

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

June 9, 2009

Michael Anaya, Chair – District 3
Harry Montoya, Vice Chair – District 1
Kathy Holian – District 4 [excused]
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 3:05 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 Liz Stefanics
Commissioner Virginia Vigil

Member excused:

Commissioner Kathleen Holian

V. INVOCATION

An invocation was given by Joseph Valdez.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

CHAIRMAN ANAYA: I'd like to recognize Pablo Sedillo is in the audience, with Senator Bingaman's office. Thank you, Mr. Sedillo, for being here, and our Councilor from Edgewood, Rita Loy Simmons is here. Thank you, Rita Loy. And I know our Mayor from Edgewood is here also, but he's not in the room right now. He's probably busy. Thank you all for being here. Approval of the agenda, Roman.

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. We do have some amendments to today's agenda. The first coming under X. Matters from the Commission. We added an item D, which is a request for approval for an expenditure of

Community Service funds in the amount of \$3,000 for the Edgewood Senior Center. We added an item C, request for approval for an expenditure of Community Service funds in the amount of \$4,000 for the Santa Fe County 4-H program.

Under the Consent Calendar, XI. A. Miscellaneous, we added an item 4, which is approval of amendment #4 to a professional service agreement with the Santa Fe Boys & Girls Club to provide onsite after-school and summer programs, and this amendment will extend the term of the agreement to June 30, 2010, and increase compensation in the amount of \$135,000 for summer programming and youth services.

On page 3 of the agenda, Mr. Chair, under XIII. Public Hearings, A. Growth Management Department, the request of Santa Fe Canyon Ranch for a County water service area boundary extension. That will be table till the July land use meeting, which I believe is on July 14th. Item 6, which is BCC Case #MIS 09-5070, Santa Fe Opera Village Master Plan Extension, that request has been withdrawn. And finally, Mr. Chair, items number 7 and 8, which are findings of fact for the Tierra Bello Subdivision and the Spirit Wind Ranch Subdivision, we have one order that has been prepared that covers both of those, so when the time comes, Mr. Chair, we can handle both those cases together as one. And those are the amendments and clarifications from staff.

CHAIRMAN ANAYA: Thank you, Roman. Is there any questions?

Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval as amended.

COMMISSIONER STEFANICS: Second.

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

The motion passed by unanimous [4-0] voice vote.

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIRMAN ANAYA: Is there any withdrawals from the Consent Calendar?

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I do have a question on the last item that was amended. That would be item number 4, and if there are no other requests I would move that we accept the Consent Calendar with that amendment.

CHAIRMAN ANAYA: So you want to remove item 4?

COMMISSIONER VIGIL: Yes.

COMMISSIONER MONTOYA: Second.

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

The motion passed by unanimous [4-0] voice vote.

XI. CONSENT CALENDAR

A. Miscellaneous

- 1. Request Authorization to Enter into JPA with the City of Santa Fe for the Day Reporting Program at the Youth Development Program. The Program Provides a Non-Secure Alternative to Detention while Providing Education, Counseling, and Other Services. This Contract Provides Funds from the State of New Mexico Children, Youth and Families Department. (Corrections Department)**
- 2. Request authorization to enter into a JPA with the City of Santa Fe for the Purpose of Creating a Drop Off Center. The Center Will Provide an Alternative for Law Enforcement to Place Juveniles while Locating Parents or Guardians. This Contract Provides Funds from the State of New Mexico Children, Youth and Families Department. (Corrections Department)**
- 3. Approval of Third Amendment to Project Participation and Land Transfer Agreement. (Legal)**
- 4. Request approval of Amendment No. 4 to Professional Services Agreement #27-1901-HO/JC with the Santa Fe Boys and Girls Club to Provide On-Site After-School and Summer Programs. Amendment No. 4 Will Extend the Term of the Agreement through June 30, 2010, and Increase Compensation in the Amount of \$135,000.00 for Summer Programming and Youth Services (Housing Department) ISOLATED FOR DISCUSSION**

VIII. APPROVAL OF MINUTES

A. May 5, 2009

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I move approval of the minutes from May 5, 2009.

CHAIRMAN ANAYA: Motion by Commissioner Stefanics, May 5th. Is there a second? I'll second it. Any further discussion?

The motion passed by unanimous [4-0] voice vote.

VIII. B. May 12, 2009

COMMISSIONER VIGIL: I will move to approve the minutes of May 12th.

CHAIRMAN ANAYA: Motion by Commissioner Vigil.

COMMISSIONER MONTOYA: Second.

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

The motion passed by unanimous [4-0] voice vote.

IX. MATTERS OF PUBLIC CONCERN –NON-ACTION ITEMS

CHAIRMAN ANAYA: Is there anybody in the audience that would like to speak on Matters of Public Concern? Raise your hand. Six people. Are they all on the same subject, probably?

