

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

May 12, 2009

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

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:04 p.m. by Chair 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 Harry Montoya, Vice Chair
Commissioner Kathleen Holian
Commissioner Liz Stefanics
Commissioner Virginia Vigil

Members absent:

[None]

V. INVOCATION

An invocation was given by County Clerk Valerie Espinoza.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. Staff has the following amendments. First being under X. Matters from the Commission, B, A presentation by Anthony Roybal from Los Amigos Educational Resource Center regarding weatherization. That item is going to be tabled. Under appointments,

reappointments and resignations, Mr. Chair, XI. A. we added the appointment of Jody Larson to the 2010 Census Complete Count Committee.

Under the Consent Calendar, XII. B we added items 4, 5, and 6, which are approval of community service funds. Under Staff and Elected Officials' Items, XIII. A, the County Clerk, item number 1, A resolution authorizing the creation of a new and separate voting precinct, that item has been tabled.

The next page, page 3 of the agenda, Public Hearings, Growth Management Department, A. 1, the request of Santa Fe Canyon Ranch for a County water service area boundary extension, that item will be table for 30 days while staff, the applicant and the community try to work out, come to an agreement regarding this proposal, so that's tabled for 30 days.

And finally, Mr. Chair, item number 8, we would like to move to be the first item under Public Hearings, and this is an ordinance amending Ordinance 1992-3 to transfer authority from the County Clerk to the County Treasurer, and I want to clarify for the record, Mr. Chair, that the authority we are discussing is authority as it relates to the issuance of business licenses only.

CHAIRMAN ANAYA: Okay. I was going to say I don't think we need a Clerk then anymore.

VALERIE ESPINOZA (County Clerk): Oh, yes we do.

CHAIRMAN ANAYA: Okay. Is there any other changes from the Commission?

COMMISSIONER HOLIAN: Move for approval with amendments.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian, as amended. Is there a second?

COMMISSIONER MONTOYA: Second.

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

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

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIRMAN ANAYA: Any withdrawals from the Consent Calendar?

COMMISSIONER MONTOYA: Mr. Chair, B. 4, 5, and 6. No, I'm just kidding.

CHAIRMAN ANAYA: Okay, is there a motion to approve the Consent Calendar?

COMMISSIONER MONTOYA: Motion to approve.

CHAIRMAN ANAYA: Motion by Commissioner Montoya, second by Chairman Anaya. Any further discussion?

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

XII. CONSENT CALENDAR

A. Findings of Fact

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

B. Miscellaneous

- 1. Request for Approval for an Expenditure of Community Service Funds in the Amount of \$18,000 to the Food Depot for the Food 4 Kids Program and to Food-Distributing Community Based Organizations (Commissioner Stefanics)**
- 2. Request Approval to Enter Into Property Lease Agreement With Contractor (Lessor) Georgia Place, LLC to Lease Office Space for the County Assessor (Assessors)**
- 3. Discussion and Possible Approval to Allocate \$2,000 From Community Service Funds to the Division of Health and Human Services for Printing Materials and Outreach for the Maternal Child Health Program (Commissioner Vigil)**
- 4. Discussion and Possible Approval to Allocate \$716 From Community Service Funds to the Administrative Services Department for Graffiti Removal Supplies (Commissioner Vigil)**
- 5. Discussion and Possible Approval to Allocate \$1,000 From Community Service Funds to the Public Works Department for Traffic Signage Graffiti Removal Supplies (Commissioner Vigil)**

VIII. APPROVAL OF MINUTES

A. April 14, 2009

COMMISSIONER MONTOYA: Mr. Chair, if there are no amendments or changes I move for approval.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion by Commissioner Montoya, second by Commissioner Holian. Any further discussion?

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

IX. MATTERS OF PUBLIC CONCERN –NON-ACTION ITEMS

CHAIRMAN ANAYA: Is there anybody in the audience that would like to address the Commission on any issue that is not on the agenda? Hearing none, moving forward.

X. Matters From the Commission

A. Update on the Northern Area Local Workforce Development Board (Commissioner Montoya)

COMMISSIONER MONTOYA: Thank you, Mr. Chair. As is customary, I have included in the packet the minutes and proceedings from the last Workforce Development Board meeting, and I'd stand for any questions. It's an informational item mainly for the Commissioners.

CHAIRMAN ANAYA: Any questions of Commissioner Montoya?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Commissioner Montoya, thank you for the minutes. Is there an opportunity for the County to receive any workforce development funds for summer or temporary employees?

COMMISSIONER MONTOYA: Yes, Commissioner Stefanics, in fact on Thursday at 11:00 we're going to be meeting with the Workforce Development staff here to go over that and you're more than welcome to –

COMMISSIONER STEFANICS: Well, thank you. I have another appointment at that time, but I did see how another county had put on quite a few temporary employees so I thought maybe it would be of assistance to people in Santa Fe County. Thank you very much.

COMMISSIONER MONTOYA: Yes, and that's exactly what we'll be talking about.

CHAIRMAN ANAYA: Any other comments, questions? Thank you, Commissioner, for bringing that forward.

X. C. Discussion and Staff Direction for the Acceptance of Sunrise Road (Commissioner Anaya)

CHAIRMAN ANAYA: So this I brought forward. I have constituents that live in my area off of Sunrise Road. Robert, you can tell us a little bit about Sunrise and how much money is appropriated to Sunrise from legislative appropriations. And I believe the constituents, they have asked me to put this on the agenda so we can get

acceptance of this road, so we can continue to lobby for more funding. Robert, is there anything you want to add to that?

ROBERT MARTINEZ (Public Works Director): Mr. Chair, yes, several years ago the residents from Sunrise Road and Nancy's Trail were requesting that the County take over Nancy's Trail and Sunrise Road for County maintenance. And the direction that was given to the residents at that time was, well, it doesn't meet County standards. County standards for a subdivision of that size would require asphalt paving. The recommendation that we gave to them was go to the legislature, get the funding to improve the road and the County will take over the road and make the improvements and the County will accept portions of the road when there's enough funding to make improvements to certain sections of the roadway.

So that was done several years ago. Approximately a half mile of Sunrise Road was paved and accepted by the County and an additional portion of Nancy's Trail was accepted for maintenance after they got the funding from the legislature and the improvements were made. Currently, the only funding that's available for Sunrise Road is a capital cooperative agreement by the NMDOT that was executed in March of 2007 for a total of \$39,825. Now, that won't go very far. There's about 1.6 miles of Sunrise Road that is unimproved and does not meet County standards.

The agreement that is executed by the DOT and the County doesn't expire until 2011. So this funding will not go away until 2011. What we've told the residents last year was go back to the legislature, get some more funding, and hopefully there'll be a larger appropriation to substantiate a project. \$39,000 will probably improve between 500 and 100 feet of roadway. It's not very much funding to start a project.

So that's what we've told the residents over the course of the years and that's how the portion of Sunrise Road and Nancy's Trail that currently is maintained by the County became County maintained. Now, the subdivision to the west is the Mayfield Subdivision. I don't know if you recall Gilbert Vigil, he had been lobbying the legislature for Cerro de Alamo, and that's how that road got improved and accepted by the County, was through legislative appropriations. So our message to the residents has been consistent: Get the funding, bring it up to County standards or we'll accept the road and we'll help you bring it up to County standards and from there on it will be County maintained. So that's the message that we've been giving the residents.

So currently, \$39,000 is available for a subdivision that has approximately 100 lots in there and County Code is asphalt paving. So I stand for questions.

CHAIRMAN ANAYA: Okay. Thanks, Robert. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Robert. What will the \$39,825 do for this project?

MR. MARTINEZ: That would probably be enough funding to purchase enough asphalt to pave anywhere from 500 to 1,000 feet of roadway.

COMMISSIONER VIGIL: Okay. How much do we have paved there currently?

MR. MARTINEZ: On Sunrise Road it's approximately ½ mile.

COMMISSIONER VIGIL: And what's the total miles?

MR. MARTINEZ: The total remaining mileage that is unpaved and is not maintained by the County is 1.6 miles.

COMMISSIONER VIGIL: So we have not accepted this road yet as a County road. We have only accepted it for maintenance purposes. So is the request for maintenance or would you clarify that?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, the Commission has only accepted the portion of Sunrise Road that has already been paved. And that was paved through legislative funding. So what we're telling the residents is go get some additional funding. We'll pave the additional roadway. Whatever funding you get we'll pave the distance that that money will fund and the Commission can accept that portion after it's paved and the County will then maintain it from there on after.

COMMISSIONER VIGIL: And Robert, this is basically the approach we took with many of the roads in Eldorado, correct?

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

COMMISSIONER VIGIL: So whatever dollars were available – and it's a wonderful partnership. Whatever dollars were available we built and that portion of the road was dedicated. Correct?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, that is correct.

COMMISSIONER VIGIL: So are we being asked today to have the entire road dedicated without the appropriate amount of dollars to pave it?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, I believe Chairman Anaya put it on the agenda for discussion purposes, and then to give us direction based on what comes out of this discussion.

COMMISSIONER VIGIL: Okay. I certainly am supportive of residents going to the legislature for these dollars and I encourage you to continue to ask them to get those dollars, and I think once there are sufficient dollars there we should be able to accept the road but I'm worried about accepting the road without bringing it up to County standards. So I'm not sure specifically what we're wanting to take action on. If that's specifically what we're wanting to take action on I could not support accepting it without it being County standards because we have to have a County standard road before we accept it.

So my sense is that I would propose that we continue soliciting support from the legislature to get the full funding, get it to County standards, and then accept it.

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, that is the recommendation of the Public Works Division also. To take on another road that does not meet County standards would be burdensome on our department. We would be out there blading the road continually, because there is a lot of traffic. I brought a map that shows all of the individual lots in that subdivision. You can see it's outlined in yellow, and there's approximately 100 lots in that subdivision.

COMMISSIONER VIGIL: And I think we have a model through the Eldorado community that we created lots of improvements and a huge benefit to that community by this formula. But I just caution that we cannot accept County roads without them being up to County standards, and I would just ask Chairman Anaya, that's not what you're asking. You're just asking for direction to continue this model, or you want to accept it as it not being up to County standards? Okay. That would go against our policy and I think it would expose us to too much liability.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner Vigil.
Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I was involved in the Sunset Road many years ago for that half-mile of paving. And there was a purpose or a reason that it occurred, and I don't know if it was because of the mud bogs or the school bus route or something that happened out there. I certainly support our maintaining standards of how we work with all communities here, but what I would suggest is that County staff give some ideas, some very specific information to the community of how much money needs to be raised in order to get to the point where the County could accept it.

For example, if they raised enough money for paving, would the County pave it? If the County does not want to pave it at all, even with other private dollars, at what point – what would they have to raise from the legislature or other sources to get paved and then move on to County maintenance. So if there was something, and I'm sure that you've dealt with this several times, if we have something that we could give them, like a little formula, or mix and match, these are the different things that you could do to get to the point where the County would adopt it. That might be helpful. Have you done that yet?

MR. MARTINEZ: Mr. Chair, Commissioner Stefanics, typically what we do is when a resident comes in and starts the process and we give them the information that, okay, the road does not meet County standards and this is what is lacking, we provide them with a ballpark estimate so they can go to the legislature and lobby for that funding, whether it be \$200,000 or \$300,000. But in a case like this where the road is 1.6 miles, even if they get \$100,000, we will go ahead and come to the Board, recommend that the Board accept the road for maintenance, and we'll make those improvements to whatever distance that \$100,000 will improve. We don't have to do the 1.6 miles all together, all at once, but we need at least sufficient funding to start a project. \$39,000 is not enough to do a substantial amount of the roadway. If we had enough to do another half mile, we would come to the Board and recommend acceptance of a half-mile.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Okay, and yes, Commissioner Vigil, the reason I had this on here is to accept this County road for maintenance. I realize the fact, and by the way, I've been listening to my constituents in that area since I got elected. And how many people in the audience live on this Sunrise Road? Could you raise your hands? [Ten people raised their hands.] Okay. I'm going to allow one person to come up and just talk a little bit about that, but let me finish. We have been dealing with this for a long time and as Robert stated, there's 100 residents that live out there and need our help. I know that they have been lobbying the legislature for years, and this money that they got – who gave us this money, Robert?

MR. MARTINEZ: Mr. Chair, I believe it might have been Jeanette Wallace.

CHAIRMAN ANAYA: Okay. So that money that we've received from Representative Wallace is \$39,000. Can we use that money to maintain that road until we can go back to the legislature to try to come up with more funding?

MR. MARTINEZ: Mr. Chair, these are for improvements, not maintenance. So if you're asking us if this will apply for grading, routine grading, no. The funds are available for paving improvements.

CHAIRMAN ANAYA: Just paving. We could start putting some gravel down.

MR. MARTINEZ: Mr. Chair, the deal is if we put down \$39,000 worth of gravel today, in a year from now when we get the additional funding the gravel that we put down today may be contaminated or pushed out in the bar ditches to where the \$39,000 that we've invested in the road may not be salvageable in a year.

CHAIRMAN ANAYA: But that's just like any other County road that we have that's dirt or gravel. We still maintain those. Anyway, so you're saying we could use that money for not maintenance but improvements.

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

CHAIRMAN ANAYA: Okay, do you have a spokesperson from Sunrise Road that would like to come up and say a few words on behalf of your people that live on that road.

MIKE MARTINEZ: Thank you, Mr. Chair and Commissioners. My name is Mike Martinez. I live on Serenity Lane, which is an off-branch to Sunrise. I've gotten together with a bunch of the homeowners in that area, which is the area that is not paved and everybody is in agreement that we need some help out there and that's what we're looking for. I guess what I need to find out is what do we need to do to get the road up to County standards in order for them to accept it? If anything, even blading once a month, once a quarter, something like that would help out a lot. There's a lot of big potholes. Nancy's Trail went through the same thing. They recently got bladed and it looks beautiful, and we're asking the same thing.

CHAIRMAN ANAYA: Okay, Mike. Any other comments?
Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Martinez and members of the community, I know the community. I recognize the road situation. I just want to explain to you we have a liability exposure here. It isn't anything other than that. If we do accept you and you're not at County standards then we've exposed the County to liability of anything that could occur and that could adversely impact the County. We really have a fiscal responsibility here. There are over 500 miles of road in the county, many in my district and in other Commissioners' districts who are very similarly situated to what you are. And the formula that has actually worked, Mr. Martinez and other members of the community is – and it's worked in some areas in my districts. Some of the homeowners associations have actually gotten together and all pitched in and had a private contractor build the road, and then had the County accept it.

