

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

**January 13, 2009**

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

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

**January 13, 2009**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05.m. by Chairman Mike Anaya, 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 Mike Anaya, Chair  
Commissioner Virginia Vigil, Vice Chair  
Commissioner Harry Montoya  
Commissioner Kathy Holian  
Commissioner Liz Stefanics

**Members absent:**

[None]

**V. INVOCATION**

An invocation was given by Land Use Administrator Jack Kolkmeier.

**VI. APPROVAL OF THE AGENDA**

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. We have a couple of amendments. The first coming under X. Matters from the Commission. We added an item D, which is a proclamation to recognize Pierpont, from Commissioner Holian, and I believe the Commission may want to consider moving that up before item A under Matters from the Commission.

CHAIRMAN ANAYA: Okay.

MR. ABEYTA: And moving to page 3 of the agenda, under Public Hearings, XIV. A. Growth Management Department, staff has added consideration and adoption of an

ordinance, an emergency interim development ordinance prohibiting processing of applications and/or granting development approvals, and again, that was added by staff and that will be heard as item A. 1 under Public Hearings. Those are the amendments that staff has, Mr. Chair.

COMMISSIONER MONTOYA: Move for approval as amended.

CHAIRMAN ANAYA: There's a motion for approval as amended by Commissioner Montoya.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: And a second by Commissioner Vigil. Any discussion?

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

CHAIRMAN ANAYA: I'd like to recognize Pablo Sedillo from Bingham's office here. Thanks for joining us, Mr. Sedillo.

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

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

CHAIRMAN ANAYA: Is there any Consent Calendar withdrawals that the Commission would like to withdraw? Hearing none, then I'll go to approval of Consent Calendar.

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER STEFANICS: Second by Commissioner Stefanics. Any further discussion?

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

## **XII. CONSENT CALENDAR**

### **A. Findings of Fact**

- 1. EZ Case #S 05-4842 Suerte del Sur Subdivision. Santa Fe Planning group (Scott Hoeft), agent for Suerte Development, Inc. (Gerald Peters), applicant requested final plat and development plan approval for 241 residential lots on 660 acres, and a request to modify conditions previously imposed. The property is located along Los Sueños Trail south of Las Campanas within the five mile Extraterritorial District, Section 24, Township 17 North, Range 8 East (Commission District 2) Unanimous Approval 4-0**

**VIII. APPROVAL OF MINUTES**

**A. November 18, 2008**

CHAIRMAN ANAYA: Everybody get a chance to look at those? Is there a motion?

COMMISSIONER VIGIL: Mr. Chair, I will move to approve.

CHAIRMAN ANAYA: Motion by Commissioner Vigil, seconded by –

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Commissioner Holian.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Roman is there a possible way that we could assign staff just to check for clerical errors because there are some times some clerical errors; I don't always pick it up, but we have traditionally been able to correct those through our motions and I will try to look for them. But is there anyone who might be able to help out with that?

MR. ABEYTA: Mr. Chair, Commissioner Vigil, yes. Staff will assign somebody to review the minutes.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN ANAYA: We could probably hire Jack Sullivan to look over the minutes. He's probably out there listening. Any further discussion?

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

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

CHAIRMAN ANAYA: These are non-action items. Is there anybody from the public that would like to come forward to address the Commissioners?

COMMISSIONER VIGIL: Mr. Chair, this would be on items that are not on the agenda, correct?

CHAIRMAN ANAYA: Correct. Items that are not on the agenda. Sir. Could you come forward to the microphone please?

JOHN GUTTING: Thank you, Mr. Chair and Commissioners. My name is John Gutting. As a member of the board of the Pojoaque Basin Water Alliance and a member of Valley Unity, a group of concerned well owners from the Nambe, Pojoaque, and Tesuque Valleys, we are asking you, the Board of County Commissioners to rethink your position on the Aamodt water settlement and the MOU with the Pueblo of Pojoaque on wastewater. The wastewater MOU was signed in September of 2005, but it wasn't until the summer of 2008 that anyone in the valley had any knowledge of this agreement.

It is our position that this continues to show a total lack of transparency on the part of the County. Both projects will require a very large capital investment and large going forward

costs. There has been no polling or outreach by the County of the non-Native American residents of the valley as to how they feel about the programs, and whether they will connect to either system. PBWA conducted a poll of more than 4,000 residents in the valley and found that only about one percent planned to hook up to the water system. We also have signed petitions from 850, or about 1/3 of the well owners in the valley indicating that they are not in favor of the settlement.

It is our opinion that there is a significant to provide valley people with a detailed overview of both projects. These overviews should include not only costs but expected locations of the pipelines and pump stations. It would also include the expected construction timelines of both projects. There will also be ongoing costs for operating, maintenance and replacements for each of the systems based on the number of connections. It is assumed that there would be different cost structures for each system.

There should also be a detailed understanding as to how and by whom both systems would be managed. The cost of this should be detailed to the point as to who is required to pay for which portion. We also believe that with continued community input a great plan could be created and supported by all of the valley community. We are also providing you with a copy of our position delineating concerns in regards for both systems. *[Exhibit 1]* And we thank you again, Mr. Chair and Commission for hearing our request. And if you'll notice we have quite a few citizens from the valley here today, Commissioner, and we thank you.

CHAIRMAN ANAYA: Could I see a raise of hands from the people that are here? [Approximately 40 people raised their hands.] And you all agree with what Mr. Gutting is talking about, just shake your head, yes or no. Okay. Is that it, John:

MR. GUTTING: Yes, it is. I would like to give you our position paper.

CHAIRMAN ANAYA: Thank you, John. Any other comments under Matters from the Public? Go ahead, sir.

JAY DILLON: I am Jay Dillon, and I am from Tesuque. I'm a life-long resident. Good afternoon, Commissioners and general public. I highlight or emphasize what the gentleman just before me has said but I also would like to just point out a few little footnotes of my own thinking. In the new administration there's finally emphasis upon criteria, looking at performance, in reference to a whole variety of issues – finance, economics, the housing crisis. I contend that the Aamodt has never had criteria based on performance, never based on what is the criteria that we are aiming for. This has gone on for 42 years and to me, I don't understand why it's gone on so long. I don't think performance was ever really built into it, and it's just gone on and on and on. Performance wasn't brought into it. Polling wasn't brought into it. Scientific data wasn't brought into it, so it never met any criteria, and it just has gone on for so long that it's a very ineffective way of doing interfacing between governmental bodies and the general public.

I think performance has got to be stressed, and that means polling from the GP and finding out what the general plan is and laying that out. I've seen, myself as a life-long resident of Tesuque, it doesn't even make sense about the proposal about bringing water up to where I am. That's my comment. Thank you.

CHAIRMAN ANAYA: Thank you, Jay. Any comments from the Commissioners? Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to announce, and I've been apprised of this, that Commissioner Montoya is actually hosting a public hearing on the Aamodt settlement this coming Thursday at 6:00 at the Pablo Roybal Elementary School Multi-purpose room. I hope to be able to attend that because I have been party to some of the discussions and probably not as engaged in it as Commissioner Montoya but we hear both sides of this and it would be good to bring forth all of the issues in this hearing. I think that's what Commissioner Montoya's intent is and I hope to be able to make it for part of the hearing, Mr. Chair, and I'm sure that emails have gone out. I'm not sure if everyone who's here has received one. I just wanted to announce that just in case.

CHAIRMAN ANAYA: Thank you for announcing that, Commissioner Vigil. Any other comments?

COMMISSIONER MONTROYA: Mr. Chair, I'll just add that some people may have been wondering why something hasn't been done sooner, and that's because we have gotten to the point just now where legislation has been introduced and all parties have agreed on what the cost settlement agreement is going to entail in terms of intergovernmental responsibilities, including the Pueblos. So it's at the point now, Mr. Chair, where we are able to discuss what the parameters are, where we're at, and where this is going in terms of the project.

The other thing I would just ask of the alliance – it's been requesting and I know the delegation has asked for it too, and I'd like to request the survey that was conducted. If you could bring that to the meeting on Thursday I would really appreciate that because I haven't seen what survey was conducted in terms of questions that were asked and it would be real helpful to get that as well. That's all I had, Mr. Chair, and I hope I see all of you on Thursday evening as well, because I think it will certainly shed a light on where things are at this point and you can rest assured that transparency on the part of Santa Fe County is something that certainly we believe that needs to be done. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner and we'll take – I saw two more comments on this issue. Go ahead, sir.

ALMER WHITE: My name's Almer White and I've been involved in this for several years now. This has gone on for 40-some odd years. Part of the reason it's gone on for so long was it was driven underground by legalities or whatever being the gag order that a lot of people had to sign. And the fact that, you just brought this up, governmental entities. There's several of us here that tried to go to these meetings that were not allowed to, because they said governmental entities only. And under the likes of what's been coming forward, under certain actions it's been irritative to a lot of people and they've just dropped out of it.

There has been very little notifications about what's going on except word of mouth, behind the scenes from some of us others, and this needs to be rectified greatly. I brought this up at the last hearing with the judge.

CHAIRMAN ANAYA: Thank you, sir. One more comment on the issue.

ORLANDO ROMERO: Hello. My name's Orlando Romero and I'm not – I didn't come here to give a history lesson to anyone, but it's really been appalling the way the Aamodt case and the resulting so-called impact studies and the way the entire, from the very beginning, was closed hearings where most of the people in this valley could not attend unless they had a lawyer. Now, none of the County Commissioners in that entire history were ever there to hear the things that were being said in those so-called closed hearings. You had to depend on your County lawyer, but none of you were ever there. None of you were 30 years old when I worked at the history library seeking these documents to try to bring this thing to a conclusion years ago. And if the State Engineer at that time, if the state had listened to him we would have resolved this case a long time ago and we would have either had water or not had water.

But we wouldn't be in this lack of democracy that we are now where there is absolutely no transparency or very little. I'm going to ask the County Commission – I want to go on record for this. As a practitioner of democracy in this country and my ancestors that came here in 1598 and have built the oldest institutions, including the acequias, in the State of New Mexico. Please, do not have any more meetings on Indian lands, or so-called meetings where only government entities are invited. We are the government. We vote for you guys. It's our tax dollars. And the Aamodt has been the most disgraceful American tragedy. And I wrote an article called the Aamodt Case, An American Tragedy over 30 years ago, and it's gotten worse and worse. And we need to stop this nonsense.

And I agree with Commissioner Montoya that it's gotten now to the point that now it's kind of divvy up and where are we going to run the lines. But that's not the way it should have been. All of you, including Bingaman and Udall and everyone from the very beginning should have been listening to us. The only one whoever listened to us a little bit was Domenici, when he got \$500,000 to give us a little crumb to help us at least hear our part. Meanwhile, it's all been all these secret meetings, meetings where we're not allowed to go, and held on tribal lands. I'm asking you one more time. No more meetings unless the public can go to auditoriums or places like this where we can have our voices heard. Because this has been the most miserable failure of democracy that I have ever seen. Thank you very much.

CHAIRMAN ANAYA: Thank you, sir. Commissioner Vigil.

COMMISSIONER VIGIL: I would like to ask Mr. Romero to identify the meetings that he references. Because this is a case that involves litigation it is within the guidelines of governance, and I'm going to ask you to bring them to the meeting Thursday night, because we do need to move this agenda forward. So I don't need a response right now. So if you can identify them and state them, not today, but bring them to me. I'd like them documented, because we do go – our governance does allow us, and allow government entities to go into executive session when there is litigation and that is in compliance with government rules, and litigation does involve a lot of discussion that would probably be better held with the parties who are involved in it.

Also I know we're engaged in a lot of that when we have to go into executive session,

but if there are meetings that did not comply with that, that's a whole different issue. That's why your statement concerns me. But I do know that Commissioner Montoya, because I have worked with him for five years has worked very closely with community members out there and conducted several meetings, and participated in a lot of those meetings. I just want to make sure that if there is a charge that closed meetings have been held, that they have been in compliance with the Open Meetings Act and the federal regulations. This does involve a federal lawsuit. So I'll be looking forward to seeing some documentation of the meetings you reference. Perhaps you can bring them on Thursday night.

MR. ROMERO: Unfortunately, I'm not going to be able to attend that meeting on Thursday. But I will send you the incidents that have occurred and I will have some of the other members write to you as well with those incidents where people were not allowed to go to those meetings. But also, very briefly, under the guise of – I can understand personnel matters, because those are very serious. But when an entire community, an entire town, an entire region is held hostage by secret meetings because of the term of litigation, with the [inaudible] in the very first place. That's why Judge Vazquez herself allowed us to have representative people from the Pojoaque Basin Water Alliance at those hearings.

And people who are lawyers in this group understand what I'm talking about. Up to that point there had not been any communication with any other group except for the irrigation district, which I was on that board, and later on on the PBWA. So the history of this is very clear-cut. So thank you very much.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN ANAYA: Thank you, Orlando. Thank you, Commissioner Vigil. And let's make sure, Roman, we hear the concerns of the people in that area. Thank you all for coming. I appreciate your being here.

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

### **D. A Proclamation to Recognize Edith Pierpont (Commissioner Holian)**

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I would like to read a proclamation in recognition of the life of Edith Pierpont. She was a true treasure in our community, and sadly, she passed away last Christmas eve. Before I read the proclamation, is Edith Pierpont's family here? I would like to invite them forward to sit in the front row. And after I read the proclamation, Liz Stefanics, Commissioner Stefanics would like to say a few words since she actually knew Edith very well.

Whereas, Mrs. Edith Pierpont was born in 1922 in Worcester, Massachusetts, to Dr. Roger and Margaret Kinnicutt; and

Whereas, Edith Pierpont was a resident of Santa Fe for 25 years; and

Whereas, Edith was a tireless lobbyist for environmental protections; and

Whereas, Edith was chosen as one of the city's "Living Treasures" in 1991 by the Network for the Common Good; and



Whereas, she and her late husband, John H. Pierpont, a public relations executive, married in 1943; and

Whereas, the Pierponts settled in Darien, Connecticut, where they raised five children; and

Whereas, a lifelong lover of nature, Edith enjoyed hiking and bird watching, and helped to establish a local branch of the Audubon Society; and

Whereas, When John and Edith retired to Santa Fe in 1983, Edith combined her interests in politics and the environment and developed a new career as a lobbyist for the League of Women Voters; and

Whereas, she became the State League's Natural Resource Chair, educating herself and others on land use, water, and waste issues, and was instrumental in the passage of the 1990 Solid Waste Act; and

Whereas, she was on the board of the New Mexico Environmental Law Center from 1987 to 1998 and was given the organization's 2000 Karl Souder Water Protection Award for her advocacy on behalf of New Mexico's water resources; and

Whereas, Edith was also a founding board member of "The Great Old Broads for Wilderness."

Now therefore, be it resolved, that we the Board of Santa Fe County Commissioners hereby recognize Edith Pierpont.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Commissioner Holian, thank you. I would like to say that I first met Edy Pierpont when I was a state senator, back in the mid-nineties, and I fast came to learn that if I needed some wise advise about what was happening with an environmental bill, that she would give me the straight answer. I also found that her values and my values were very collaborative, and that we worked on many things together, not only in the League of Women Voters, the Sierra Club, the Conservation Voters Alliance and I was very, very happy when she received the Environmental Water Protection Award. But Edy – I don't know who can replace her in terms of her knowledge and her work at the state legislature. And I want you all to know that many, many people in this state think very, very highly of her work that she's done for our environment. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner. Is there a motion to approve the proclamation?

COMMISSIONER HOLIAN: So moved.

COMMISSIONER STEFANICS: Second.

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

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

CHAIRMAN ANAYA: Thank you all.

**X. A. Request for Approval for an Expenditure of Community Service Funds In the Amount of \$1,500 to Renew a Credited Account with the Buckman Road Recycling and Transfer Station for Pueblo Solid Waste Collection and Disposal (Commissioner Montoya)**

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion and a second. Any further discussion?

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

**X. B. Request for Approval for an Expenditure of Community Service Funds In the Amount of \$1,000 to Be Used for Radio Advertising to Promote Santa Fe County Programs (Commissioner Montoya)**

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion and second. Any further discussion?

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

**X. C. Presentation from SunWorks LLC on potential development of clean technology company within Santa Fe County in support of local high technology job creation and to enhance green economic development - (Commissioner Holian) [Exhibit 2]**

COMMISSIONER HOLIAN: I would like to introduce a presentation by Guy Blanchard of SunWorks, which is a technology company that is investigating the possibility of locating a facility in Santa Fe for the manufacture of solar panels, and those would be solar panels for producing electricity. Yesterday I was present at a meeting, one of the meetings with Mr. Blanchard and there were several aspects of his project that I found very intriguing, that I would just like to emphasize before he starts.

First of all, it would create quite a few jobs. It would create, in fact, good, local technical jobs and these would advance our goals I believe towards green economic development. Secondly, something that's really important for our area, the process uses no water. And thirdly, I think that the idea is that these solar panels would be at least partly used

in our area and if that is indeed the case that we would be installing solar panels here that were produced here, that would be a multiplier effect for the jobs. So with that, I'd like to introduce Mr. Blanchard.

GUY BLANCHARD: Good afternoon, Commissioners. Thank you for having us here today and a sincere thanks to Commissioner Holian for sponsoring this. We've had a very good two days. I'm Guy Blanchard with SunWorks. We build solar cell manufacturing plants to make solar panels that enable utility-scale solar generation. So we are before you today to seek your interest in partnering with us to bring a PV manufacturing plant to Santa Fe County, a plant that would create jobs while furthering New Mexico's reputation for sustainable energy development.

The goal of SunWorks is to provide panels that can make electricity at a cost that is not just competitive with other renewable energy but competitive with traditional thermal generation, such as natural gas plants. In order to do that we need to produce panels at a cost sufficiently low, that's a cost of the energy made to utilities, meets these targets. This is possible today with advancements in technologies and getting long-term offtake agreements with utilities such as PNM here in New Mexico, and also utilities throughout the Southwest including California, and by partnering with state and local officials to bring together stakeholders to make a plant a viable solution for a community.

We are considering either a one- or a three-line plant. I'm going to refer to both of those. A three-line plant is simply a multiple of three over what a one-line plant would be in productivity. This slide deals with the economics of a three-line plant. It would produce 450 full-time direct clean technology jobs. These are permanent, good paying jobs with benefits. During the construction period of the plant there would be about 900 to 1,000 additional construction jobs, and then there's a multiplier of jobs around the plant related to both the supply chain, which includes local suppliers from everything from construction of the building to the inputs that the plant uses to make panels, and the construction of solar farms from panels that would be manufactured by the plant, as well as continuing operation of those plants. A SunWorks plant would involve a \$550 million capital investment in the community, and produce \$400 million a year in annual sales.

We are not a technology company that is using a start-up technology dependent upon further research and development to work. We are going to deploy technology provided by industry leading companies, either applied materials or Oerlikon. These are investment grade companies that have made a very large commitment to bringing solar costs down. These companies have very well regarded products that are respected in the marketplace and have overall technological bases that goes back decades and in use in the market. So these are well accepted, good panels that are attractive for utility-scale use.

This slide is the size for a one-line plant. A three-line plant that we referred to would be about triple all of this. A one-line plant would require a 22-acre site. As mentioned, it uses very little water, uses a moderate amount of electricity and it's got about a 250,000 square foot building, including a 10,000 square foot clean room.

We're at a stage now where we want to get to a shovel-ready plant by the end of the

second quarter of 2009. We're currently speaking with host communities, looking for the right partner, and hope to have a decision made to start working on a particular site for planning by the end of the first quarter of 2009. This is a project we're working on actively today.

So our visit is really an introductory visit to introduce ourselves to see what community support would exist for a project like this, and we hope to be able to come back to work with your Commissioners and staff if this is an attractive investment opportunity for the community that you would like us to try to bring here and we look forward to working with you and your staff. Thank you.

CHAIRMAN ANAYA: Thank you, Guy. Any comments? Thank you, Commissioner Holian, for bringing this forward and we look forward to hearing more about it. The sun doesn't shine over here that often though.

MR. BLANCHARD: Every day since we've been here it has.

## **XI. APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS**

### **A. Appointments to the Extraterritorial Land Use Authority (ELUA)**

MR. ABEYTA: Thank you, Mr. Chair. We have – I've been in communication with each of you regarding the appointments that we need to make today, the first being to the Extraterritorial Land Use Authority. We need for County Commissioners and one alternate. Commissioners Holian, Vigil and Stefanics have submitted their names for consideration. We would still need either you or Commissioner Montoya to be a permanent member and then either you or Montoya will be the alternate.

CHAIRMAN ANAYA: Okay, I'll be the alternate.

COMMISSIONER MONTOYA: So will I.

CHAIRMAN ANAYA: Okay, this is the hard part. Commissioner, what do you think? You want to help me out, right?

COMMISSIONER MONTOYA: Do you want to flip a coin?

CHAIRMAN ANAYA: Let's flip a coin. I'll call heads. If it lands on heads, I get to choose.

COMMISSIONER VIGIL: It's heads.

CHAIRMAN ANAYA: Okay. I'll be alternate.

COMMISSIONER MONTOYA: I'll be the member.

CHAIRMAN ANAYA: Okay, is there a motion?

COMMISSIONER VIGIL: Mr. Chair, I move that the proposed Holian, Vigil, Montoya and Stefanics be representatives of the ELUA Authority, with the alternate as Chairman Anaya.

CHAIRMAN ANAYA: Okay, there's a motion by Commissioner Vigil, a second by –

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Commissioner Holian. Any further discussion?

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

**XI. B. Appointments to the Regional Planning Authority (RPA)**

MR. ABEYTA: RPA, Mr. Chair, is next. That consists of four Commissioners, one alternate. The Commissioners that have submitted their names are Commissioners Holian, Vigil, Montoya and Stefanics. You would be the alternate, Mr. Chair.

CHAIRMAN ANAYA: Let's flip for it. Is there a motion?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for a approval of the line-up as enumerated by Roman Abeyta.

COMMISSIONER STEFANICS: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian. A second by Commissioner Stefanics. Any further discussion?

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

**XI. C. Appointments to the Solid Waste Management Agency (SWMA)**

MR. ABEYTA: Mr. Chair, the next committee is SWMA, the Solid Waste Management Agency. Three Commissioners, one alternate. The Commissioners that have submitted are Commissioners Holian, Vigil, and Stefanics. Either you or Montoya would have to be the alternate.

CHAIRMAN ANAYA: Go ahead, bring the coin out.

COMMISSIONER MONTOYA: Tails.

COMMISSIONER VIGIL: Tails.

COMMISSIONER MONTOYA: Let me think about this. I'll let you be the alternate, Commissioner.

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER MONTOYA: So moved.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya, second by Commissioner Vigil. Any further discussion?

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

**XI. D. Appointments to the Buckman Direct Diversion Board (BDD)**

MR. ABEYTA: Mr. Chair, the Buckman Direct Diversion Board, two Commissioners and one alternate. Commissioner Vigil and Commissioner Montoya have submitted their names for appointment, with Stefanics being the alternate.

COMMISSIONER STEFANICS: I so move.

COMMISSIONER VIGIL: Mr. Chair, before we take a motion on this. I do believe there's three members to the BDD. Two? And then the alternate? Is that a voting member? No. Okay.

CHAIRMAN ANAYA: There's a motion by Commissioner Stefanics.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Second by Commissioner Holian. Any further discussion?

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

**XI. E. Appointments to the Regional Transit District (RTD)**

MR. ABEYTA: Mr. Chair, Regional Transit District. We have one Commissioner and one alternate. Commissioner Montoya has submitted for the permanent member and Commissioner Stefanics is the alternate.

