLIVAN: I was reading the comments of the State Archeologist, who apparently had made a recent evaluation and talked about those cabins.

MR. RIVERA: Those were photographed by the historical association and they're documented, but they didn't have any other value other than just the historical significance, which no longer belongs to this property, by the way.

COMMISSIONER SULLIVAN: So your testimony is that the cabins that were a part of the Arrowhead Lodge –

MR. RIVERA: Oh, they've been gone, yes.

COMMISSIONER SULLIVAN: Are no longer there?

MR. RIVERA: Well, they were down to two acres where we're at now. All of it's been taken by condemnation by the National Parks.

COMMISSIONER SULLIVAN: Okay. So they're not a part of your property any longer?

MR. RIVERA: No, no. They're not.

COMMISSIONER SULLIVAN: Okay. Thank you, sir.

CHAIRMAN CAMPOS: Any other questions? Okay, this is a public hearing. Anybody want to come forward to speak, Phaedra Haywood, any comments? No. Okay, the public hearing is closed. Time to do something. Who wants to make a motion in this case?

COMMISSIONER MONTOYA: Mr. Chair, move for approval with staff recommendations and conditions.

CHAIRMAN CAMPOS: With conditions. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion?

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

XIV. ADJOURNMENT

CHAIRMAN CAMPOS: One thing I'd like to say, Mr. Kolkmeier, I don't know if the Commission wants to do this, but if we could finish the meetings by 8:00 or 9:00, just have enough business.

COMMISSIONER MONTOYA: I want to stay till 10:00 or 11:00.

CHAIRMAN CAMPOS: He wants to stay till midnight because this is his last year. But we're going to be here a long time, so if we could kind of manage our agendas so that we're here till about 8:00, 9:00 I'd appreciate that.

Chairman Campos declared this meeting adjourned at 8:05 p.m.


Approved by:

Board of County Commissioners
Paul Campos, Chairman

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:


Karen Farrell, Wordswork
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