Others have gone strictly to the legislature and gotten lots of legislative support. Your representatives are Jeanette Wallace and Senator Griego, and them pooling their dollars together, or any other legislator that you can solicit funds from to get the money, to get the money to County standards. It's really a slam-dunk once it's up to County standards, but when it's not, that's when we have the difficulty. Because we all represent areas in Santa Fe County that have the same problem you do. The roads need to be graded. There are some conditions on some roads that are abhorrent, actually.

But we have to set a boundary and I hope you understand that. It isn't as if I personally would not support what you're wanting to do because I think it's a great idea to continue to bring the community together to get the funding to make that happen. So I hope you understand that.

MR. M. MARTINEZ: I do. Thanks.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, Steve is walking out the door; maybe Mr. Martinez can answer. Would this road or this request be eligible to become an assessment district?

MR. R. MARTINEZ: Mr. Chair, Commissioner Stefanics, yes. If the residents wanted to create an improvement district through the County they would need 66 2/3 of the residents to sign this petition to create an assessment district. Then the Board could create that assessment district based on that petition.

COMMISSIONER STEFANICS: So Mr. Chair and Mr. Martinez, they could create the assessment district and the money that's been set aside, the \$39,000, could be levied against the overall cost of the project.

MR. R. MARTINEZ: Mr. Chair, Commissioner Stefanics, that is correct. But the County would have to have the money other than that \$39,000 to front the project, because they're going to get paid back over a period of ten years or whatever the payment schedule is.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I bring that up is a lot of times communities aren't aware of that. And perhaps, if the community has looked at this I apologize for bringing it up again, but if maybe the County staff could help them look at what the cost would be per household if they did enter into an assessment district for such a project. And that might be another avenue to go through besides seeking other funds. Thank you.

CHAIRMAN ANAYA: Okay. And I know Commissioner Vigil brought up that we have a lot of County roads, over 500 miles of County roads and I know that some of those roads – a lot of those roads aren't up to County standards. So I'm merely asking to support this group of individuals. They're here for help and in the past we have accepted roads that weren't up to County standards. So with that, I would like to make a motion to accept this for County maintenance, and then it would make it easier for us to go to the legislature, it would be a County road now, and put this on our road maintenance plan. That's my motion. Is there a second? Motion fails. This item is – maybe we can, Robert, you can get with them to talk about how we can do one of those assessment districts or help them lobbying. I know I'm always over there helping, talking to representatives and senators to see how we can get more funding. Okay.

COMMISSIONER VIGIL: Mr. Chair, I just need to know, Robert, and if you don't have a listing of that, I am not aware of any road that we've ever accepted that is not up to County standards.

CHAIRMAN ANAYA: Calle Victoriano.

MR. R. MARTINEZ: Mr. Chair, Commissioner Vigil, there's been a couple but – the most recent one was Paseo de Angel because of the low water or the arroyo that runs through the beginning of that subdivision. It was a health and safety

issue. But the last two roads that came in for acceptance that did not meet County standards, the Board did not accept.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I just want to add, Robert, if you could get to them also to give them, as Commissioner Stefanics had requested, because I think that direction would be very helpful in terms of gauging how far they need to go before they come back here.

MR. R. MARTINEZ: Mr. Chair, Commissioner Montoya, we will do that.

CHAIRMAN ANAYA: Do you want to comment? Come forward.

ANNETTE BRUMLEY: Thank you, Mr. Chair. My name is Annette Brumley. I'm a resident of Serenity Lane as well, and we are off Sunrise Road. My understanding is in fiscal year 07 and 08 funds were appropriated through the legislature for the renovation of Sunrise Road, approximately \$236,000 is what I was assuming. I'm not sure. I don't remember the exact amounts. Rhonda King was the one who I talked to, as well as Jeanette Wallace. They indicated that there was revenue set aside by the legislature for that subdivision. They also indicated that there was a match per match capability. There was like \$75,000 available, that the County had that and that the state legislature would match that as well. My only question is is there such appropriations there that are not found or known of, and I would like to have further investigation down as to the budget of those allocations and where that money went if so. Because I understood from them that this was an appropriation made.

CHAIRMAN ANAYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I'm not sure whether, Roman, whether or not it would be appropriate to ask our Rudy Garcia to check into this, to identify what has been appropriated in those past years, and I don't know if there's a different staff person who would be more relevant to do that.

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, we'll do that research and provide that information to the residents also.

MR. R. MARTINEZ: Mr. Chair, Commissioner, I can respond to that. In the subdivision that's just to the west of it that I mentioned earlier, the Mayfield Subdivision, Gilbert Vigil had been lobbying for money. Now, there's two lots that are inclusive of the Mayfield Subdivision that are on Sunrise Road. The appropriation that the lady is talking about was an appropriation for the Cerro de Alamo Subdivision that a portion was just paved last year. So the funding that she's talking about is for the Cerro de Alamos Road, which is the Mayfield Subdivision. And like I said, the Mayfield Subdivision has two lots that are on Sunrise Road. So that funding was expended because it was specifically for the Mayfield Subdivision.

COMMISSIONER STEFANICS: Thank you.

CHAIRMAN ANAYA: Okay. Thank you all very much.

X. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN ANAYA: Commissioner Stefanics, Matters from the Commission.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. First of all, I'd like to acknowledge the new liaison for Commissioner Holian and I, Julia Valdez, who's made it through four months here at the County, and she had a birthday this past Friday, and I'd like to congratulate her on her birthday. Thank you.

I do have a couple other items.

CHAIRMAN ANAYA: Are you going to sing her Happy Birthday?

COMMISSIONER STEFANICS: I have a pretty flat voice. I'm sure we have some other guitar-playing, singing members here.

CHAIRMAN ANAYA: Only when they reach 100 do I sing.

COMMISSIONER STEFANICS: Maybe we could have Julia sing. But thank you, Julia, for all your work here at the County and I hope you stay around for a while.

Today, or this past week, Dr. Eric Kraska from the St. Vincent's emergency room called me about two different matters. One is that the number of drunks that are being picked up and taken to the emergency room are really creating a bottleneck. And that if people have real emergency they're going to be sitting there for six or ten hours waiting for these individuals to detox. He's been in some meetings with Annabelle regarding whether or not these individuals would be taken to jail. She's indicated that it's inappropriate to take them to jail. If the individuals don't want to go to the sobering center they can't be forced to go to the sobering center. They've asked for an Attorney General's opinion about all of this. The Attorney General doesn't want to get involved in it.

So it really comes back to the County to look at whether or not we could work something out with the emergency room, with the police, with the Sheriff and the drunks and the jail and the sobering center. So we don't want people hurting themselves but Dr. Kraska indicated that many of the people that do come in are repeats and this is a lifestyle and it's not about hurting themselves at this point, except long term. So he just brought it to our attention that there is a problem at the hospital.

The second issue he did bring up is he's in the group, the practice group that is providing our medical services at the jail, and there's not a current contract with the jail for medical services. And they were approached with an addendum that was for the next five years. And he did not think that was appropriate. So I think we have to look into that one as well.

On another matter, I wanted to let you know that one of my constituents wrote and wanted to make sure that we complimented our GIS staff for being so helpful and providing maps and the information that they needed when they were doing some work in Rancho Viejo. So I wanted to make sure that our GIS staff are thanked, and then I guess I just wanted to publicly indicate that I still do have two townhall meetings that are left. One on May 27th in Eldorado and one on June 1st here in the County Commission Chambers. Many staff, the managers of the County are attending and alerting the constituents, not only District 5 but any place in the county, what is going on here at the County. And I think that they truly appreciate that and I'd like to thank the staff for that and just remind the public that there's still two more meetings. Thank you.

COMMISSIONER MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Vice Chair. I would like to bring the members of the Commission up to date on where we are with House Bill 572 and Senate Bill 647. Those are the two bills that were passed in the last legislature that had to do with renewable energy financing. Duncan and I have been attending numerous meetings about these two bills. We've met with Representative Egolf and Senator Wirth. We've also met with the renewable energy installer community, as well as with City representatives too, because they would like to implement an ordinance.

As you may know, these bills do not automatically happen. They have to be put in place county by county with an ordinance. So in any event, Duncan Sill is working on putting together a study session with Peter Franklin who is going to be talking to us about the bonding issues. It looks like it's fairly straightforward to draft the ordinances that we need to put these in place, but what is a little bit more difficult is how we actually get the money to implement them. Whether it comes from private sources or from bonding sources, and I think that Peter Franklin can be very helpful telling us what kind of resources we actually have available to us. But in this particular climate right now the whole bond market is all turned upside down and so the rules that we have been counting on in the last years, they're all upside down. So we'll have to see how that goes.

In any event, I think that that, as you know, the Energy Task Force has been created through the Regional Planning Authority and this whole issue of funding is probably that they will tackle immediately because it's a fairly complex issue. And also, I just wanted to bring to your attention that there are two initiatives at the federal level that could really help with the funding for this. One is that the federal government, there is legislation in front of them looking at whether the federal government could underwrite bonds for energy-related projects. And if they did that, if they underwrote the bonds, that means that the interest rates would be lower and it would be far more salable to the general public.

And the second thing is right now the bonding for something like this would be regular taxable bonds; the interest would be taxable. But another initiative in front of the federal government is to allow tax-exempt bonding, just like our regular muni bonds for these renewable energy projects. So that would be huge too, if that occurred. In any event. I've been getting lots of calls and emails and you may well have too, by your constituents interested in these programs. So what I would like to recommend is that we put something on our website as to what the County is doing. Right now we could actually put something on the website about what the bills actually say, what we would have to do to implement in the county, and where we are as far as actually getting them implemented. And so I would like to make that suggestion. And Duncan Sill can get the information that we put on the website. Thank you.

COMMISSIONER MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. I'd really like to thank Commissioner Holian for taking a strong leadership role on this. There's so much we can do at this point in time. Just a couple of things. I want to announce that I just came from the Siler Road groundbreaking ceremonies. The Mayor was there. Highway Commissioner and State Representative Trujillo and DOT staff, it's a pretty exciting project, because it's the first visible project that shows the efforts of both the state

department, local government, both City and County, to build bridges, which is actually what they're going to be doing on this Siler Road extension.

The timelines for the Siler Road extension, which are really critical to river crossings because the only river crossing we've had there is Camino Real, and that has not been designed for a river crossing. It looks like by November we will have the Siler Road river crossing. I'm looking forward to that happening.

The other announcement I want to make is this coming Thursday at 5:30 at San Ysidro, a traditional historic village event will be taking place and that's after Father Preto recites mass at San Ysidro Church, and this is the old church, there will be a procession to the river and the river blessing will occur. This is an annual event that had a resurgence about four years ago and everyone's invited to that. The mass will begin at 5:30, and the procession, and the blessing of the river will occur after that.

I also want to mention to the Commission that I was at the last City Council meeting in between our last meeting and today's meeting, and proposed to City Councilors that they consider doing a joint affordable housing project in this particular time when resources are scarce and we're both dealing with our budgets. Probably the greatest effort we can move forward with on affordable housing to create a huge benefit to our community is to join forces. I am proposing a resolution that allows staff to look into the feasibility of that and it should be at an upcoming BCC meeting. And that is all I have to report, Mr. Vice Chair.

COMMISSIONER MONTROYA: Okay. Thank you. I just had a couple of items. I also was at a groundbreaking this morning for the new construction that's going to be happening on 84/285 in Arroyo Seco between Arroyo Seco and Espanola. We had a good turnout there as well, the Governor and former Governor Anaya was there. This is about a \$12 million project that they're going to be implementing as part of the beginning of the stimulus package funds that are coming to New Mexico. So this was the inaugural kickoff for that.

We are closing on the Nambe property this week, so I just wanted to alert the Commission that we will be coming forward with some other projects in the future that will relate to this property that would include a possible park, possible tennis court, basketball court, walking track, so improvements that will be made to this that we have approximately \$427,000 or so to put into that project. So I'd like to see that expedited once we close on this. We've been waiting for about a year for that to happen, so it's finally happening this week.

And then, Roman, if we could – I ran into the individual who does the Santa Clara Development Corporation. We need to enter into an agreement with them, I believe, or begin the discussions of the MOA for the wastewater project. He was waiting to hear back from us on those negotiations and discussions. So if we could get that part going.

And the on the courthouse, I have been out of state for a couple days and came back and kind of caught up via the newspapers, what was going on. He said, she said, and if we had done this, but we did this, and if we had a done that, but we did that. Well, if ifs and buts were candy and nuts we'd all have a merry Christmas. So I'd really like to find out what's the status as of today in terms of where we're at.

MR. ABEYTA: Mr. Chair, currently Intera is doing their investigation that they talked about at our update last week. We would expect that they would have

preliminary results for us by the end of the month, the May 26th meeting. Whatever results or information we have we will share with the Environment Department. We have submitted an application to participate in their Voluntary Remediation Program with the Environment Department. So right now it's a lot of fact-finding and information that they're gathering about the extent of the contamination.

Like I said, we'll have a report at the end of the month, and then once we have an idea of the extent of it then they will develop a remediation plan for us, a work plan, that we will share with the Board and then get direction to proceed.

As far as the construction itself, all that's happening on the site is leveling of the western edge of the property which is the non-contaminated edge of the property, but we expect that work to conclude within the next week or two, and then just depending on how much information we have we would talk to the Commission about what next steps to take with the contractor and the project manager.

COMMISSIONER MONTOYA: Okay.

MR. ABEYTA: But I would expect, like I said, a preliminary report at the least on May 26th.

COMMISSIONER MONTOYA: And how are the discussions going with NMED?

MR. ABEYTA: We think they're going fine. I met with Secretary Curry myself about two weeks ago now, maybe a week and a half and let him know that we were going to participate in this VRP application and as we get information we're going to share it with him and whatever direction they give us we're going to follow.

COMMISSIONER MONTOYA: Okay. And then I think it's important who watch these know that we are doing due diligence in terms of what our responsibilities are, and that we're working with NMED, and things I think are going about as well as can be expected with these types of unexpected challenges that come up. So I really commend the staff for the work that they're doing to make sure we're do what we need to do.

The other last issue that I had was in terms of assessments. I'm starting to get phone calls again about people's valuations and properties being assessed at higher levels. Is there a limitation that we have authority over in terms of approval, or any sort of authorization that goes through us before these valuations go out? Because I know we approve – what is it we approve? The projected valuations on an annual basis?

MR. ROSS: Mr. Chair, we don't have – we, being the Board of County Commissioners, doesn't have any role in the assessment process of real property. What we do approve is the budget that comes back from DFA and then the amount of money necessary to collect from taxpayers to meet that budget. We do all that stuff in August and September. But we, being the Board of County Commissioners, don't have a role in the assessment and valuation of properties.