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Second by Commissioner Vigil. Any further discussion?

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

**XI. F. Appointments to the Metropolitan Planning Organization (MPO)**

MR. ABEYTA: And finally, Mr. Chair, appointments to the Metropolitan Planning Organization. That will require three Commissioners and one alternate. The Commissioners that have submitted their names are Anaya, Vigil and Stefanics, so we would need either Holian or Montoya to be the alternate.

COMMISSIONER HOLIAN: Flip. Heads.

COMMISSIONER VIGIL: It is heads.

COMMISSIONER HOLIAN: I guess you get to be the alternate.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER HOLIAN: So moved.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian. Seconded  
by –

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN ANAYA: Commissioner Stefanics. Any further discussion?

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

CHAIRMAN ANAYA: Hey, let's do the same thing with the cases we're going to hear tonight, with that coin.

Summary:

- ELUA: Holian, Stefanics, Montoya, Vigil. Alternate: Anaya
- RPA: Holian, Montoya, Stefanics, Vigil. Alternate: Anaya.
- SWMA: Holian, Stefanics, Vigil. Alternate: Anaya
- BDD: Montoya, Vigil. Alternate: Stefanics
- RTD: Montoya. Alternate: Stefanics
- MPO: Anaya, Stefanics, Vigil. Alternate: Montoya

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

**A. Community Services Department**

**1. Approve 2009 Sole Community Provider Requests for CHRISTUS/St. Vincent Regional Medical Center, Española Hospital, and Los Alamos Medical Center (Community Services Department)**

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I would like for the Board of County Commission to consider tabling this particular item of the agenda. We did have a meeting with St. Vincent CHRISTUS last week and learned that they will be seeking as many dollars as they possibly can for the 3-1 match on the sole community provider. We also communicated with that that in fact we have a maximum amount that we can contribute to that. There was discussion about looking at other possibilities for seeking the additional funds. Since then I personally have some questions that I'd like to ask the state and I'd like state representatives perhaps to meet with us or perhaps be at a future meeting when we can reconsider this.

The one issue that concerned me is that I was – actually, it's a pleased concern – that both the County and St. Vincent agreed to is that we would work together through other

means. I know the legislature was mentioned. We're on a crunch. We need to work very closely. I think staff needs to work really closely with each other to look at those alternatives so that there will be some predictability in how we move forward with this so that either – whether it's the legislature or other means, that we pursue funding for this. We're both on the same page. And I think we have sufficient time, Steve. Is there a deadline or can we extend this request?

STEVE SHEPHERD (Health Division Director): Mr. Chair, Commissioner Vigil, we've let the hospitals know that this may happen. They are ready to request an extension until February 15<sup>th</sup>. That is the absolute deadline.

COMMISSIONER VIGIL: Okay. And I think with that additional amount, that window of time, Mr. Chair, Commissioners, if we could table this so that we could have a more comprehensive proposal on how we can move forward with this, I think we would be better serving this interest. So I would move to table.

CHAIRMAN ANAYA: Motion to table. Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion and second.

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

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Just to let the director know that Mr. Valdez and I had a difference of opinion about the base for the sole community provider, and he believes that he had a statement from the state that said any supplementals would not be added to our base, and I think we would really like to clarify that in the discussion.

MR. SHEPHERD: Okay.

COMMISSIONER STEFANICS: Thank you.

MR. SHEPHERD: Thank you, Commissioner.

CHAIRMAN ANAYA: Thank you, Commissioner. I'd like to recognize Bill Heinbach from the labs. Bill, thanks for being here. He's always here and he stays till midnight with us. And Commissioner Javier Gonzales is here. Thank you for being here. And Commissioner Holian's husband is here, Brad. Thanks for being here, Brad.



**XIII. B. Growth Management Department**

**1. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 2008-5 to Revise the Boundary Map and Mixed Use Designation of the Pojoaque Valley Traditional Community District (Growth Management Department)**

RENEE VILLARREAL (Community Planner): Good afternoon, Commissioners. This is just authorization at this point. We will be presenting the information on this amendment to the PVDRC on January 23. In addition we will also bring this forth to the Board on February 10<sup>th</sup>. The PVTC District Ordinance and the boundary map was adopted in May of 2008 by the Board of County Commissioners via Ordinance 2008-5. There was also a legal description included in the ordinance to define the area and boundary of the PVTC District.

As we have been examining the boundary and mixed-use areas, in particular because there have been cases that are trying to come forth, we realize there are a few minor errors on the map where individual parcels are not shown to be included in the district. Although they are a part of the approved legal description. In addition there are several parcels that have been identified as currently having commercial designations or usages or they're located in non-residential areas. So we're just trying to correct the errors. There's just a few of them. There's about nine properties that are proposed to be designated as mixed use at this time.

Of course these are areas – some of the areas are surrounded by Pueblo commercial, so it makes sense to add them into the mixed-use zone since there aren't any residential uses. Staff is requesting a recommendation from the PVDRC, but that's at a later date. At this time we're just requesting authorization. So I stand for further questions.

CHAIRMAN ANAYA: Any questions of Renee?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Renee, did these come as a result of landowners finding they were excluded? Or how did you determine?

MS. VILLARREAL: Mr. Chair, Commissioner Montoya, it actually started coming up because there's one particular proposal to have a – I believe it's a credit union in the valley and they're not doing any of the master plan process. But they are requesting – they wanted to get a variance for rezoning, and it was a parcel that is currently residential but the owners are going to sell it. So that was one parcel that was just overlooked. It wasn't seen on our map. Then we started noticing there were some others that weren't included that probably should have been included or extending our mixed-use boundaries to begin with. So we just want to correct those so we'll have a complete map. And then there were a few adjustments we had to make to the boundary but they were very minor. They were just mapping errors.

COMMISSIONER MONTOYA: Okay. Thank you. Mr. Chair, I move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN ANAYA: There's a second by Commissioner Stefanics, and we'll go to discussion. Commissioner Vigil.

COMMISSIONER VIGIL: Renee, could you clarify that? The credit union, if we move forward with correcting the map, would be in a commercial zone. Mixed use. Would they still have to come to us for a variance?

MS. VILLARREAL: At this time they are requesting rezoning, so that's what had just prompted us to move forward and correct the mixed-use designations. They will be going through the process of a master plan with our development review staff. At this time they're waiting for their rezoning. But it has prompted us to realize there were some other mixed-use properties that hadn't been designated on the map.

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

CHAIRMAN ANAYA: Any further discussion?

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

**XIII. B. 2. Consideration and Adoption of the Conjunctive Management Plan for the Santa Fe Basin (Growth Management Department) [Exhibit 3]**

JOHN UTTON: Good evening, Mr. Chair and members of the Board of County Commissioners. I'm John Utton representing the County in water matters, including in preparation of this plan, and Karen Torres and Doug Sayre and Steve Ross have been very active in preparing this plan and I may call on them to help answer any questions that you may have. Mr. Chair, may I just go ahead and explain where we are in the process and what we're asking for today.

CHAIRMAN ANAYA: Go ahead, John.

MR. UTTON: As several of you whose meeting this isn't the first have heard this before, and I think Commissioner Holian did attend one of our public meetings and I understand Commissioner Stefanics has had some meetings with County staff about this. We have had a number of public meetings, and we did have a working session in front of the BCC. So rather than going into great detail and going through this plan, because I think you're pretty familiar with it at this point I would just like to go over some of the highlights and the conversations we've had since you directed us to go out and consult with various public entities and to conduct some public meetings. And we've done that and we've made revisions to the plan as a result of that.

Just to kind of give the broad-brush perspective on what this plan is, if I could just take a minute to do that. The purpose of this plan is to provide for a reliable supply of water for the County water utility from multiple sources. As you know, the County is investing

heavily in the Buckman Direct Diversion project and that relies on surface water from the Rio Grande. That's a very smart move because those sources of supply from the Rio Grande as surface flows are renewable. The downside to it is that they are not as reliable as groundwater, at least groundwater until you run out of it.

So what this plan does is it seeks to conjunctively manage our major source of supply from the Rio Grande through the Buckman Direct Diversion with groundwater well backup supply or what I think we often call a drought reserve supply. As the plan describes on page 8 and page 9, there's a table there, 5, and figure 2, it talks about the curtailment schedule that the federal agencies who have approved the Buckman Direct Diversion has required that we abide by. These are related, really to keeping native flows for the silvery minnow in the Middle Rio Grande Valley. At certain cfs levels as flows at the Otowi gauge drop we have to start curtailing our diversion at the Buckman Direct Diversion until a point, if it ever got to 200 cfs we would have to cease diversions altogether.

And of course that's just a regulatory example. There are drought examples, there may be water rights administrative examples in the future. So the question is what would we do in that instance, and this plan proposes that we would have available water rights in wells in the Santa Fe Basin that we could draw on. The plan points out that under our prior agreement with the City of Santa Fe we have a backup of 850 acre-feet of the 1700. So we have a 50 percent backup that the City has agreed to supply us in a prior agreement and that leaves a gap of another 850, which this plan proposes to fill – not completely, because we expect that in times of drought that we would need to cut back. So this plan would call for a 90 percent supply and that would leave a gap of 680 acre-feet.

And so this plan, rather than going out and using County funds to acquire 680 acre-feet of water rights per year, water rights are usually described as use per year, we don't think we're going to need those water rights every year. So this plan calls for requesting a rolling average condition in our permits from the State Engineer Office so that we could put fewer water rights and we've identified 200 acre-feet of water rights we would like to ask the State Engineer to allow us to use on a multi-year, rolling average basis, hopefully as much as ten years. They have indicated to us informally they would approve a minimum of five years. So if you don't use those in any one year they essentially accrue in the aquifer. It's as though you have a reservoir in the aquifer that you can call upon.

And so that is kind of the thumbnail sketch of what this plan proposes to do. I think there are six policy issues I just want to highlight for you to think about and make sure you've considered before you move forward with the final part of my discussion.

The first policy issue, and I think the biggest one, is the creation of a drought reserve. So this, in effect is redundancy of water rights and infrastructure. So we would be taking some water rights, and we're trying to minimize them through the amount that we would have to put into these wells through the rolling average, but those would be dedicated in effect, as drought reserve and the infrastructure that would be needed would also be in some ways redundant, but I think that kind of redundancy is a good thing in our water utility. I think that's the big policy item. A couple others I just want to highlight.

The second, the plan assumes a 90 percent backup, so we would be calling in times of drought for a ten percent reduction. I think initially we thought that that was a little low. We were expecting more of a reduction, but after looking at how good conservation is already in the County water utility I think we concluded there really isn't that much fat to cut out. It's a pretty lean water utility already. There's a chart showing conservation and the plan shows that Santa Fe County is one of the best conserving water utilities in the entire southwestern United States.

I think a third policy item I just want to highlight for you is that the plan calls for a limit on the amount of water that the water utility might lease. And that limit would be ten percent of the total water rights portfolio. I think in some ways that's a corollary number. If we had to give up a lease, because leases sometimes cannot be renewed, we don't want to find ourselves in a difficult situation where we don't have enough water. I think there's some mention in the plan of the City's Jicarilla lease and I think the version you have actually was drafted before the City decided to terminate that lease for some of the same reasons that we arrived at a fairly low number of what we think would be a tolerable lease amount. I think we would prefer not to have any lease amount but the plan would propose to set that as a maximum.

Number four sets a policy of acquiring the most senior water rights. That's on page 8. It's essentially pre-1907 water rights. There are some groundwater rights that are more junior to that and we do have at least one water right in our portfolio which is a 1956 groundwater right and I think this plan is saying, okay, I think we have enough of those. Let's try and stay away from the.

The fifth policy item really is a continuation of what seems to be an implicit policy. I'm not clear whether it was actually formalized, but the policy of not acquiring acequia water rights unless absolutely necessary and in limited circumstances. That's on page 26. So this would say clearly that it is Santa Fe County's policy not to acquire acequia water rights except in those narrow circumstances, as stated on the top of page 26.

And then the last policy item, this plan proposes to temporarily make available to the City of Santa Fe unused County BDD rights and capacity in exchange for release of City canyon water, Santa Fe River surface water down the river for instream flow. So it's one of the environmental benefits that this plan is trying to facilitate.

So with that, I just want to move into the last section of this overview and that is to quickly review the process since we last appeared before the BCC and Karen Torres has distributed a memo that has some of the comments that we've received. We've met your direction and consulted with the four Pueblos in the Pojoaque Basin and had a number of meetings including technical meetings with their BIA hydrologist. We believe they're satisfied with where we are with this plan. We've met with the representatives of the City of Santa Fe. They have some concerns about how this plan will integrate it operationally with some of the things they're planning and rather than trying to go back and completely rewrite the plan, we have as one of the next steps to take on that operational integration.

The City also had some concerns about how the instream flow provision would work

and proposed some language, a lot of which we adopted on the bottom of page 18. We met with a number of citizen groups, Pojoaque Basin Water Users Association, Tano Road Association, a number of individuals, La Cienega Acequia Association, and I think by and large, the citizen, the groups we met with liked the plan. There was a letter to the editor that said the plan was not perfect, which I was willing to take that. I think the biggest criticism is they wanted more. They wanted to know how the plan would relate to growth management and other planning. Essentially, that the plan was too narrow. One of the things that we tried to explain is that this is essentially a water supply plan, that it had a fairly narrow mission. It does need to be integrated. There are implementation steps which need to be taken next. But people wanted us to make it broader.

I think another bit question mark that Santa Fe County residents and citizen groups had was would the County stick to this plan? Will the County truly reserve the wells and the rights for drought conditions? A big concern that we would put these water rights in these wells and then we would just pump them every year. And I think one of the implementation steps is to try and put our money where our mouth is and start moving towards permitting that would be consistent with this plan.

Parties interested in acequia rights were also concerned about that issue, how flows in La Cienega might be affected. Also the purchase of acequia rights. I think the thrust of the comments, and some of these members offered to help us to do this, to work towards a specific mechanism to implement this plan and to integrate it into other County planning. After meeting with those groups we revised the plan, we drafted next steps, which are provided on page 30, the end of the text before the appendices in the plan and you can see those there, to go ahead and finalize the 40-year plan, which we already have a draft of that. One of the most important steps under 2 would be to, based upon the plan, to actually locate well sites for these drought reserve wells and locations that work for a water utility, have a water supply, don't impair others, and I think what will be needed is a decision matrix that will look into a number of factors to site those.

I think one of the most important things, number 3, the plan calls for extending County lines, not just to meet the development demands, but in areas where there are domestic wells and County residents who would like to get off the domestic wells and onto a County water supply, and to determine where that would be feasible.

Number 4 would be to apply for a ten-year rolling average with the State Engineer Office. I think consistent with that would be – is likely to be, these applications are protested. We have eight applications currently that are protested, and I think parties are ready to settle with us if we will agree that our use of these water rights in proposed wells would be as proposed in this plan. So there is likely to be some discussion in implementing this about agreement that these are truly drought reserve wells. So I think that would be consistent with this plan.

And then the last two items – 5, Work with the City of Santa Fe to address operational issues regarding BDD water distribution. The City gave us a long list of things. They wanted to know how this would work with this and that, and we're prepared to do that. We just felt

that we had tackled enough in this plan, so that would be the next step. And then the last thing, number 6, would be to develop a comprehensive utility plan which incorporates supply, demand, line extension, capacity policy, and rate structure. So this would become – I believe, I think the four of us who worked on this – an important brick in the wall we’re building. It’s not the entire wall, but it is an important brick and I think it’s very good policy for building a structure for the water utility that will serve its customers well and provide a firm and reliable supply of water into the future. So, Mr. Chair, so that’s my overview and I think any one of the four of us are ready to answer any questions that you may have.

CHAIRMAN ANAYA: Thank you, John. Is there any questions for Mr. Utton? Let me go to Commissioner Stefanics first and then Commissioner Holian.

COMMISSIONER STEFANICS: Thank you for the presentation, Mr. Utton. What percent of our water rights are we already leasing?

MR. UTTON: From someone else? Zero.

COMMISSIONER STEFANICS: The comment you made was that this would not allow more than a ten percent lease?

MR. UTTON: That’s correct, and this came up at the time, Mr. Chair and Commissioner Stefanics, that the City was entering into its lease negotiations with the Jicarilla Apache Tribe. They were interested in a similar contract with the County. We had a number of meetings with tribal representatives and ultimately decided – well, I think at the time we had enough pre-1907 water rights that were available, and that didn’t seem to move forward. But we thought it would make sense to address this issue because it was coming up and it still may come up in the future.

COMMISSIONER STEFANICS: Thank you. And Mr. Chair, one other comment. At the beginning you were talking about how some water rights have to be adjusted, or some water rights would be lost?

MR. UTTON: Usually a water right is described in terms of so many feet per acre-year. Of course the engineer will tell us it’s never used that way. They want to know how many gallons per minute or cfs. But in terms of the legal entitlement it’s so many acre-feet per year. And the problem of course with a drought scenario, and you can see it in some of these drought studies that are in here and tree ring data that’s in here, even aside from climate change, we have cyclical drought here. So I think what we would expect is we could go many years in a row without needing these drought reserve wells, but then all of a sudden you might need them for several years, two or three years in a row because you might have a drought condition for multiple years.

And so that kind of – nature doesn’t coincide very well with how lawyers like to, or water officials like to describe water rights – so much per year. It turns out you might need none in one year, if it’s a drought reserve well, and a bunch in the next year. And so if we actually had to go out and acquire the number of water rights we might need in that maximum year it would be a waste of public resources because all those other years they would just sit there. So rather than 680 acre-feet, we’re proposing 200 acre-feet but with a rolling average. So over ten years, if you didn’t use them for ten years you would have 2,000

acre-feet of water available as a drought reserve in the aquifer. So as a rolling average you would always be in your tenth year, and if then that drought hit and you had built up the ten years of rolling average you would have 2,000 acre-feet there available to back up your system, and you've only purchased 200 acre-feet. So that's the idea. This is trying to get that multiplier effect and maximize the resource.

COMMISSIONER STEFANICS: Well, I understand that, but I'm still interested in hearing more, like in terms of the pros and the cons, hearing more about the comment that you made about the loss of water rights or the adjustment of water rights, to the individual owner. Did you not make that comment at the beginning?

MR. UTTON: If I gave that impression I didn't mean to. I think I was just talking about the annual versus the multiple year.

COMMISSIONER STEFANICS: Okay. So, Mr. Chair, no individual owners of water rights would be subject to loss.

MR. UTTON: That's correct.

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

CHAIRMAN ANAYA: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all, I would like to say thank you to all of you who worked on this write-up of the plan. It was very well written and it had a lot of really useful background information in it for me, and I actually enjoyed reading it, believe it or not. So one thing that I wanted to ask is can the backup wells be permitted in such a way that there would just be absolutely no possibility that they would be used for future new water supplies? To assure people that that wasn't going to happen?

MR. UTTON: Mr. Chair, Commissioner Holian, I believe that can be done, that that could be language drafted in a permit condition. That's what folks out there are asking us to do. They think it's a nice plan but is it enforceable. I think we could make it enforceable in a permit condition, and another thing that's good about that is if things change in the future and we needed to adjust it we could go back to the State Engineer, give public notice, and ask that there be an adjustment. So it wouldn't be like a contract provision; it would be a regulatory condition. And I think it could be written that it would be just what you're saying.

COMMISSIONER HOLIAN: Okay. Thank you. But also, it sort of seems to me at looking at the water budget, just from the Buckman, it's quite a bit of water compared to what the County is using now, especially in their own utility. And it sort of seems to me like it might be many years before we even needed backup wells. Can you comment on that?

MR. UTTON: I think that's true and I'd like Doug Sayre to answer that.

DOUG SAYRE (Water/Wastewater Management): Mr. Chair, Commissioner Holian, you have to think of it like what happened I think when the drought hit in the Santa Fe Basin. There was very little water that the City could provide us from the canyon, and even the Buckman supply went down and we had a curtailment. So we wanted to have some reserves so that if that occurrence came again, we would have that backup supply from the groundwater that we could pump to supply the water. I think we've looked at – it's been kind

of cyclic over the years. I think the most severe one was in 2000, but there was kind of another one in 2002. We can go back to the fifties, and in the early fifties there was a severe drought in the area. And I think you can go back in the record. In the 1900s there was a severe drought. So I think we're trying to just give you some scenarios where we would have the backup available.

We also know there's a possibility we may not be able to pump Buckman for a period of time, either due to the lack of flow from native flows, and even the San Juan Chama flow coming over. It has occurred, so we're trying to just make sure we have redundancy and adequacy in the system to provide the water to the public.

COMMISSIONER HOLIAN: So you feel that it's best to put those in place as soon as possible then, as a backup? Those wells?

MR. SAYRE: Chairman Anaya, Commissioner Holian, I do, because we never know when that's going to occur, especially when we have redundancy available to us and if we can supply that water for a period of time, rather than say we're going to have to curtail not only because of Buckman but also the supply within the basin because we don't have adequate supply. And as I say the City has got this same situation, although they have the Buckman wells as backup. But we haven't been able to work out subsequent agreements with them. They will provide up to 850 acre-feet of water in any kind of drought situation. So I would say yes, it is.

COMMISSIONER HOLIAN: Okay. Thank you. I have another question that is about the County's 40-year water plan and I just sort of wanted to know, to sort of get an update on that. What remains to be done in finalizing it? What more do we need to do on that?

MR. SAYRE: Chairman Anaya and Commissioner Holian, I want to bring that to you. We commissioned Daniel B. Stevens to do that, and they have given us a draft plan, and what we want to do next is probably present it to the Commission, similar to what we've done with this to show you what we're looking at and how we're trying to adopt the 40-year plan. It's an updated 40-year plan, by the way, for the area. And we hope to do that probably in the next month. We do have a draft and we're reviewing that and we'll try to get back to you to present it to the Commission.

COMMISSIONER HOLIAN: So is this conjunctive management plan then one element of the 40-year plan? Or is it a stand-alone?

MR. SAYRE: I feel like it's a stand-alone plan, the conjunctive management, because what we need to do is do that. The 40-year plan is kind of like a long range of how we're trying to look at water supply and how its use would be. So to us, this conjunctive management is a stand-alone plan, but as you notice as we said in there, one of the things we want to do this plan, other things, is to adopt an updated 40-year plan.

COMMISSIONER HOLIAN: Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner. Any other comments?  
Commissioner Vigil.

COMMISSIONER VIGIL: Just maybe I guess a narrower question with



regard to Commissioner Holian's. Understanding that it will be a stand-alone document, there's other water policy, however, that we need to develop as a result of this. But the 40-year water plan will reference this, I'm sure, and I'm hoping that once we're able to develop all the water policy that we need we'll have a comprehensive documentation of that as a reference. I think I want an update on our permit request. Can you give me that?

MR. SAYRE: Chairman Anaya, Commissioner Vigil, the permit requests were listed in that conjunctive management plan, correct? Okay, maybe John could update you. I'll let John.

COMMISSIONER VIGIL: Okay. Where are we with that, John?

MR. UTTON: Mr. Chair, Commissioner Vigil, we have a number of water rights that are in transit that are going to fill out the 1700 acre-feet water rights needed for the Buckman Direct Diversion and for these backup wells. The original transfer into the Buckman Direct Diversion was the County's 375 acre-feet of San Juan/Chama. The rest of it will be native rights, the great balance of those pre-1907s except for the 60 acre-feet of 1956 groundwater rights that I mentioned. The County is transferring some of its own water rights and has transferred some of its own water rights. One of the things that we're doing right now is trying to calculate what we need to do to keep up with water rights that are being transferred by future customers who are transferring water rights to the Buckman Direct Diversion for development.