COMMISSIONER STEFANICS: Mr. Chair, I recognize several people here to talk about the hospital, CHRISTUS St. Vincent, but I also wanted to comment for the audience that we did not pass or approve a budget yet, because some people came up to me in the break and said, well, you've already passed this budget, and I just wanted to let the audience know we have not approved the budget until next month. Thank you.

CHAIRMAN ANAYA: Yes, we only discussed it. So you could come forward. If you're all going to speak on the same thing I'd like you to limit it to two minutes. We have a long meeting today. So if you could ma'am, you want to start off? You had your hand up. If you could state your name.

LAURA CLARK: My name is Laura Clark and I live in Santa Fe. I am the vice president of Compassion and Choices and we've been very, very concerned about CHRISTUS being a partner at the hospital and about the directives and about them abiding by the important directives in end of life and with women's health. I do not know if there has been any assurance that they have been abiding by these directives. And we are very concerned because it is taxpayer money that is being given to this hospital and it's the only hospital in Santa Fe.

And we're also very concerned about the contracts that the doctors have to sign. We've seen and I do not understand why in a place like Santa Fe where we are multi-religious people have to abide by the ethics only of the Catholic Church. So I think that there's a lot of issues here that really need to be discussed before we give taxpayer money. Thank you.

CHAIRMAN ANAYA: Thank you, Ms. Clark. Ma'am.

DR. SCHMIDT: I'm Dr. Schmidt. I'm presently the president of our local chapter of Compassion and Choices, and I'm referring to the newspaper articles in the Albuquerque *Journal* and other newspapers recently, again about St. Vincent CHRISTUS

Hospital, which forces all its employees, including the doctors to sign a new contract, which includes the Catholic, fundamentalist Catholic ethical and religious doctrine, which they have to sign in order to become employees of the hospital. Now, this has never been clarified. I don't know now whether the doctors had to sign it or whether they don't, or is it – for the record, could you please also state how much taxpayer money has been given to the hospital annually? At least in the past, if you don't know it at this moment for this year.

But we're very, very concerned about the honoring of advanced directives and women's health services, and particularly, since we are seniors, about the honoring of advanced directives.

CHAIRMAN ANAYA: Okay. Thank you. Do you want to answer that, Roman? How much money? Nine million, isn't it?

MR. ABEYTA: Mr. Chair, yes. This last year was \$9 million, but I believe we do have information that we could probably put up on our website and make available that has our funding for the last five years, I think is what we went back. So we can make that available.

CHAIRMAN ANAYA: Okay. Let's do that. Sir, come forward.

DAVID RISSER: My name is David Risser. I am a resident in the area of the city that is part of the annexation with the county. I'm here to ask the assistance of the Commissioners in helping us extend the timeframe to three months before the rezoning ordinance is approved. It is what the ELUC has recommended, largely based on lack of public notification, public discussion and public meetings. However, the ELUA has ignored this recommendation and voted to implement the ordinance. However, it's questionable if that vote is binding because only five out of the seven were present at the meeting.

Our concerns are that the original ordinance contains language such as the purpose and intent that the rural resident district is intended to respect the existing rural resident character and to prevent urban densities. Well, even though this has not even been completed, we've viewed the tactics of the City Council who are also trying to amend this, which isn't even in effect yet, and to increase the zoning and density in complete contradiction to what the County and City agreed to in the beginning. And I just want you all to know, if you're not aware, what the City is trying to do. It's trying to jeopardize your intention in the first place to keep this as a rural district and to keep the density low.

In discussions over the last several months, non-public, private discussions, your wishes have been tampered with. And I'm not sure if you're aware of this or this is as high as ours. We've only become aware of this in the last three or four weeks because of articles in the newspapers. Our suspicion is the City's been working on this for quite some time, but not out in the public. Kind of behind everybody's back. Their intention is to take this area around Coyote Ridge, which would be north of Agua Fria to 599, from Calle Nopal to Hansen's Lumber and run the density up there as much as five or six units per acre. We're currently at one per 2.5 acre without services. There's a small community, Cielo Lumbre, that wanted to develop and managed to put one house per acre even though they don't have City services but he worked that out on his own.

We're afraid that the integrity of this area which is truly beautiful county land is going to become so dense and the City is so hungry to do this, we feel like we're being thrown to the sharks. And as this great sign behind you says, protect our property. We're here asking for your help to re-examine this because our property is not being protected and we're feeling very, very concerned what the City Council and the developers who seem to have more influence than we have at this point have plans for our homes. Thank you very, very much.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would just ask Mr. Risser to give his name to constituency services, Rita Maes, who is organizing and has organized meetings with the neighborhoods out there. Most recently we met with many of them. We've done onsite visits. Rita Maes, constituency services, you can contact the Manager's office so that we can keep your name to advise you of meetings with regard to this.

MR. RISSER: Do you know if Sid Monroe is aware of this?

COMMISSIONER VIGIL: Sid has been at every meeting.

MR. RISSER: Okay. Great. He's one of my neighbors.

CHAIRMAN ANAYA: Let me go to this gentleman here and then I'll go to you, young man.