Now, there is a limitation. It's a three percent annual limitation on escalation of residential real property value.

COMMISSIONER MONTOYA: That was the most recent complaint that I received. The individual's property had been from 2005 to 2008 steady, and then is going up three percent at a time when we're in an economic recession and prices of houses and homes are falling, decreasing in value. So how can we increase a property tax

when there's a decrease in the value of the actual property, is the question that I have. I guess we can't do anything about it.

MR. ROSS: Mr. Chair, we assist the Assessor with a lot of those cases in my office. The situation you describe typically arises when somebody has owned property for five or ten years and it escalated in value rather sharply over that period, while the appraised value, as far as the Assessor is concerned was limited to three percent per year. So even though the property may have peaked in value and now is coming down, the Assessor is still trying to catch up. That's generally what the issue is.

What I would suggest for anyone in that situation though is to go sit down and talk to the people in the Assessor's office and find out what's going on and talk to them about it. They're pretty responsive down there.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER STEFANICS: Mr. Chair, on this point.

CHAIRMAN ANAYA: Go ahead.

COMMISSIONER STEFANICS: Could we invite the County Assessor to come to the meeting and actually do a little presentation so it is put on the record about what is happening? Because I think to expect every person who's complaining to come in – now I know we only have so many days to appeal the valuation, and if we wait for two weeks they're going to miss the appeal period. So I don't know whether or not we could invite someone from their office to come under Matters from the Staff.

MR. ABEYTA: Mr. Chair, we'll see if we can get somebody to come and address the Commission.

COMMISSIONER STEFANICS: And on your prior point, Commissioner Montoya, are we going to discuss the County courthouse later in the meeting as well, or not?

MR. ABEYTA: No, that was the update I had.

COMMISSIONER STEFANICS: Okay, well, because I do have a couple questions but I can wait till you're finished, Commissioner Montoya.

COMMISSIONER MONTOYA: I'm done.

COMMISSIONER STEFANICS: Mr. Chair, the County Manager just left, so Mr. Ross, maybe you can answer us. At the meeting, the public meeting that we had, Intera indicated that they couldn't turn in a plan until August and it would be up to the Environment Department to determine whether or not to accept that plan. But they thought it would take that long to get a plan into Environment, was August. Did I hear this incorrectly?

MR. ROSS: Mr. Chair, Commissioner Stefanics, I believe what I heard was, and what I understand to be correct was that the work plan is going to be submitted at the end of this month, but actual remediation, in other words doing something about the problem couldn't probably realistically begin until September 1st.

COMMISSIONER STEFANICS: Okay, so my question, Mr. Chair and Roman or Steve is if, once the property is leveled, what's going to happen with that property from now until remediation time? Does it just sit?

MR. ROSS: Mr. Chair, Commissioner Stefanics, yes. We'll have to protect the property, obviously, but there's really nothing that can be done in the way of construction until the problem that's there is accurately identified, scoped out, planned

for, all that stuff. And then that might be a couple months from now, after the work plan is submitted. It's hard to know when we'll know things that we need to make decisions. Worst-case scenario the property could remain in its current state until September 1st.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm asking these questions is I believe that's what the public is wanting to know is what happens next? So what we're really hearing is that it's a waiting game until August or September, and then in August or September we might know something more? Am I misspeaking here?

MR. ROSS: Well, Mr. Chair, Commissioner Stefanics, I think we may know a lot more in the next couple months, and maybe even be able to make some decisions in the next few months. But until they gather the necessary information and sit down with ED and make a mutual plan for addressing the contamination both on our site and offsite. We have a pretty good idea of how to address the contamination on our site. But it's the offsite contamination that's the big unknown at this point. Once we can figure out what the extent of the contamination is then we can start making plans and figuring out what comes next. I think what the consultants were thinking is that whole process would be done and we would start working on addressing the contamination around September 1st, but it could be earlier. It could be later.

COMMISSIONER STEFANICS: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner Stefanics. And Commissioner, we're still on Matters from the Commission.

COMMISSIONER MONTOYA: You have the floor.

CHAIRMAN ANAYA: Just one item and that is – I know that Canyon Ranch was tabled, and they're probably going to come before us next month. One of the issues that has been brought up that I'm aware of is the water line that has been extended down Paseo C de Baca needs to loop around and tie into other residences that are there, and that's a big concern with them. They're concerned about this water system has been in the making for a long time and the concern is they need to get water before Canyon Ranch does. So if we could start working on that loop system to those residents that live up there that would definitely help. That's all I have.

XI. Appointments/Reappointments/Resignations

A. Appointment of Jody Larson to the 2010 Census Complete Count Committee (Commissioner Holian)

COMMISSIONER HOLIAN: Mr. Chair, I don't have anything on my packet, other than what's on the agenda but in any event I would like to say that I know Jody Larson. She was most recently president of the League of Women Voters and I think that she will be an excellent addition to the 2010 Census Committee. So I would like to move for approval of her appointment to that committee.

COMMISSIONER STEFANICS: I second.

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

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

XIII. STAFF AND ELECTED OFFICIALS' ITEMS

MR. ABEYTA: Mr. Chair, before we go to B, we have the County Assessor has joined us if you want to give him a few minutes to address Commissioner Montoya and Commissioner Stefanics's questions regarding the recent notice of valuations that just went out.

CHAIRMAN ANAYA: Okay. Go ahead and come up. What was the question? I wasn't here.

COMMISSIONER MONTOYA: The question is I have a most recent constituent that's concerned that his valuation is going up three percent at this point in time when there's a recession. Prices of homes are actually going down instead of up. His reappraisal that he did had it flat, at the same level as when he originally purchased it, and he's wondering why he's getting a valuation. And then I guess my next question would be, how many more of these can I expect to get phone calls on?

DOMINGO MARTINEZ (County Assessor): Mr. Chair, Commissioner Montoya, the question as to how many people are going to contact you, we've had quite a few people come into the office concerned that their valuation has gone up when they believe that the economy has gone down, and the newspapers in New York and in Los Angeles are indicating that property values are going down. Now, I can't answer for Los Angeles and New York; they probably are going down, but in Santa Fe County, the great majority of properties have not gone down. There are pockets in Santa Fe County where the value of residential property has come down, but only small pockets. And we have those pockets identified and some of those values have come down but the majority of properties in Santa Fe County either stayed the same or they went up slightly.

Now, you've got to understand the property tax code and the system and the way it works. If you know, ten years ago there was a law passed by the Speaker that only allowed values to go up three percent for the past nine or ten years. Because of that, even though values have been climbing ten percent per year since 2001 to about 2007 the values have stayed only six percent every two years if they were reappraised at all by this County. Now, there's a lot of residential property, especially in the outlying areas and in the northern part of Santa Fe County that were never reappraised. So a lot of those properties, their value, according to the Assessor's records, is very low. They don't even come close to market value.

So there's a lot of residential homes in your district, Commissioner, that did receive a three percent increase because their value is way below what the market indicates it should be at.

COMMISSIONER MONTOYA: Okay, so any estimate on how many?

MR. D. MARTINEZ: No. All we know is that there's –

VICTOR BACA (Deputy County Assessor): 50,000 residential properties. Mr. Chair, Commissioners, 50,000 properties, our new CAMA system indicates that were raised the three percent. Of those –

COMMISSIONER MONTOYA: Countywide?

MR. BACA: Countywide, approximately 50,000. And they all – we did what we call modeling, which is we looked at all the sales and that’s how we determined – first of all we had to determine whether they were over-market or not. And for that we did an analysis of each neighborhood in Santa Fe County. We did that prior to doing the three percent on each property. What we determined is that most of the properties were way under market value and therefore were eligible for the three percent increase. And those properties were approximately 50,000 in the various districts of all of Santa Fe County. Most of those properties did not receive a three percent increase in years as required by the Code. Now, property tax come in and say, well, how come you guys haven’t done anything about it? Well, we haven’t had the resources to do it until now. We just got the CAMA system. We’re just getting, hopefully, the extra people that we need to bring the values to where the law says we should have them.

So what you – in your district the properties hadn’t gone up in 14 years and there was articles in the newspaper before we came in relative to this. In the northern part the values hadn’t gone up nothing. Not three percent, not two percent. Nothing. They remained the same for 14 years.

COMMISSIONER MONTOYA: And the situation with those ones is then they went up like 1000 percent.

MR. BACA: Well, they went up but they only went up – it was vacant land. It wasn’t the structures; it was vacant land.

COMMISSIONER MONTOYA: Yes, it was vacant land.

MR. BACA: Yes, it was mostly vacant land.

COMMISSIONER MONTOYA: People were paying \$100 and now they’re paying \$1200 or \$1300.

MR. BACA: And a lot of those, they got a reduction after they applied for their irrigation status and that kind of stuff, because that’s in the law where they’re allowed that. So we’ve been trying to bring those up but it’s not because we want to do it. The law says we got to do it or Domingo gets suspended from office and so will I, probably.

COMMISSIONER MONTOYA: The law says up to three percent. It doesn’t say three percent, right?

MR. D. MARTINEZ: We’ve looked at the statute with attorneys. It basically says we cannot raise them more than three percent.

COMMISSIONER MONTOYA: Right.

MR. D. MARTINEZ: I know that the Speaker said that his intention, when he passed the law was anywhere between zero and three. Our attorneys indicate to us we don’t have the discretion. It’s got to be no more than three percent.

COMMISSIONER MONTOYA: Is that right, Steve? That’s our interpretation?

MR. ROSS: Mr. Chair, yes, that’s correct. No more than three percent.

COMMISSIONER MONTOYA: So there’s no flexibility there between zero and three?

MR. ROSS: There is flexibility.

MR. D. MARTINEZ: Only if the market is less than three percent. If the increase from the valuation we sent last year, if the market, after we do an analysis, if the

market indicates that it went up less than three percent, we can only go up that amount. And there's a lot of properties that got that. But the fact of the matter is, if the market is way up here, we can't increase it more than three percent. But if the market is below three percent, we have to put it at that. It's got to first go to current and correct. And then if current and correct is way above the three percent, we can only go up three percent.

COMMISSIONER MONTOYA: Up to three percent. If it exceeds it. Yes, I understand that. So just clarify for me again. I thought I heard you say that we don't have any flexibility between zero and three.

MR. D. MARTINEZ: Right. Once the current and correct is above the three percent –

COMMISSIONER MONTOYA: Okay. Above the three percent.

MR. D. MARTINEZ: If the market is below the three percent then we have that discretion within the three.

COMMISSIONER MONTOYA: Okay.

MR. D. MARTINEZ: You do have some property that received that less than three percent. Some got a reduction in value. But very few pockets of Santa Fe County. And to tell you the truth, what happens, for many years the northern part didn't get reappraised but the rest of the City of Santa Fe specifically got increased three percent every two years by my predecessor. What's happening, those people are carrying the taxes for the north. If the north isn't paying enough because their values are low, that means the rest of the value that is correctly placed on mostly Santa Fe, the City of Santa Fe, because they're carrying the property tax and paying taxes at a higher rate than those in the north.

COMMISSIONER MONTOYA: My constituent won't agree with you, but –

MR. D. MARTINEZ: I agree. I agree they won't agree with me. And Commissioners, to finalize, I've been asking for at least two years now to have a meeting with all of you. It would probably take about an hour and a half. We've got a presentation that we can propose to you to better educate you on how the property tax system works, so that you can get out there with your constituents and talk to them a little bit more knowledgeably about it because property tax code is tough to understand. It's taken me many years to understand and I still don't know it completely.

CHAIRMAN ANAYA: Domingo, I was recently in Dona Ana County talking to Gary Perez. And he put a flyer together that he could hand the public out. Do you have something like that?

MR. D. MARTINEZ: No, not yet. As a matter of fact, the assessors' affiliate is looking to put some money together and we're going to probably put some money from our budget to mass produce those and customize it so it will fit the entire state, so that we'll have those available but we haven't gotten to that point yet.

CHAIRMAN ANAYA: Okay. Commissioner Stefanics, then Commissioner Vigil.

COMMISSIONER STEFANICS: Mr. Chair, you brought up something that I was getting to is we need something for the public, and it's not just about us understanding. There are hundreds of people – thousands of people out there who really need something simple to understand. So I'm hoping that the newspapers will spend

some time with you so they can write about it. Perhaps we could get you onto KSWV and KSFR and wherever else to talk about this a little bit, because people do not understand. And we need to let them know that we are not raising their taxes arbitrarily, that there is a stepping stone here, that we're following the law. And that some people, even if they're getting the three percent increase, there are a few people who are getting less than three percent or zero percent. So that everybody understands.

But I think that this whole issue is – it's not just about phone calls coming to us and us explaining because for every phone call we get there's a hundred phone calls that we don't get that are still sitting at home going what happened her?

MR. D. MARTINEZ: Right.

COMMISSIONER STEFANICS: Now, Mr. Chair and Domingo, everybody has only a certain period of time in which to appeal. Is that correct?

MR. D. MARTINEZ: That's correct. Thirty days.

COMMISSIONER STEFANICS: Thirty days. So everything has been mailed out now?

MR. D. MARTINEZ: April 29th was the mailing date.

COMMISSIONER STEFANICS: So by the end of May –

MR. D. MARTINEZ: May 29th.

COMMISSIONER STEFANICS: May 29th, appeal period if over with.

MR. D. MARTINEZ: Right.

COMMISSIONER STEFANICS: So really the public needs to get the information before May 29th so they can see, oh, I just fell into that reappraisal and that three percent, or there's something really different here that I want to appeal.

MR. D. MARTINEZ: That's correct.

COMMISSIONER STEFANICS: And so I'm bringing this up in a very belabored point so that our listeners today can hear it but maybe we can take some proactive steps. Do you want to be on the radio?

MR. D. MARTINEZ: We have been on radio. We haven't been on radio this year because of the computer system and everything else. But we've been on radio – I think the last two years. We've been in the newspaper quite a bit. Phaedra has helped us get the information out very well. So has the Albuquerque *Journal*. We need to do a little bit more. That's why we've been developing this handout and we'll before – Jody Larson, I think you just entertained – she used to be the chair of the League of Women Voters. We've asked her to maybe underwrite a meeting where we can put this on. She hasn't totally agreed, but she's listening to us. So we're looking to put this thing on to other people. We're still developing it on top of everything else that we're doing. We're looking at that one page from Gary Perez to have that and you all also put in I think it was \$10,000 or \$15,000 into my budget for next year to develop something for Santa Fe County to do something like that.

So we're looking at all the avenues and trying to get the information out. It's just a matter of doing everything all at once. And we're getting there.

COMMISSIONER STEFANICS: Mr. Chair and Roman, do you think we can have Stephen Ulibarri assist the Assessor with some of this outreach?