Essentially, I think three categories that we've identified of County need, one is the 30 percent affordable housing. So for every acre-foot of water right, or 7/10 of an acre-foot that a developer transfers in we really need to have 3/20 because under our ordinance we're going to provide the water for that. So we've calculated that amount. And then we also are calculating the amount that we expect we will just need to come up with to allow existing users to get on our system, because the State Engineer has started to stop a lot of transfers of existing domestic rights into our system. So we actually have to come up with the water rights.

And then the third category is just other general County purposes, for County buildings and other County uses that might need water other than the first two. And so I think what it's looking like is that we're probably going to need in the order of 500 to 600 acre-feet of County stand-alone water rights. We actually have quite a few that we've already acquired. Commissioners, as you know, you've approved some water rights purchases recently. We have three applications that we're hoping to file probably next week to transfer some water rights. We probably, the County probably has something like 400 acre-feet already in hand, and we probably need to get another 200 – something like that I think.

The other transfers which are listed in here, there's about a dozen of them, are Rancho Viejo and Suerte and others who are transferring water rights to ante those up for their proposed future uses. But I think by and large we're in good shape. I think by the time the Buckman Direct Diversion comes on line we should have at least 1700 acre-feet permitted, ready to be used. Knock on wood. Things are looking good now but you never know who might protest in the future, but it's looking like we will be able to do that.

COMMISSIONER VIGIL: John, while you're there, what is the State Engineer's record on rolling average year decisions?

MR. UTTON: They have approved, Commissioner Vigil, they have approved some examples in the Tularosa Basin and I think the City of Santa Fe has an example of a rolling average, but the Tularosa Basin and the Pecos Basin have been able to get five-year rolling average. The City of Alamogordo recently had a permit condition for five-year rolling averages. Now, on the Colorado side, on the Gila and on the San Juan, the State Engineer has approved ten-year counting under the Colorado Compact. So I think that's probably what we're looking at, is either five or ten. And what we've tried to do, we've met with State Engineer representatives and explained to them the rolling drought scenario. With five years, if you have three years of drought and your five-year period is not – that five years is not enough.

It does seem to be falling on some listening ears. We won't know. They're not going to tell us. They're not going to pre-judge it. We're going to have to apply and see what they do. But I think we will have a fair – I think we will have support in the community, hopefully from other governmental entities for that.

COMMISSIONER VIGIL: Okay. I want to support Commissioner Holian's request that we provide some assurances to the community and I'm sure there's probably nobody that recognizes that request more than those of you who participated in the public process. Part of the overriding problem with regard to water is the fact that we are dealing with aquifers and much of what is known about aquifers is not really known. And despite the permitting process going through the State Engineer's Office we actually still have not been able to comprehensively have an assessment. We've had piecemeal assessments of aquifer impact and I think that when I heard from constituents about moving forth with our conjunctive management plan, that of course was probably the strongest and the most consistent message I got.

So I think we need to look at this from a sense of reassuring the community that this is in their best interest, that in fact it is a drought management plan to the greatest extent, and that it is a prudent thing to do. So by the same token, maintain some level of credibility and insurance to them that the purpose of this is for their best interest. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Do you have any other comments?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: John, regarding the acquisition of water rights from acequias, what if there's a situation where it would actually benefit the County to purchase them, as opposed to let's say a developer who may be looking to purchase them and take them away from that basin completely. Under that scenario, would it be possible, or as a result of this policy it is impossible?

MR. UTTON: Mr. Chair, Commissioner Montoya, I think that's a good question. This is a policy and I think our understanding of that is if there was an individual context that came up and came in front of the BCC that you could make it an exception to the

policy, where you could apply the policy. The provision that's on the top of page 26 is fairly short and it essentially says that the County will not acquire acequia water rights from active acequias or community ditches unless required by a State Engineer permit condition. So that would mean – it would be an example if you had a groundwater well and it was causing surface flow depletions that were affecting an acequia and the State Engineer said that you have to offset those effects. That's what the City has had to do for the Buckman wells, both at La Cienega and for a long time over on the Rio Tesuque and the Pojoaque system.

And then the – that should not be a big issue for us because again, we're going to be focused on getting our water from the surface supply, and our conjunctive use wells shouldn't have a big effect. They're going to be used as drought reserve and there's not a lot of water in there and they're not going to be used very often. So I think we're probably okay there. I think we're thinking this is probably a 20-year plan though and it does need to mesh with the 40-year. But I think we're thinking of this as a supply plan over the next 20 years. And then it says the County may consider acquisition of acequia water rights where approved by the Board of County Commissioners and the acequia, based on a finding that the transfer will not harm the acequia.

So if there was a situation where the transfer wouldn't harm an acequia and it was approved, then I think we could go forward with it, but I think what we're trying to steer away from is going into an active acequia, plundering the water right and causing it to not be viable anymore because they don't have enough members. I'm sounding like I represent acequias when I'm choosing my words there, but I do.

But I think it's a good policy and I think it does give some flexibility.

COMMISSIONER MONTOYA: Okay. And then in terms of the public, community outreach, where did you go in northern Santa Fe County?

MR. UTTON: We had – well, the direction in the resolution from the BCC directed us to consult with the four Aamodt Pueblos, and it also directed us to have two public meetings. The public meetings were both held in this room. The consultation with the Aamodt Pueblos, we had three of those. I think we had three separate meetings. We had one separate meeting with San Ildefonso Pueblo and I think we had – I believe two with the Pueblos together, including their tributary water rights council meeting. There were several individual meetings. I know Karen Torres met with the BIA hydrologist, Tony Zimmerman, several times. Talked to him on the phone, exchanged emails. They did some model runs together. And there have been other discussions in the regular Aamodt meetings that were held every month.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair. That's all I've got. Thank you, John.

CHAIRMAN ANAYA: Thank you, Commissioner. If there are no other comments – is this a public hearing, Roman? No? Then what's the pleasure of the Board? Commissioner Holian?

COMMISSIONER HOLIAN: I move for approval and adoption of the conjunctive management plan for the Santa Fe Basin.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Second by Commissioner Montoya. Any further discussion?

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

CHAIRMAN ANAYA: Thank you all very, very much.

COMMISSIONER MONTOYA: Great job.

MR. SAYRE: Mr. Chair and Commissioners, we appreciate it very much and we'll carry through with trying to get answers to your questions concerning the 40-year water plan and also move on with our plan with the conjunctive management. Thank you.

COMMISSIONER MONTOYA: Mr. Chair, Karen or John, there was one type on page 30. In conclusion, it just needed to say 40-year water plan.

KAREN TORRES (County Hydrologist): The number of typos has just been insane.

COMMISSIONER MONTOYA: Oh, has it?

MS. TORRES: So I apologize. The 40-year water plan?

COMMISSIONER MONTOYA: Yes. On the very first sentence. Just add "year".

MS. TORRES: Okay.

COMMISSIONER MONTOYA: Right now it's a 40 water plan.

MS. TORRES: Oh, okay. Mine says 40-year.

COMMISSIONER MONTOYA: Oh, really. You gave me the one with the typo then.

MS. TORRES: I did. Sorry.

CHAIRMAN ANAYA: Thank you, Karen.

**XIII. B. 3. Consideration and Approval of the Memorandum of Understanding by and Between the Board of County Commissioners of Santa Fe County, La Luz Holdings, LLC, and Santa Fe Film and Media Studios, Inc. Concerning the Grant from the Department of Finance and Administration and the Economic Development Department (\$10,000,000) (Growth Management Department)**

MR. ROSS: Mr. Chair, I think I can take this. I drafted the agreement.

CHAIRMAN ANAYA: Okay.

MR. ROSS: What this is, Mr. Chair, you're familiar with the economic

development project that the County has going with La Luz Holdings and the Santa Fe Film and Media Studios. That of course is the project that seeks to locate a film studio, or a number of film studios on County land on New Mexico 14 just north of the Public Safety Complex. As you recall, there was an application filed pursuant to the County's Economic Development Ordinance. That application was accepted and an ordinance was enacted by this body that approved economic development projects with this entity, and subsequently we entered into a series of agreements with the two entities providing for purchase and sale of the County property on South 14 to the holding company, and it further provided that Santa Fe Film and Media Studios would construct and operate on that premises a large film studio.

And then you further recall that last fall we had a sizable grant come from the State of New Mexico, from the Economic Development Department and from general state appropriations, through the Department of Finance and Administration in the amount of \$10,000 for development of just such a facility. In the project and participation and land transfer agreement that this body entered into with the two entities we agreed that any such grants would be passed on to support the joint economic development project that I've described. So what this memorandum of understanding does, given the fact that we've accepted the grant agreement from the state, is it contracts between the three entities that the \$10,000,000 grant will be used for the film studio project. That's all this does.

CHAIRMAN ANAYA: Okay. I notice that Jason is here and Javier. Did you all want to comment on anything? Or are we okay? How about Commissioners, any comments? If not, Commissioner Vigil.

COMMISSIONER VIGIL: I'd like to move to approve.

CHAIRMAN ANAYA: There's a motion by Commissioner Vigil.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Second by Commissioner Montoya. Any further discussion?

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

CHAIRMAN ANAYA: Congratulations. Say hello to Lance for us.

**X. OTHER MATTERS FROM THE COUNTY COMMISSION**

COMMISSIONER MONTOYA: Thank you, Mr. Chair. I just wanted to briefly update the Board that I do serve on the North Central Economic Development Board as a member of Santa Fe County, representing Santa Fe County. We did have a meeting this past Saturday. Pretty much it was a legislative overview of what not to expect, so I think it was pretty well attended. This group is represented by different governments from all over northern New Mexico and north central New Mexico. We are in the process of setting up meetings, Hutch Miller and myself with the Pueblos. This is something that's done annually

when new governors come in that are newly elected by their tribal representatives, and we're in the process of setting those up. If anyone's interested in going along you're more than welcome to attend as well. So I'm just putting it out there.

On Thursday, as was mentioned, we will have the Aamodt meeting. John Utton will be there in addition to County staff to answer any questions that may arise. In addition, Thursday afternoon, we will be meeting with members from the Chimayo Mutual Domestic, Cuatro Villas, City of Española, Rio Arriba County, and ourselves to discuss the trunk line that's being proposed between Chimayo and the City of Española. So all those entities will need to come together at some point in terms of funding the project and then operating the project once it's complete.

And then I just wanted to inform you that San I is also having their feast today on January 23<sup>rd</sup>. They always like for us to, if possible, to attend. And then, Mr. Chair, I noticed that our next meeting – we have a board meeting also with the Association of Counties, I believe. Or is it the following day? Is it on Tuesday or Wednesday, the board meeting?

CHAIRMAN ANAYA: I think it's on Monday. I'll double check.

COMMISSIONER MONTOYA: Oh, it's on Monday? Okay. So we're okay with that. Yes, you're right. It's Monday. So we're okay with that, then. Okay. That's all I had, Mr. Chair. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to announce on behalf of the Community College that they have invited, and I believe you will be speaking, Chairman Anaya, all of us to their groundbreaking ceremonies this Thursday at 2:00 at the Community College. These are groundbreaking ceremonies for the Allied Health and Science Building, a project that will be providing more nurses and health professionals to our community. Great project.

I also wanted to – I think that's it. That's it. That's all I wanted to announce. Thank you, Mr. Chair.

COMMISSIONER VIGIL: Thank you, Commissioner. Commissioner Holian.

COMMISSIONER HOLIAN: I don't have anything yet.

COMMISSIONER VIGIL: Okay. That's good. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I would just say that I do send my regrets to the groundbreaking at the Community College, and it is in my district, but I have another commitment. I've let them know. But it's going to be very worthwhile. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner. Too bad. I was going to let you do the speech. I didn't know I had to talk. Under Matters from Commission, I think I talked to Roman about this earlier, along with Commissioner Sullivan, and that was to expand our listening audience. I know that people out there, Channel 28 is only for cable viewers, I believe, and it's only surrounds the City of Santa Fe, and not even all of it. So how can we get – how can we expand our audience out there, so that people in Española or Edgewood could tune in and see what's happening in Santa Fe County?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I just have one suggestion about contacting KSFR. They already broadcast the City Council meetings and they might be open to broadcasting our meetings on radio and that way everybody can get the radio. Not everybody has cable but everybody has radio.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I do know though that some areas of our county don't get KSFR even. So I'm happy to have the radio participation but I think what Chairman Anaya, the chairman is bringing up is true for all the outliers, the Highway 14 area, the Galisteo Basin. It's very hard to have reception and to do this, so it would take some investigation.

CHAIRMAN ANAYA: So if we could look into it and have some possibilities out there of what we can do. And let's not count out the radio. That would help. But if we could look into that.

MR. ABEYTA: We'll do that.

CHAIRMAN ANAYA: And then under intergovernmental relations, Hutch Miller, he is in charge of that, correct?

MR. ABEYTA: Yes, Mr. Chair.

CHAIRMAN ANAYA: I'd like him to start attending some meetings at the – in Edgewood. And I'll go with him on the first one so I can introduce him and tell them that he's going to start attending, so that we can have more communication with the Town of Edgewood. We've had good communication but I'd like to have somebody there full time, somebody they can call on, somebody they could get to know. And that's all I have.

MR. ABEYTA: We'll do that, Mr. Chair.

### **XIII. C. Matters from the County Manager**

#### **1. Update on Various Issues**

MR. ABEYTA: Mr. Chair, we are going to work with scheduling a mid-year study session with the Commission. We are looking at either the first week or the second week of February. To date, property tax revenue and gross receipts tax revenues are at budget, which is a good thing, but remember, we usually are conservative when we do our projections and so just because they're at budget doesn't necessarily mean that they haven't dropped. In fact GRT has dropped and so has property tax collection compared to what has been brought in over the past two or three years. But again, we're usually conservative when we budget. So we're at budget which is a good thing and hopefully we will remain that way through the rest of the fiscal year, but we will be sure to have all the detail for you during the mid-year discussion in February. Micah of my office will be coordinating that.

I've spoken with most of you about this and we mentioned it again this morning at our legislative reception. We did submit a request for federal monies out of the federal stimulus package. We will continue to meet with our delegation to discuss that and as more information comes from them and criteria we'll be sure to stay on top of that and amend our request so that we comply with that.

The Fire Department will present its five-year plan for the Commission to review and possibly approve at the February administrative meeting. Those are the items that I have at this point, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Roman. Commissioner Vigil.

COMMISSIONER VIGIL: How much percentage of GRT? What reduction of the GRT in percentage did we receive? Do you have that figure?

MR. ABEYTA: If I recall my discussions with the Finance Director, last year we saw an eight percent increase in GRT, or growth in GRT. So far we're only seeing a four percent increase. And what we budgeted, I think, was a three percent. So we should be fine if they hold at the level they're at now.

COMMISSIONER VIGIL: Okay. When do we have the final figures? Is that the 18<sup>th</sup> of this month? On the property tax and the GRT? I know that they're updated but when is the next update?

MR. ABEYTA: GRTs usually come in at the beginning of every month, around the 10<sup>th</sup> of each month, but for 60 days ago, for two months past.

COMMISSIONER VIGIL: Right.

MR. ABEYTA: So, by February when we have our mid-year review we will have the December GRT report and we will have the complete property tax report for December, which is when the property tax is due, in December. So we should have real solid numbers for you by the first of February. That's why we wanted to put off the mid-year till the first of February, so that we would have those solid numbers.

COMMISSIONER VIGIL: Thank you, Roman. Thank you, Mr. Chair. And I just wanted to say thank you Roman and everyone who participated in the legislative breakfast this morning. You did a wonderful job.

MR. ABEYTA: Thank you.

COMMISSIONER MONTOYA: Very good.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. Commissioner Montoya, did you have something?

COMMISSIONER MONTOYA: You know what, actually, Mr. Chair, having to do with thinking about the committees and the assignments. It might be good to just have, because Mr. Chair, you're on the Finance Committee, right?

MR. ABEYTA: The Board of Finance.

COMMISSIONER MONTOYA: The Board of Finance. And just to have those so that everyone knows some of the other assignments that you get, not necessarily, maybe by just being the chair or having to designate someone to go to the North Central Economic Development Board, and actually also to the Northern Area Local Workforce



Development Board, which I forgot to mention I'm on also. So would you reconsider that alternate, Commissioner Holian?

MR. ABEYTA: Mr. Chair, we'll compile a list of all the committees now that we've had today's appointments and we'll run it by the Commission and if we forget something like these other committees, like the North Central Economic Development, things like that, be sure to let me know. That's a good idea. We should have an updated list of all our committees and which Commissioners are appointed to which committees. And we'll even try to include the dates and times that they meet.

COMMISSIONER MONTROYA: Okay. All right. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner.

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

**1. Consideration and Approval of Resolution No. 2009-1, a Resolution Determining Reasonable Notice for Public Meetings of the Board of County Commissioners of Santa Fe County and for Boards and Committees Appointed by or Acting Under the Authority of the Board of County Commissioners**

MR. ROSS: Mr. Chair, following are two housekeeping matters. The first is our annual Open Meetings Resolution and the second is some cleanup we're suggesting to the rules of order. Taking the Open Meetings Resolution first, before you in your packet is a copy updated of course with the proper dates. Last year's resolution determining reasonable notice for public meetings of the Board. For the benefit of the new Commissioners, we develop a schedule of Board meetings at the beginning of the year. I think that schedule is already out, and we schedule two regular meetings each month, the second Tuesday and the last Tuesday of each month, to the extent we can, given the holidays and other factors. And then from time to time special meetings are scheduled, such as the mid-year budget study session, which we'll be scheduling pretty soon.

All those meetings are advertised in the newspaper, posted on the County bulletin board right outside this room, and also posted on the County's internet website. From time to time there's a need to have emergency meetings. I can't remember actually the last emergency meeting but there's a procedure specified in the document for scheduling such a meeting. It's essentially, you schedule an emergency meeting with as much notice as the circumstances permit.

And then moving on, each meeting has an agenda, which we've been working through tonight. The rules for posting those agenda – in general, we place a preliminary agenda on the bulletin boards out here and on the website, and then post a final agenda no less than 24 hours prior to the meeting. There are the usual statements about recessed meetings. If we have to interrupt a meeting for snow or some other unforeseen circumstance, or it just gets too late, the rules provide that we just post a notice on the door downstairs when we're going to reconvene and that's adequate.

From time to time members participate – they're unable to physically attend the meeting so the Open Meetings Act permits us to participate in meetings by telephone should we need to. We've done that quite a few times in recent years. And then the usual rules for closed meetings. These are straight out of the Open Meetings Act. We can only close a meeting for the circumstances that are set forth in the act and the circumstances must be described on our agenda, which we'll get to in a few minutes.

The Open Meetings Resolution is applicable to all the numerous boards and commissions that we have constituted except for those bodies that do their own rules, which includes the Extraterritorial Land Use Authority and the ELUC. So with that I'll stand for questions.

CHAIRMAN ANAYA: Any questions for Steve? Hearing none, what's the pleasure?

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER VIGIL: I'll second.

CHAIRMAN ANAYA: Second by Commissioner Vigil and Stefanics. Any further discussion?

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

**XIII. D. 2. Consideration and Approval of Resolution No. 2009-2, a Resolution Establishing Rules of Order for Meetings of the Board of County Commissioners of Santa Fe County and for Certain Specified Committees; Rescinding Resolution No. 2008-03**

MR. ROSS: Mr. Chair, these are the rules of order under which the Commission operates. As you know, for many years, for probably 30, 50 years, the Commission has not used Robert's Rules of Order but operated under its own rules which in general are less formal than Robert's and they're in the document that's attached. I'll just point out I did put a memo in your packets that highlights the proposed changes. Most of the changes are editorial or updating items like the change from the EZA to the ELUA. But there are a few suggested amendments to the rules of order.

Number one is that the rules permit the appointment of a temporary chairman when the chair and the vice chair are not present. This happened once last year and we had to struggle to figure out how to commence the meeting and get a chair to run the meeting. So we've added a sentence that says that that procedure can occur if needed. The current rules also prohibit items to be withdrawn, tabled or postponed only upon two days business, two business days' notice, or upon a showing of good cause. I think this provision entered the rules with respect to a specific matter that was highly contested. It's not been followed since. Items such as this that aren't followed should go from the rules unless we decide to strictly

follow them.

And then there was a misstatement –

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Where were you referring to just now with that comment? What section?

MR. ROSS: It's Section 5.A.1, 5.B.1.

COMMISSIONER STEFANICS: 5.A.1.

MR. ROSS: If you take a look at page 5 in the document and you look over there in deleted text, that's where it is.

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

CHAIRMAN ANAYA: You're welcome.

MR. ROSS: And Mr. Chair, the final item is some items, under the heading of Motions, when we're engaged in motion practice, some items require more than a majority vote of members present. For example, if we're passing an ordinance, obviously we need three members of the Board to affirmatively vote in favor of an ordinance. If there's only three members there and two vote in the affirmative, that's not adequate to pass an ordinance. So I added a proviso there in that sentence.

Those are the substantive changes. The other changes are just editorial changes to update the policy. As you know every year we try and go through this policy. It's a very old document and we try and bring it up to date each year, things we've identified during the year that might need to be looked at. With that I'll stand for questions.

CHAIRMAN ANAYA: Any questions for Steve? Hearing none, what's the pleasure?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: Motion by Commissioner Vigil.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Second by Commissioner Holian. Any further discussion?

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

**XIII. D. 3. Executive Session**  
**a. Discussion of Pending or Threatened Litigation**  
**c. Discussion of the Purchase, Acquisition or Disposal of Water Rights**

CHAIRMAN ANAYA: Do we need an executive session?

MR. ROSS: Yes, Mr. Chair, we need an executive session to discuss pending or threatened litigation and discuss purchase, acquisition or disposal of water rights.

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER MONTOYA: So moved.

CHAIRMAN ANAYA: Motion by Commissioner Montoya, second by Chairman Anaya. Roll call.

**The Commission went into executive session pursuant to NMSA Section 10-15-1-H (7 and 8) to discuss the matters delineated above, upon unanimous roll call vote with Commissioners Holian, Montoya, Stefanics, Vigil and Anaya all voting in the affirmative.**

[The Commission met in closed session from 5:00 to 6:07.]

CHAIRMAN ANAYA: Good afternoon, everybody. We're going to start our public hearings.

MR. ROSS: Mr. Chair, before we hit that item we should probably close the executive session and make the required statement.

COMMISSIONER VIGIL: Mr. Chair, I move that we come out of executive session where we discussed only personnel and purchase of water rights matters.

CHAIRMAN ANAYA: Motion by Commissioner Vigil.

COMMISSIONER HOLIAN: Second.

MR. ROSS: And Mr. Chair, Commissioner Vigil, actually we discussed pending or threatened litigation and acquisition, purchase or disposal of water rights.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN ANAYA: Is that what the motion is?

COMMISSIONER VIGIL: That's correct. I stand corrected.

CHAIRMAN ANAYA: Commissioner Holian seconded?

COMMISSIONER HOLIAN: Yes.

CHAIRMAN ANAYA: Any further discussion?