JERRY RIGHTMAN: My name is Jerry Rightman. I live in Las Dos, which is in unincorporated county. Commissioner Vigil is our Commissioner. And I actually have two issues to address. Do you want me to come back and – I'd like to address the CHRISTUS St. Vincent issue first, and then there's another road issue I'd like to address.

CHAIRMAN ANAYA: You can do both of them.

MR. RIGHTMAN: I can do both?

CHAIRMAN ANAYA: Yes.

MR. RIGHTMAN: Okay. Well, the CHRISTUS St. Vincent issue, I'm even concerned that we have to discuss this, because it was, I thought in the newspaper the assurance were given by CHRISTUS when they took over the hospital that this would not be an issue, this Catholic directives and the Catholic religion making decisions rather than medical decisions being made. And now all of a sudden this issue is coming forward, and I'm discouraged. I'm disgusted. I think it's reprehensible that they're putting these things out there, especially as the two ladies before me talked about a woman's health issues, a woman's right to choose, birth control issues, the end of life issues that people have to make. These are issues that should be decided between a patient and a doctor, not between the Catholic Church and the patient. Especially as someone said, this is a multi-cultural community and not everybody believes in the Catholic religion.

That we even have to discuss this – I don't know why there wasn't a signed document that they agreed to when they took over this facility. I don't understand why that was never done and maybe you need to talk to your Legal staff about that as to why that was not a done deal before this issue now came up. So that was my first comment.

The other issue I have, Commissioner Vigil, is what they have done to the road because of those mailboxes out on Camino La Tierra. I've lived out there for 15 years. The speed limit was 40 to 45 miles an hour, and they put in some mailboxes out there. They've dropped the speed limit to 25, they took the main road, which was the straight road going through, turned into a left turn lane only, and they put an apron there now that the through traffic has to skootch over to an apron to go around.

Everybody – I stood there, 95 percent of the cars go 45 miles an hour through there. That's the correct speed to go through there and they've dropped the speed to 25 so what you end up having is 90 percent going 45 and then you get one guy going 25, and he's a hazard. It's like if you're on the freeway and everybody's doing 70 and there's a car doing 50 – who's the dangerous driver? And so you've created a dangerous situation out there and I've talked to people and nobody wants to seem to look at it and address that issue and see if they can't look at that speed limit out there because 25, nobody goes 25. You can put 25 out there but if nobody goes there it's ridiculous. The accepted speed out there is 40 miles an hour, not 25.

COMMISSIONER VIGIL: Mr. Rightman, Mr. Chair, I would also advise you to contact constituency services and our Public Works Division. They have been working on this issue for three years now and most recently we had a meeting based on the construction that was there and we're looking at redesigning some of that. And I don't know why that information was not made available. I'm not sure who you spoke to, but I've worked very closely with many of the residents out there. We've conducted surveys. We've given notices and I would just advise that you contact me, personally, and I'll give you an update on what's going on, the history of that and what the current situation is and what we propose to have done in accordance with Code.

MR. RIGHTMAN: I guess my concern is, you say you did meetings and contacted people, I was never contacted and I drive that road every day. So you may have contacted people –

COMMISSIONER VIGIL: I'm asking you to contact me now.

MR. RIGHTMAN: Okay. Well, that's what I'd like to do. Thank you.

CHAIRMAN ANAYA: Thank you, Jerry. Sir.

ROBERT LAGACE: My name is Robert Lagace and I'm a citizen of Santa Fe and a member of the board of directors of the local chapter of Compassion and Choices. The previous gentleman touched upon the issue that I think is of most concern to me. We've been very concerned over time about the verbal promises and issues that CHRISTUS St. Vincent board of directors have issued. The told us time and time again verbally. The thing is we've never been able to get them to really put it, as far as I know, into an official document, issued by the hospital, that would also be made available to the public. They say when you want to look at some contracts that they were private. You can't do it.

We really don't know whatever is in your official documents, and certainly they've been continually going contrary to what they initially put out verbally about what they did not require, that the ethical and religious doctrine of the Catholic Church be followed. So this is a basic issue in terms of people's end of life care and how we deal with people in the hospital

that have to go there, especially since it's our only chief hospital within this district. So thank you.

CHAIRMAN ANAYA: Thank you, Robert.

FRANK SUSSMAN: My name is Frank Sussman and by way of introduction, I am president of the northern chapter of the New Mexico ACLU. In addition I have prior intimate experience with the religious directives of Catholic healthcare, the impact upon public health issues, and upon the delivery of medical services to the indigent, having previously served as chief counsel in a case before the United States Supreme Court in which these concerns were core issues.

Initially I find it difficult to believe that CHRISTUS was unaware a year ago in April 2008, at the time of its merger with St. Vincent's, of its intent to implement these current, controversial concepts in physician contracts, and I find it even harder to understand why as a simple matter of good faith they would not have raised this topic at that time when closely related issues were being raised. Even more troubling are the comments of CHRISTUS spokesperson, Arturo Delgado, as reported in the *Journal Santa Fe* this past Saturday, June 6th, that the inclusion of the controversial language, and I quote, "was just a starting point for negotiations."