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, yes, we can.

COMMISSIONER STEFANICS: Thank you.

CHAIRMAN ANAYA: Domingo, we received our tax – it wasn't a bill. It was the – what do you call it? Valuation, in the mail. If somebody has an issue with it, what is their first step? They just come to see you?

MR. D. MARTINEZ: The first step is, within 30 days, May 29th, they need to come in and talk with us if they still disagree with the value we put on it. They need to file a protest form. Then they need to give us all the information that we need. We'll give them all the information that the need under discovery. We'll go to an informal hearing with the appraiser and the taxpayer. We'll look at it. We'll come to a conclusion. Then it might require us to adjust the figures and that's it. If we don't agree to it then they go to a formal hearing which is chaired by two residents of Santa Fe, plus the Property Tax Division, and then they will hear the case, and a third party that's on the board, they will hear the case. We'll put on our side, the taxpayer his or hers, and then the decision will be made by the protest board.

CHAIRMAN ANAYA: So the first step would be to come to your office so you can sit down with an appraiser to go over it and then they can take it from there.

MR. D. MARTINEZ: Absolutely. That's correct.

CHAIRMAN ANAYA: Okay. Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Domingo, what causes a house to be completely reassessed? To not fall under the three percent rule anymore. I've heard from some of my constituents that suddenly they had a massive step-up in their assessed value.

MR. D. MARTINEZ: Well, the property tax code basically says that we've got to reappraise every year. And the first thing that we do, there's a law on the books that says that whenever a residence is bought or sold that we must receive the affidavit giving us the information as to what the price was traded for that home. We, because of the new CAMA system, we are able to put all that information into the CAMA system. We use statistical analysis and we go ahead and we look at what values are in that neighborhood, and that's where the value is increased. But once we figure out what the current and correct value is of that home, then we can only go up three percent if the home was not bought or sold during that time.

COMMISSIONER HOLIAN: What about if somebody does remodeling on their house?

MR. D. MARTINEZ: If it's remodeled, then we have to go out and look at the remodeled section. That part will go up to market. It's not capped at three percent. That part of the home that's remodeled goes up to market.

COMMISSIONER HOLIAN: So it's just the part that's remodeled, not the entire home.

MR. D. MARTINEZ: That's correct.

CHAIRMAN ANAYA: Thank you, Domingo. Victor. Our County Treasurer.

VICTOR MONTROYA (County Treasurer): Mr. Chair, Commissioners, I just wanted to briefly tell you that in this process of protesting, so far this year we've already processed close to 1400 corrected bills, submitted bills and we still have about another 500 or 600 to go. And this has been probably the busiest year that we've ever had in terms of people filing protests. Right now I am pressed. Our staff – I only have one

person that really works on this and if this continues year after year I may have to come back and ask for more assistance. That's all I wanted to say, Commissioners. Thank you.

CHAIRMAN ANAYA: So Victor, when they file a protest and they go to the hearing, then what? They go to see you? How do you get involved?

MR. MONTOYA: Actually, the file the protest with the Assessor, and if it goes to a hearing and the hearing officer or the protest board sides with the taxpayer, then it creates a revised valuation, or a reduction in valuation, and then they have to process some paperwork. It goes to me for recalculation and a new bill, basically, to the taxpayer.

CHAIRMAN ANAYA: Okay. So you need more help.

MR. MONTOYA: And in addition to that, okay, if they don't want to file – if they haven't filed a timely protest, they can file in district court. And so if I get a court settlement out of it, it then goes either to Legal or to the Assessor, and then again, I get a new piece of paper that tells me: re-evaluate the property and send out a new tax bill. Or give a refund.

CHAIRMAN ANAYA: So Domingo is making more work for you.

MR. MONTOYA: Yes.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: This is for you, Victor, and I'm hearing sort of underscoring that you're concerned about the ability to staff some additional responsibilities. We are also hearing an ordinance that transfers authority from the County Clerk to the County Treasurer and I believe this is specifically for business licenses. Is that something you're aware of?

MR. MONTOYA: Yes, I am aware of that and I don't really have a problem with that at all. In fact, I even asked the Clerk if they wanted to give it to me. The problem is that to do this it creates more of a one-stop shop. Instead of going out to the Clerk and then coming to me and then back to the Clerk, it eliminates some of that. And there isn't that many licenses that we get, business licenses, and I wind up collecting for all of them anyway. So this just streamlines it a little better.

COMMISSIONER VIGIL: Okay. And the concern that I have is there's always been a dearth of information as to how many people qualify for a business license that actually are not complying with a requirement that they come to the County. So if that volume increases are you still going to be okay with this?

MR. MONTOYA: Well, right now, the Land Use Department I guess has to go out and do the interview and I think also the Fire Department has to make sure that there's adequate parking and I guess fire prevention methods at the business whenever it locates. So that part is going to stay where it's at. I'm just collecting – probably mailing the license, issuing the license, and collecting the fee. And then if they're delinquent I would process a delinquent notice.

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

COMMISSIONER MONTOYA: Mr. Chair, a question for Domingo. On the number of assessments that have been already gone through the process of the 1400 that Victor mentioned, what was the result of those in terms of those that were overturned or those that were upheld?

MR. D. MARTINEZ: What Victor is talking about here is last year's value. They're the 08 values and the 08 request for a refund. In other words, there's two

ways you can protest your values. One is doing the Notice of Value, and if you miss that, then you wait until your tax bill has gone out. Then when your bill has gone out you can do a Claim for Refund – 90 days. Thirty days after the bill goes out by the Treasurer, they have 30 days to go to district court and then file in district court, request for a refund, asking us to review our valuation. In other words, a taxpayer can never protest tax; they can only protest valuation. So they get a chance at the Notice of Value stage and then at the tax stage.

What Victor is talking about here, all the protests that we didn't hear because Taxation & Revenue could not get their person here to have the protest hearing, so the tax bill went out before we were able to do that. So there was a lot of protests that we had to adjust through a manual process, and that's where he got inundated with that, plus we had the big protest with Rancho Viejo and some of the other subdivisions that had a lot of property within it and we had some adjustments so we got inundated with a lot of those this year.

COMMISSIONER MONTOYA: So out of those 1400, how many were upheld and how many were overturned, of the ones that have already been heard by the protest board.

MR. D. MARTINEZ: If you take Rancho Viejo and the big subdivisions, I would say – I could only give you a percentage of that – maybe 30 percent were given in favor of the taxpayer. About 40 to 30 percent were given in favor of the taxpayer.

COMMISSIONER MONTOYA: So let's take a 35 percent figure then. Out of that, let's say, whatever 35 percent of 1400 is – where's Rainman? – let's say 1000. And they decide that they're going to appeal, then we're still going to district court on these cases, right?

MR. D. MARTINEZ: In some cases, yes.

COMMISSIONER MONTOYA: It doesn't end with the protest board necessarily.

MR. D. MARTINEZ: They can only protest one way, either at the Notice of Value, and if they don't protest there, then they can do the request for refund, but they can't do both.

COMMISSIONER MONTOYA: Okay. So how many of these are going to district court, out of that?

MR. BACA: I think this year we had 48 that went direct to the district court, but within those 48, one subdivision had almost 500 lots, in the Rancho Viejo, so you're talking an account number for each one of those lots. So what Victor is talking about here is he had to do a bill adjustment for all 500 lots, plus all the other ones where the protest board said reduce them or leave them the same, the ones they leave the same he doesn't have to do nothing, but we still have to – if it's a lower value or a higher value, Victor has to make the – we have to make the adjustment at our level and then Victor has to make it on the bill, on the tax side.

COMMISSIONER MONTOYA: So let's say then that I get mine, I protest. I can either go to the protest board or to district court.

MR. D. MARTINEZ: That's correct.

COMMISSIONER MONTOYA: But not both.

MR. D. MARTINEZ: Not both. And district court costs you money.

COMMISSIONER MONTOYA: Right. And it costs us money too in the County end.

MR. D. MARTINEZ: Absolutely.

COMMISSIONER MONTOYA: That's the other thing, it costs us. And we're saying about 48 of those have gone to district court?

MR. D. MARTINEZ: Yes. Forty-eight cases.

COMMISSIONER MONTOYA: And kind of what I'm trying to bring up here is these aren't just costs that are costing – they're taking attorney costs, staff time and if we're having that many. And then 35 percent, so then about 65 percent of the people are walking away with higher tax bills, because of the protest board's decision.

MR. D. MARTINEZ: I would say 65 percent, if the number is right, what you're saying, is they walk away with a higher value, which basically says their tax rate is going to be the same but their tax liability is going to be higher, yes.

COMMISSIONER MONTOYA: Yes, so their tax bill is higher. Okay. Because that's the other concern that I've heard is that they don't feel that they're getting a fair hearing when they go to the protest board, so they feel like, go to district court, pay for it over there, go to protest board and pay for it over there. Either way they're paying.

MR. D. MARTINEZ: And we feel both ways, Commissioner. We have right now nine appeals. We appeal some of the decisions that the protest board made. We believe that we were correct and they sided with the taxpayer. So we appealed nine of those decisions, and we're filing the writs and those kinds of things at this point in time.

COMMISSIONER MONTOYA: So we're appealing decisions that the protest board makes also.

MR. D. MARTINEZ: Yes.

COMMISSIONER MONTOYA: And then we're probably appealing decisions that are made in district court as well?

MR. D. MARTINEZ: No. We haven't reached that point. And we might, but we have not reached that point yet.

COMMISSIONER MONTOYA: Okay. All right, Mr. Chair. That's all I have. Thank you.

MR. D. MARTINEZ: Thank you.

XIII. B. Community Services Department

1. Update on the Affordable Housing Plan (Housing Services Division)

DODI SALAZAR (Housing Division Director): Mr. Chair, Commissioners, good afternoon. At our Housing Authority Board in April you asked for an update on the preparation and resubmittal of the affordable housing plan to the New Mexico Mortgage Finance Authority and I'm here to do that today. Just to give you a little bit of background, any time a governmental entity wants to implement a housing program that involves the donation of land, money, including grants and loans, we are required to prepare an affordable housing plan. This plan is submitted to the New Mexico Finance Authority who will review and when satisfied with the plan will give us approval

and authority to move forward with the program and the related ordinance stipulated in the plan.

In March we prepared and submitted an affordable housing plan to the Mortgage Finance Authority. Shortly thereafter, the affordable housing administrator met with MFA staff to review the plan. The plan was rejected because MFA wanted more data on the need in the community, information on the specific programs that we would provide and implement, and other funding sources that we would tap into to make these programs workable. The affordable housing administrator has been working on amending the plan to include the items that MFA has requested, and we'll be meeting again with MFA staff next week, who have volunteered to assist us with the amendments.

With their assistance we're confident that we'll be able to get the plan resubmitted within the next few weeks. And just to let you know, some of the proposed programs that we're looking into including in the plan is down payment assistance, developer subsidy – and this is something that we've all been talking about for a while, and also a rehab program. We have met with Los Amigos, and Mr. Roybal has indicated that he is very interested in working with Santa Fe County on a rehab program. So these are all programs that after reviewing our affordable housing needs assessment that was done last year, these were the programs that we thought were really important to move forward with.

And I stand for any questions.

CHAIRMAN ANAYA: Thank you, Dodi. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Thank you, Dodi, for coming. Once we present the plan to the Mortgage Finance Authority, they are required to present to us a letter, either indicating acceptance and approval or indicating rejection and the reasons why. Have we received such a letter, Dodi?

MS. SALAZAR: Mr. Chair, Commissioner Stefanics, we have not received a rejection letter. This was all done at the meeting with the affordable housing administrator. They did not give us a letter but they did give us an analysis of the plan that we submitted, telling us where they felt it was weak, and how we needed to improve the plan.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm bringing this up is number one, they have done this – a staff person has done this to some other local government entities and held them up. And it's inappropriate. And we have the ability to make decisions about how our money should be spent. We never had in the original plan to do down payment assistance, did we?

MS. SALAZAR: Mr. Chair, Commissioner Stefanics, we did not.

COMMISSIONER STEFANICS: Did we have anything in our plan to do weatherization, Mr. Chair, Dodi?

MS. SALAZAR: We did not.

COMMISSIONER STEFANICS: Okay. That's my point. My point was that we were going to provide some of this money to developers for affordable housing, and we are not required by the statute or the regulations to put in these other things. This is something a staff person at the Mortgage Finance Authority wants us to put in. We have non-profits in town that actually assist individuals with down payment assistance. Homewise and the Santa Fe Community Housing Trust. We also have a non-profit that

has millions of dollars, not in just state and federal but also new stimulus money to do weatherization. This money was really being expected by the building community in Santa Fe County to be used by developers in building affordable housing. And if we feel very strongly about that, we need to send a message through our staff back to MFA that we're not interested in adding in down payment assistance or weatherization.

If we as a body want to include those two things, I'm happy to do that, but we should not just be putting in those things because a staff person told us verbally – did not put it in writing so that it was official and approved by his supervisor that we needed to do this. And Mr. Chair, I also understand that other local governments have gone directly to the director of the MFA to say that their plans are being held up. And I think that this is a situation that we've been caught in; our plan was held up. There probably was nothing wrong with our plan except maybe a few definitions, but for them to tell us to spend our money on two things that we had not decided to do in the first place is really taking away our authority.

The second thing is, Steve, do we have an ordinance ready to follow this affordable housing plan?

MR. ROSS: Mr. Chair, Commissioner Stefanics, yes, I have an ordinance ready. I'm just waiting for it to kind of settle down so we know which sections to include, but at this point I have everything in there.

COMMISSIONER STEFANICS: Okay. And so what's happening, Mr. Chair and members of the Commission, is we have been asked by the housing community to do something with our funds. And Dodi, how much in funds do we have right now?

MS. SALAZAR: Mr. Chair, Commissioner Stefanics, we have approximately \$2.2 million in our fund.

COMMISSIONER STEFANICS: Okay. So we know that the economy is bad. We know that builders would, in fact, welcome a little bit of money to build some affordable housing and we're just holding them up a little bit more. We've actually had individuals come, not only to the County Commission meeting last week, or two weeks ago. We had Ike Pino come. We've had Habitat for Humanity come to our affordable housing meetings. We've had other entities come and say, we really want this help. And we're letting MFA just hold us up.

So, Mr. Chair, I don't know how other Commissioners feel, but I don't think we should be letting a quasi-governmental agency hold up what the County Commission has already decided to do.

CHAIRMAN ANAYA: How does the rest of the Commission feel?
Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Commissioner Stefanics, I appreciate your insight in that. For you, Dodi, the question I have, on the weatherization and the down payment, is that specific to the Mortgage Finance Authority's request? Did they want more information on that?