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

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

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

- 1. Consideration and Adoption of Ordinance No. 2009-\_\_, an Emergency Interim Development Ordinance Prohibiting Processing of Applications and/or Granting Development Approvals for Zoning, Subdivision, Family Transfers, Land Divisions, Parcel Maps, Nonconforming Uses, Variances, Special and Conditional Use Permits Within the Boundaries Delineated in Exhibit 1 Attached to this Ordinance that Rely on Housing Densities Greater than That Set Forth In Article III of the Land Development Code, Excepting Development Approvals for Oil and Gas Projects Pursuant to Ordinance 2008-19, for a Six-Month Period Commencing Upon January 14, 2009, the Date of Recordation of this Ordinance, and Terminating on July 13, 2009, Providing Further for an Extension to January 12, 2010 if Required in the Legislative Discretion of the Board of County Commissioners, Until the Adoption of a Growth Management Element and Other Amendments and Elements to the General Plan and the Adoption of a Comprehensive Revision of the Land Development Code and Other Related Ordinances, Administrative Regulations and Action Programs, Implementing the Amendments to the General Plan, and Suspending Certain Provisions of Ordinance No. 2006-02 [Exhibit 4]**

MR. ABEYTA: Thank you, Mr. Chair. The request before you is a request for approval of an emergency interim development ordinance prohibiting processing of applications and/or granting development approvals for zoning, subdivision, family transfers, land divisions, parcel maps, nonconforming uses, variances, special and conditional use permits within the boundaries that are delineated in Exhibit 1 attached to the ordinance that rely on housing densities greater than that set forth in article iii of the Land Development Code, excepting development approvals for oil and gas projects pursuant to Ordinance 2008-19, for a six-month period commencing upon January 14, 2009, the date of recordation of this ordinance, and terminating on July 13, 2009, providing further for an extension to January 12, 2010 if required in the legislative discretion of the Board of County Commissioners, until the adoption of a growth management element and other amendments and elements to the general plan and the adoption of a comprehensive revision of the Land Development Code and other related ordinances, administrative regulations and action programs, implementing the amendments to the general plan, and suspending certain provisions of ordinance no. 2006-02.

Steve Ross passed out a brief presentation that I will make regarding this ordinance, then Steve will go over the ordinance in detail with you, and Jack Kolkmeier will be

available for any questions that you have regarding the Growth Management Plan that we are currently undertaking. The first page of the presentation is just a list of all the initiatives that we are currently working on right now. We're working with several water associations regarding supply policy for example, Chimayo, the Cuatro Villas system. We recently got voter approval for bond projects that we need to undertake. We heard our comprehensive water supply plan earlier today. We need to go forward and move forward with implementing elements of that plan. We are dealing with transportation planning through RTD and the Rail Runner. We've got the Aamodt settlement. We're working with the Town of Edgewood on annexation. The City of Santa Fe, we just recently went through an annexation plan and approval with them. We're dealing with trails and open space. We need to develop a management plan. The list goes on and on as you can see. You've asked staff to work on a building permits program. We've been working on rewriting the Land Development Code. We have to deal with solid waste fees, the affordable housing amendment is something that will be coming forward in the next 60 days. So again, the list just goes on and on for what we need to accomplish.

On the next page, for the next slide, has a road sign with a curve in it, and the purpose of that is we're just about to turn the corner here at the County with our growth management planning that we're undertaking.

The next slide talks about the growth management plan in itself and all the work that needs to be done. The first part is the planning context, the introduction work, vision, purpose, relationship, consistency with our general plan, relationship with other plans, the planning process. We need to define growth management. Part 2 has to deal with facilities and services, such as water, wastewater, transportation, public safety, parks, recreation, trails and open space, and general County services.

Part 3 of our plan will include a community character element, including history and traditions of our communities, community plans that have been adopted, area and district plans that have been adopted, and corridor plans.

Part 4 will include a growth management element, which will include natural resources and environment, growth trends, existing land uses, growth management areas, land development suitability model, growth tiers, future land use, affordable housing, sustainability, energy conservation and alternative energy, community health, economic development, and intergovernmental coordination.

And the first part is the implementation element, which is the goals, objectives and policies, the strategies, and finally, a capital improvements plan.

The next slide is our public participation and public meeting schedule where we plan on getting public information to help us with these plan elements. As you may remember, we are dividing the county up into four areas: El Centro area, El Norte area, Galisteo and Estancia. The week of February 9<sup>th</sup> through February 11<sup>th</sup> at the Nancy Rodriguez Community Center we will be having community meetings regarding the El Centro area. The week of January 26<sup>th</sup> through the 28<sup>th</sup> we will be at the Pojoaque satellite office talking about the El Norte area with the public. The week of February 23<sup>rd</sup> through the 25<sup>th</sup> we will have a

meeting at the Galisteo Community Center to deal with the Galisteo area. And then the week of March 2<sup>nd</sup> through the 4<sup>th</sup> we will be at the Edgewood Senior Center working on the Estancia area.

We plan on holding countywide meetings with the CDRC and the Board of County Commissioners, the first being the CDRC on March 26<sup>th</sup>. We will provide a summary of the outcomes of our growth management area public meetings. On April 1<sup>st</sup> we will discuss policies and goals. On the 30<sup>th</sup> we will talk about strategies, and on May 21<sup>st</sup> we will present the growth management plan recommendation to the CDRC. On June 9<sup>th</sup> we plan on bringing the growth management plan with the CDRC's recommendation to the County Commission for the first public hearing. And finally, on June 30<sup>th</sup>, the second public hearing and hopefully the adoption of the growth management plan.

So the next slide is our requested action, which is basically at this point, how, in the sense that we need to slow things down so that we can get this work done. And that is where the interim development ordinance comes into effect. The ordinance, Steve Ross will talk about what it is, its timeframe, again, get into a little more of the purpose of it. But ultimately our goal as a County, which we set out maybe two years ago and especially what really initiated us and got us thinking differently was the oil and gas ordinance and that whole experience and what it brought to light was the County's inability to continue to provide services at a reasonable level to all of the development that exists out there.

And so our hope is that through this growth management plan, what we will land up with is a model of sustainability which would balance the County services with the amount of development that is in Santa Fe County from north to south. And so what we're asking for is time for us to do that. And with that, I'll turn it over to Steve Ross to present the details of the interim ordinance itself.

MR. ROSS: Mr. Chair, Roman mentioned the oil and gas ordinance. As you recall, at the beginning of the process that resulted in the oil and gas ordinance there was an interim ordinance adopted by this body. I believe it was last February, and it looks an awful lot like this, and it looks like this for a reason, and that's because Dr. Freilich, who drafted the emergency interim ordinance on the oil and gas stuff last year also provided us with the draft that you have in front of you for a similar type ordinance to protect the growth management process and the Code rewrite that's underway.

One of the benefits that came out of the oil and gas experience was our experience working with the consultant team that we developed to assist us with that project. And in particular, Professor Freilich and Bruce Peshoff and Sarah Humphries at Planning Works in Kansas City. These three individuals work together all over the country and they don't predominantly work – in fact they hardly ever work – in the oil and gas area. Their main business is doing what we've asked them to do for Santa Fe County, which is assist with development of appropriate amendments to our general plan, assisting us with growth management, preparing a Code rewrite with tools to take us into the 21<sup>st</sup> century.

The Code was last amended in 1996 and it's been long recognized that the Code needs some work, and we've been working on the project slowly for many years, but with the

assistance of outside consultants we think we can quickly take all the work that's been done and put it in a framework that will serve the County well for the next 20 years. So that's sort of the context for this. There have been a number of concerns raised over the course of the last year concerning the effects of the County Code and in particular the hydrologic zoning that is the basis for County zoning right now. As you'll recall, I think it was the 1980 Code that first created that system and the system was you could develop essentially anywhere that you could prove that water existed to support the development and that water is generally groundwater, because the County utility, in 1980, I don't think even existed and now is still a very small system that exists primarily in the urban areas.

And the application in practice of the 1980 Code and the 1996 Code resulted in what we all know as the 2.5-acre lot, which is the minimum lot size if you can prove that there's adequate groundwater to serve lots within a development. And the concern with the 2.5-acre lot has been that it has the potential and has created sprawl-like development within the county that is not considered to be an efficient use of energy, of County resources, or of the land itself. And it's going to be the focus of the growth management discussions that are ongoing right now. Should we continue with this sort of development regime, i.e., hydrologic zoning is sort of what we've described it as, or should we move to a different type of system that's more traditionally seen in municipalities, which is more traditional zoning by district, by map, by uses and the like.

So as I go through this ordinance you're going to see that the emergency interim ordinance addresses that issue square on. The issue that's addressed in this ordinance is let's put I think a time-out on the predominant 2.5-acre zoning density that has been the pattern here in the county and as we go through this growth management process and the development of a new Code examine that and see whether that makes sense, and see what comes out at the other end. This ordinance is intended to protect that process.

Now there are a number of – as you look through the ordinance there are three pages of whereases, which are essentially findings that detail what the County is currently engaged in, which is the process, the growth management strategy, that we hope will lead to significant general plan amendments and a number of elements, the first of which of course is the oil and gas element, but there will be a growth management element, there will be a transportation element, a land use element, a capital facilities and services element – all these elements will comprise the County's general plan in the future. All that is described in the first large chunk of text there on page 1.

Following that of course is a discussion of the County's planning efforts that are ongoing with respect to water supply, and of course the first thing mentioned is the conjunctive management plan, which the Board of County Commissioners this afternoon approved. The second thing is the amendment to the 40-year water plan, which will be coming forward soon. And then the proposed ordinance describes objectives, at least tentative objectives that the consultant team and County staff have identified with respect to our growth management planning and the Code rewrite.

The next whereas declares an emergency affecting and impacting public health, safety



and welfare, which is a requirement to enact an emergency ordinance. And of course the emergency is really two-fold. It's number one, there's a need to protect the process that is underway that we've described and number two, a need to protect applicants from engaging in needless process over the next six months to the extent that there are going to be changes in how this whole business works, of development. We don't want that sort of waste to occur.

And the next whereas describes the process where we're going to get from A to B, which is partly in place right now. We've had I think three meetings with the Board of County Commissioners already last fall on growth management. We're sort of in the middle of the process and as Roman said we expect the process to be done by June.

And then the subsequent whereases identify needs of the process. In other words, we need consultants to help us work through the process. We're going to need to identify certain factors that will influence the process and influence the products that we get out of the process. And then the County's committed to funding and working with this process and concluding it. We're not just starting a process without the wherewithal to complete it. And then some more paragraphs containing essentially findings, legal findings concerning the basis for the ordinance and conclusions concerning the import of the facts that I've just described.

So then we get to the guts of the ordinance. Section 1, Area of Regulation, this sets out the territorial boundaries that the ordinance will affect, and essentially, the boundaries that will be affected are any area within the county that's outside the statutory extraterritorial zoning jurisdiction of the City, which as you all know is two miles from the current city limits, and the current territorial limits of the County water utility. Anything outside that area which is shown on the map that's attached as Exhibit 1 is subject to this six-month interim ordinance.

Section 2 is a technical section that says that any time we need to we can amend the map that I just described, the boundaries. Where the ordinance is effective, we can come back at any time and amend that and we did that twice in the oil and gas ordinance. As you recall we had an interim ordinance that was in effect almost a year on the oil and gas ordinance and we came back to you twice to amend the boundaries.

Number 3, effective date of course. The ordinance declares an emergency and that means that it takes effect immediately upon recordation.

Section 4, this is the guts of the ordinance. This section says that the presumptive hydro-geologic zoning that was established in 1980 and continued through the 96 Code is the zoning density for the next six months, and that the zoning density that's set forth in the ordinance and in the Land Development Code cannot be reduced in the usual manner. As you recall, now, if you for example in the Basin Zone, if your property is located in the basin zone where the zoning density is now presumptively ten acres, with a hydrogeologic report that's accepted by the County through the processes set forth in the Land Development Code you could create 2.5-acre lots there. But this section, if adopted by the Board, would establish the minimum lot size for the next six months in the basin at ten acres. This was what I was referring to earlier. This ordinance hits the hydrologic zoning issue square on the head and

suspends essentially the system that's been in place for many years for the next six months while we figure out whether this makes sense or whether something else makes more sense.

Then in Section 5, in the area affected by the ordinance, which is outside the two-mile and outside the utility boundaries, affordable housing density allowances are suspended for the next six months. Now, as a practical matter Section 4 would probably result in Section 5 not really ever being applicable, because it affords a density allowance above that which is prescribed in the Land Development Code for various hydrogeologic zones. It was felt that we needed to suspend those rules in case there's a situation where affordable housing density allowance might be applicable.

Then Section 6 sets forth some exemptions and some rules for the next six months that will be applied. Essentially, Section 6 A provides that any development that has achieved vested right to develop is not affected by the ordinance. Of course the vested rights doctrine provides that if you have approvals, all the required approvals to develop property, if you've obtained a building permit and you're building on the property, you have vested rights to your approval and the government can't change that entitlement. So anything that has vested rights already, that's been previously approved, is unaffected by the ordinance.

In Subsection D there, 6 Subsection D is another exception from the ordinance. It provides that aside from subdivisions, all other forms of land division – family transfers, land divisions, lot line adjustments, things like that – that have not achieved vested rights can continue so long as they are consistent with the unreduced densities described in the Land Development Code. The ordinance also exempts oil and gas development. We had to do that because we have the new ordinance, just to make it clear.

And then the final exemption is contained in Subsection F. It provides – it's sort of a catchall. It provides that anything that exists, that complies with the densities described in Section 4 of this ordinance and in the Land Development Code, stays unaffected by the ordinance. Now there's several rules that are also contained within the ordinance that Dr. Freilich put together, and let me just to the most significant of them so that we don't spend a lot of time on this recitation. Yes, Subsection G. This is a problem that we've been confronting lately, and that is the belief that a land division or a family transfer or something along those lines that's exempt from regulation under the Subdivision Act and not subject to the subdivision rules, there's been a misconception that these types of transactions are not subject to zoning by the County as well. This section clarifies that during the period governed by this ordinance, which is of course a six-month period, that any of those types of transactions are addressed by zoning. This is probably going to be a staff recommendation in the process for the Code rewrite and the growth management strategy that a proviso along these lines be included.

And finally, Subsection H, for development that goes forward during the six-month period, this section says that subsequent to the six-month period, that if the subsequently approved Land Development Code requires development agreements, that people developing during the six-month period agree to enter into a development agreement with the County. That's going to be a strong recommendation of the consultants that development agreements

be used far more broadly than the County currently uses them. I think we only have a couple of development agreements in existence right now.

And then Section 7, there's definitions of terms in the ordinance that you can take a look at.

Section 8, growth management strategy. This describes what Roman described earlier in more technical terms. It's describing all the various deliverables that the County staff and consultants are working on and will deliver in approximately six months.

Section 9 is a severability clause. Section 10 is a conflicts clause and Section 11 declares an emergency. Section 12 provides that the ordinance will cease to be in effect on July 13<sup>th</sup>, but it can be extended for a period thereafter but will definitely expire no later than January 12, 2010 if action is taken to extend it. And then Section 13, just added this afternoon, is a suggestion that approvals that people have in place right now that expire during the period of this ordinance for which they cannot go forward. For example a master plans expire two years after they're approved, if they expire during the period of this ordinance that the time to file for preliminary approval will be extended by the period of the ordinance. So if something expires in April and this is a six-month ordinance then they'll get an extra three months to file a subsequent application.

So that's the ordinance. Attached to it is Exhibit A. I think I mentioned that before, which shows the extent of the area affected by the ordinance. And I stand for questions.

CHAIRMAN ANAYA: Any questions? Jack, were you going to comment on anything?

JACK KOLKMEYER (Land Use Administrator): I just want to make just a couple of kind of summary comments and then I'll be happy to entertain questions as we move forward. But one of the really important points here for staff, and for us as we've moved through this is just to reiterate the importance that we have divided the county into four growth management areas, because we feel that the notion that we've presented of what we call systems and settings. What is the setting of each of these four geographic areas, and what are the systems that best accommodate growth in those areas, because the four areas are so uniquely different. We really need to be clear and have a very clear understanding of where growth should occur.

We have a tier system that we're working on that we've explained to you, so that will lay out primary growth areas, secondary growth areas, and the kinds of systems that are needed to accommodate growth in those areas. The most important one, however, being our communities. We've had a lot, the last ten years with our community planning, plans that we've done and the ordinance that we passed, we recognized that things have changed a little bit in some parts of the county. Some places have grown. Some haven't grown at all. What is the nature of greater Eldorado, for example? How do we view that as a community? And what systems need to be in place to be able to deal with what's emerging there.

The other important thing that we really need to be aware of is that we have between 14,000 and 16,000 vacant and undeveloped lots in Santa Fe County. Taking into account that there are even more within the Community College District area, we already have enough, in

theory, lots on the ground, to provide the housing that we need for the next 30 years. So here we are, we're in a situation where we're not sure of what the systems are that we really need a place to accommodate the settings that we want. We have between 14,000 and 16,000 vacant undeveloped lots. We have a surplus of lots. We're experiencing lots of problems with offsite improvements that have never been made – arroyo crossings, roads, last year with the snow and the floods that we had we really saw that first hand and that presents problems with police and fire protection for our residents. We want to take the time here to go into these four growth management areas and have extensive meetings with our communities, to discuss with them what the issues are, to find out from them the best role that they think the community should play in the growth management work that we're undertaking, and we really need the time to do that now, within this next six months, without having everybody concerned or fighting against developments they like or they don't like, and to have the time to do this in the way that we feel is the best for the residents of our county. Thank you.

CHAIRMAN ANAYA: Thank you, Jack. Okay, if there's not any comments from the Commission – Commissioner Holian.

COMMISSIONER HOLIAN: Can I ask a question?

CHAIRMAN ANAYA: Sure.

COMMISSIONER HOLIAN: Jack, on the community meetings that you're having, the three-day meetings, are you going to have different activities on each of those days, or is it just so that you can accommodate the number of people who might come?

MR. KOLKMEYER: Mr. Chair, Commissioner Holian, we're going to have – we want to do this over a three-day period, as I explained on the handout that you have there. We'll have exercises, we'll have opportunities for the communities to speak, we'll do presentations on the information that we've collected in terms of some of the environmental issues and level of service of our public services. We're also going to do them at different times, so that people who work during the day can come in the evenings. People who want to come during the day to meet with us. We're really going to do this in a way that we can accommodate people's schedules and go over issues in as much detail as we can.

COMMISSIONER HOLIAN: Thank you.

CHAIRMAN ANAYA: Okay. This is a public hearing. How many of you want to speak on this issue? If I could just see a raise of hands. Okay, I will let you speak for two minutes, 2 ½. Try not to repeat yourselves and if you could just come forward, make a line over here. Sit in the front pew if you'd like. That way we can get through this. If somebody has mentioned something, let's not repeat it and see if we can get through this hearing. Who wants to start? Jim Siebert.

JIM SIEBERT: Mr. Chair, Commissioners, my name is Jim Siebert. I'm going to talk about five different points regarding this ordinance. The first one, I'm sure you'll hear a lot about it tonight, is lack of public notice. We feel that it would be more appropriate to have a hearing where people had the opportunity to actually review the ordinance and actually have some meaningful input into the ordinance itself, and I think that having an ordinance one hour before the meeting is really not sufficient time to completely understand

it. I think you're going to be hearing a lot about due process tonight. It's my opinion that really due process has not been served.

The other thing I'd like to – in the ordinance it talks about, in the whereas, the emergency aspect of this, the rush of applications. And I would just be curious if we're going to hear testimony tonight from the Land Use staff regarding how applications, what the volume of applications were in 2008 compared to previous years, and pending applications in 2009. My guess is what you'll find is that this is probably one of the lowest periods of development permit applications the County has experienced in probably the last 10 to 15 years. So I don't quite understand the nature of the emergency.

The other thing is the concern that I hear is that you don't want to be approving projects that may be contrary to future Code. I guess what I don't quite understand is I haven't seen all the intricacies of the growth management plan but I'm not sure it's going to be – future codes are going to be that much different from existing codes. So we may be delaying projects for a long period of time, only to realize that they're really consistent with the impending codes.

The other thing I think is I'm not sure why we're breaking from kind of standard, customary platting practice, where you develop the plan and then after you prepare the plan you prepare the ordinance. I just don't see where this kind of impending peril exists. And I think the last thing, and I think this is the one for you all is probably going to be the hardest is this not only has an impact on the development community, which it does, which employs hundreds of people, but it has an impact on individuals and individuals that come to you on a monthly basis. People with lot splits, people with family transfers that really all their desire is to take care of an ailing family member or an aging parent. I've been here I don't know how many times when that's been the case.

Well, that's not going to happen. For a year, you're going to have to tell people, I'm really sorry. I know you have an aging parent. You'd really like to take care of them, but that's not going to happen.

CHAIRMAN ANAYA: Time's up, Jim. Thank you. We got all five in there. Go ahead.

LINDA TIGGES: Mr. Chair, Commissioners, I'm Linda Tigges, Tigges Planning Consultants, and I've been a planner for many years, about 30 years almost now, both in the private sector and the public sector, and I do applaud your support of the growth management plan. And I would like to urge careful consideration of the proposed ordinance. I'd first again like to urge additional notice and opportunity for public input. I'm sure there are many people that would like to talk to you, would like to hear about it, would like to come up and say, this is my situation, this is how would affect me. And I think you would want to hear it from them too. So that's the first item that probably the others will repeat.

I'd also urge careful consideration of the effects of the ordinance, on, as Jim said, individuals. And the best way I can explain that is to describe two projects that I'm working with. It always seem that if you talk about individual projects it's a little easier to communicate what you want to. The first one is a 14-lot subdivision. It would be affected by

this. It's got all of its approvals. It was held up by state agencies, and also because of personal reasons. The people had to move from one place to another and that took some time. But Phase 1 is probably about three days off. I've got the check for the recordation fee in my billfold. It's a division that's Phase 1 of a larger subdivision so I believe it would be affected by this, and I'm not sure what the public interest would be in holding that up for six months or two years. Would it be that they would come back and you'd review the case again or deny it? They don't have any building permits, no development permits, but they do have all the approvals.

The second one is a development plan. It's a historic preservation project supported by the community. It would be a rezoning. It's on a lot that is smaller than the allowed lot, existing lot. I didn't see how that would be addressed in there. And they've spent so much already on getting it going that they probably would drop the project if they had to wait six months or a year, and that would be a real shame because I think it probably complies with everything in the growth management. Thank you.

CHAIRMAN ANAYA: Thank you, Linda.

JOE MILLER: My name's Joe Miller. I live just south of Lamy. I don't know what I can come up with two minutes or 2 ½ minutes isn't nearly enough for all the issues that I have to bring up, so I'll just look at them to try and prioritize them to bring up the ones that I feel are the most important.

The Eldorado area is a little bit unique and this should be considered in this. I think it should be exempted from this moratorium because we spent 11 ½ years with the moratorium where we couldn't use our property at all. Couldn't do anything for 11 ½ years and had to continue to pay taxes on it all that time. We had to pay taxes to build or buy and operate a water system that we weren't permitted to use. I think that we should be able to exempted from this ordinance. We've worked on the 285 Corridor Plan and that plan took us probably a year and a half or more. We had about 45 sessions of it. I attended about 40 of them. We came up with a plan, it was a good plan, it was a nice plan, and it was approved and put into an ordinance. And I don't think we need any more planning along the 285 corridor.

Now, again, this should be sufficient to hold us over. I've talked to a lot of people and they say this was pretty quick, the emergency of it. I think we can continue to process these applications and still go ahead with the growth management plan at the same time.