Constitutional rights, medical ethics, and indigent healthcare should never be considered negotiating ploys. There are several key issues that arise and need to be addressed in this context. When a CHRISTUS patient seeks information or a treatment of a nature in conflict with Catholic teachings, a) Is the patient told that the information or treatment is in conflict with Catholic teachings? b) Is the patient told that the information or treatment cannot be provided because it is in conflict with Catholic teachings? c) Is the patient told the information or treatment is available elsewhere in the community? And d) Is the patient, without having to ask, referred to another healthcare professional or facility which will provide the requested information or treatment? And e) Is there a formal policy addressing the foregoing questions, and if so, how is the policy implemented and enforced? And finally, f) Are records kept as to the frequency and nature of such incidents.

2. To what extent should public funds be used to support the answers to the foregoing questions? And finally, 3. Should any healthcare professional, paid with public funds, in whole or in part, be obligated to conform or swear allegiance to Catholic teachings by contract or actions? I thank you for your time.

CHAIRMAN ANAYA: Thank you, Frank.

DAPHNE BANKS: My name is Daphne Banks. I am a citizen of Santa Fe and I'm not going to repeat what everybody else has said. I am in total agreement with them with this CHRISTUS issue. CHRISTUS never, never put out a piece of paper that said they agreed and they would desist with their Catholic policies. I am going to talk about another piece. At this point in time Santa Fe has a lot of problems keeping good doctors. We're going to lose even more. I'm not going to discuss what has already been discussed – women's issues, end of health. I need you to know that I'm not discussing it only because it's already been put on the board. The other issue that hasn't been put on the board that concerns me as a member of

Human Rights Alliance and the gay community is when people come in that may have issues along the gay health issues. What is the Catholic policy going to be?

From state to state, from day to day it seems to change. I also agree totally that we are a City Different. We have a multi-faceted group of people. People that are believers, believers in a higher power, regardless of the religion they choose to use and go with with that higher power. And I'm asking you the amount of money that I already heard was spent, I don't even want to go there. But I'm asking you all to please be very up front and tell us where we can go to see exactly what monies are going to them, and what are our regulations and our policies so that they can spend that money. We just have to look at the federal government to look at the fact that when it's unregulated funds, believe me, we're going to lose. And I would hate to see us lose, because then we're going to not only lose some of our good citizens but we're going to lose major medical people that we need, that aren't here now. And we will never get them to come here under those conditions. Thank you for listening.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN ANAYA: Thank you Ms. Banks. Commissioner Vigil.

COMMISSIONER VIGIL: I appreciate the voices of those people concerned and empathize with the issues that they propose. Santa Fe County had an issue with St. Vincent's about eight years ago and it was with regard to the closing of the adolescent center. The community was very upset about that and some of you may remember that. So Santa Fe County conducted public hearings, recognized above anything else that the Commission has very little expertise in the area of health. And so as a result of that we created a Health Policy and Planning Commission comprised of community-wide representation. At least a large part of the representation of the community that are health experts.

Before Santa Fe County moves forward in any direction with regard to this issue as it's brought forth, it really should be evaluated and proposed to the Commission through our Health Policy and Planning Commission as that is its purpose. So while I appreciate and am willing to listen to the issue here, I would advise and recommend, Mr. Chair, that we defer this issue to be fully discussed with our Health Policy and Planning Commission and ask them to give us the feedback. They are an advisory committee and they would be able to look at the issue from the perspective of many health providers that are represented here. And also, I think the Commission has the authority to conduct further public hearings on this. Perhaps maybe that's the direction we should go, but I don't think any decision can be made at this point in time, particularly because this issue was brought to us under Matters of Public Concern. That would be a recommendation from me, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: On Commissioner Vigil's comments, I think that the Health Policy Commission would be a great place to study the matter and to see what CHRISTUS St. Vincent will give them in writing concerning coverage of the issues that

are being talked about. I was going to bring this up in Matters from the Commission, but several physicians did contact me with their concerns about possibly leaving, and that the hospital was setting up an environment that did not want employee-physicians. So I think to hear the concerns of the public is very important. I agree that perhaps we cannot take any action today, but I do want to hear what the concerns of the public are. That's why we have this item on the agenda, and I would ask our staff with the Health Policy Commission to perhaps determine what they can receive in writing, Joseph and Steve. I know Steve's watching; he sent me a couple emails already. But see what we can receive from CHRISTUS St. Vincent's in writing about these concerns so we can take it up at our next Health meeting. Thank you.

CHAIRMAN ANAYA: More Matters from the Public? Come on up, sir.

DR. HARRIS BARBOUR: My name is Dr. Harris Barbour. I'm a retired obstetrician/gynecologist. I moved to Santa Fe to start my practice in 1961. At that time the hospital of course was run by the Sisters of Charity and I would take nothing away from their excellent handling of the hospital throughout the decades that they did that. However, during that time, my practice intimately related to female reproductive problems was hampered by the then prevailing Catholic proscription of sterilization and also pertaining to end of life situations.