MS. SALAZAR: Mr. Chair, Commissioner, they wanted to see more rehab, but that was a direct result of the needs assessment that was done last year. They thought that there was a great need for rehab to the older units in the community. So that's really where that came from. When Darlene and I, who is the affordable housing

administrator were talking about the other things that we wanted to include in this plan, down payment assistance was huge, because a lot of times that is the only thing that is standing in the way from a family becoming a homeowner is that down payment.

We did talk with Mike Loftin and Homewise, who had indicated that at this point in time there were no funds available for payment saver, which is the down payment assistance program.

COMMISSIONER VIGIL: Let me ask you this, Dodi. For Mortgage Finance Authority, because they are an agency that assists in leveraging dollars to promote affordable housing, from Mortgage Finance Authority, are they making the request from us specifically because those are part of their requirements? Or can you give me more insight into that?

MS. SALAZAR: Mr. Chair, Commissioner, when we prepared the initial plan, the first plan that we submitted, we actually looked at their requirements, and we made our plan vague. We made it vague on purpose so that we could expand on it at a future time. They just want us to be more specific. You can take it as far as you want, but you can also be vague, and I think this is just their request. They're wanting us to do a rehab program.

COMMISSIONER VIGIL: Okay. I am not familiar with the point that Commissioner Stefanics brings up that there are other plans that have been stalled. If we do respond to their request, would that create a significant stalling of our project?

MS. SALAZAR: Mr. Chair, Commissioner Vigil, are you asking me if we resubmit the plan with the original developer subsidy and not include the rehab in the down payment assistance –

COMMISSIONER VIGIL: No, what I'm asking is if we respond to their requests would that forestall us moving forward. Because I heard you talk about this at our last affordable housing meeting. I would have assumed that we're already working on those responses.

MS. SALAZAR: Mr. Chair, Commissioner Vigil, we are. We already do have a draft and of course we'll bring that draft forward for you all at a future Housing Board meeting for your review and your comments. As far as whether or not I believe it will be stalled if we submit with the programs that they're requesting, I really don't know. I cannot respond to that.

COMMISSIONER VIGIL: Okay. When we are submitting this to Mortgage Finance Authority, what are the purposes?

MS. SALAZAR: Mr. Chair, Commissioner Vigil, the purpose is because we do have money available and because of the anti-donation clause, we are required to have an approved plan that MFA approves in order for us to give out that money or give out that land or whatever those resources are. We have to have an approved plan before we can do that.

COMMISSIONER VIGIL: Okay, so it makes sense to me that they would want to know specifically how we would be using our dollars before they approved it.

MS. SALAZAR: Mr. Chair, Commissioner Vigil, that is absolutely correct. They want us to actually spell out exactly how we are going to implement and run our programs.

COMMISSIONER VIGIL: And are we at a place where we've already made a decision on that? Or are we still looking at options? Because one of the options we have is actually doing an affordable housing project on Galisteo. We've invested a lot of dollars on that. So when we present our plan to Mortgage Finance Authority, those options will be identified?

MS. SALAZAR: Mr. Chair, Commissioner Vigil, we are at the drawing board right now. We have not made a final decision on which programs we will move forward with. These are just the programs that we are talking about, and that they have talked to us about implementing. Of course we will take those to you for final recommendation before we move forward.

COMMISSIONER VIGIL: Do we have to make a final recommendation on an option to move forward with those dollars before they get submitted to Mortgage Finance Authority?

MS. SALAZAR: Mr. Chair, Commissioner Vigil, we do.

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

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I was just going to say I agree with Commissioner Stefanics. I don't think that if it's something that we don't feel we need to have in our plan they shouldn't tell us that it should be in our plan. So I support all of your comments.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: The reason I brought this up is because MFA did not respond appropriately in writing. This is one staff person verbally telling our staff what to do. They, by requirements, by their own regs, they are respond to us in writing about whether or not – is this not correct, Dodi?

MS. SALAZAR: Mr. Chair, that is correct. Once we submit the plan the have –

COMMISSIONER STEFANICS: They're trying to play games with us, Mr. Chair.

MS. SALAZAR: – 45 days to submit, and it is supposed to be in writing.

CHAIRMAN ANAYA: Okay, and I do agree with Commissioner Stefanics, so you've got your marching orders?

MS. SALAZAR: Yes, sir.

CHAIRMAN ANAYA: You do? You know what you're doing? Okay. Roman.

COMMISSIONER STEFANICS: Do you want me to make it clearer, Mr. Chair?

CHAIRMAN ANAYA: Yes.

COMMISSIONER STEFANICS: I think that our County Manager needs to contact Jay Czar, who is the director of the Mortgage Finance Authority, ask what is wrong with our plan, why it has not been approved, and see if they want to respond to us in writing about the problems. If there are no problems that they want to put in writing then they should be approving our plan. And I think that as a County Manager to the director of another agency that that's what I would recommend, Mr. Chair.

CHAIRMAN ANAYA: Okay. Thank you for the update. Thank you, Roman.

MS. SALAZAR: Thank you.

XIII. C. Matters From the County Manager

MR. ABEYTA: Mr. Chair, I gave you the information that we have to date on the judicial courthouse under Matters from the Commission. The only other thing I have is that the business license ordinance, the transfer from the Clerk's to the Treasurer's was advertised for 3:00 so if you wanted to hear it now you could, rather than waiting till after executive session. It's the Board's discretion.

CHAIRMAN ANAYA: Sounds good. Okay. So then what I'll do is go to that right now.

XIII. A. 8. Ordinance No. 2009-3. An Ordinance Amending Ordinance 1992-3 to Transfer Authority from the County Clerk to the County Treasurer

CHAIRMAN ANAYA: We heard a little bit about that. Any further discussion?

COMMISSIONER VIGIL: Move to approve.

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

COMMISSIONER STEFANICS: Second.

CHAIRMAN ANAYA: Second by Commissioner Stefanics. Public hearing. I'm sorry. Thank you. Is there anybody in the audience that would like to speak? Anybody at home that would like to call in and cuss us out?

MS. ESPINOZA: Mr. Chair, may I say a few words, since it does pertain and relate to our office?

CHAIRMAN ANAYA: Yes. Go ahead.

MS. ESPINOZA: Victor approached me about two years ago with respect to requesting the transfer of the businesses licenses to his department. I agreed for one reason and that was in order to streamline the process for our customers. And so I support this transfer, and he's very much well aware, in fact he's the one that requested it. Our office is busy year-round so I was hoping that this would help us out and help him at the same time. So that's why this is before you today.

CHAIRMAN ANAYA: Okay, the public hearing is now closed. Thank you, Valerie. The motion was from Commissioner Vigil and second by Commissioner Stefanics. Any further discussion?

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

XIII. D. Matters From the County Attorney

1. Executive Session

a. Discussion of Pending or Threatened Litigation

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

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

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move that we go into executive session where we'll discuss pending or threatened litigation as well as purchase of water rights.

COMMISSIONER MONTOYA: Second.

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

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

CHAIRMAN ANAYA: How long will be Steve?

MR. ROSS: Approximately one hour.

CHAIRMAN ANAYA: One hour. We'll be back at 20 to six.

[The Commission met in executive session from 4:40 to 6:12 p.m.]

CHAIRMAN ANAYA: Can I have a motion to come out of executive session?

COMMISSIONER STEFANICS: Mr. Chair, I move that we come out of executive session where we discussed pending or threatened litigation, and the purchase, acquisition or disposal of water rights.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion and second. Any further discussion?

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

XIV. PUBLIC HEARINGS

A. Growth Management Department

2. Consideration and Possible Action on a Resolution Requiring that Organizations Receive Prior Approval and Agree to Financial Fee from the Board of County Commissioners before the County Will Act as the Disbursing and Monitoring Agent for Legislative Appropriations (Commissioner Stefanics)

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Do we need to go into a public hearing?

CHAIRMAN ANAYA: That's correct.

COMMISSIONER STEFANICS: We have discussed this at this point and while we do not usually have public hearings for resolutions I thought it would be very important for any non-profits to come forward to give their opinions. What has come to the attention of the County Commissioners is we're spending close to \$300,000 a year on the various groups we are managing not just for [audio difficulties] and in the state there are a few local governments that have set up a cost-sharing with the organizations that are receiving the benefit of the County's management.

The County's management is not just the staff time; oftentimes it's legal fees. And the legal fees are \$150 to \$200 an hour, and that's where we're getting hit. And so at this time, we understand that the capital funds that are appropriated from the legislature cannot be used for any operational expenses, so there was a discussion among the County Commission whether we could work with the non-profits for them to provide a small percentage fee on large projects that we manage. And that's what we're getting ready to have a public hearing on. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Okay, is there anybody, any Commissioners has any comments? This is a public hearing. Is there any non-profits in the group that want to speak. Raise your hand. One? Three. Okay, come forward and sit in the front. You can come forward ma'am if you want to come first. State your name and tell us what non-profit you're with and if we can not repeat ourselves, that would be great.

SKY GRAY: Thank you, Mr. Chair and County Commissioners. My name is Sky Gray. I'm executive director of the Santa Fe Mountain Center. And I just want to take a brief moment to share with you that we understand some of the issues, having been involved in the process for the last three years in our capital outlay, working with the County, in terms of the tax that it puts on the County in terms of working with non-profits to create very important infrastructure to fulfill our missions.

All that said and understanding that, I think it's really important that since we're already in the process and we've been allocated a certain amount of money, which for us, the Santa Fe Mountain Center, some of that has been renegeged by the Governor. So all of our budget that we've been budgeting for for the past three years has been allocated. So at this point, at this juncture in the game, of our allocation, to have a tax put on it or a cost-sharing process be entered into that would put a major burden on our ability to continue to move our project forward. So – does that make sense?

CHAIRMAN ANAYA: So you don't agree with what Commissioner Stefanics just said?

MS. GRAY: I agree that – the piece that I agree with is that I get that there are expenses that come with the capital outlay process that somewhere in the process were not identified early on. Right? So I think it's really important that the County Commissioners consider those of us already in the process, not to have our budgets that are already in place to fulfill our capital outlay monies, not be burdened at this point. And I think in the future perhaps maybe there's a way to enter into that process with that known factor at play.

CHAIRMAN ANAYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. So I have a question. So forgetting all past projects or projects in process, what do you feel could be a cost-sharing level that non-profits could participate in for us with the County?

MS. GRAY: Well, I think if there is precedent that's already been set by other counties or other municipalities around this I think that's something that it sounds like the County has already looked at. So if the – is it 2.5 percent?

COMMISSIONER STEFANICS: Mr. Chair, yes. We put in 2.5 percent if the project is less than one million, and 5 percent if it's greater than one million. Because usually greater than one million are very large capital projects. And so – and we didn't intend for it to – we intended it to be for new projects, but I understand what you're saying, Mr. Chair, about how things got messed up this year at the legislature with capital projects. But I am interested in what you think could work.

MS. GRAY: Well, I think if there is a very clear message for non-profits who are moving forward that there is going to be this 2.5 percent cost-sharing process with the municipalities, with the County in this case, I think that's something that non-profits would go in and say can we do this? Does this make sense? Can we raise enough money through the process where we can account for that? Then they go into it with full knowledge. But that's a piece of the capital outlay that's going to be allocated to the County to help fulfill the project. I also think that it's important that some maybe additional accountabilities also be attached to that 2.5 percent, in terms of the County's role. If that makes sense. That there be some real, clear accountabilities if there's going to be a cost-sharing process there should be an accountability sharing process as well.

And it was my understanding, and I apologize, that this was going to be implemented for non-profits that are already in the capital outlay process, and apparently that's not the case?

COMMISSIONER STEFANICS: Well, Mr. Chair, when we – when I brought this forward it was for projects that would be new going forward. Now, I don't know that when we discussed this – and I don't see Joseph here – but Roman, I don't think when we discussed this we talked about existing projects, did we?

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, I don't know that it came up.

COMMISSIONER STEFANICS: Well, Mr. Chair and members of the Commission, after we hear all our public comments we could adjust this as we feel we could accommodate some of the comments that we've received. Thank you.

CHAIRMAN ANAYA: yes. Okay. Commissioner Montoya.

COMMISSIONER MONTOKA: Sky, in terms of County accountability, what specifically would you recommend or are you referencing?

MS. GRAY: Well, in terms of our relationship with the County, in terms of working on our projects and our project in particular and certainly others can speak to theirs, has been a little bit more complicated than maybe the average process. But I think what's important in terms of the cost-sharing piece is that if that is going to be implemented, which again, I'm not necessarily opposed to it. I think it's important for non-profits to know going into the process, that there be some really clear understandings around timelines and follow-through, because while we know, from sitting with the County employees that this is a burdensome kind of process on top of their jobs already, that this is another accountability that they have, that maybe if there is some cost-sharing that the resources will be kind of influxed so that there's not more on top of their jobs already with this whole non-profit kind of influx of capital outlay dollars, that my understanding kind of happened the last five years or so, with the increase in capital outlay funding.

So I think some of those things, it would be good to articulate in more clear terms.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN ANAYA: Okay, Sky. Thank you.

MS. GRAY: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Ma'am.

KAREN ROWELL: Mr. Chair, Commissioners, my name is Karen Rowell and I'm the executive director for Youth Shelters. We have had the privilege of building two buildings with capital outlay funds that are now owned by the County. I came in support of the non-profits going forward, having experienced this building with the County twice now. And I think the question you were asking is how could you do it? And I think this is something that maybe the legislature could also be a part of, because non-profits have to work for – well, I think we worked for a total of six years to accumulate the money to build our buildings, and every time we got one pot then the cost increased and we had to go back again and we had to go back again.

So knowing up front, as Sky said, what portion would go to the County would be very helpful. I think also, I think the whole system could use some analysis in that there is the issue of accountability both on the part of what are the expectations for the non-profit in terms of their involvement in building the building and what's the reciprocity between the County and the non-profit? At the end of this the non-profits don't own the building. They have to provide services in-kind and be able to account for those services in-kind, and pay maintenance fees for the buildings. And it's sometimes – I know it's a new system because we sort of came in where DFA had changed the regulations but to have – I think to have some conversations and to ask, in the capital outlay process, what piece goes to the County for managing? What piece do the non-profits have to be responsible for? It would really I think be important to enlighten the process before an action is actually taken.

CHAIRMAN ANAYA: Thank you, Karen. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. It seemed to me like there does need to be some real informational exchange here. Some clarification, because if the project, and Youth Shelters is one of these projects, has received most of their money from the severance tax dollars that come from the legislature, none of that can go to the County for any offset in administration. It goes directly for those purposes by

statute. Now, for example, what Doña Ana has done with regard to this is they have attached I think it's up to 15 percent of the dollars that are received by the state legislature for those projects. I think each project is negotiated by they have capped it at 15 percent.