There are some collateral effects that you probably aren't familiar with and maybe you don't want to be. I don't know how much information you people really want. But the water system in Eldorado, we worked out with them, which took about six months, came to an agreement with them, where we gave them enough water. We gave them enough water that will produce over 400 gallons a minute. This is enough water for them to supply at least half of their people, and in exchange we would get the service of theirs for our developments. We have three developments that we just submitted and if these developments cannot go forward those water wells are reverting back to us. We gave them water rights, about 10, 15 acres of water rights and those all revert back to us if we can't go through with our projects.

But after spending 11 years here I think it's really not fair to ask these people to come

up and put another moratorium on us when the problem in the Eldorado Area Water and Sanitation is almost complete. There's only three projects and then when that's done that subdivision would completely develop out and those people all have master plans and they should be able to go forward. The people in the 285 Corridor Plan and in the Eldorado Water and Sanitation District should be exempted from this.

CHAIRMAN ANAYA: Time's up, Joe. Thank you.

JOSEPH AGUILAR: Council members, thank you for having me. My name is Joseph Aguilar. My contention here is simple. I just have a simple lot split that I want to do. I've already put a couple thousand dollars into this thing, come to find out today, when I turn in the paperwork that, hey, guess what. You can't do this. You spent \$2,000 on this thing and that's just going to go down the toilet basically, with no notice, no warning, nothing. Just a slap in the face when I show up when I try to do this.

Now, I've got an 18-year old son that I want to give – that I want to help him out. Give him a nice little start. Help him build a house over there. I live in La Cienega and that's the totality of my concern here. But I'm sure that I'm not the only one that's alone in this situation. There's probably 1,000 other people that would like to do the same thing. They got hit in the face with this thing just the same way I did this morning. It's an emergency plan. We have – it's like the government over here. Everybody's hot to trot with this emergency. Everything's a big, hyped up deal. It sounds to me like this plan, this ordinance here is heavy-handed, it's far-reaching, and I think it's just another power grab that's based in the environmental movement.

We don't have a shortage of water. There's more water up there coming down from the mountains right now than the basins can possibly hold. We've had record snowfalls. So you can't convince me that there's anything having to do with any water shortage, like the gentleman here implied in his ordinance. I think it's unfair. I think it's way out of line and I think it's way too heavy-handed for the average citizen, especially some of these developers out here that have already got multi-thousands of dollars into their plans already. I'm finished. Thank you very much.

CHAIRMAN ANAYA: Thank you. Next.

GARY DAWSON: I'm Gary Dawson, property owner, surveyor and hopefully representing some of the private property owners around who can't be here. I just want to go on record as being against this moratorium, the way it's being done right now because of no notice, no copies available, and if you look at the copy that you got right now that keeps referring to Exhibit 1, there isn't even an Exhibit 1. There's some drawing on the back but it's not marked as an exhibit; it's nothing.

You keep – your planning department refers to all the lots that are on the market. That's part of the free enterprise system. Those lots will sell and anybody who wants to develop will not develop if they cannot compete with what's on the market. That's a fallacy that you have to control that. The emergency – what's the emergency? Is the emergency because this job wasn't being done two years or three years ago when it was supposed to have been done? Now that you've waited too long you say it's an emergency? Just because you

declare it doesn't make it an emergency. How much time I got?

CHAIRMAN ANAYA: You've got a minute, twenty.

MR. DAWSON: Then, why should the private property owner be punished because someone else didn't do their job? If I don't do my job I get punished. If you guys don't do your job, I get punished too. So where's the fairness there? But basically, I'll repeat myself one more time. No notice, no copies, no exhibit, and no reason to have this.

CHAIRMAN ANAYA: Thank you, Gary.

ALLAN GRACE: Chairman Anaya, Commissioners, staff, my name is Allan Grace. I'm a past public servant of this County and I hope this is one of 150,000 public hearings for each constituent of this county to have their voices heard. Once again, I will reiterate, there was no public notice. We were given an emergency type situation where we really don't have a whole lot to ponder or to write down questions for you at this point. We heard a lot from your attorney and from your staff. I've been practicing surveying in Santa Fe for almost 30 years. The 1981 ordinance was a catchall type emergency situation which rushed a lot of things in this county, and it appears that that's what's going to happen again.

In your whereas statement it states that the County's general plan and Land Development Code have present, inadequate goals. That has been the case. It would be my request that you commission your staff on an individual basis for these projects that come through and look at each one as we have done for the past 30 years since 1981, if that's 30. I can't do the math right now. But we have taken these rules and ordinances and regulations and put them into effect. It's unfair to the property owner. What's a person to do with his land anymore at this point? If you're going to take that away from him, then so be it. That would be your rule. But I'm telling you, this is not even nationally recognized, even as far as this is and to be exempted out by the oil and gas, furthermore, is detrimental to this county. For you to put this before and to exempt them, these people out over that is not even fair.

So let's, on an individual basis from day to day and commission our staff and our employees and understand what's before us here to take a look at what we need to do. Thank you very much for your time.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: I just, based on the testimony I'm hearing tonight, I have a question for staff. Sometimes the testimony goes down one road a little much. This isn't exempting or creating an inability for property owners who can currently meet, within our current Code, to come before us for applications, building permits, whatever. That's not what I'm interpreting from this interim development ordinance, and I'm not hearing the same testimony. If anyone wants to come before the County at this point in time for development of any kind, they can, so long as it meets our current Code requirements. That can move forward, correct?

MR. ROSS: Mr. Chair, Commissioner Vigil, it only affects land divisions, subdivisions. The ordinance is about density. So if there's an existing entitlement of some sort upon which there's a building permit that might be issued, it doesn't affect that. It affects



the creation of – Mr. Chair, Commissioner Vigil, it's all about density.

COMMISSIONER VIGIL: So this would prevent, really, developments from coming at least for only six months before the County Commission for variances, correct?

MR. ROSS: I didn't really understand your question.

COMMISSIONER VIGIL: Okay, so if there is a request by a developer that meets within the current Code requirement, this would not prohibit it, would it?

MR. ROSS: Well, unless you're speaking of matters other than density, that would be correct.

COMMISSIONER VIGIL: Okay. So what I think – what I'm trying to narrow the question to, Steve, for example, if somebody came forth and they wanted a family transfer, we are putting a six-month sort of set-aside for any kind of increased density. But say somebody came in in the hydrological zone and they had a family transfer and they wanted to divide their land to a family transfer within the hydrological zone, what then?

MR. ROSS: So, Mr. Chair, how this works, if you're in the Basin Zone and you want to do a family transfer and you have 20 acres this doesn't affect you.

COMMISSIONER VIGIL: Right. Okay. That's what I needed to understand. Thank you.

CHAIRMAN ANAYA: I didn't hear that. Say that again. If you have a family transfer, you have 20 acres and you wanted to split that, you couldn't?

MR. ROSS: You could.

CHAIRMAN ANAYA: You could. Okay. Let us continue. Hold on one second. Could you repeat that again, Steve, and be clear about it, and then we're going to continue with the public comments.

MR. ROSS: Mr. Chair, all – what the ordinance does is preclude reducing your lot size below that specified in this ordinance and in the Code, which has been the practice. Two and a half acre lots have been the rule around here for a long time. This ordinance puts an end to that temporarily so that the process can go through and determine what should be, in the final analysis, the methodology for zoning. So, for example, if you want to do a family transfer, and you own 20 acres in the Basin Zone, where the presumptive lot size, without reducing it, is 10 acres. If you look at Section 4 you'll see that. And you have 20 acres you can continue to do your split. But if you want to reduce it below that, it would affect that. It would prevent you from doing that for six months.

CHAIRMAN ANAYA: Okay. We're going to continue with the public comment. Next, sir. Go ahead.

PETER SMITH: Yes. My name is Peter Smith. I became aware of this proposed ordinance at 3:00 this afternoon. I phoned the County and was told that they would have to check with Mr. Ross to see if I could get a copy of the proposed ordinance. I wanted to come to the hearing because I'm very concerned about what the County is proposing here. You're proposing to basically shut down a major portion of our economy, because you declared an emergency in that your staff has not kept up with proper planning practices.

Now, if you have a problem keeping up with the practices, do not shut a major portion

of our economy down. Get rid of your staff, get somebody in that can do the job. That's my concern. Now, when you call a public hearing, I was told that this ordinance was written yesterday. Okay, it was written yesterday. I can't get a copy of it. I'm a member of the public. You're calling a public hearing for me to voice my opinion on it; I can't even get a copy of it now. There are no more copies left. How can I voice my opinion when you don't even let me know what you're proposing.

Now, you members up there were given a copy of it. I hope you had prior knowledge of what was in it, because how can you decide? You haven't had enough notice for something as serious as this. I'll yield my time to somebody else.

CHAIRMAN ANAYA: Thank you, Peter. Next.

MR. WHITE: My name's Almer White. I've been working on a project going on a couple of years now. It's a renewable resource project. By this emergency ordinance it's out the window. All the work, all the jobs it will produce are out the window. My financing will be out the window. This does not make me happy. It will not make my backers happy. People I have been in contact with in Washington, it will not make them happy. This shuts it down. This stops any renewable resource except for oil and gas down.

There are a lot of projects. Some were in the paper on Sunday. Some are in the county, fixing to happen. It shuts us down. We have to apply for permits; we can't at this point. We're just getting our funding now. They're gone. The jobs that were with them are gone. My project, my land stays vacant until I can get somebody to come in and do it. You just shot me down. That does not make me happy. Does not make my family happy. It does not make my investors happy.

[inaudible] All the people we've dealt with for the past four years, they're not going to be happy. All the future development that we were looking at are gone, because we will not have anything on site. I was hoping to bring for the permit project here in the next month to two months. I can't do it; you've shut me off. This should not go. The old process is still there. Utilize the old process. We can utilize it until everything is written up and formed in public meeting. You've got to go through that process anyway. That's all I have to say.

CHAIRMAN ANAYA: Thank you, Almer. Next.

FRANCOIS MARIE PATORNI: My name is Francois Marie Patorni. I am a landowner in Santa Fe County, in Glorieta Mesa. I'm also an environmental advocate. I am the president of the Santa Fe Water Association. I am a member of the Galisteo Watershed Partnership, and I have attended practically all County public meetings on the growth management plan. And through these meetings I have witnessed the seriousness of County staff in preserving the environment in Santa Fe County. But I also have witnessed the effects to the environment. Within two miles of my property, over the last two years, I have seen somebody trying to build an illegal airstrip, and a neighbor trying to build 18 houses without water. I have seen people buying land, devastating the land, and moving out back into the northern United States.

So what I want to say is there is indeed an emergency, and it doesn't seem to be the emergency was created by procrastination but by the fact that people have heard that the

County is going to change its zoning rules, and then there is a flurry of applications and a flurry of moves to parcel the lands and to accentuate urban sprawl. So that's what I want to say. I don't know if I support the audience in its present but something has to be done to stop the flurry of applications for land development. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Patorni. Next.

BARRY PHILLIPS: Thank you, Mr. Chair and Commissioners. My name's Barry Phillips. I'm a land surveyor and I'm also president of the North Central Chapter of Land Surveyors, which represents a lot of Santa Fe County. I'd like to reiterate the no notice. You'd think surveyors, being part of land development would know something about this ordinance and nothing. And secondly, I've been led to believe from one of our speakers and also from my fellow surveyors that as of today, some sort of an application was not approved and the ordinance is not yet in effect. If it goes into effect it just opens another can of worms legally in my mind. So that's my concern.

CHAIRMAN ANAYA: Thank you, Mr. Phillips. Next.

JAMES BORREGO: Mr. Chair, County Commissioners, my name is James Borrego. This ordinance concerns me greatly. First of all, and we've heard about it quite a bit, that the due process was not followed. I just received a copy of this ordinance less than about two hours ago. Legal counsel has not had an opportunity to view this ordinance either. I don't know understand how we define an emergency issue when the State of New Mexico has been in existence for almost 100 years and that includes the state. The County Code has been in existence for 30 years. It was revised in 1996 and it's been continually changed to upgrade and take into consideration new visions and all of a sudden we have an emergency?

The Code has been this planning tool that the County speaks of has been in the process for almost two years. It's not an emergency in place right now. It concerns me greatly that the County is wanting to change the rules or the Code ordinances for land use that have been in effect for a number of years already, especially on those projects that are already in existence, either in master plan or final and have not received their bonding issues or building permits. When rules are changed after the game is started that's a taking. You've already wasted a lot of money, or you've wasted a lot of individuals' money, either developers or private individuals who had a vision or picture of what they would like to do, who have created projects or developments under existing land use codes and ordinances, to have them changed at this point in time is a real unfair situation, and it's a taking in a sense.

I would like to suggest that first of all, that County Commission table this for at least to give the process a chance to work, and also to acquire some input from developers or land users or land – people that want to split their properties, especially if the Code is in place today. If you want to change the rules, then change the rules next – in two weeks. But don't change the rules within two hours of being notified, of people being notified. Thank you.

CHAIRMAN ANAYA: Next.

ADRIANE ASKINS NEIDINGER: Hi. My name's Adriane Askins Neidinger, and I'm actually on the agenda after this. I just found out about 30 seconds ago that this emergency plan would affect me if it goes into place. I've been trying to get a simple lot split,

and I began the process over a year, at the beginning of January 2008. So I'm really hoping that you don't accept this because I'd like to see my variance for the lot split out today. Thank you.

CHAIRMAN ANAYA: I didn't get your name though.

MS. NEIDINGER: Adriane Askins Neidinger.

CHAIRMAN ANAYA: Thank you again.

TED HARRISON: Mr. Chair, members of the Commission, my name is Ted Harrison. I'm the president of Commonweal Conservancy. I'm a 23-year professional conservationist. I care deeply about the protection of dark skies and quality of our landscape, the quality of our communities. And as you know, because I came before a number of the members of the Commission a year and a half ago, we've been bringing forward, we brought forward for the past five years, a plan that is intended to be very respectful of our landscape and the surrounding communities that we're not impacting through a project we call the Galisteo Basin Preserve.

I also, like I think most people in the room, just learned about this ordinance an hour or two ago. I share the concerns that others have expressed about the process, the notification, and our true ability to engage in a democratic sort of dialogue with you, and with the professionals that represent the County. To some degree I concur that our situation today is very problematic. We need to rethink, I think radically, how we direct development in the county, how we also put in place meaningful mechanisms, financially and regulatory to ensure that the open spaces and the public natural resources that we cherish are permanently protected.

I think this is a blunt tool, however. For an organization like Commonweal Conservancy a year's delay would mean very likely the end of our efforts. We have our financing from the New Mexico Mortgage Finance Authority, the Enterprise Foundation, because those organizations have believed in what we've tried to bring forward because it represents 300 homes of affordable housing. We're carrying \$10 million worth of land right now. For us to be deferred in the review and approval process for six months or a year would probably be impossible. We're bringing this forward as an act of love, to some degree, because we believe it offers an opportunity to offer a new model for how communities are made that serve affordable housing purposes, economic development purposes and most significantly, conservation purposes.

So I would ask, as others have before me, for a tabling of this ordinance, recognizing its importance and well intent, its good intentions, but to allow us to have a more thoughtful discussion, to consider whether there are other ways beyond this more blunt tool that we can guide development in the process of setting in place perhaps a new set of growth management tools. Thank you.

CHAIRMAN ANAYA: Thank you, Ted. How many more want to speak? Raise your hand. One, two, three. Okay. Three more.

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, and I thought the gentleman before me was very eloquent and I concur with what he had to say in his

presentation. I want to say that this is probably the first time I've had to speak out against a potential action by this Board. I've been in front of you, many of you, hundreds of times in the past and this is the first time I've had to stand up and really say that I'm a little concerned about what's going on here. I found out about the ordinance yesterday around four p.m. and I checked the agenda yesterday morning at 8:00 a.m. because I have a case before you this evening at the end of the night, so I'm always checking the agenda to see what's going to be on. I didn't know about this at all and I was a little surprised at how this came about.

I mimic the other folks' comments regarding emergency and notice and I'm not going to go too much more into those areas. I think that's been iterated enough. What I'm concerned about is I'm trying to get a handle around this ordinance and to find out what projects that I have are going to be impacted. I was listening to Commissioner Vigil earlier trying to get an understanding of how this is going to work, and the best way that I can understand it is that if you're in the current County water service area you're not going to be affected. If you're in the two-mile EZ, you're not going to be affected, which is odd because the two-mile EZ, my understanding is it's going to be abolished pretty soon with the establishment of the ELUA and the ELUC as one of their first actions. So how does that correspond with that as being the boundary which is soon going to be abolished. So if you're within those two areas, the current County water service area and within the two-mile, this won't affect you. If you're outside of that area – how I'm reading this – is that if I have, you're pretty much subject to the base density of the hydrological zone, the 160 acres, the 50 acres, the 10 acres. So if you wanted to have a project within those guidelines, you're fine. But if I have ten acres and I want to divide that down farther, I won't be able to do that, and it's of course saying six months but I guess I'm reading this as probably a year is more likely because it sounds like there's quite a bit of work to do.

So on some I absolutely concur with Steve Ross, Roman and the intent of what's going on with this ordinance as a growth management policy, and I think it has to be done. To stop everything going on right now I think is not necessarily the way to go, and I think that we really need to rethink stopping its progress of what we have going. And if you consider what's going on with the economy and job, I look at this as pretty much of a stop-work program for quite a period of time. So I do not understand why it cannot be worked out in tandem. Thank you very much.

CHAIRMAN ANAYA: We have two more speakers, three more. That's it.

JOE ORTIZ: Good evening, Commissioners. Thank you for letting us speak. My name is Joe Ortiz and I recently had the final approval process for Apache Springs. All day I was met with five different road-building firms to award that project. So I guess my first question is I don't understand if Apache Springs would be affected. So that would be my first question. Secondly to that, the desperation that these men have in their eyes, looking for a road job so that they can survive this winter and the following next year is so scary. It questions me on whether I should move forward with the project. It's a simple 16-lot subdivision.

The realities of our economic state today are in such fragile condition, to throw an

emergency moratorium on a group of builder-developers that are desperately trying to figure out a way to make it through the next 18 months is catastrophic. They won't come back. We've lost three major quality builders in our community because of the current economic crisis. We will continue to lose more. They don't just show up when you lift the moratorium and say business is fine. It takes years to establish a business. It takes even more time to establish financial credibility. The financial fall-out of a moratorium in this short notice and what it's doing is crazy.

Our greatest fear in this country right now is the confidence of our government and the banking institutions to release monies. To do this, again at the local level in one of the few economies that's actually going to survive this national crisis is crazy. It's absolutely crazy. It makes no sense to me. The new Commissioners that are here, the blood, sweat and tears that we go through in our process, we made our bed. We live in it. We live by our Code and we expect the Code to be upheld. If we have a final approval on a project, that's a go. I tend to agree with Mr. Borrego in that we have a taking issue. There is a very real legal consequence when there is a taking, and the fact that the due process has been violated in several different matters – I do not believe it is in the Commission's best interest vetting this this evening. Thank you. My final request would be is that if it's not going to be able to amend it so that it's very specific in that you would accept no new applications but anything that is approved, is approved and could be moving forward through the process. Thank you for your time.

CHAIRMAN ANAYA: Thank you, Joe. Two more.

JIM RUBIN: Chairman Anaya, Commissioners, my name is Jim Rubin. I'm a local attorney. I'm not here on behalf of any client tonight. I'm just here as a citizen of Santa Fe County. I've been appearing before this Board for over 30 years. Welcome to the two new Commissioners.

I'm confused about many things and what I've read and haven't had a chance to go through it in depth, so let me just hit on them. One is water service boundaries. What does that mean? Does that mean that if you've got a water service agreement and your utility hasn't been built yet in an approved area that you can still go forward? I don't know. Because the current water service area is the area where people are drawing water but the pipelines haven't been put in yet. How do you determine what that is?

Let me say I applaud the efforts of staff for trying to come up with growth management policies, but in terms of the economy, Mr. Ortiz I think did an eloquent job on it. I think it's a real problem in this economy just to stop things cold. I can tell you that clients of mine are looking ahead to what's going to happen two or three years from now. We all know how long the process takes. The Suerte Subdivision you approved the findings on earlier today took five and a half years to get it through this body. This is not an overnight deal.

Another thing that I ask you to take a look at is the vesting of rights in any development. And those rights don't vest until very late in the process. Sometimes they don't vest until there's a building permit. They may not vest until there's an actual recorded plat.

Any number of things. I think Mr. Ross can address those for you. But I can tell you on the Suerte project we had three major ordinances approved by the Commission during the course of it. That project got changed each time. The biggest one was affordable housing.

So you have the right to make changes during the course of the development process without having to put on a moratorium. I don't think this ordinance addresses what happens with the EZ is abolished. We had this problem with the Mountain Special Review District where it was determined by a judge down in Belen that there was an arbitrary boundary. There are arbitrary divisions. How then do you set your boundaries. I don't think it's a good idea the way you're doing it right now.

And lastly is affordable housing density and the idea of doing away with density bonuses for putting in affordable housing in projects, I'll tell you I personally find offensive. It's important to have affordable housing.

CHAIRMAN ANAYA: Thanks, Jim.

KARL SOMMER: Members of the Commission, my name is Karl Sommer. I'll talk quickly because I have 2 ½ minutes. Welcome to the Commission to two of you. This is a tough task to take on. First of all I have to say that this ordinance was written by Dr. Freilich, who doesn't live here, isn't very familiar with the particulars of our Code. There are very specific problems with the way it's drafted. The first area of regulation, boundaries with the County's sewer and water. Your County sewer and water, that's conjunctive, only serves a very small area. If you are intending to exempt places like Rancho Viejo, which has master plan, final development, subdivision plan – I'm not here on their behalf. That provision is problematic because they have water, sewer, all the utilities, all the planning, which I don't think this ordinance is aimed at, but they are not served by the County's sewer system, and that's the way it's drafted. Problem number one. It's broad. It needs some definition and I think Dr. Freilich just isn't familiar with that.

There are places up north that are served by water and sewer and those are the areas in Las Campanas. They have water, sewer and all their development plans. They might be outside the EZ but this ordinance captures that. I don't think it's intended. I think it needs to be reviewed. I heard earlier that the development process would not be stopped for building permits in subdivisions. If you look at the definition that Dr. Freilich has given for a development approval it includes building permits because a ministerial act by any officer or staff person includes a building permit on a lot that's approved. And it's stopped here.

If you look – I think it's a matter of drafting by Dr. Freilich not being familiar with where we are. The exemptions in this ordinance, the first exemption says final subdivisions are exempted. You can proceed. The next provision says final subdivisions are not exempted. And I'll tell you, it says all final subdivision lots, all right, shall be treated as one parcel. So if you're in Las Campanas, you're outside the two-mile area, and this is owned in common, all of a sudden your lots are treated and you're owned by one entity, you're treated as one parcel. I don't think that's the intent, but that's the way it's written, and I think it's because Dr. Freilich isn't familiar with the process here or what's been approved.

I think that those are just some of the problems that this ordinance provides. The

exemption provision is not written as exemptions. It says any provision of the land code contrary or suspended. It doesn't say that the following shall not be applied to this ordinance. It needs some work. I think that it's clear it needs some work, and it's significant that you do not have one single voice here in support of the current draft of this ordinance. I didn't hear one person say – well, there's a lot to be said and I've just gone through some of the things that are problems here and I submit to you that it needs some work.