On several occasions I was required to take patients to Española to one, either for a tubal ligation, sterilization operation, or on several occasions for a repeat Caesarian section when they had requested sterilization at the time. Also, during this time I encountered a fair number of ladies who'd had too many Caesarian sections, too many for their uterus to really hold it, hold the pregnancy, so that we were faced with a ruptured uterus. Fortunately, we never lost any mothers that way; we did lose some babies.

Had they, at that time, at a previous Caesarian section, had they been allowed to have a sterilization procedure, that whole thing would have been theoretical. Then we know when the hospital was transferred to a self-regulating corporation and the Sisters left, then those proscriptions were stopped. And so we could do sterilizations as necessary. We could perform whatever was necessary for the health of the mother. Nowadays, sterilization procedures being laprascopic, tubal ligation, tubal section, can be performed in the outpatient surgery department. So there are several in town I guess. And the patient comes in in the morning. The procedure is done. They go home in the evening. So they don't have to be admitted to the hospital for that.

But we're still left with the business of needing to do a sterilization procedure during Caesarian section. So I would – I think that your suggestion and your suggestion both are excellent and I would urge the Commission to follow through on those. But I do think that whatever influence you may bring on the CHRISTUS organization, which is behind all this of course, whatever influence you can bring would be greatly appreciated by the physician population of St. Vincent. Thank you very much.

CHAIRMAN ANAYA: Thank you, Doctor. Anybody else would like to address the Commission? Sir.

NORMAN BUDOW: Thank you, ladies and gentlemen, for giving us a chance to voice our concerns about this issue. I was at the meeting at St. Vincent's a few weeks back. My name is Norman Budow and I'm a resident of Santa Fe and Santa Fe County. And I was a little bit troubled, but I became rather sanguine when we were assured verbally that there's really no need to be concerned. This is an issue that in fact is pretty much going to be taken care of. My daughter is a lawyer in another city, and she said if you don't have it on paper, you really don't quite have it. It's not like England. England, there's a saying, my word is my bond. But unfortunately, in this country the paper is your bond. And I would just like to see a sense of feeling and compassion for people who have their last desires, whether women's reproductive in final disposition, not honored. So I just thank you for the opportunity and I hope you'll take it to heart. Thank you.

CHAIRMAN ANAYA: Thank you, Norman. Anybody else?

TIM JOHNSON: Hi. My name is Tim Johnson. I'm a resident of Santa Fe, moved here from Chicago. Coming from a large city like that I'm really overwhelmingly surprised that our only hospital is being asked to sign these type of documents that are going to limit the procedures that people need. I'm not going to get into a lot of it because there's probably a lot more experienced people here, but my concern is I don't mind taking this up with the Health Commission; my concern is you're ready to set budget. I don't want them to get another \$9 million until this has been reviewed totally among the Health Commission and among the public. That's my concern now is you're ready to set budgets and I don't believe they should be getting another \$9 million until the Commission has reviewed this and the public has had their say. And we get something in writing from CHRISTUS.

DONA HATCH: Hi. My name is Doña Hatch and I live in Santa Fe County. I'd like to echo what the doctor said and what Tim said, and it seems as though with only one hospital in Santa Fe it's just another way to exclude people as opposed to being able to include people. And with the health services in the state that they are in this state, with this being the only hospital in Santa Fe, I think possibly we could say that women can't have the services that they need and that the end of life decisions are in question as well. And it just seems to me that this is another way for the Catholic Church to interfere in the lives of people. And we're supposed to have a separation of church and state. We already have big insurance companies bullying us around and if you let the Catholic Church do it, where are we? I think it's a really, really bad idea to give more money. It would seem to me that it would be better to give money to some other health agencies who might really help people as opposed to giving it to an organization who exclude some of the very people that need the help of a community hospital. Thank you.

CHAIRMAN ANAYA: Thank you very much. Okay. The public comment is closed. I want to thank you all very much and I look forward to hearing from you and from the Health Policy and Planning Commission on these issues that you brought forward. Thank you.

X. MATTERS FROM THE COMMISSION

- A. Request for Approval for an Expenditure of Community Service Funds in the Amount of \$2,500 to Santa Fe County Growth Management Department, Natural Resources Water Conservation Program. (Commissioner Holian)**
- B. Request for Approval for and Expenditure of Community Service Funds in the Amount of \$3,000 for the Edgewood Senior Center (Anaya)**
- C. Request for Approval for and Expenditure of Community Service Funds in the Amount of \$4,000 for Santa Fe County 4-H Program (Anaya)**

COMMISSIONER VIGIL: Mr. Chair, I would actually make a motion to approve items X. A, B, and C.

COMMISSIONER STEFANICS: I'll second.

CHAIRMAN ANAYA: There's a motion and a second to approve A, B, and C under Matters from the Commission. Any further discussion?

The motion passed by unanimous [4-0] voice vote.

X. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I didn't expect to go first but I will. Mr. Chair, I just wanted to let people know that this past week at the Association of Counties Santa Fe County received a certificate or achievement for the participation in the CPR initiative that was part of your initiative, Mr. Chair, and Mr. Past President, I guess I'd call you know. So we received that, so Roman, just wanted to make that presentation.

And then the other is we received the 2008 RAP Award, and this is the award for a county successfully completing the NMAC New Mexico Association of Counties Risk Awareness Program. We got this award by reducing our multi-line claims by 27.7 percent, our automobile claims by 43 percent, and our law enforcement liability claims by 15.6 percent. So kudos to the County and County staff, Roman and I want to make sure that we post this in a prominent place for display for all the County employees and congratulations to all of the employees who made this happen. So I just wanted to make those recognitions, Mr. Chair.

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

COMMISSIONER VIGIL: Thank you, Mr. Chair. I just wanted to announce to the public out there that the whole issue of annexation, and it was brought to our attention earlier in the Matters of the Public, is something that's underway and anyone that has any concerns about it or would like to discuss the issue with me please contact me directly. I was at the City Council meeting when the Rural Protection Ordinance was acted on. It was acted on

unanimously and voted for and I just want to state that I appreciate the City even considering doing a rural protection ordinance in this area. It did reduce the predictability of density being possibly R-8 according to the City Code, and that would be eight residences within an acre. Currently it's reduced to three residences with possible density bonuses being available.

The one outstanding issue that has been discussed both about the Rural Protection Ordinance and the Regional Planning Authority, it was not discussed at the ELUA, is the issue of buffering. And I will be working with the City. The City has been very cooperative and willing to listen to County issues, so if there are outstanding issues there I'd like residents to contact me, because this process is underway and we want to make sure that all the issues do get addressed before that agreement is finally, finally acted upon. Well, the agreement itself has been acted on – before it finally gets implemented.

Our Legal Division has also made themselves available to speak to residents out there in the community about this. Annexation is a huge issue and as was reported at our last ELUA meeting, we have been working on it for more than eight years. Of course we get the same response at every meeting that there's a resident out there who didn't know about it. I just want to say, for those residents and for the public that I am totally available to them to discuss any issues regarding annexation as it relates to District 2 and as it relates to any district, because I've been fully engaged in this process. Thank you, Mr. Chair.

COMMISSIONER MONTOYA: Mr. Chair, on that point.

CHAIRMAN ANAYA: Sure, Commissioner Montoya.

COMMISSIONER MONTOYA: The ELUA, as Commissioner Vigil alluded to, did make a decision the other evening regarding this particular issue. I just want to state for the record that number one, we did not ignore the ELUC. They made a recommendation to table for three months. The ELUA, in light of the fact that there's 17 cases that have nowhere to go right now because of zoning purgatory, for lack of another word. They just have no place. Neither the City nor the County. So the recommendation by the ELUA was that we adopt an interim ordinance for four months, and after that period that ordinance expires and by that time we will have expected that the ELUC will have conducted the public hearings that they had requested by done at their particular meetings. So in no way was their recommendation ignored, but the ELUA, I believe fulfilled their obligation in terms of making some recommendation.

Now there is still some question as to whether or not the super-majority was available and we're still determining that, but in no way did we ignore any of the recommendations coming from ELUC.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. So on that point, before I begin my other items, Commissioner Montoya, will we be reconsidering that item or you don't know yet? At ELUA?

COMMISSIONER MONTOYA: Are we, Steve?

MR. ROSS: Mr. Chair, Commissioner Montoya, it's really, as chair of ELUA, as we discussed last week, it's kind of up to you whether to call that back and discuss it again.

COMMISSIONER MONTOYA: Okay. So, yes, we will.

COMMISSIONER STEFANICS: Thank you. A few other items. I was glad to hear that we'll have a plan from the Fire Department regarding the fire tax and their other plans on June 30th, is that correct? And along the Fire Department lines, I attended the Turquoise Trail Volunteer Fire Department's 40th birthday party this last weekend, and there were several octogenarians who had been fire chiefs. It was a fun event. We had two women in their eighties who had been fire chiefs many, many years ago. Of course several deceased members and their families received awards on their behalf. But the community is really, really proud of the Turquoise Trail Volunteer Fire Department and I'd like to congratulate them on 40 years.

In regards to the County and CHRISTUS St. Vincent Hospital, I know that in the past, prior to my sitting on the Commission, the Commission had some resolutions or discussions asking that the board meetings perhaps be open, since they receive sole community provider funds, or that the County have a representative on the board. So I plan to bring that up in our health committee's discussion later on.

As you all have read in the newspaper, domestic violence is rearing its head, both with deaths in the community and with attempts. And I can't help but wonder if the economy is lending itself to the stressors that lead to this. So I have been approached by Carol Horowitz, who works on domestic violence issues for both the City and the County, and she'll be working with Steve Shepherd and presenting to us at one of our future health meetings so that we too can identify if there's more that we can do at the County level.