And they have done so because they were experiencing similar things to what the County are and why we're trying to create a negotiated, clear understanding of how we should move forward with this. Now, we tried three years ago to identify some parameters on these kinds of projects that come before us, and I think that was very generalized. It just requested to the New Mexico State Legislature that non-profits come to us for our agreement to receive the money. And that actually had no teeth to it whatsoever. So ultimately, I can appreciate how we're trying to offset this, but I'm also hearing that there probably needs to be some more communication between County staff and the non-profits. There's some clarifications that need to be done, and maybe that's how we move forward, Commissioner Stefanics. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner. Thank you, Karen.

EMILY KALTENBACH: Good evening, Mr. Chair and Commissioners. I'm Emily Kaltenbach. I'm the president of the board of Women's Health Services. And I very much respect the County's position in trying to identify funds, as many non-profits are also trying to identify funds for administrative overhead, because many of our dollars go directly to operating and direct service. I do share some of the similar concerns as my colleague spoke to. We are right now starting our budget period and some clarification about whether they are existing projects or new projects would be very helpful, as we haven't identified and put in our budget funding to support existing capital projects.

We too have had \$200,000 reappropriated in capital dollars by the executive, and so now we're going to have to find operating dollars in order to finish projects that were started. We do want to thank you very much. The County has purchased the building for Women's Health Services. We provide 50 percent of our patients are uninsured or underinsured, and so we have to subsidize the cost of those visits, and we're seeing an increase in visits of uninsured individuals who have lost their insurance due to the economy. So we're just concerned moving forward about how to be sustained in this new economic age with an increase in uninsured patients. So we would very much support going to the legislature and requesting if possible a statute change, or identifying other means to support the administrative burden on local government for these capital dollars.

CHAIRMAN ANAYA: Okay. Thank you, Emily. With what we've heard I think maybe we should include you all in the further discussions and maybe bring this forward again, after we discuss it a couple times.

COMMISSIONER STEFANICS: Mr. Chair, unless the Commissioners want to do something otherwise, I'd ask that the three groups that were here, they are major projects for the County, perhaps they could become a little work group with our Community Services Director or our Projects Director to look at this. Roman, do you have any ideas?

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, yes. I will contact our Community Services Director and we'll coordinate a meeting with the individuals that were here this evening and we'll see if we can come up with a proposal we can bring back to the Commission to consider.

COMMISSIONER STEFANICS: And Mr. Chair, I do think that the comments – I think there does need to be a delineation about existing projects versus brand new projects. So that should be part of the conversation. And I hope that the three speakers are willing to participate in that work group.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I just would like to include Esperanza Shelters. We're in the midst of a project with that, if everyone is in agreement, and any other non-profits. I think United Way and the Agua Fria Children's Zone is also a component of this. So if there are any other non-profits out there who we have received legislative money from, or if any of you know of any other non-profits I would urge them to participate. They may not know that we're considering this tonight and it would be good for them to be engaged in this.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner. Thank you, Commissioner Stefanics for bringing this up. Thank you Sky, Karen and Emily for being here.

XIV. A. 3. Ordinance 2009-04. An Ordinance Amending Ordinance 2008-5 to Revise the Pojoaque Valley Traditional Community (PVTC) Boundary Map and to Identify Additional Properties with the Mixed-Use Subdistrict of the PVTC District (Second Public Hearing)

CHAIRMAN ANAYA: We've heard this before and what do you have to add?

RENEE VILLAREAL (Community Planner): Good evening, Commissioners. We're here again to discuss the boundary. This is very simple. As you all know, the Pojoaque Valley Traditional Community District Ordinance and boundary map was adopted in May of 2008 by the Board of County Commissioners via Ordinance 2008-5. A legal description was also included in that ordinance to define the area and the boundary of the PVTC District. As we've been looking at the district map and examining it closer as our parcel data and boundary data has been improving, we've identified a few minor errors in the map where individual parcels were not shown to be included in the district although they were part of the approved legal description of the district boundary.

In addition, there are several parcels that have been identified as properties that are currently commercial, a commercial designation or usage, and they're located in non-residential areas and are contiguous to commercial development. However, they weren't included in the map either. So we're at this point where we just need a revised map. Going through the public process we notified, we did community outreach. Out of the nine properties that will be affected by this proposed change, we spoke with or corresponded with seven. However, all nine properties were notified through certified mail, along with Pojoaque Pueblo as a notification and a courtesy to let them know what we're up to.

At this point I will stand for questions.

CHAIRMAN ANAYA: Thank you, Renee. Any questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Renee, all the nine properties are in those circles on the map?

MS. VILLAREAL: Correct.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN ANAYA: This is a public hearing. Is there anybody in the audience that would like to speak for or against this ordinance change? Sir.

ELMER MAESTAS: My name is Elmer Maestas, Mr. Chair and Commissioners. I want to publicly acknowledge Renee Villareal for catching the error. It's very important to our family because we do own a mixed-use business and residential there and if she hadn't caught that it would be designated wrongly and who knows what problem I would have run into. But she does a very good job, and she pointed that out to you and then she also called me and told me of it. So I want to thank you and thank her as well.

CHAIRMAN ANAYA: Thank you very much, sir. Good job, Renee. Anybody else want to come forward? Then the public hearing is closed. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval.

COMMISSIONER MONTOYA: Second.

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

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

- XIV. A. 4. **CDRC Case # MP/DP 08-5340 Thunder Mountain Water Co. Thunder Mountain Water Company, Inc. (Ed Cardenas, President) Requests Master Plan, Preliminary and Final Development Plan Approval to Allow Three Water Storage Tanks Consisting of Three Hundred Thousand Gallons Each, to be Installed in Phases on 4.8 Acres. The property is Located at #60 Sunny Dale Road within the Sunshine Valley Subdivision Near Edgewood, within Sections 17 & 18, Township 10 North, Range 7 East, (Commission District 3)**

WAYNE DALTON (Case Manager): Thank you, Mr. Chair, Commissioners. The proposed water storage tanks will be located on a separate lot adjacent to three existing tanks and pump station owned by the utility company. The proposed tanks will be 23.5 feet in height and 47 feet in width. The setbacks will be ten feet from the side adjacent to the existing tanks and ten feet along the road frontage. The

color of the tanks will match existing trees on the property and eight-foot chain-link fence with barbed wire will surround the tanks.

This application has been reviewed for terrain management, landscaping and archeology.

Recommendation: The proposed application is in conformance with Article V, Section 5, Master Plan Procedures, and Article III, Section 4.4, Development Plan Procedures of the Land Development Code. Staff recommends master plan, preliminary and final development plan approval to allow three water storage tanks consisting of 300,00 gallons each to be installed in phases on 4.8 acres subject to the following conditions. Mr. Chair, may I enter those into the record?

[The conditions are as follows:]

1. Compliance with review from County Fire Department.
2. A Drainage and Grading Plan shall be submitted and approved by staff.
3. Provide color sample of tanks that demonstrates compatibility with surrounding tree coverage as approved by staff.
4. Submit a landscaping plan demonstrating an adequate landscape buffer of existing or proposed trees along road frontage, with preservation of existing trees as possible.
5. Submit cost estimate and financial surety for completion of required improvements as approved by staff.
6. Tank foundations and installation subject to building permit from State CID.
7. Submit relevant information for existing water system as required by County Hydrologist.

CHAIRMAN ANAYA: Okay, is there any questions of Mr. Dalton?
Hearing none, is the applicant here? Do you want to come forward? Do you agree with all the conditions?

ED CARDENAS: Mr. Chair, Commissioners, I do.

CHAIRMAN ANAYA: And your name, sir.

MR. CARDENAS: Ed Cardenas.

CHAIRMAN ANAYA: Do you have anything else to add?

MR. CARDENAS: I can add that Thunder Mountain is a public utility monitored by the New Mexico Public Regulation Commission. Our system comprises of – we service about 825 customers in the Edgewood area, and 20 percent of those are in Santa Fe County. About 80 percent is in the Edgewood community.

CHAIRMAN ANAYA: All right. Thank you, Ed. This is a public hearing. Is there anybody in the audience that would like to come forward and speak for or against this project? The public hearing is closed. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval with staff conditions.

COMMISSIONER STEFANICS: Second.

CHAIRMAN ANAYA: Moved by Commissioner Holian, with conditions, second by Commissioner Stefanics. Any further discussion?

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

- XIV. A. 5. **CDRC Case # MP 08-5440 Tierra Bello Subdivision Waiver. Joe Miller, Applicant, is Requesting a Waiver of the Affordable Housing Requirements Based on a Condition of Hardship Pursuant to the Affordable Housing Ordinance (Ordinance No. 2006-02, Section 17) for a Proposed Subdivision Consisting of 73 Residential Lots on 263 Acres, Located Along Avenida de Compadres, South of Avenida Eldorado, within Section 24, 25 Township 17 North, Range 9 East. (Commission District 5) Vicki Lucero/Darlene Vigil, Case Managers**
6. **CDRC Case # MP 08-5430 Spirit Wind West Subdivision Waiver Joe Miller, Applicant, is Requesting a Waiver of the Affordable Housing Requirements Based on a Condition of Hardship Pursuant to the Affordable Housing Ordinance (Ordinance No. 2006-02, Section 17) for a Proposed Subdivision Consisting of 38 Residential Lots on 138 Acres, Located at the Intersection of Highway 285 and Old Lamy Trail (County Road 33), within Section 5, Township 15 North, Range 10 East. (Commission District 5) Vicki Lucero/Darlene Vigil, Case Managers Wayne Dalton, Case Manager**

CHAIRMAN ANAYA: Vicki, we'll be talking about both of them, because it's the same thing, right? Why don't you go ahead?

VICKI LUCERO (Residential Case Manager): Thank you, Mr. Chair. The applicant has submitted master plans for the referenced subdivisions that are currently in the review process and are incomplete. Section 17.B of the Affordable Housing Ordinance states, "The Board of County Commissioners, or, if a Board of Adjustments is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustments may waive one or more of the requirements set forth in this ordinance if a condition of hardship as set forth in this section. A condition of hardship shall exist for purposes of this section as follows: A condition of hardship exists where the project fails to qualify for any incentive set forth herein, where the project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this ordinance would result in economic infeasibility of the project, and where complying with the requirements of this ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole, contrary to the Constitution of the United States or the constitution of the State of New Mexico.

A condition of hardship exists for a minor project when an affordable unit cannot be sold within a reasonable period of time without causing loss on the minor project taken as a whole."

Recommendation: The applicant made numerous submittals and despite staff requesting additional information, submittals are still lacking. The County retained an expert, Mr. Steven Brugger, to review, analyze, and make recommendations on the

incomplete information. His report is in Exhibit E. The request for a waiver of the affordable housing requirements was reviewed by the affordable housing administrator and they have prepared a review in Exhibit B.

Based on these reviews and comments, staff's position is that the applicant is not eligible for a hardship waiver. Section 18.B. 1 of Ordinance No. 2006-2 describes four conditions which must exist for a hardship to be declared. Those conditions have not been met. Each condition is discussed below.

The applicant qualified for a density bonus pursuant to Section 9.A of Ordinance 2006-2. That section provides a major project that utilizes a community water system may receive increased density to accommodate the affordably priced housing units. The proposed subdivision is intended to be served from the Eldorado Area Water and Sanitation District, which is treated as a community water system for purposes for purposes of the land development code. Section 19 B. 1 of Ordinance No. 2006-02 precludes a finding of hardship if the project qualifies for any incentive offered by the ordinance. The proposed project is eligible for a density bonus, an incentive.

Compliance with the provisions of the Affordable Housing Ordinance would not result in economic infeasibility of the project. The report of Mr. Brugger demonstrates that the project is economically viable even including the affordably priced housing units.

Three items should be noted: First, Mr. Brugger used virtually all of Mr. Miller's assumptions in preparing his report. Second, although Mr. Miller claims that the property upon which the proposed subdivision will be built is priced at \$3,156,000, the property was purchased by Mr. Miller for \$1,150,000. (See attached.) It is not clear how Mr. Miller arrived at the property value. In any event, it is the position of staff that the purchase price of the property in question should be used to determine individual hardship, not the property value. As Mr. Brugger's analysis shows, the price of the property largely determines its profitability. The property, given the initial purchase price, is profitable, even with the affordably priced housing units. If one considers the value placed on the property by Mr. Miller, Mr. Brugger concludes that a very slight loss on the development results, which could easily be turned to a profit by careful attention to detail. Third, Mr. Miller, in a recent lawsuit against the county, claimed that his profit from this development exceeded \$4 million; if this figure is used, the development can readily absorb the affordable housing.

Number 3. Compliance with the Affordable Housing Ordinance does not constitute a taking. The application of the ordinance to the property at issue certainly does not deprive Mr. Miller of substantially all economic use of the property.

Number 4. Mr. Miller has failed to request an alternative means of compliance. The ordinance is clear that a project must at least attempt to qualify for an alternative means of compliance, and that has not been proposed here. Mr. Miller discussed the possibility of providing affordable housing through condominiums and apartments at his Cimarron Village development, but has apparently withdrawn that idea from consideration. Therefore the application is premature.

The ordinance requires that all four factors be present before a condition of hardship is declared. A condition of hardship exists where the project fails to qualify for any incentive set forth herein, where the project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this ordinance

would result in economic infeasibility of the project, and where complying with the requirements of this ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the constitution of the State of New Mexico. On this basis staff recommends denial of the request. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Vicki. Any questions of Vicki?
Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Vicki, you mentioned it's an incomplete submittal for a master plan request. So what is missing?

MS. LUCERO: Mr. Chair, Commissioner Holian, there are still issues regarding the water availability on the project, so until those are resolved it's considered an incomplete submittal.

COMMISSIONER HOLIAN: Okay. Thank you. And also, has this property ever been part of another property that had a master plan approval, or is this – what's the history of this piece of property, or these two pieces of property? Do you know?

MARK BASHAM: If I may.

CHAIRMAN ANAYA: Judge, you may.

MR. BASHAM: My name is Mark Basham, Mr. Chair. Commissioner Holian, this piece of property has a pretty extensive history. It was back in the early eighties where it received a final subdivision plat approval with conditions. That was owned by a partnership. The partnership went wrong, let's say, and they split the approval down the middle. And one of the partners did come forward in the early nineties and got approval, reapproval for his half of the property, and that's developed.