I think that what we have here is we're trying to kill a fly with a sledgehammer. Mr. Harrison said it was a blunt instrument; I think that's what he's referring to. It needs work and I don't think it really should be adopted this evening. If all of you understand this then I applaud you. Those of us who have been working in this business for 20, 30 years can't quite get a handle on it in the time that we've had. I kind of doubt that it's ready for prime time. Thank you.

CHAIRMAN ANAYA: Thank you, Karl. This public hearing is closed and I would like to open this up to the Commission. Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Question for staff. What ramifications would it have if we were to table this to our next meeting?

MR. ABEYTA: Mr. Chair, it wouldn't. You could table it to the next meeting. You could table it even further down the line, but I think what's important is that speakers here today need to get engaged and involved in the growth management process that we're undertaking. Because we cannot continue to do business the way we are as a County. We cannot continue to approve family transfers and 2.5-acre lots wherever people own property. We cannot provide as a County police protection at an adequate level right now. We cannot provide fire protection. We have an almost all volunteer fire department. We do not have adequate facilities for solid waste, transfer stations, road maintenance is something that is a constant struggle for us every time we have a snowstorm.

So if we don't pass this interim ordinance then we really need to encourage these individuals to show up and participate in the growth management process, because as I said, we cannot continue to approve development the way we have. And it's not just about water and the environment. It's about basic services that we are not able to provide as a County. So I guess the short answer is it wouldn't have a ramification. But the last point I want to make is based on that, things are really going to change with this growth management plan and we let you know that a year ago when we first presented it. Again, I think I need to emphasize that point for the speakers that were here because there's going to be big changes over the next six months. We're going to bring big changes to you. And it's not all about water and the environment. It's about basic County services that we are unable to provide right now. Thank you, Mr. Chair.

COMMISSIONER MONTOYA: And, Mr. Chair, I guess my comment would be that it wouldn't be an indefinite tabling but one to the next meeting that if there's an opportunity for people who testified this evening to engage and give us your concerns, what the problems are with the current ordinance as it's written, that you have that opportunity to do it. That would be my suggestion, Mr. Chair, that we table it till our next meeting, allow



these people some due process as was mentioned, and act on it at our next Commission meeting.

CHAIRMAN ANAYA: Any other comments from Commissioners?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I do think that several points that struck me tonight were telling us about the transparency and the late notice. And I do think that as I was running for office people said we want to know up front what's going on with the County and we want to understand more. And just as the County Manager requested that there be involvement – I do think that's important, but I do think we should postpone, whether it's tabling or postponing a decision on this.

I think it is inevitable though that we have to put something into place for a period of time. And I think the comments about the economy were extremely important. I think we don't want to have people going on unemployment. I don't think we want to have families sinking lower and lower in terms of below middle class. So I think we have to do something in terms of moving ahead with growth management and doing some planning, so every person who is here tonight who is objecting to this, if they're really going to get involved as was requested what they need to be doing is making a concrete suggestion or recommendation about how we could work this out. If people are in certain stages of approval, or having certain amounts of financing already set in place with a piece of paper to show, not just talk. Because I can talk to my mortgage company all I want and until that piece of paper's signed it's not there.

But I do think that people need to be coming forward with some concrete suggestions, because I do believe the County has to move ahead. So I would support a postponement when we get to that point.

CHAIRMAN ANAYA: Okay. Any other comments? Commissioner Holian.

COMMISSIONER HOLIAN: I really think that it's important to put in place some kind of mechanism where we don't end up encouraging people to suddenly put in a billion applications for the kind of development that we don't want going forward. I think that we, as Roman has mentioned and others have mentioned, we have a terrible problem with sprawl in the county. And it has come to my attention that there have been a number of new applications that are excellent examples of sprawl. Sprawl is incredibly expensive. We all pay the price for that. It costs more in taxes. It costs more in services. It costs more in the damage to the land.

So we have to put in place some kind of a process in the next six months while we're getting our growth management in order so that we don't have a lot of these kind of developments coming in, sneaking in and sort of creating a situation that's even worse than what we have now. So that's my comment about what I'd like to see.

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

COMMISSIONER VIGIL: Thank you, Mr. Chair. A couple of comments.

And I think I'm okay with looking at having more input into this, but it amazes me that those people who showed up here are those who are not witnesses to what actually happens to development. Those of us who are in representative capacities here every day from our constituents. That there is a house and there is a piece of property that got subdivided, and sometimes we don't even know about it because they don't even come to us for approval. They're allowed administrative approval.

Consequently, the sprawl gets promulgated. There are many issues as to what the future of Santa Fe County will be like that we need to address and we can't address it if thousands of applications come before us and we're responding to them in a responsive mode. We need to be more pro-active about what we want the future of our community to look like. And if we remain within the current activity that we're engaged in we're going to be subject to a lot more serious consequences that are actually – I got an email today from a county in California that just enacted a referendum that requires their county commission to make decisions on growth with regard to water availability. We have been trying to tie that as best we can. We've not only been trying to tie it to water. We've been trying to tie it to sustainable management. Santa Fe County is resource limited, and Santa Fe County is at a place where as we get proposals for development we're inundated with how are we going to meet everybody's needs and how do we address these cross-impacts with the current community looks like. We need a stop-gap. We need a stop-gap. It would benefit you. It would benefit the residents who aren't here and able to testify to what's happening to their backyards. And I think we need to do that now, sooner than later. Because all that will happen is the continued piecemeal sprawl that we're seeing. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. I want to thank the people that showed up. Thank you all for showing up and sticking to the 2 ½ time limit. I know it's difficult. You want to talk, but I think we got the picture. I don't have a problem with tabling this. I was in Washington, DC last week visiting with our congressmen and our senators, handing them over a stimulus package for Santa Fe County. And if we – I don't feel, and I think that what we should do is try to work this out, but we can't just stop development. We can't do that. We're trying – in this whole country we can't do that. We're trying to stimulate jobs.

Now the oil and gas segment of it, when we put that moratorium on there was no oil and gas development in Santa Fe County. There was probably one well that was operating. And we have a lot of people like yourselves that are putting people to work and we want to continue that. So I think that we need to look at it a little more closely, Roman, in terms of if we're going to do this, we've got to figure out how to do it by not shutting the county down, or shutting people working in the county. So I'll turn back to Commissioner Montoya. He had a motion.

COMMISSIONER MONTOYA: Yes, Mr. Chair. Move to table.

CHAIRMAN ANAYA: There's been a motion. Is there a second?

COMMISSIONER VIGIL: Would the maker of the motion amend the motion to table until our next meeting in January? And if willing to, I'm willing to second it.

COMMISSIONER MONTTOYA: Yes.

COMMISSIONER VIGIL: So that would be what? January –

COMMISSIONER MONTTOYA: 27<sup>th</sup>.

COMMISSIONER VIGIL: I will second that motion.

CHAIRMAN ANAYA: Second by Commissioner Vigil.

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

MR. SOMER: Mr. Chair, could we get a schedule from staff so that they could maybe hold maybe a couple of public meetings and they could get input from people so that they don't – we don't have another two weeks and then we all come back here. If we had a couple meetings set them we could meet with Roman, Jack and Steve, give them our comments, have a dialogue, outside of a public hearing and then come back to you in two weeks. That might be more helpful to you all. It certainly would be helpful to the people that were here.

COMMISSIONER VIGIL: Karl, I think that's a great idea. Mr. Chair, if I might be able to respond.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I want to make sure that when these meetings go on that it brings in a representation of the community who is totally impacted by this, that is, residents of the different sectors of the community. I definitely want residents in my district, who I have to listen to on a continuous basis that development is adversely impacting them, and I think if we can get enough residents from each one of the quadrants we've identified, we'll have a fair and equitable representation of the issue. So that outreach needs to be a part of it.

MR. ABEYTA: Mr. Chair, we'll work on a meeting schedule.

CHAIRMAN ANAYA: So how are these people going to know?

MR. ABEYTA: I know most of them in the crowd so I'll give them a call and let them know.

CHAIRMAN ANAYA: So you'll call them. I've got the names. I wrote them all down, if you need this list. All right. Thank you, all.

- XIV. A. 1. EZ CASE #VAR 08-5240 Hewlett Variance. Amy Hewlett, applicant requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code in order allow three dwelling units on 2.87 acres. The property is located at 16 Ladera del Norte, within Section 4, Township 15 North, Range 8 East, (Commissioner District 5) John Lovato, Case Planner**

COMMISSIONER HOLIAN: Mr. Chair, can I ask a question?

CHAIRMAN ANAYA: Yes. Hold on one sec.

COMMISSIONER HOLIAN: This is about my eligibility to vote on this case. It's just I voted on it for the CDRC, so I don't know.

CHAIRMAN ANAYA: Steve, we have a technical question to ask you. Commissioner Holian.

COMMISSIONER HOLIAN: Steve, I voted on several of these land use cases when I was on the CDRC. Is it like double jeopardy? I don't know. Am I allowed to vote on them again?

MR. ROSS: Mr. Chair, Commissioner Holian, you're fine to vote on these. You don't have a personal interest. Have you prejudged the cases?

COMMISSIONER HOLIAN: Well, I did make up my mind at that time.

MR. ROSS: Are you willing to listen to what's presented tonight and keep an open mind as to things that might have changed?

COMMISSIONER HOLIAN: Yes. I will.

MR. ROSS: I think you're okay.

CHAIRMAN ANAYA: Okay. John.

JOHN LOVATO (Review Specialist): On November 13, 2008 the County Development Review Committee met and acted on this case. The decision of the committee was to recommend approval for a temporary permit until the applicant's hardship no longer exists.

The applicant requests a variance of Article III, Section 10 of the Land Development Code to allow three dwelling units on 2.87 acres. The property is served by an onsite well and two conventional septic systems. The property has received a Notice of Violation from Santa Fe County Code Enforcement for unpermitted development.

The property is located within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is ten acres per dwelling unit. Lot size may be reduced to 2.5 acres with water restrictions of .25 acre-feet per year.

Article II Section 3, Variances, 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.

Recommendation: Staff does not concur with the recommendation made by the CDRC in granting the variance for the third home until the hospitalization or death of Ms. Betty Montoya. Staff recommends that the request for the variance be denied and the second and third homes placed on the property without a permit be removed within 30 days. This recommendation is based on staff's belief that the applicant has not demonstrated, as required by Article II, Section 3, Variances, that an extraordinary hardship exists and this request is not the result of unusual topography or that the extraordinary exists. Therefore staff does not

support this variance request as it would result in increased density not allowed by the Code. Article III, Section 10 of the Land Development Code states that the maximum adjusted lot size in this area is 2.5 acres per dwelling unit with water restrictions. Therefore, the proposed request is not in conformance with the Code.

If the decision of the BCC is to approve the applicant's request, staff recommends the following conditions be imposed. Mr. Chair, may I enter the conditions into the record?

[The conditions are as follows:]

1. No additional dwellings shall be permitted on the property.
2. All debris and junk vehicles must be removed from the property.

CHAIRMAN ANAYA: Okay. Thanks, John. Any questions of John from the Commission? Hearing none, is the applicant here? Do you want to come forward ma'am? Amy, do you have anything new you want to add, or do you want to say anything?

[Duly sworn, Amy Hewlett testified as follows:]

AMY HEWLETT: Mr. Chair, members of the Commission, I have been to a previous committee, which is the CDRC, I believe, because I guess I fall within certain miles close to the city, and what I'm asking for is a variance to my mobile homes that I have in the property. I have lived in the property prior to the 1980 riot. The reason I acquired the property was that I lived in Truchas and I was commuting to work at the penitentiary every day. And I was also a member of the National Guard and the Army Reserves. I decided to buy a piece of property in the county, which is the said county that we're talking about.

One home was already with the property. At the time I believed that the property was within the county and all the subdivision was considered non-conforming, and John, you can correct me if I'm wrong. It was considered a non-conforming subdivision, so at the time, from what I understand from other residents there that there was a lot of things that were done that were not in compliance with the current Code, with the County. When I moved into my property, I moved there because I didn't feel safe after the 1980 riot, and my sister became ill with mental illness. She has suffered a mental illness for very many years. She's diagnosed schizophrenic, and I entered an affidavit into the file for this. I am asking that I am able to keep my three homes with the intention in years to come, when my sister dies I will get rid of her home and that will leave me with two homes and at that point I will apply for family transfer, which will get me totally in compliance with County Codes.

That is the dilemma that I am facing. I am a private owner. I'm a regular citizen, a working citizen and an honorable, I am hoping an honorable citizen of New Mexico. I was born in Truchas. I tried to make a living here in Santa Fe and I am only one of the people that live in the subdivision. From what I understand it has come to this level, and by this I'm trying to make you understand that I'm not the only one with problems in the subdivision. There's a lot of non-compliant landowners in this subdivision and that is due to the Code changing in 1980 or 1981, whenever that was. I wasn't even aware of that I don't even want to get into it because I already heard all of the previous here and I'm totally confused.

By this point I'm just merely asking all the Commissioners to please have mercy on

me. I can't afford for the enforcers to come in to my land right now and tell me that I need to move my mobile home in two months. It's almost totally impossible for me to even envision that. I need the help of the Commissioners to be able to keep my ailing sister where I need to watch over all the time, because sometimes she gets out of hand. I need to constantly be looking at that because of her mental state.

Santa Fe has a few very limited living situations for the mentally ill. My sister is not going anywhere as long as I'm here in this life to take care of her. To make a long story short I'm inundated with illness and I really need your help to get a temporary until my sister passes away and I can get my land family transferred. I need temporary permits.

CHAIRMAN ANAYA: Thank you, Amy. Any questions of Amy from the Commission? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. How old is your sister?

MS. HEWLETT: My sister is 52, I believe. And I think it's on the records.

COMMISSIONER STEFANICS: And Mr. Chair, besides mental illness, is she perfectly healthy otherwise?

MS. HEWLETT: No.

COMMISSIONER STEFANICS: I don't want you to divulge a lot of detail. I just am wondering if she has a long life to come yet? Does she have many more years to live? Are we talking about a terminal illness?

MS. HEWLETT: I don't know what to tell you. I don't know what the answer is but I will tell you that my sister has diabetes and she has high blood pressure and she has a mental illness. And I need to take care of her. I also need to let the committee know that the Alliance for the Mentally Ill promotes independent living now rather than – how can I say, rather than putting them away. That is not very popular nowadays. And I'd rather oversee her until God decides whatever.

CHAIRMAN ANAYA: Thank you, Amy. Any other questions?  
Commissioner Vigil

COMMISSIONER VIGIL: How old is your sister?

MS. HEWLETT: I believe she's 52.

COMMISSIONER VIGIL: 52. Thank you.

CHAIRMAN ANAYA: Any other questions? Commissioner Stefanics.

COMMISSIONER STEFANICS: Commission, or to the staff, have we ever approved things with a time limit?

CHAIRMAN ANAYA: Yes.

COMMISSIONER STEFANICS: Okay. Thank you.

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: You currently have three dwellings on this property?

MS. HEWLETT: Yes, Commissioner Montoya.

COMMISSIONER MONTROYA: And only one is permitted?

MS. HEWLETT: Actually the one that was there when I purchased the property, I could never find a permit for. It was categorized as home, not a mobile home, with the County when I bought it. I don't know for what reasons. But I did find evidence that the home has been there since 1979, and that is the only evidence [inaudible]

CHAIRMAN ANAYA: What do we have on our records?

MS. HEWLETT: I submitted that to John, the document. It's a warranty deed, I think.

CHAIRMAN ANAYA: Is that what we have, staff?

SHELLEY COBAU (Building Services Director): Mr. Chair, Commissioner Montoya, it's my understanding, when we have a case like this we look at warranty deeds, which don't necessarily mean anything was built on the property, based on a deed. It was the time the property was deeded to someone's ownership. We look for historic aerials. We ask the applicant if they can provide historic aerials that show that there was a structure on there prior to the adoption of our current Code, and that type of evidence was asked for and not provided to County staff.

COMMISSIONER MONTROYA: Why was that not provided to County staff?

MS. HEWLETT: Sir, Commissioners, that is not true, I'm sorry to say, but the aerial was submitted to John from the Highway Department and there was one home there and it was 1979. That was the home that I purchased with the land. That was submitted before the original CDRC committee. And the aerial was retrieved from the Highway Department, from Ms. Albright. I don't remember the first name.

COMMISSIONER MONTROYA: Okay. So that's the first dwelling. What about the other two?

MS. HEWLETT: The other two dwellings – I had a mobile home at the penitentiary lot. I bought a mobile home at the penitentiary lot when I first moved to Santa Fe and I lived there because I worked there. But when the 1980 riot happened I wanted to move out of there, so I bought the property. It already had a home on it, and then I moved my other mobile home in there. And at the time –

COMMISSIONER MONTROYA: Without getting a permit?

MS. HEWLETT: At the time, right. I was very naïve and very uninformed, or should I say uneducated about land issues and permits and all that.

COMMISSIONER MONTROYA: Okay. Then what happened the second time you didn't get a permit?

MS. HEWLETT: The second time that that happened my sister became ill with her mental illness. She lived with me and I just couldn't live with her anymore. I had to protect my own sanity and I had to remove myself from that living situation. So what I did is I moved her into one of my homes and I purchased a double-wide, which is my main home now. And I again was very ignorant and uneducated about the process and at the time, when I bought the manufactured home, I heard everything that I needed to hear from them, that they would get all the permits or whatever it was necessary, and I believed it and I moved into my

home.

But this issue didn't come up back then. This issue came up just a few years ago. And what I'm trying to ask the Commission is that since I have a hardship and I don't have the money to be moving mobile homes. And I don't have the situation that I'm in now because of any malintent. I have it because I wanted to keep my family close that's sick. And I'm sorry we had to resort to this thing. On the other hand, I think I'm an honorable citizen and I need the help from the County Commissioners to be able to keep my sister there.

CHAIRMAN ANAYA: Okay, we heard that part. Let's go back to the Commissioner.

COMMISSIONER MONTOYA: Who's living in the other structure? You're living in one, you're sister's living in one –

MS. HEWLETT: My ex-husband, which suffers from post-traumatic stress disorder.

COMMISSIONER MONTOYA: So your ex-husband is living in the third structure.

MS. HEWLETT: Yes, he's sick also, and –

COMMISSIONER MONTOYA: I have one other question. You have two septic tanks. Are those permitted?

MS. HEWLETT: Yes.

COMMISSIONER MONTOYA: Both are permitted.

MS. HEWLETT: And those were all turned into the County. Everything that I needed to do has been – I've worked with John. John has been really good with me. I appreciate your staff helping me through this process, him and Wayne, and they have helped me. If I have any questions I have gone to them and I've gotten everything. The well documents – they have everything in my file.

COMMISSIONER MONTOYA: Yes, we've got it too. Thank you.

CHAIRMAN ANAYA: You're welcome, Commissioner Montoya. Thank you, Amy. I'm going to open it up. This is a public hearing. Is there anybody in the audience that would like to speak for this case? Is there anyone in the audience who would like to speak against this case? Go ahead and come forward, sir.

[Duly sworn, Joe Garcia testified as follows:]

JOE GARCIA: My name is Joe Garcia and I live next to the Hewletts and I've lived there since before they moved in. When I moved in there was one mobile home there, and then she moved another one in, and then she moved a third one in. At the time she moved the third one in I was trying to move a mobile home in for my son. I came to the County. They told me I could not do it. So then I asked them, well, how come if I can't do it how come my neighbors are doing it? They said they'd go out and check it out.

So they went out and advised them – I can't remember the man's name. It's been a few years back. They advised them that they could not move the mobile home in, that it was illegal. And it sat there for about six months before they even set it up. And then little by little they started putting it together until they finally got it blocked up and got it moved in.



CHAIRMAN ANAYA: Which one are you talking about, Joe?

MR. GARCIA: The double-wide.

CHAIRMAN ANAYA: The second one or the third one?

MR. GARCIA: The third one. At that time I went back to the County asking them why and they said they would get back with me. They never did. So then last year they moved in another mobile home in there. So I came back to the County and asked them what's going on? They told me that that mobile home was in there while they repaired it because they were going to move it out. So the County came out and talked to the people and they finally moved that mobile home out. I don't think they fixed it or anything. But they finally moved that one out.

I have had my house repossessed. Not repossessed. Sorry. I had an auditor come out and they told me that because of the mobile homes in the area that the value of my property and my home has gone down. And the reason for that was because of the upkeep, not only of the mobile homes but of the property. They don't try to put up any trees, no kind of landscaping at all. They just eat and sleep there and whatever. But I'm opposed to the three mobile homes being there and I would like to see the County comply by the Codes that they do have and I feel sorry for people that are mentally ill and all that but there's a place for them. I don't think that that is a place for somebody at that stage of mentality. Thank you very much.

CHAIRMAN ANAYA: Thank you. Anybody else want to speak against this case? For this case? The public hearing is closed. Commission, do you have any comments, suggestions, motions? I'll take anything right now.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. I have – it's a stretch for me to recognize this within our criteria of a hardship, but I do recognize that decisions can be made without a real strong sense of understanding our Code, so I'm going to propose that the Commission consider that we do allow a temporary variance on this Code, but only for six months. I know your request was until your sister dies. That's unpredictable and I just don't know that there's any substantiated reason that we can allow this. But I think we can at least work with you and allow you to have six months to be in compliance with our Code. So with that, Mr. Chair, I would make a motion that we extend a temporary permit for six months until the applicant can fully comply with the Code. I would recommend that Land Use flag this case so that in six months there is a Code enforcement visitation, and if the applicant is not in compliance with the Code we take the Code enforcement necessary remedies.

CHAIRMAN ANAYA: Commissioner, is that a motion?

COMMISSIONER VIGIL: That's a motion.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Second by Commissioner Montoya. Discussion?  
Right now, if she takes – she has three mobile homes, she just needs to take one out.

MS. COBAU: Mr. Chair, members of the Commission, in order to be fully compliant with our Code she would need to remove two of those mobile homes. The density in the area is one dwelling unit per 2.5 acres. She has three dwelling units on 2.87 acres. So one dwelling unit could be permitted in on that property unless there was a small lot family transfer. She could go to one half the density and she could be one dwelling per 1.25 acres, but it's my understanding that's a conveyance, specific conveyance to specific familiar members, such as adult children, which it's my understanding – and John, you can correct me if I'm wrong, that Ms. Hewlett does not have the familial members of a nature to qualify for small lot family transfer.

CHAIRMAN ANAYA: So, Commissioner Vigil, are you saying that she has to get rid of two mobile homes?

COMMISSIONER VIGIL: She has to be in compliance with the Code.

CHAIRMAN ANAYA: Within six month.

COMMISSIONER VIGIL: Within six months. But I think she has also some other remedies, despite the fact that the family transfer does not on its face apply. She can also look at the possibility of coming before the Board of County Commission to see if there might be an exception to that. Has she been counseled in all these alternatives?

MR. LOVATO: Mr. Chair, Commissioner Vigil, she has, and she does have an old enough daughter to do a family transfer to. Well, actually, she has two.

COMMISSIONER VIGIL: Okay. There are alternatives within that Code but I don't think that currently it is fair to allow this to continue for an undetermined time.

CHAIRMAN ANAYA: Okay. There's been a motion and a second. Any further discussion?

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

- XIV. A. 4. **BCC CASE # MIS 08-5310 CFB, LLC Liquor License. The Airport Road Shell, applicant, requests approval of a transfer of ownership for dispenser license # 684. The subject property is located at 7510 Airport Road, within Section 11, Township 16 North, Range 8 East, (District 5), Jose Larrañaga, Case Manager**

JOSE LARRAÑAGA (Review Specialist): Thank you, Mr. Chair. On November 30, 1999 the Extraterritorial Zoning Authority granted approval of a zoning statement that allows for the sale of package liquor at this site. The Airport Road Shell is a gas station which sells package liquor. CFB intends to purchase license #0897 from Al's General Store and Liquor incorporate. The intent of SFB is to move this license to the Airport Road Shell. The ownership and method of operation of the business will not change with this action.