I've provided all of you with an RTD route map. The Regional Transportation District, and you will see that there's quite a few routes in the north but few in the south, so it seems that we might be focusing on the south in the future.

And over the weekend there was a flurry of phone calls regarding construction at the Santa Fe Southern Railroad in Lamy. And so I have asked staff to try to determine if that's private land, if that is federal land, if that is state land, and we don't have an answer to date, but we had several calls, and we're trying to find out what is actually going on there so that we can let the community know. Roman, do you know anything more about that?

MR. ABEYTA: Mr. Chair, Commissioner Stefanics, no, I do not, but as soon as we get information we'll put it out there.

COMMISSIONER STEFANICS: Okay. I understand that the department did send somebody down there to look, but there are no permits anywhere and there is definitely concrete being poured in some footings for it looks like a building. And the community is very concerned. So I'd like to have us look into it. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you. I'd also like to thank Roman and the Commission for going through the CPR program. That was one of my initiatives as president of the Association. And I also want to thank the Commission and Roman and staff for supporting me on being the president of the Association. I was honored and proud to serve as a Santa Fe County Commissioner and I believe that's it.

XI. A. 4. Request approval of Amendment No. 4 to Professional Services Agreement #27-1901-HO/JC with the Santa Fe Boys and Girls Club to Provide Onsite After-School and Summer Programs. Amendment No. 4 Will Extend the Term of the Agreement through June 30, 2010, and Increase Compensation in the Amount of \$135,000.00 for Summer Programming and Youth Services (Housing Department)
[Exhibit 1: Staff Memo]

COMMISSIONER VIGIL: Actually, Mr. Chair, I just had a question, Dodi, and it probably may or may not be answered by you. And please, I have to underscore my question now by saying this does not mean I don't support what we're doing there. I wish we had lots and lots of money to support them. Well, first of all, Dodi, is this strictly County money? The \$135,000? Or does it also go to the Alto Street? Do you know that?

DODI SALAZAR (Housing Director): Mr. Chair, Commissioner Vigil, this is specifically – there are two separate pots of money in this contract. \$75,000 of the \$135,000 is for the onsite public housing Boys & Girls Club. The other \$60,000 is for a summer program that the Boys & Girls Club will be doing. This program targets youth between the ages of 12 to 18, and will run for four months this summer.

COMMISSIONER VIGIL: Okay. And where do these dollars come from?

MS. SALAZAR: Mr. Chair, Commissioner Vigil, this money comes out of the general fund.

COMMISSIONER VIGIL: Okay. And I guess maybe the question I would have – I'm not sure you could answer, is just based on the budget study session we had, and the \$80,000 recommended for the incoming years, are these dollars from the previous budgeted dollars?

MR. ABEYTA: Mr. Chair, Commissioner Vigil, no. This is actually the same program we ran last year. Last year's amount was \$75,000, so coming into this next budget year we reduced it to \$65,000. So this is reflected in the budget you just saw earlier today. So this is in compliance with that budget, which is the cuts we made.

COMMISSIONER VIGIL: Thank you. Mr. Chair, that's the only question I had. Thank you, Dodi.

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER VIGIL: Second.

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

The motion passed by unanimous [4-0] voice vote.

XII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Growth Management Department

1. Approval of Memorandum of Understanding Between the New Mexico Economic Development Department and Santa Fe County to receive \$350,000 as State Appropriations to support the Bicycle Technologies International, Ltd./MW Holdings LLC Local Economic Development. Project. (Economic Development)

DUNCAN SILL (Economic Development): Mr. Chair, Commissioners, back in September of 2008 the Board of County Commissioners had approved and adopted via an ordinance a local economic development project with BTI, Bicycle Technology International, and with that ordinance there was also a project participation agreement, PPA, entered between the two parties. One of the statements in there alluded to support from the County on the project so long as funding is available from the State of New Mexico. Since that time recently there has been a grant in capital outlay in the amount of \$350,000, made available by the New Mexico Economic Development Department in direct support of this. So the memorandum of understanding in your packet today reflects that. So I'm here to ask for approval of that MOU, and I stand for questions.

COMMISSIONER VIGIL: Move for approval.

COMMISSIONER MONTOYA: Second.

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

The motion passed by unanimous [4-0] voice vote.

CHAIRMAN ANAYA: Congratulations, guys.

XII. B. Matters From the County Manager

1. Update on Various Issues

a. New Judicial Courthouse Complex

MR. ABEYTA: Thank you, Mr. Chair. I have the following update for the Commissioners on the judicial courthouse complex. We are expecting an assessment report by the end of this week and that report will tell us the extent of the contamination on our property. So by the end of the week, early next week, we should know what the extent of the contamination is on our property. They are continuing to work with the Environment Department to assess the surrounding property and we expect a report within the next 60 to 90 days on the bigger problem. But for our property itself we will know the extent of it within the next two weeks.