Subsequent to that, on this piece of property, through a real estate contract, another person came forward and received master plan approval for this property. There was initially 50 lots in the master plan approval, took up to 96 lots.

COMMISSIONER HOLIAN: And then I guess that expired, because the property changed hands?

MR. BASHAM: There was a big dispute about whether it expired, and that went all the way to the Court of Appeals, and it was determined that yes, it had expired.

COMMISSIONER HOLIAN: Thank you.

CHAIRMAN ANAYA: Okay. Any other comments or questions? Is the applicant here? Do you have anything to add?

RON VAN AMBERG: Mr. Chair, members of the Commission, I'm Ron Van Amberg and I represent Joseph Miller. And Mr. Miller is going to address the merits, but what I would like to do is I have some exhibits that Mr. Miller would like to refer to, if I could make them part of the record and hand them out to the Commissioners, and I've provided Mr. Basham with a set. *[Exhibit 1]*

CHAIRMAN ANAYA: Okay.

MR. VAN AMBERG: What we'd like to do now is I would like to have Mr. Miller go through a description of the projects and his explanation as to why he thinks he should be entitled to a hardship. Now, I discussed with Mr. Basham the possibility of combining the Tierra Bello application with the Spirit Wind application and

since most of these issues overlap and are very similar we think that it might expedite matters of we just addressed both at the same time.

CHAIRMAN ANAYA: Yes, we read both of those cases. We're hearing both right now.

MR. VAN AMBERG: Okay. That's fine. And with that I'd like to have Mr. Miller address the Commission. Thank you very much.

CHAIRMAN ANAYA: Thank you.

[Duly sworn, Joe Miller testified as follows:]

JOE MILLER: My name's Joe Miller, and I live just across the depot at Lamy. I ranch there and run some cattle on that place and I do some development at the same time. I developed the property in and around Eldorado in the Lamy area and I developed some property in the Moriarty area in Tarrant County and also in San Miguel County. I am the applicant for the affordable housing waiver for the Spirit Wind and the Tierra Bello Subdivisions.

Exhibits 1 and 2 which Mr. Van Amberg set out are the affordable housing ordinances and the affordable housing regulations, respective and each the same. Page 89, paragraph 7 explains the hardship provisions. The first requirement relates to my failing to qualify for any incentives. The ordinance does not say failing to qualify for all incentives, just any one of them really.

I do not qualify for any of the water utility fees waivers provisions as the County does not own the water company from which we're using. Section 8 of the ordinance explains that they can waive some water fees, but since Eldorado owns in, why those are not available to me. It is really owned by the Eldorado Water and Sanitation District. And for each lot the water and sanitation district charges you \$1500 for a water service fee. They charge you another \$2,882 for a system service fee. They charge you another \$365 to hook up their meter, and they charge you another \$6,500 for water rights fees. In other words, to get you onto the Eldorado Water Company it costs \$11,249 for each and every water tap on each and every lot.

I also do not qualify for the density bonuses and I'll explain that later.

CHAIRMAN ANAYA: Joe, your first hardship is this \$11,000 for each –

MR. MILLER: The first hardship is that I cannot get anything from the County. It says the County will give me water rights for the affordable housing units and they can't do that. They don't have the water rights that they can give to the Eldorado Water Company. So I have to pay for all those. Even the ones for the affordable housing I have to pay for.

CHAIRMAN ANAYA: Okay. Continue.

MR. MILLER: I also don't qualify for any of the bonus provisions, and I'll explain that later. The amount of which the bonus lots would increase density and reduce the lot sizes. In other words, our subdivision was made at 2.5-acre lots each. And if we get eight density bonuses there's no place to put them unless we reduce the lot sizes down to about 2.1 acre, which it's not possible in the county because they require 2.5 acres for each one. That's along with it increases the cost of the development and makes the village lots economically worthless and economically risky.

Another requirement is whether I qualify alternative means performance. I'm not sure what that means but one of them is that the question of economic feasibility under

these regulations I could pay and buy off, but I'd have to pay \$49,600 for every lot. Now, that's not just the affordable lots. That's for every lot in the subdivision. In the two subdivisions there are 111 lots, and I'd have to pay the County \$5,490,000 to buy out and not do the affordable housing. That would be foolhardy to pay that.

The lots are valued at about \$125,000 each, and that means if I paid \$49,000 for them I'd end up selling the lots – I would gross \$75,000 a lot. According to the performance, you can look it up and see it, it costs under \$9,000 per lot to develop and that's for Tierra Bello, and for Spirit Wind, it costs \$117,000 per lot. I would lose \$34,000 a lot in Terra Bella and \$42,000 a lot in Spirit Wind. Tierra Bello has 73 lots. If you multiply that by a \$34,000 loss on each lot, I'm losing \$2,480,000 and on the Spirit Wind, I'm losing \$1,596,000. The two together would be close to almost \$5 million I'd be losing on this project.

So I chose not to go that route and not buy out. Now I did submit, and I was accused of not submitting any alternative means of compliance, but I did. I submitted probably seven or eight of them and they're all in your packet there. You can look at each one. Some of them I gave land to the County, some of them I did offer to buy out at a lower price. Some of them I did offer to buy out at a lower price. Some of them I follow the ordinance but I ask for reduced – instead of taking 30 percent of my land you'd only take 15 percent or something. But I did, contrary to the previous testimony, I did probably about seven different alternative means of compliance.

But I had no reply from any one, not one of them, from the County. And I wrote follow-up letters asking to get me on the agenda, and I didn't get replies, the answers that I requested.

My first alternative means was back in December of 07, and that was a buyout. I offered so much money to buy out of that thing, and we never heard a word about it. And I tried to follow up I don't know how many times to see what – but we got no response at all from staff or anybody. We were working mostly with the affordable housing administrator, Mr. Pacheco. In Exhibit 6 has a list of all the affordable housing alternative means that I had proposed that I never heard a word from. Not one of them.

Complying with the ordinance is not economically feasible. This is demonstrated in my portfolio, or my pro forma, which I will explain, the exhibits 4 and 5. The latest request is a compliance for the ordinance denying me in a constitutional sense the economic value of my property. The ordinance itself addresses what if the ordinance is complied with how it will happen. If it's complied I lose my property and I lose the money. It's a complete economical loss. Now, the main differences between my pro formas and Mr. Brugger's pro formas compares the cost of the land, including the cost of development. I put in the value of the land. Fair market value must be used. This is the price that would be paid in any condemnation action. Also, if the fair market value of the land does not exceed the project's net profit there's no point in assuming the risk of development. One would just go ahead and sell the property parcel as it is.

In the case where someone inherited land and the neighbor next door paid a high price for the land the affordable housing waiver ought to be given to the neighbor, not to the man who inherited his property because his values are less. Each have the same rights, support the same burdens and are entitled to develop their land and property

equally. What the basis is in the land has no relevance as what we paid for the land; it's the value of the land when it's being condemned.

I bought Spirit Wind about 25 years ago and I bought Tierra Bello about six years ago, and it was a distress sale. That's the reason I bought it for the price it was. Exhibit 3, 4 and 5 are my pro formas, I would know like to discuss the pro formas. Let's look at the pro forma for Tierra Bello first. What I did is on the one page is the construction costs of Tierra Bello. It's 73 lots and they average around [inaudible] a lot. I put everything in there we would normally put in for developing a property. I put in the planning, what it cost to plan for it, for the roads, how much those cost, and for the water, what it costs. We put in electric connections. We put in for the gas and the phone and miscellaneous items.

Construction costs for Tierra Bello is \$3,983,644. That goes under the heading that says pro forma. I used those [inaudible] I put it in at \$12,000 an acre, and those are comparable prices. I do have some advertisements in the back for land for sale in the area and those average \$15,000 an acre. I put mine in at \$12,000 for Tierra Bello. So I put in also the sale price, the commissions and closing costs I would have to pay at 10 percent. So the total cost of the development comes to \$7,962,000. That's with land and all. And 73 lots, if we sold them for \$125,000, that would be \$9,125,000 income, which leaves a net profit of \$1,162,856.

Now, when we plug in the affordable land requirements, I must give up 30 percent of my land, which is 22 lots. And 22 lots at \$125,000 each comes to \$2,750,000. Then I subtract the profit I have from that of \$1,162,000, I end up with a net loss of \$1,587,144 on the land only.

The next page, here's what I lose on the affordable housing. I have to build 22 of these houses. The first house we build we have to sell for \$76,500. Now that house is built on a lot that costs \$125,000. We have to build a house, added to the \$125,000 and sell it for \$76,000. So we have quite a bit of loss on the first one. The highest priced lot we could sell for is \$250,000. So what I did, I averaged the \$76,000 house with the \$250,000 and I come out with \$163,250 average house price. It costs about \$110 a square foot to build this house, so the cost to build it is \$176,000 and if you sell it for \$163,000 you lost – well, you sell it for \$163,000 but you've got to put closing costs in that. With the closing costs you up to \$146,925. In other words, you lose \$29,075 per house. If you multiply that by the 22 houses, I'm losing \$639,650 on houses alone. If you add the loss that I took on the land, add it to the loss I took on the houses, total loss for Tierra Bello is \$2,226,796. It's not feasible to do it.

I can – I don't want to take the time. We can go over the same figures for Spirit Wind, but lets just go and look at the bottom line and you can look at it yourself later if you'd like to. They're the same figures. In Spirit Wind, the net loss for that is \$1,463,824. And if you add the two together we're over a \$4 million loss on these two subdivisions. They're just not feasible to do if we have to do the affordable housing in any way. It's better off to sell the land, maybe put it in four parcels and sell four 50's or else four 80's or something. That would deny a lot of people the opportunity to buy a lot out in the country there where they can build their home and enjoy the American dream. But with how affordable housing works out that the way it goes, unless we get our waiver.

Now, the difference between my pro forma and Mr. Brugger's pro forma. He accepts my land values and most of my development costs and figures. The only thing is

he deducts five percent for sale costs commission. You can find anybody who's going to sell land for five percent total. I put in there that it's – his costs for selling this house, the average house, \$175,000 house, would be \$76,500. My costs – we pay the six percent commission, and if you add the sales tax to that, the commission I commission would be \$11,225. Now into that we have to add the title insurance, which he never did, and we have to pay the tax on the title insurance, which comes up to another \$2450. And then there's something that most people don't realize, but when you sell these affordable houses, you have to pay gross receipts tax on them. The gross receipts tax on this average house in this subdivision would be \$8,470.

With that we plugged in, if we're lucky and we could sell these in a year, one year of property tax also. So mine come out to \$22,945 to a house. That's \$14,195 more than Mr. Brugger's figure, per house. If you multiply that by 22 for Tierra Bello, there's a difference there of \$312,000 in just the cost of selling these things and paying the commission.

I'm not against affordable housing. I agree that the concern should be addressed. It should be addressed generously, but it does dampen the affects of the market values. Even just witness what happened up north here in the Tano, when they tried to put some affordable houses in the northwest quadrant.

My conservative estimate is that placing 22 affordable houses within a subdivision that would otherwise house lots, homes valued at \$350,000 to \$650,000 would deplete the value of the subdivision by at least ten percent.

Now, with the density bonus added, that would decrease the lot size from 2.5 acres down to 2.17 acres. And it would increase the number of lots and the closeness of each other. This will offer smaller lots. And it sure fine to be downsized, these smaller lots and all but it would take another ten percent off the lots down to about \$102,000 per lot, maybe we would sell them for. And one of these costs \$109,000 to develop it and the other one costs \$114,000 to develop it. We just can't sell it for \$102,000.

That brings us to the bonus lots. The bonus lots would bring in about \$1,113,750. That's 11 lots times the \$101,250. Their development cost is about \$550,000. The gross receipts would be \$63,750. After ten percent diminution in value of the 51 lots that are not affordable houses, that figure would come up to \$573,750. One of them lose money by having the bonus lots and also have the risk of carrying the lots and the interest payments on the lots. And now we have a less desirable subdivision and the lots will not be sold out in just one year. This pattern is the same for Spirit Wind also.

It was stated my application is incomplete. This is just a generic excuse staff seems to use all the time when they don't want to process an application. There is a request for additional information, they said. No one has asked me for any additional information on my pro forma or any of the proposals that I submitted for alternative means of – the only request for additional information was from Mr. Basham who wanted to know what I originally paid for Spirit Wind and I responded promptly. That response is also in Exhibit 7, which is an email correspondence to Mr. Basham.

In summary, I'm asking a waiver from the affordable housing ordinance. It's a huge burden, anyway you look at it. If you require it of the property owner who wants to his property, they literally donate 30 percent of their property to the affordable housing, and then require them to build houses at a loss. Affordable housing is a need. It's a need

that should be shared by the general public. The entire burden of affordable housing should not be placed on the property owner. It's not his responsibility and he had no way to cause this problem. It definitely is one that needs to be solved and I'm all for working with the County to solve the problem but we should share the burden so it's not on the property owner alone to bear the burden of all the benefits for some other people.

There's a lot of things in the affordable housing that I could go on and on and on and outline and bring in – it's unfair and unjust and I question if it's legal. It's a taking. There's no question about that. It's against the fifth and 14th amendment of the Constitution and it's against the state constitution. It's something that's got to be resolved and in the meantime we're asking for a waiver. And I would stand for any questions you may have.

CHAIRMAN ANAYA: Thank you, Joe. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. This question is really for staff about the property. Vicki, in either of the developments, is there another option for water besides the Eldorado water?

MS. LUCERO: Mr. Chair, Commissioner Stefanics, he would have the ability to develop his own community water system, but because the Eldorado system is there and he has water rights apparently transferred to the Eldorado system he's proposing to use that.

COMMISSIONER STEFANICS: Okay. Thank you. Mr. Miller, you have transferred water rights to the Eldorado water system?

MR. MILLER: Yes, I did. We had a meeting here back in September and we discussed what would be required to use the Eldorado water system. And we were assured that if we get a will-serve letter from the water company that our project can go forward. That's all we need to do was a will-serve letter from the water company. Of course there's not easy to get. They're hard to get. We sat down with the water company in negotiations I would say between eight and twelve times. It ended up, I gave the water company five wells. Those five wells will produce enough water to supply half of what Eldorado uses today.

I gave them water rights from off the ranch. I gave them some water rights we had up on the subdivision. I also gave them – well, I only gave them ten percent of what we agreed to pay, somewhere around \$500,000 for additional water rights. So we have the water rights, we have the water and our subdivision is good to go forward, they would eliminate any water problems that Eldorado has. If we have a drought this year and these don't go through, there's only one place that people can point their finger to and say this is why we have this water shortage. These wells are all good, well producing. One of the wells alone will produce over 300 gallon a minute. That's more water than their main well that they have right now online.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. Thank you, Mr. Miller and Vicki.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Mr. Miller, I am wondering why you haven't considered creating smaller lots by considering a water treatment plant for your subdivisions. I know there are a lot of other subdivisions in the county out there like Oshara and the Cliffs at Padre Springs, which are I think even a less

number of lots than yours, and have put in or are putting in water treatment systems and it seems to me that that would be one way of being able to deal with the affordable housing.