The applicant is requesting a transfer of ownership on Dispenser License #00897.

Liquor License #0897 is a full dispenser license which allows for the sale of package liquor. The current liquor license being used at this site will be placed under suspension. Under state law two liquor licenses cannot be used at the same location.

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

Recommendation: The issue to be considered by the Board of County Commissioners is whether the transfer of ownership should be approved. The applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. The intensity of the business will not increase as there is not any proposed expansion of the existing site. Therefore staff recommends approval of this request.

CHAIRMAN ANAYA: Any questions of Jose? Commissioner Stefanics.

COMMISSIONER STEFANICS: Yes. Thank you, Mr. Chair. So currently they are selling liquor and they're paying another license and they're going to sell one?

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, they are paying another liquor license. It's being transferred. The current liquor license – there is a current liquor license there. There's a zoning statement in your packet where they are zoned to sell package liquor there, and that license will be under suspension. So they're transferring to CFB. CFB will then in turn lease it to the Airport Road business, Shell, and the current business license that is there now will be placed under suspension. And I believe Mr. Maurice Bonal is here to represent the applicants and he's familiar with the actual language and could probably answer your question a little better.

COMMISSIONER STEFANICS: Mr. Chair and Mr. Larrañaga, the liquor license is going to be suspended. The owner is eligible to sell?

MR. LARRAÑAGA: Mr. Chair, Commissioner Stefanics, I'm not that familiar with the rules whether they can sell it. I'm sure they can sell it. A suspension can be transferred to another place of business that qualifies for package liquors.

CHAIRMAN ANAYA: Thank you, Commissioner. Any other questions? Is the applicant here?

[Duly sworn, Maurice Bonal testified as follows:]

MAURICE BONAL: My name is Maurice Bonal. I'm the broker for the liquor license between Jim and Vicky Trujillo to CFB, doing business as Brewer Oil Company on Airport Road. Basically, to answer your question, Mr. Chair, Commissioner, the other license would be under different ownership and would be ultimately placed somewhere else. This license coming in is actually owned by Charlie Brewer, will be owned by Charlie Brewer and leased to Brewer Oil Company. The license that's currently there will be used at another location at another time under different ownership. There's two separate owners is basically what I'm saying, and ultimately leased to Brewer Oil Company to continue the current usage. No use will change.

CHAIRMAN ANAYA: Any comments? Any questions of the applicant?

Hearing none, thank you, Maurice. This is a public comment period. Is there anybody in the audience that would like to speak against this case? Is there anybody in the audience that would like to speak for this case? Okay. The public comment is closed. What's the pleasure of the committee?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of the transfer of ownership for the liquor license.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian.

COMMISSIONER STEFANICS: Second.

CHAIRMAN ANAYA: Seconded by Commissioner Stefanics. Discussion?

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

- XIV. A. 2. **CDRC Case # APP 08-5220 Adriane Neidinger Appeal. Adriane Neidinger, applicant, is appealing the County Development Review Committee's decision to uphold the Land Use Administrator's decision to deny a request for a variance of Article III, Section 10 of the Land Development Code to divide 9.08 acres into two lots. The request for a variance was denied due to a conditional note on the approved Spirit Wind Ranch Subdivision Plat which states, "No further subdivision of these lots is permitted." The property is located at #6 Cerro Alto, in the Spirit Wind Subdivision within Section 32, Township 15 North, Range 10 East, (District 5) John Lovato, Case Planner [Exhibit 5]**

MS. COBAU: Mr. Chair, I'll be reading John's staff report for him on this case due to some of the complexity associated with it in prior hearings. On October 16, 2008 the County Development Review Committee met and acted on this case. The decision of the County Development Review Committee was to uphold the Land Use Administrator's decision to deny the variance request. The applicant requests an appeal of the County Development Review Committee's decision to uphold the Land Use Administrator's decision to deny an application for a variance for a land division to divide 9.08 acres into two 4.54-acre lots. The original application is included in your packet. It was dated March 27, 2008.

The property is located within the Homestead Hydrologic Zone where the minimum lot size is 40 acres with water restrictions. Ordinance 2007-6, Section 3 states, "In an area where the minimum lot size is 40 acres residential land divisions and subdivisions which utilize domestic wells, either singly or as shared wells, shall in no circumstance be permitted to reduce the lot size below the minimum lot size." That section of the Code is included in Exhibit D in your packet.

Water restrictions were recorded along with the plat which allocated .58 acre-feet per year for this lot. The lot is serviced by the Eldorado Area Water and Sanitation District, and the applicant has not provided any documentation that the Eldorado Area Water and Sanitation District would be able to serve an additional lot, at the writing of the staff report, although I believe something may have been just handed out that came from the applicant to the contrary of what it says in the staff report.

Article VII, Section 6.4.4.b.1 states, The name of the utility proposed and that they were ready, willing and able to provide the maximum annual water requirements for the development including fire protection for at least 100 years. And the water availability letter is also supposed to state that any requirement for the applicant to provide water rights if the utility is going to require that.

The application for a land division at #6 Cerro Alto, which is Lot 16 is not in conformance with the recorded Spirit Wind Ranch Subdivision plat as approved by the Board of County Commissioners on January 9, 1996, and recorded on April 4, 2004. The conditional note of the Spirit Wind Ranch Subdivision states, "No further subdivision of these lots is permitted." Therefore the application for a variance was deemed invalid and denied by the Land Use Administrator.

The following are the applicant's grounds of appeal, and they're included as Exhibit A, and staff's response. Mr. Chair, may I enter those to the record? Thank you.

[The grounds of appeal are as follows:]

- The appellant states the homeowners association document allows for further division of Lot 16.

*Staff Response: The Board of County Commissioners approved subdivision disclosure item U, on page 10, precludes division of these or other lots in the Spirit Wind Ranch Subdivision. The first amendment to Declaration of Protective Covenants for Spirit Ranch Subdivision (Exhibit 4.26) was never approved by the Board of County Commissioners. Further, Santa Fe County does not enforce homeowners association covenants. Article III, Section 2.3.1a allows the Code Administrator to approve or deny development permit applications for development without referring to application to the County Development Review Committee or the Board. This application does not comply with Code requirements for a land division due to a conditional note on the BCC approved Spirit Wind Ranch Subdivision plat which states, "No further subdivision of these lots is permitted."*

CHAIRMAN ANAYA: Any questions of Shelley Cobau?

MS. COBAU: Mr. Chair, can I read the recommendation and then I'm done.

CHAIRMAN ANAYA: Okay.

MS. COBAU: Staff's position is that the application is not in accordance with Article II, Section 2.3.1, Administrative Decisions of the Land Development Code. Further, the Spirit Wind Ranch Subdivision plat states, "No further subdivision of these lots is permitted." Therefore staff recommends denial of the appeal.

CHAIRMAN ANAYA: Any questions of Shelley? Commissioner Vigil.

COMMISSIONER VIGIL: Shelley, how many times has this case been denied, totally?

MS. COBAU: Mr. Chair, Commissioner Vigil, this case was heard by the CDRC on an appeal and the CDRC denied the applicant's appeal.

COMMISSIONER VIGIL: Okay. So it was the Administrator's decision that got heard by CDRC, and now it's before us. So those are the only times. So this is going through the appeal process.

MS. COBAU: That's correct. And I think it's important to point out to you as you're considering your decision on this case that they're appealing the Land Use Administrator's decision and the CDRC's decision not to process a variance request. So if this appeal request is granted by the Board of County Commissioners it would simply give the Neidingers the right to apply for a variance. It's coming in on appeal for us to accept an application for a variance.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN ANAYA: Questions? Any other comments? Okay, is the applicant here?

[Duly sworn, Adriane Askins Neidinger testified as follows:]

MS. NEIDINGER: My name is Adriane Askins Neidinger.

CHAIRMAN ANAYA: Adriane, do you have anything to add to it?

MS. NEIDINGER: I do, because I have to be perfectly honest. When I went in front of the review committee I didn't feel like I got an answer from them then about my appeal to the County's denial. I know that they said that it was being denied on the basis of the notes in the plat, which says there are no further subdivisions allowed in this particular subdivision. But that is processed by notes in the plat that says these are subject to the CCRs, the covenants and restrictions that the subdivision came up with, and within the amended covenants and restrictions it grants me the right to split my lot.

And when I purchased the lot I was told that I would be able to do this and apparently, shortly thereafter is when the new ordinances came out and my intention was never to subdivide this lot. I purchased it because it is adjacent to my parents' property and the idea was someday in the future I'd have a family compound there. But unfortunately, I'm going through a divorce and community property law in New Mexico makes it so that half of it will go to my husband so the intent is to get a lot split so that I could potentially move back here and be by family. And anyway, I did go to the homeowners association board and I got their approval to pursue this lot split and then when I started the process with the County there was some – I kept being told that there was an issue over the water.

First there was – I had to have the water before I could even apply for the variance. And then the water district told me, well, we can't give you water until the County grants you a lot split, and to try and make a long story short, I have been able to obtain water service from Eldorado water, so I do have that in place, and I also feel that the covenants and restrictions, having been substantiated by the County before when they granted the

homeowners association permission to put in a gate in the subdivision, which was written in the covenants, that they should do – if they're going to recognize that part of the covenants they should also recognize the fact that my lot was supposed to be subdividable.

I believe that Shelley Cobau was involved in that particular –

CHAIRMAN ANAYA: Shelley, since you have a live mike, did you tell her that? Did you tell her she could subdivide her property?

MS. COBAU: Mr. Chair, I don't recall telling her she could subdivide her property or speaking directly with her until this case came before the CDRC. But I see a lot of people and maybe I did speak to her. But we certainly don't tell people that they can split lots where there's a plat note that says there's no further division of the property in the subdivision, so I kind of doubt it.

MS. NEIDINGER: I'm sorry. That's not what I said. What I was trying to say is, okay, that our covenants and restrictions say that I can subdivide the lot, and I know in the meeting before the review board they essentially said well, the County doesn't recognize covenants and restrictions, although they are part of what you get in your title package and they're part of what you're held to in your community. And it was this particular covenant that was presented to the County when the subdivision applied to put a gate inside the subdivision. And the County recognized that as a basis for blocking off one of the roads in the subdivision.

So my feeling is, okay, this has been, these covenants and restrictions which the County says they don't need to enforce was enforced for that particular reason, and I don't see why they wouldn't consider the lot split.

CHAIRMAN ANAYA: Okay, let me see if the Commission has any questions. Any questions? Okay. This is a public hearing. Are you done, Adriane?

MS. NEIDINGER: The other thing I would say is the additional material that I passed out to you contains ten letters of support from my neighbors in the subdivision. I had an eleventh neighbor here on my behalf but she had to leave. And I have two additional verbal words of support for my lot split, which is essentially more than half of the members of my subdivision. And I realize that if the lot is split that there's actually going to be the same amount or even less amount of water use based on the amount of water that I'm granted right now, because if it is split part of the lot ends up in a 30 percent degree slope, so there's less buildable area and that would connote less water use.

CHAIRMAN ANAYA: Okay. Thank you. This is a public hearing. Is there anybody in the audience that would like to speak against this case? Is there anybody in the audience that would like to speak for this case? Public comment is closed. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for denial of CDRC Case #APP 08-5220, Neidinger land division appeal. I feel that as far as covenants go, in the county they are private agreements. We are not bound by them and we also do not enforce them in any way.

However, what is written on the plat is fairly clear, as far as I'm concerned and I don't feel how we can go against that.

CHAIRMAN ANAYA: There's a motion to deny this case.

COMMISSIONER HOLIAN: Deny the appeal.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: And there's a second by Commissioner Vigil. Any discussion?

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

MS. COBAU: Mr. Chair, if I could just advise Ms. Neidinger that following the BCC approval of the findings of fact she can appeal your decision to deny this to district court. So she's not out of options or process at this point.

CHAIRMAN ANAYA: That's correct.

MS. NEIDINGER: Thank you.

**XIV. A. 3. BCC CASE # MIS 08-5420 Los Amigos Restaurant License, the Los Amigos Restaurant, applicant, requests a Restaurant Liquor License to serve beer and wine with meals. The subject property is located at 3904 Rodeo Road, within Section 8, Township 16 North, Range 9 East, Santa Fe County, (District 5) Jose Larrañaga , Case Manager**

MR. LARRAÑAGA: Thank you, Mr. Chair. On January 29, 2004 the Extraterritorial Zoning Authority granted approval of a zoning statement for this site. The zoning statement permits the sale of beer and wine for a restaurant within an established neighborhood center commercial district in accordance with the Extraterritorial Zoning Ordinance.

The Los Amigos Restaurant, formerly known as Castros has changed ownership and the prior owner was in possession of a beer and wine license at this location. The applicant is requesting approval of a restaurant liquor license. The Los Amigos Restaurant will not have a bar but will serve beer and wine with meals. The issuance of a restaurant 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 60-6B-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners are required to conduct a public hearing on the request to grant a restaurant liquor license at this location.

Recommendation: The applicant's request for a restaurant liquor license to serve beer



and wine at the existing Los Amigos Restaurant complies with the Extraterritorial Zoning Ordinance and has met the state of New Mexico requirements for noticing and distance from schools and churches. Therefore staff recommends approval of this request.

CHAIRMAN ANAYA: Any questions of Jose Larrañaga? Is the applicant here? If we could swear you in.

[Duly sworn, Stan Singly testified as follows:]

STAN SINGLY: Stan Singly.

CHAIRMAN ANAYA: Do you have anything to add?

MR. SINGLY: No, sir.

CHAIRMAN ANAYA: Okay. Thank you. Any questions of him?

Commissioner Vigil.

COMMISSIONER VIGIL: I have no questions.

CHAIRMAN ANAYA: No questions. Okay. This is a public hearing. Does anybody want to speak against this case? How about for it? Okay. It's closed. Commissioner Vigil.

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: There's a motion to approve by Commissioner Vigil.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Second by Commissioner Holian. Any discussion?

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

- XIV. A. 5. CDRC CASE # APP 08-5271 Armijo Appeal. John, Larry and Richard Armijo, Applicants, request an appeal of the County Development Review Committees decision to deny a Home Occupation Business License. The property is located at # 4 Red Hills Lane, via the Old Las Vegas Highway, in Cañoncito, within Section 12, Township 15 North, Range 10 East (District 4). Jose E. Larrañaga, Case Manager [Exhibit 6]**

MR. LARRAÑAGA: Thank you, Mr. Chair. On June 25, 2008 the applicants were issued a Notice of Violation for operating a business without a County business registration. Ordinance 1993-3 requires persons engaging in business in Santa Fe County to register or license such activities with the County. On June 27, 1997 the applicants applied for a home occupation business license. Staff reviewed the application and determined that the business did not meet the criteria set forth in Article III, Section 3 of the Land Development Code. A letter of denial dated August 8, 2008 was sent to the applicant listing the basis of denial.

On October 16, 2008 the County Development Review Committee met and acted on

Case # 08-5270, Armijo appeal. The applicants were appealing the Land Use Administrator's decision to deny an application for a home occupation business license. The decision of the CDRC was to support the Land Use Administrator's decision and deny the applicants' request. The applicants based the appeal of the Land Use Administrator's decision to deny a home occupation business license in the original letter of intent listing three specific reasons as listed below.

1. There are businesses within 200 yards of the property. These are KOA campground, Braemarr Boarding Kennels, Roland's Beauty Salon, and Ken Hastey Plumbing. Staff response: These businesses are in the general vicinity of the applicant's property. The KOA is a legal non-conforming business established prior to 1981. The other businesses cited were established in the early nineties, two as home occupations and the boarding kennel was approved via the master plan/development plan process.

2. The applicants reside on the premises. Staff response: The applicants have not supplied any evidence to support this statement. Upon an inspection of the premises by a Code enforcement officer the interior of the building did not show signs of being occupied as a dwelling.

3. The building is residential in nature. Staff response: The applicants were granted a permit to construct a residence in February of 2007 by the County Building and Development Services. The Code enforcement officers and inspection revealed that the approved floor plan was altered. Various walls were not constructed as approved. Rooms labeled as living, studio and dining are being used as a shop area and the bedroom is now a paint booth. In a letter dated October 24, 2008 the applicants refer to prior business locations within the city limits. The applicants state that the current location of the businesses zoned residential and the shop foreman resides in the residence. The applicants have submitted photos and letters of support from adjoining neighbors.

Article III, Section 3.2.2 states, The use of the dwelling for the home occupation shall be clearly incidental and subordinate to its use for residential purpose by its occupants and not more than 50 percent of the floor area of the dwelling, including accessory buildings shall be used in the conduct of the home occupation. Article III, Section 3.2.3 states, There shall be no change in the outside appearance of the building or premises nor other visible evidence of the conduct of the home occupation.

Recommendation: The existing business does not meet the requirements for a home occupation business set forward in Article III, Section 2 of the Santa Fe County Land Development Code. The business currently being operated at this location is not subordinate to the residential use of the property. The interior of the structure is commercial in character, and it is vividly evident by the outside appearance of the premises that a business is at this site. Staff recommends denial of the applicants' appeal of the County Development Review Committee's decision to deny a home occupation business license at this site. The existing business in its current state of operation does not qualify as a home occupation business.

If the action taken by the BCC is to approve the applicants' request staff recommends the following conditions be required of the applicants to bring the business into partial

compliance with the Santa Fe County Land Development Code. Mr. Chair, may I enter those conditions into the record?

[The conditions are as follows:]

1. The applicant must comply with all other requirements of Article III, Section 3 (Home Occupations) of the Santa Fe County Land Development Code.
2. An application shall be submitted on a form provided by the Code Administrator which shall include a description of activities involved, materials and equipment used, methods of operation, number of employees, type of product to be produced, services or repaired, mechanical and electrical equipment necessary for the conduct of the home occupation use, amount, location and method of storage of supplies and/or equipment, location of parking and type and amount of traffic generated.
3. The outside appearance of the building or premises shall not show any visible evidence of the conduct of the home occupation.
4. All outside storage or use of a dumpster must be screened ~~and will be considered as part of the 50% floor area allowed.~~ [modified at motion]
5. Only one (1) non-illuminated nameplate sign not more than nine square feet in area will be allowed.
6. ~~Vehicles with signage for the business must be screened and this will be considered as part of the 50% floor area allowed.~~ [deleted at motion]
7. The business must comply with the Fire Marshal requirements for a home occupation business license.
8. A routine inspection by Code Enforcement staff for a period of up to one year will be performed to ensure compliance with the Santa Fe County Land Development Code.

CHAIRMAN ANAYA: Any questions of Jose?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: So the structure doesn't come close to a home occupancy business?

MR. LARRAÑAGA: Mr. Chair, Commissioner Montoya, the structure was permitted as a resident. The activity, the equipment as the photos indicate, it's well over the 50 percent that we allow. The 50 percent also includes parking area for the vehicles being used. They have a dumpster out there. The outside appearance, you see more garage doors. It's built as a residence but right now it's exceeding the 50 percent requirements for a home occupation business.

COMMISSIONER MONTOYA: But they do reside in it?

MR. LARRAÑAGA: Mr. Chair, Commissioner Montoya, they have not shown evidence – in fact I have a handout from the applicants that I need to pass out to you. In the other letter they state that their shop foreman lives there. I believe the criteria for a

home occupation is the applicant, the owner of the business should live at the residence and run the business out of their own home. This gives them the opportunity to run a business out of their home.

COMMISSIONER MONTROYA: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Holian.

COMMISSIONER HOLIAN: Jose, is the traffic around there any increased over a regular residential lot in that area?

MR. LARRAÑAGA: Mr. Chair, Commissioner Holian, I believe that when this came in as a complaint I believe it was just because of the dumpsters and so on. I have no information to indicate that the traffic has increased or would be the same as a residential use.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Are you done, Commissioner Holian? Go ahead, Commissioner Vigil.

COMMISSIONER VIGIL: Jose, what would it take for them to be in compliance?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, we have outlined on our conditions, I could go ahead and read them. The applicants must comply with all requirements of Article III. One of the main ones. I'm sorry. I should have passed out their handout to be looked at. As far as the ordinance was being over the 50 percent. I think they could reduce that, as far as the use of the residence, and screen the dumpster. Certain requirements – we'd be willing to work with them on this. An application will be submitted on a form provided by the County Administrator. Again, they had applied for a home occupation business license and that's why denied them because they were exceeding the use and the appearance.

COMMISSIONER VIGIL: Mr. Chair, thanks, Jose. Steve, what are the options here? If we deny them this do they have the option of meeting our requirements and then coming forth again for another home occupancy license?

MR. ROSS: Mr. Chair, Commissioner Vigil, I'm not completely understanding your question. I think if the application is denied they certainly could apply for a zoning change and not try and fit it into the home occupation category, like the neighboring business did.

COMMISSIONER VIGIL: Okay. And they did that back in the early nineties I think, back when there were some other businesses. And the KOA camp is already grandfathered in.

MR. ROSS: A non-conforming use.

COMMISSIONER VIGIL: Yes, it's a non-conforming use. So why would they not come forth for a zoning request.

MR. ROSS: Mr. Chair, Commissioner Vigil, I don't know the reasoning.

COMMISSIONER VIGIL: I can ask the applicant that. Thanks.

CHAIRMAN ANAYA: Any other questions? Okay, is the applicant here? Are you all going to speak? Okay, why don't we swear you all in at the same time.

[Duly sworn, Julia Armijo testified as follows:]

JULIA ARMIJO: I'm Julia Armijo. I want to give you a little bit of introduction of who we are. Armijo Design is a small, locally owned business. It's been around for 15 years. We currently have two full-time employees, and my husband and brother-in-law run the business. In our business we build custom homes and doors. My in-laws, John and Bertha Armijo, are owners of Johnnie's Cash Store, which have been in business for 63 years next to their home on Camino Don Miguel.

The first five years of business was run out of our residence, our parents' residence at 420 Camino Don Miguel, near the grocery store of Johnnie's Cash Store. We spent the last nine years renting a shop on Airport Road. When we made the decision to purchase a lot we could not afford a location in Santa Fe. We're a small, locally owned business, so we put all of our money into this lot to build a shop at its current location in Cañoncito.

Because our business is custom homes and doors, my employee who currently resides there, our shop foreman, who is here today, spends about 60 percent at the location and the rest of the time is at our building site. So the traffic, all that other stuff is not an issue. He's the only one and another employee going to work there when we need door orders filled. We have no intentions on adding onto the building, because we want to continue to run our small, locally owned family business. We've worked out of this location for six months. When we heard about the anonymous complaint from the County we took a pro-active approach and we went and spoke with all the neighbors in the area. We discussed their concerns. After talking with the neighbors they have signed a letter indicating that they have no problems with the way our business is running in our current location. Since the complaint we've continued to work there but to my knowledge there's been no further complaints about our business at this location.

We never foresaw a problem because as we stated previously, we worked – our previous business was located next to my in-laws' store and the residents on Camino Don Miguel. We are here to ask the County Commissioners to give us a variance in the law and section 3 of home occupations, it's 3.2.2 that will allow us to maintain work at the Cañoncito location, which would then allow us to provide work for four families at Armijo Design. Any other decision would not allow us to continue doing business as we have all invested all of our money into our business. Armijo Designs cannot financially in this economic market continue to pay its mortgage at its location and lease another location for the business. We would be another failed business statistic in our current recession and we would have to lay off our employees.