MR. MILLER: Mr. Chair, Commissioner Holian, we have three subdivisions we're doing right now. One's Tierra Bello and the other one's Spirit Wind. The third one is Cimarron. Cimarron is mostly commercial. It has apartments. It has duplex – not duplex, but it has townhouses, it has live-in workspaces and all. We are putting a sewer system in that project. We ran the costs for these other two, it's just not feasible to do it for one thing and the second thing is you've got a problem with the discharge permit. They're very tough to get. We're working on a discharge permit for Cimarron and I think we're going to be all right on that one. And we will have a sewer system, probably the first sewer system in the Eldorado area.

COMMISSIONER HOLIAN: And I'm wondering also about, you had mentioned before doing affordable housing through condominiums and apartments at Cimarron Village. I just wonder what your stand is on that right now.

MR. MILLER: Well, there are seven or eight proposals for alternative means for compliance that included that. We offered to build high density in Cimarron Village because we had a sewer there and we can go and build quickly these affordable houses and get more of them in. And we offered to take affordable housing from the other two subdivisions and combine them and put them in Cimarron Village where there will be a sewer. We can't you people to even respond to our request.

COMMISSIONER HOLIAN: But you're still willing to do that?

MR. MILLER: We'll have to think about it. Right now, tonight we're here requesting a waiver, and this is what we're after for this evening.

COMMISSIONER HOLIAN: Thank you, Mr. Miller.

CHAIRMAN ANAYA: Okay. This is a public hearing. Thank you, Joe. This is a public hearing. Is there anybody in the audience that would like to speak either for or against this case? Hearing none, what's the pleasure of this Board?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move that we go into executive session for deliberation.

CHAIRMAN ANAYA: There's a motion to go into executive session. Is there a second?

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN ANAYA: There's two seconds.

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

CHAIRMAN ANAYA: Okay. We'll be back.

[The Commission met in executive session from 7:17 to 7:30]

CHAIRMAN ANAYA: Okay, is there a motion to come out of exec?

COMMISSIONER STEFANICS: Mr. Chair, I move that we come out of executive session for the purposes of only deliberation.

COMMISSIONER MONTOYA: Second.

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

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

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I move that we continue Case MP 08-5440 and Case MP 08-5430 for one month for staff to develop an order to be drafted for denial.

COMMISSIONER MONTOYA: Second.

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

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

XIII. A. 7. CDRC Case # DP/V 08-4500 PNM Camel Tracks Feeder 13 Development Plan. PNM (Laurie Moye), Applicant, Request Development Plan Approval to Allow the Construction of Approximately 1000 Feet of a Three-Phase Distribution Line from the Camel Tracks Substation to Connect to an Existing Single-Phase Electric Line. This Request Also Includes a Variance of Ordinance No. 2007-5 Subsection 2.3.9b.1 to Allow Electric Utility Lines That Transmit Electricity at a Voltage Less Than 46 Kilovolts to be Placed Above Ground. The Property is Located in the Vicinity of County Road 56 and Calle Debra, Within Section 17, Township 16 North, Range 8 East, (Commission District 3) Wayne Dalton, Case Manger

MR. DALTON: Thank you, Mr. Chair. The applicant requests development plan approval to allow the construction of approximately 2,000 feet of an above-ground three-phase distribution line for the Camel Tracks Substation to connect to an existing single-phase electric line, using both private and County Road 56 right-of-way. The new distribution poles will be 34.5 feet in height and built with raptor-safe cross arms. This request also includes a variance of Ordinance No. 2007-5, subsection 2.3.9.b.1 to allow electric utility lines that transmit electricity at a voltage less than 46 kilovolts to be placed underground.

Ordinance No. 2007-5 relating to underground placement of utility lines specifies that electric utility lines that transmit electricity at a voltage less than 46 kilovolts should be placed underground. Placement of the overhead line would be within current easements crossing County Road 56 right-of-way and along Calle Debra, typically five feet from the edge of right-of-way.

The applicant states that the need for Camel Tracks Feeder 13 is to construct an electric line in order to provide more reliable service to existing structures. The

construction of this project will allow PNM to maintain service voltage within the service area during normal peak load periods for customers in the area. This is a continuing effort to improve voltage and reliable electric service to customers residing in the La Cienega area.

The development would involve placing 10 new distribution poles, typically 34.5 feet in height above ground with typical raptor-safe pole and cross arms.

Variance: The applicant is requesting a variance for the following reasons. Mr. Chair, may I enter that into the record?

CHAIRMAN ANAYA: You may.

[The reasons are as follows:]

- The County of Santa Fe and PNM have agreed that PNM should apply for variances from the County's underground placement requirements prior to PNM seeking recovery of excess costs associated with the underground installation of electric lines. This agreement is reflected in the stipulation that PNM and the County entered into on June 13, 2008 and filed with the PRC in case No. 07-00373-UT.
- Underground construction of electric facilities is more expensive than overhead construction. If the County requires PNM to construct this project underground, PNM will seek the PRC's approval to recover the excess costs of installing the line underground from PNM's Santa Fe County customers, excluding customers located within the jurisdictional boundaries of municipalities and other political subdivisions.
- Both overhead and underground electric systems provide a high degree of reliability of service. Overhead electric lines are easier and faster to repair in the event of an outage as compared to underground lines.
- Underground lines significantly impair the use of the land in the easement while overhead lines are not as restrictive. Also an underground line is more likely to be in conflict with any future grading work associated with development or expansion of road or development access.
- Currently the customers in the area are served from overhead lines and granting the variance is not injurious to health or safety.
- Currently, the area is served from both overhead lines and underground lines. Granting of a variance does not nullify the County Code since there is virtually no change or adverse impact on the terrain or residents of Santa Fe County.

Recommendation: It is the evaluation of staff that the proposed development plan is needed to provide a continuing effort to improve voltage and reliable electric service to customers residing in the La Cienega area. However, the proposed project is not in accordance with Ordinance No. 2007-5, which relates to underground placement of utility lines. Staff recommends development plan approval and denial of the requested variance.

On April 16, 2009, the CDRC met and acted on this case. The decision of the CDRC was to approve the development plan to allow the construction of approximately 2000 feet of a three-phase distribution line, and denial of the requested variance to allow

above ground placement of these lines subject to the following condition. Mr. Chair, may I enter that into the record.

[The condition is as follows:]

1. Electric lines must be placed underground and all disturbed areas shall be re-seeded.

Mr. Chair, Steve Ross has some additional comments to make as well.

MR. ROSS: Mr. Chair, just for the benefit of the new Commissioners, the Commissioners on my right remember the cases we had against – with PNM for many years concerning the application of the undergrounding ordinance. Those cases were resolved by the New Mexico Supreme Court in a series of cases that essentially said that local governments have to meet certain high justifications to require that lines be placed underground. In subsequent regulatory proceedings we ended up with a settlement agreement that was referred to in the first bullet point under the variance that requires PNM to come to this body and ask for a variance of the undergrounding requirements. And the reason that is done is because the PRC has a rule called Rule 22 that specifies that if a local government requires undergrounding of electric utility lines without a health and safety justification for that, that the incremental costs of the undergrounding are placed on utility customers in the unincorporated areas.

So this is a regulatory prerequisite for a rate case that will appear before the PRC if the line is required to be underground. PNM will go to the PRC and request that the costs be put on the utility bills for people in the unincorporated areas. Just thought the new Commissioners needed that brief background.

CHAIRMAN ANAYA: Thank you, Steve. Any questions of Steve or Wayne? Hearing none, is the applicant here.

[Duly sworn, Gerard C. Ortiz testified as follows:]

GERARD C. ORTIZ: I am Gerard C. Ortiz. I am the director of regulatory policy and case management for PNM. My address is Alvarado Square, Albuquerque, New Mexico, 87158.

CHAIRMAN ANAYA: Gerard, do you have anything to add?

MR. ORTIZ: I do, Mr. Chair. Mr. Chair, Commissioners, I would like to begin by simply pointing out that from PNM's point of view, this project is important to reliably serve our customers in the La Cienega area, particularly those customers that live in the area of Calle Debra. In terms of whether this line is constructed overhead or underground, PNM is indifferent. We just need to build the project and as Mr. Ross pointed out, we did seek a variance from the underground requirements of the County, but we did so because we agreed to do so in an agreement that we entered into with Santa Fe County last year.

I thought Mr. Dalton did a very good job of describing the project, the need for the project, and physically describing the project. I am available to answer any questions though.

CHAIRMAN ANAYA: Any questions of Gerard? Thank you, Gerard. This is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Okay, let me back up a second.

COMMISSIONER VIGIL: PNM or whoever would like to answer this. If by chance this project stays underground, what is the circumference of billing that you

require for those recipients who are required to offset the cost through PRC? Is that identified through your PRC hearing, or are there regulations in place that identify those boundaries?

MR. ORTIZ: Mr. Chair, Commissioner Vigil, that is actually defined by PNM's Rate 22, which is commonly referred to as the underground tariff. And the charges would be assessed to all electric customers within Santa Fe County outside of the city limits of the City of Santa Fe.

COMMISSIONER VIGIL: And is that – are the City of Santa Fe residents receiving the benefit of this?

MR. ORTIZ: No, they're not. And in fact we have actually installed a project underground within the City of Santa Fe and those underground charges were borne by the City of Santa Fe residents.

COMMISSIONER VIGIL: So the underground would be borne by county residents from Pojoaque to Edgewood. Do you know the boundaries exactly? Because the circumference of the county surrounds the municipal boundaries.

MR. ORTIZ: Yes, ma'am.

COMMISSIONER VIGIL: So it's all county, irregardless of where the location is.

MR. ORTIZ: Yes, ma'am.

COMMISSIONER VIGIL: And that's by Rule 22?

MR. ORTIZ: By rate 22?

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

CHAIRMAN ANAYA: Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. One more question based upon that line of questioning. Are we talking about pennies added per month? Or what estimate are we talking about?

MR. ORTIZ: Yes, ma'am. PNM has proposed to the PRC to recover these costs, approximately \$92,000, over one year. The monthly charge for residential customers would be 24 cents per month.

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

COMMISSIONER VIGIL: One more question. This is a settlement agreement? Was it a settlement agreement?

MR. ORTIZ: The settlement was actually in a previous Santa Fe County undergrounding case, and there were four projects at issue in that case. After the hearing the County and PNM agreed to a settlement whereby PNM agreed to seek variances for future projects –

COMMISSIONER VIGIL: That's what Mr. Ross just explained to us. I'm familiar with that. Was there a settlement agreement beyond that?

MR. ORTIZ: No, ma'am. That is the only settlement agreement.

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

CHAIRMAN ANAYA: Okay. Public hearing. How many are in favor of undergrounding? How many are in favor of above? Okay, then come forward and we just need one or two people.

[Duly sworn, David Debusschere testified as follows:]

DAVID DEBUSSCHERE: My name is David Debusschere. I live at 29 Calle Debra. I have collected and submitted to Mr. Dalton, who I think has referred to you over 60 petitions from neighbors. Nobody is fighting PNM with respect to doing the power lines but the community, as far as I can determine, is unanimously opposed to putting them above ground. This is currently an area with no above ground line in La Cieneguilla. We have unrestricted views of the Sangre de Cristo Mountains, the Caja del Rio and the Ortiz. When we had our last hearing before the CDRC I pointed out behind you all it says preserve pristine resources, and that's all we're asking here. We're asking that a variance be denied, that the County require PNM to proceed pursuant to their current easements.

The cost that was mentioned here of 24 cents I think a month. That's one time for one year. That's not an ongoing cost according to PNM's prior testimony, and we would simply request that we not scar what are now really nice views in an area which is undergrounded at the moment. Let's not change things for the negative. Thank you very much.

CHAIRMAN ANAYA: Thank you, David. Next.

[Duly sworn, Steven Schmidt testified as follows:]

STEVEN SCHMIDT: My name is Steven Schmidt. I live at 21 Calle Debra, and I would just like to second David's comments. My property would be impacted the most because it would run across the full front of my property line. And one other question I have – this is maybe irrelevant, but I'm wondering if they put in underground lines how they revegetate. I'm wondering how they do that, if they use native seeds to do anything, or is that something – one of my responsibilities.

CHAIRMAN ANAYA: Okay. We'll ask that question. Thank you, Steven.

[Duly sworn, Michael McKittrick testified as follows:]

MICHAEL MCKITTRICK: My name is Michael McKittrick, and I reside at 40 Calle Debra, and I live within about 100 yards of the proposed right-of-way. And I am speaking in support of my neighbors, Steven and David and other petitioners. I feel that 24 cents a month is a pretty small sacrifice and I think I can sympathize with the Commissioners in terms of the whole county is involved, but as a citizen of the county, if there's another area where there's another right-of-way situation, where there's another assessment, I think things will just balance out even though I may not be directly involved with some other area. And other people are not going to benefit from our situation but I think in the whole, I think there will be a good balance. Does that make sense?

CHAIRMAN ANAYA: In other words, I've got to pay for your views.

MR. MCKITTRICK: You've got to pay for my views and down the road if your views get –

CHAIRMAN ANAYA: And one day you'll pay for mine.

MR. MCKITTRICK: I'll pay for your views.

CHAIRMAN ANAYA: Okay. All right, Mike. You've got it. Ma'am, you had your hand up. Did you want to say something? Okay.

MR. DALTON: Mr. Chair, just to answer the gentleman's question, all disturbed areas for the underground line will have to be reseeded, and that will be a native mix.

CHAIRMAN ANAYA: Okay. We answered questions. Any other comments? Is there anybody else that wants to speak? Hearing none, the public comment is closed. What's the pleasure of the Board? Commissioner Holian.

COMMISSIONER HOLIAN: I move for approval of the development plan but for denial of the variance to allow electric lines less than 46 kilovolts to be placed above ground.

COMMISSIONER STEFANICS: I'll second.

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

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Does that include the condition?

COMMISSIONER HOLIAN: Yes, with staff condition.

COMMISSIONER STEFANICS: Yes.

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

XIV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at 7:50 p.m.

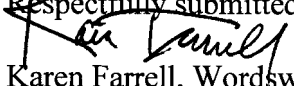
Approved by:

Mike Anaya, Chairman
Board of County Commissioners

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:


Karen Farrell, Wordswork
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