Given the information I have presented, we sincerely as the Board of Commissioners to provide us a variance of the law in Section 3 of the home occupation code. We are complying with four out of the five performance standards as illustrated in the home occupation code. The only variance we are asking for is the 50 percent rule.

CHAIRMAN ANAYA: Any questions, Commissioners? Commissioner Holian.

COMMISSIONER HOLIAN: So who actually lives on the premises then?

MS. ARMIJO: His name is Moises Olivas and he's been with us for forever.

COMMISSIONER HOLIAN: How many persons?

MS. ARMIJO: He's been our shop foreman for many years.

COMMISSIONER HOLIAN: Just one?

CHAIRMAN ANAYA: One person.

COMMISSIONER HOLIAN: How much of the floor space do you occupy, would you say, for the home part.

[Duly sworn, Moises Olivas testified as follows:]

MOISES OLIVAS: My name is Moises Olivas, and I do live over there on #4 Red Hills Lane. Been living there for almost a year, if not past a year. We do custom doors.

CHAIRMAN ANAYA: The question was, Moises, how many square feet do you live in?

MR. OLIVAS: Do I live in?

CHAIRMAN ANAYA: Approximately.

MR. OLIVAS: Approximately, I would say about 500, somewhere in there.

CHAIRMAN ANAYA: Five hundred square feet. And that's in the building that the shop's in?

MR. OLIVAS: Yes.

CHAIRMAN ANAYA: Okay. Commissioner Holian.

COMMISSIONER HOLIAN: I'm done.

CHAIRMAN ANAYA: You're done? Okay. Thank you, Moises. Thank you, Commissioner. Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for the applicant. Ms. Armijo, thank you for your presentation. Appreciate it. The question was did you look at coming forth on this case as a zoning change? Was that an option for you?

MS. ARMIJO: No.

CHAIRMAN ANAYA: It wasn't?

MS. ARMIJO: No. Since our shop foreman lived there we basically were at the mercy of our knowledge and we just basically came forward and said we went to the CDRC, we tried to get an appeal. We lost that and we came here to ask your understanding. We have not tried to do any type of rezoning or anything else. Not at this time.

COMMISSIONER VIGIL: Did you know that that option was available to you?

MS. ARMIJO: No, I did not.

COMMISSIONER VIGIL: Okay.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: That's all I have, Mr. Chair.

CHAIRMAN ANAYA: Any other comments?

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTROYA: Are you in agreement with all of the

recommendations that have been added on as conditions?

[Previously sworn, Larry Armijo testified as follows:]

LARRY ARMIJO: Larry Armijo.

CHAIRMAN ANAYA: If you want to take your time and look at them.

MR. ARMIJO: Okay.

COMMISSIONER MONTOYA: I'll ask another question, Mr. Chair, while they review those. If this was something – you mentioned, Ms. Armijo, in terms of being pro-active, wouldn't pro-active have been to follow the Code in the first place?

MS. ARMIJO: Yes, we probably should have done an occupational permit when we first move in there. We just – we didn't, and we failed to do that. We were moving our business from Airport Road and moving all the machinery and everything else. We were getting our shop foreman set up, and we probably should have been more pro-active and compliant. And our neighbors did come forward, and I believe in always being a good neighbor, and we went and talked to them and made sure that it was okay. We should have; I agree with that.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I'm just waiting for now – that's all I have, Mr. Chair.

CHAIRMAN ANAYA: Okay.

COMMISSIONER VIGIL: I have one more question. Ms. Armijo, did you have a permit in your Airport Road location.

MS. ARMIJO: We had a business permit, but we were in a commercial area. So we just had our owner of a business operating license.

COMMISSIONER VIGIL: Was it County or City?

MS. ARMIJO: It was City.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Okay. What we can do is we'll go – look at those things. I want you to look at them close, and I'm going to go to public comment. Okay? Is there anybody in the audience that would like to speak for this case? Against this case? Public comment is closed. Sir, did you have a chance to look at those?

MR. ARMIJO: Yes, I did.

CHAIRMAN ANAYA: Are you okay with those?

MR. ARMIJO: Yes, yes. A lot of these, like having a sign. We don't even have a sign out there. He's saying allowing one sign. The dumpster, we can fence that. The Fire Marshal's requirements, we're up to code on that. Outside of the appearance of the building, it's going to be what's in those photos. There's no change there. It's going to stay like that unless something – if we need to change something to make it look more residential, I guess if that's what they're asking for. And then #2, we can provide an application for the Code Administrator.

CHAIRMAN ANAYA: You can agree to all of them?

MR. ARMIJO: Yes. Yes, I can agree to all of these.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I'm sorry I'm being redundant here, but #4 and #6, it sounded like from the space that the individual is living in and the space in the residence that's being used for the business, and #4 and #6 would be far more than 50 percent. So I want to question you again about whether or not you really could adhere to this. It sounds like quite a bit of the residence is being used for the business. And this is saying your dumpster would also count and so would your vehicles.

MR. ARMIJO: We're asking for a variance of that 50 percent rule, is what we came asking for. We do exceed the 50 percent rule. We know that.

COMMISSIONER STEFANICS: The question, Mr. Chair, as I understood it was if we granted your appeal, could you comply with every one of these things, and this is asking if you could be in that 50 percent within the residence.

MR. ARMIJO: In the 50 percent, no. In the 50 percent, no. We'd be –

CHAIRMAN ANAYA: Okay, so you can't comply with #4.

MR. ARMIJO: #4, we can't comply. Other than – well, the use of the dumpster, I can eliminate that. That's 10 square feet or whatever that is. Load a truck and take the trash myself, I guess. #6 –

CHAIRMAN ANAYA: Can't comply with #6.

MR. ARMIJO: Well, what are the requirements for the Fire Marshal, as far as – does it go back to that 50 percent question?

COMMISSIONER STEFANICS: Well, Mr. Chair, that's what I'm asking. That 50 percent doesn't include whatever's going on in the residence, and then the vehicles, and then the dumpster. So it sounds like we're already well exceeding the 50 percent. Am I correct?

MR. ARMIJO: Correct.

COMMISSIONER STEFANICS: Thank you.

CHAIRMAN ANAYA: So what I'm hearing is you can't comply with 4, 6, and the business must comply with the Fire Marshal's requirements for a home occupation business license. How hard is that?

MR. LARRAÑAGA: Mr. Chair, I believe when they applied for the home occupation business license, it was sent out to the County Fire Marshall. I believe they do have approval of that. Unfortunately, when we reviewed it we realized they didn't comply with the –

CHAIRMAN ANAYA: Well, what have they got to do?

MR. LARRAÑAGA: They have to have fire extinguishers and exit signs and so on.

CHAIRMAN ANAYA: Okay, so they could comply with that.

MR. LARRAÑAGA: They could comply with the Fire Marshal requirements.

CHAIRMAN ANAYA: Okay, so what I'm seeing is they can't comply with 4 and 6.



COMMISSIONER MONTOYA: Mr. Chair, what would be required in order for them to comply with 4 and 6? They'd have to build more residential space? Or convert some of the commercial into residential?

MS. COBAU: Mr. Chair, Commissioner Montoya, perhaps they could comply with #4 and #6 if the conditions stop at the word "screened" on both conditions and the portion regarding 50 percent of floor area was stricken from both those conditions.

CHAIRMAN ANAYA: So – screened?

MS. COBAU: If condition 4 were modified to say all outside storage or use of a dumpster must be screened, and if condition 6 were modified to read Vehicles with signs for the business must be screened.

CHAIRMAN ANAYA: Okay.

COMMISSIONER MONTOYA: And you feel that's reasonable? Can you comply with that?

MR. ARMIJO: Yes. The vehicles, we don't have a vehicle there other than the employee showing up.

CHAIRMAN ANAYA: That's what we're talking about.

MR. ARMIJO: The employee vehicle?

CHAIRMAN ANAYA: Yes.

MR. ARMIJO: But there's no signage nor nothing on it. There's no signage on the vehicle. That's what it states on the – or maybe I'm misunderstanding it.

CHAIRMAN ANAYA: Okay. I got you. All right.

MR. ARMIJO: It's just a personal vehicle.

CHAIRMAN ANAYA: All right. So if there's no signs, you're okay.

COMMISSIONER MONTOYA: What about in general? None of your vehicles have signage on them?

MR. ARMIJO: None. None.

COMMISSIONER MONTOYA: We can eliminate that one then.

MR. ARMIJO: The outside storage dumper, like I said, it can be screened, but it is considered part of the workage area, and if I'm not mistaken that dumpster is maybe four by six or something like that. That's ten square feet added to the work space.

CHAIRMAN ANAYA: So are we coming to an agreement here, Commissioner?

COMMISSIONER MONTOYA: Yes. It sounds like they can comply with all of them. So Mr. Chair, I would move for approval of this variance request with staff conditions, minus #6, and #4 as it's been edited so that it ends at the word "screened".

COMMISSIONER HOLIAN: Second.

MR. LARRAÑAGA: Mr. Chair, if I may –

CHAIRMAN ANAYA: Motion and a second, and we'll go to discussion. Jose Larrañaga, I'm glad you got the message to wear pink today.

MR. LARRAÑAGA: Mr. Chair, as far as a variance. This is not a variance request. A variance runs with the property. What it is is an appeal to the denial of a home

occupation business license. So if you override the appeal we can work with them with the home occupation business license and this way if they sell the property the next person in there, it will become a residential use. If they want to run a home occupation they'd have to come back and reapply. In other words, there's no variance involved in this request. It's basically a modification, if you want to say that, to the home occupation for the appeal.

COMMISSIONER MONTOYA: Okay. So we grant their appeal, with the conditions.

CHAIRMAN ANAYA: Okay, seconder? Does that sound good?

MR. ARMIJO: Sounds good to me. Sounds fair.

CHAIRMAN ANAYA: Any further discussion?

COMMISSIONER VIGIL: Just I'm glad to know that they've been a small business and successful and I hope this helps them continue in that path.

CHAIRMAN ANAYA: Yes, likewise. I think looking at the pictures and it looks like you have a clean business and you're keeping people employed and we don't want to stop that. We want to try to work with people and we'll see how the vote goes. Commissioner Holian.

COMMISSIONER HOLIAN: I just wanted to make the comment too that I really appreciate that you contacted your neighbors and worked with them and made sure that they were in agreement with what you were doing. Thanks.

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

- XIV. A. 6. **EZ Case #S 07-4411 Concierto at Las Campanas. Santa Fe Planning Group (Scott Hoeft), agent for Las Campanas Limited Partnership (Phil Edlund, President), Applicant is requesting preliminary and final plat and development plan approval for 62 residential lots and master plat approval for 108 residential lots on 105 acres. The request includes a variance of the Extraterritorial Subdivision Regulations (3.5.4-G(2), Construction and Design Standards for Streets and Roads), to permit finished road grades to exceed 3 percent for 100 feet from intersection for multiple roads. The property is located along Las Campanas Drive north of Caja del Rio intersection within the Five-mile Extraterritorial District, Sections, 14, 15, Township 17 North, Range 8 East (Commissioner District 2) Joe Catanach, Case Manager [Exhibit 7]**

MS. COBAU: No Joe tonight. Sorry, Mr. Chair. Joe had a death in his family and so I'm going to be presenting his case for him this evening. On April 14, 1992 the BCC granted master plan approval for 1,419 residential lots with two golf courses and a club complex, tennis and equestrian center and related accessory facilities. Final subdivision

approval has been granted by the BCC for approximately 1233 residential lots. The proposed subdivision phase consisting of 107 lots will be the remaining balance of 16 lots from the total approved for the master plan.

On July 10, 2008 the EZC recommended approval for the following. The minutes from the EZC meeting are included in your packets as Exhibit H. The proposed subdivision includes a request for master plat approval for 108 residential lots. On October 8, 2007, the BCC granted authorization to proceed with the master plan. The Extraterritorial Subdivision Regulations, in Section 3.3.7 provide a procedure that allows an applicant the option of submitted a master plat instead of a standard subdivision plat that specifically defines the lot and road layout. The master plat demonstrates a conceptual lot and road layout and establishes the maximum number of lots. Seller and buyer would then have an opportunity to select a specific lot and road layout based on market conditions and demand. This procedure provides flexibility for both the seller and the buyer. When the lot and road layout is selected a subdivision plat is submitted to the administrative staff for review and approval and recorded with the County Clerk. A development plan in conformance with applicable regulations is also submitted for review and approval by staff and for construction of the required subdivision improvements.

The proposed subdivision consists of 170 lots as follows: Phase 1 is 35 estate lots; Tract A of the master plat would be 31 lots ranging with a lot number of 25 to 35 lots. Tract B of the master plat would be 24 lots ranging from 20 to 30 lots for a total of 55 lots all together in phase 1, along with the 35 estate lots. Phase 2 is 27 estate lots with a master plat area of 53 lots in a range of 50 to 60 lots.

The master plat lots range in size from .13 acre to .39 acres and the estate lots range in size from .57 to 1.5 acres. House and guesthouse are proposed for the estate lots. Based on the previous development agreement with the County, the County Attorney has advised the BCC that contract laws would supercede the affordable housing ordinance, and therefore the development would not be subject to compliance with the affordable housing ordinance. And you can refer to the 2007 BCC minutes which are included as Exhibit D and F where that was all agreed to.

The subdivision was reviewed for compliance with County criteria regarding water and wastewater, roads and access, landscaping, archeology and the homeowners association documentation. It's important to note that there is a variance request associated with this and that variance is a request for a variance of the minimum road standards to permit finished road grades to exceed three percent for 100 feet from the intersection for multiple roads. The applicant is proposing a finished road grade between four and five percent for 28 intersections within the subdivision. The applicant has responded to the variance criteria and that's attached as Exhibit F, and EZC and BCC shall determine if the applicant has justified the variance criteria.

The staff recommendation is that the proposed subdivision is in accordance with the approved master plan and conforms with the Extraterritorial Subdivision Regulations and County Land Development Code. Staff recommends preliminary and final plat/development plan and master plat for 108 lots subject to the list of conditions. Staff does not, however,

consider the requested variance of the road standards to be a minimal easing of the requirements. The three primary intersections accessing the proposed subdivision, as a minimum should meet the standard finished road grades. Staff does not support the variance as requested by the applicant, but if the applicant would agree to design those three primary intersections per Code then staff would support the remaining variance requests, and this is a minor redesign which we can deal with administratively.

The EZC recommended approval subject to the following conditions. Mr. Chair, may I enter those conditions to the record, please?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. State Engineer
  - b. State Environment Dept
  - c. State DOT
  - d. Soil & Water Conservation
  - e. County Hydrologist
  - f. County Water Utility
  - g. County Public Works
  - h. County Technical Review
  - i. County Fire Dept
  - j. Santa Fe Public School District
2. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) shall include but not limited to the following:
  - a. Water restrictions/conservation measures to include installation of cisterns for roof drainage and prohibit non-native grasses
3. Development plan submittals shall include but not limited to the following:
  - a. Submit engineering plans for right turn deceleration lanes at proposed intersections off Las Campanas Drive as recommended in TIA.
  - b. Road section details for access roads intersecting off Las Campanas Drive and Paseo Aragon shall specify four inches of asphalt to conform to standards for a collector road.
  - c. Provide secondary alternative access for master plat tracts exceeding 30 lots.
  - d. Provide cul-de-sac for dead end roads exceeding 150 feet within master plat tracts.
  - e. Traffic control/street signs
4. Final plat shall include but not limited to the following:
  - a. Compliance with plat check list
  - b. Reference master plat approval in accordance with subdivision regulations
  - c. Special building permit conditions regarding on-lot ponds and guest houses

- d. Prohibit direct driveway access off Las Campanas Drive
5. Submit solid waste fees in conformance with Extraterritorial Subdivision Regulations.
6. Submit cost estimate and financial surety for completion of required improvements as approval by staff.

CHAIRMAN ANAYA: Any questions of Shelley, Commissioners? Okay, hearing none, is the applicant here? Scott. We'll swear you in.

MS. COBAU: Oh, excuse me, Mr. Chair. In my haste to enter the conditions into the record I forgot to add an additional condition. Maybe I should have read them aloud. And we did hand that condition out to you, and that would be condition 7, and I probably should read that into the record because it's not in the staff report.

CHAIRMAN ANAYA: Okay.

MS. COBAU: And that condition reads as follows:

7. Applicant shall provide Financial Surety for Replacement Delivery Facilities described in the agreement between the Board of County Commissioners and Las Campanas dated May 18, 1994 as adjusted by the increase in the Means City Cost Index during the period from the date of the agreement until the date the balance of the financial surety is due as set forth in the agreement. Before recordation the applicant shall consult with County staff concerning whether the financial surety proposed is adequate to provide the replacement delivery facilities and the facilities related to this subdivision. If staff believes the proposed financial surety is inadequate and the applicant does not agree, the matter shall be presented to the Board of County Commissioners for final resolution.

And we did receive correspondence which has also been handed out to you that the applicant is in agreement with this condition as presented.

CHAIRMAN ANAYA: Okay. Any questions. Scott, do you agree with those conditions.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 St. Francis, Santa Fe, 87504. Yes, I do concur with the conditions of approval and the latest one that has been added, Commissioner.

CHAIRMAN ANAYA: Okay, and she talked about the road grades of three percent, that if you could comply with the intersections, then you'd be okay with the three percent?

MS. COBAU: The majority of the roads that are not compliant with the Code are internal, privately maintained roads, and the three that access Las Campanas Drive are accessing major arterials. So we would like those to be flattened out to allow cuing at the intersection and to prevent people on snowy days from maybe not being able to get stopped so easily on a steeper grade than on a flatter grade. So we would like to have those three

intersections meet the Code and provide the three percent for the first 100 feet.

CHAIRMAN ANAYA: Do you agree with that?

MR. HOEFT: I concur. I can do a long presentation, or we can leave it at that and I can stand for questions regarding the project. Now, I know we have two new Commissioners and they may not be familiar with the ins and outs of Las Campanas so I can take this in any manner how you would like. I can go into great detail on the project, the history of the case, and this final subdivision of Campanas.

CHAIRMAN ANAYA: Okay, so Commissioners, we'll leave it up to you. Are you okay with what he just –

COMMISSIONER STEFANICS: Mr. Chair, I think I know enough about Las Campanas. I'd be ready to vote.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Currently the original ownership of Las Campanas is not the original ownership. There's been a joint venture entered into with Las Campanas, and I'm not even – I guess the question is through this joint venture is this request a part of that and do both parties who are part of the joint venture know about this?

MR. HOEFT: This request that's before us tonight?

COMMISSIONER VIGIL: Yes.

MR. HOEFT: Absolutely, Commissioner. Everyone is still working in tandem and from my perspective, nothing has really changed from how I've worked with Las Campanas now for over ten years and paychecks still come from the same place and the people I interact with are still the same people who are sitting behind me in the audience here.

COMMISSIONER VIGIL: How – these lots vary from what acreage to what acreage? I just recall the density of this at Las Campanas being the highest density in that area.

MR. HOEFT: Commissioner, to answer your first question, the estate lots, which are the perimeter lots that you can see around the outside of the plan range in size from half an acre up to 1.5 acres in size. The internal lots, which are what we're calling the master plat lots, which we got approved a year or so ago, are smaller lots and they range in size from .13 to .39 acres in size. So to answer your question, this isn't an atypical product for Las Campanas. This is different than the normal estate lots that you'll find within the subdivision but if you go near the Hacienda and into the Casitas, all of those are very small, tight lots. And our intent here is to have a little bit more variety with the product type that's offered out there.

COMMISSIONER VIGIL: This is for staff. Is this request required to comply with the affordable housing ordinance?

MS. COBAU: Mr. Chair, Commissioner Vigil, no, it does not. This subdivision is –

COMMISSIONER VIGIL: It's a part of the original master plan?

MS. COBAU: It was. And there was an agreement that was derived and none of the subdivisions in Las Campanas had to provide affordable housing as a result of that agreement that was approved by the BCC and Scott, you can clarify that if you would, please.

MR. HOEFT: Certainly. And Las Campanas made a \$2 million contribution to

the Santa Fe County affordable housing fund in 1993 through 1996. Mr. Ross at our previous hearing with the EZC went into great detail of how he felt that this contract that was put forth at the time was pretty much – met their obligation for affordable housing.

CHAIRMAN ANAYA: Any other questions? This is a public hearing. Is there anybody in the audience who would like to speak for this case? Against this case. Brad, you've been here all night. Okay, the public hearing is closed. What's the pleasure of the committee?

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

CHAIRMAN ANAYA: There is a motion with staff conditions. Is there a second?

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN ANAYA: And a second by Commissioner Stefanics. Does that include the three percent stuff we talked about?

MS. COBAU: Yes, Mr. Chair. I think it's pretty clear.

CHAIRMAN ANAYA: Okay.

MS. COBAU: But maybe we should make a condition, just to make sure it's perfectly clear. Maybe we should add a condition 8 that the three intersections shall be designed to meet the Code criteria and then the variance could be granted for the remainder.

CHAIRMAN ANAYA: Do you might that, Commissioner Montoya?

COMMISSIONER MONTOYA: So this will be seven, and then –

MS. COBAU: Then we would have a condition 8.

COMMISSIONER MONTOYA: Eight, yes.

MR. HOEFT: I concur, Commissioner.

CHAIRMAN ANAYA: Commissioner Stefanics, are you okay with that?

COMMISSIONER STEFANICS: I am.

CHAIRMAN ANAYA: Commissioner Vigil?

COMMISSIONER VIGIL: Scott, I have some questions. I have received some phone calls and I do represent this area. Because Las Campanas had a large master plan approval way before any of our time, do you as a good neighbor and an association visit with the adjacent neighbors about this development? And if you do, did that occur, this and other phased developments. Did that occur in this case?

MR. HOEFT: Yes, it did. After the EZC hearing that we had, we had several folks show up and were concerned about this project. The three issues that surfaced was building height, color of the units and the overall density. And taking the height issue first, with the master plat area, we are allowing those inner areas to have two-story structures if it's going to happen with that particular developer. We're not quite sure yet but we want to maintain the flexibility and the County Code specifies 24 feet, so that issue is really a non-issue.

The second issue was the color. There's units out in Campanas that offended people years ago and the fact that they're a very, very bright, vivid orange and they were concerned that we were going to put up a similar color of product in those internal areas. But we met with them and said that's not our intent. They're all earthtones in that area and I believe we have that in the

CC&Rs.

And the third issue was density. And again, we have it, as you can see on the plat, the plan down below, those three internal areas are tighter in terms of density, and again, that's an attempt to diversify our product and get away from the standard 2.5-acre density, two-acre lots in that range. Because we have enough of those. And so we find that the smaller lots, with homes that range in size of 3,000 or 4,000 square feet work very well.

COMMISSIONER VIGIL: Did that require a change in your covenants or anything of that sort?

MR. HOEFT: No, it did not, Commissioner.

COMMISSIONER VIGIL: Okay. Thanks, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner.

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

CHAIRMAN ANAYA: I want to thank the two new Commissioners for surviving the first meeting, and thank staff and we also want to thank Jason for running the camera back there.

**XV. ADJOURNMENT**

Chairman Anaya declared this meeting adjourned at 9:15 p.m.

Approved by:


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Board of County Commissioners  
Mike Anaya, Chairman

ATTEST TO:

VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

Respectfully submitted:

  
Karen Farrell, Wordswork  
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