The contractors, Intera, still feel confident that we can start the remediation of our property by September 1st. I think that was the date that they had said to the Commission when we had that evening presentation from them. So we think we're still on track. We're starting to clean up our site on September 1st.

As far as clean up on any of the neighboring properties, that will have to be done in conjunction with ED and the extent of that is still unknown. Now, as far as the construction itself, the construction of the courthouse, we have reached a point where we cannot move any further. We've cleared as much ground as we can, and so we have put the contractor on a 30-day suspension for now, and then as we get our report in the next couple of weeks and we have a presentation to the Commission from Intera, then we will make a decision with the Commission as to whether or not we suspend the contract on the construction of the courthouse for 30 days, or six months, nine months. So for now, we're just going to proceed on a month-to-month suspension until we have more information from Intera. But it looks like next week we will have a full report on our site's contamination, and I'll share that with the Commission as soon as I get it.

CHAIRMAN ANAYA: Roman, are we going to have alternative sites, just in case something happens? Just in case we can't build there? Can we look that far ahead, just in case?

MR. ABEYTA: Mr. Chair, we have been receiving phone calls from individuals who may have property available but that's the extent of it right now. We're not there yet. But as soon as we have this report and then we start getting results from the bigger report, from the surrounding properties, then that may be something where we do need to start discussing – have those discussions with the Commission.

CHAIRMAN ANAYA: And I'm just looking at – maybe we don't have to cancel the contract with the contractor; we could just move locations.

MR. ABEYTA: Right.

CHAIRMAN ANAYA: But that's something we can talk about.
Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, when do penalties start kicking in?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, are you referring to penalties with the contractor?

COMMISSIONER MONTOYA: Yes.

MR. ABEYTA: We do have in our contract a cease – or a suspension fee that we pay now, and so we will start paying that fee, and it's \$38,000 a month.

COMMISSIONER MONTOYA: So we're on the clock already.

MR. ABEYTA: Right. Just starting now, we have entered into – we didn't feel comfortable saying it's going to be six months, nine months – the contractor has agreed that for now we'll deal with this on a month-by-month basis.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN ANAYA: Roman, any other updates?

MR. ABEYTA: That's all I have, Mr. Chair.

XIII. C. Matters From the County Attorney

3. Update and Discussion Concerning the Proposal That the County Provide Wholesale Water Service to the Las Campanas Development [Exhibit 2: Staff Memo]

MR. ROSS: Mr. Chair, we have to go into an executive session but just for planning purposes. We have a number of people here for XII. C. 3, the update and discussion concerning the Las Campanas issue and I guess I'd propose that we take that up now since we're making such good progress on the agenda.

CHAIRMAN ANAYA: Okay. So we don't need to go into executive to talk? You want to do 3. Now?

MR. ROSS: We will need to go into executive session to talk about several issues and eventually come out and make a ruling on this water service agreement that's on the agenda, but I would suggest we just do this briefing now and we'll try and make it relatively short. We do have a few slides that one of our engineering people will present, and I can just give a brief introduction.

Many of you already know – many of you on the Commission are aware of what's been going on over the past few months, particularly those who serve on the Buckman Direct Diversion Board, and that is an idea that has surfaced that the Las Campanas development be served by the County. As you recall, the Buckman Direct Diversion project was originally envisioned as a City-County project that would as sort of a minor part of the project, would supply raw Rio Grande water to Las Campanas and Las Campanas would set up its own treatment facility and other facilities internal to the subdivision to provide water for their residents and provide water for their golf courses. They also have a sewer system, so they're a very, very self-contained development.

The recent recession changed all those plans. The cost of not only participating in the at-river facilities with the City and the County on the Buckman Direct Diversion, plus building a standalone treatment plant and all the other facilities is not really feasible any more for the limited partnership that is responsible for the development. Staff has been tossing around a number of ideas over the last few months and doing some studies. The Buckman Direct Diversion Board has done the same thing with respect to the physical infrastructure at the diversion project and the purpose of today's presentation is to kind of update you where we are now.

One of the initial things we studied was whether the County should exercise the dollar option that we have in that very old development agreement. We quickly found, through the work of Dennis Gee that that wasn't a very attractive alternative to what's presented today, which is the County simply taking on Las Campanas as a single, wholesale customer. That type of a proposal has a significant beneficial effect on rates that County water customers

would pay after the Buckman Direct Diversion becomes operational. I think it's a little over a \$2 positive effect per thousand gallons of water. So it's a significant beneficial effect.

The second problem of course is whether the Buckman Direct Diversion infrastructure can supply the County with adequate water to in turn provide water to Las Campanas. Las Campanas at build-out will use somewhat more than 600 acre-feet of water. So it's a significant increase in the amount of water that the County could potentially deliver. You'll hear a brief report from some of the Las Campanas people in a minute that seems to indicate a preliminary assessment of that is that the infrastructure can handle the County providing water to Las Campanas.

The third part of the problem is whether the County adding Las Campanas as a customer will reduce the County's ability to deliver water in the future to other customers. Of course demographics is the key to analyzing this problem. We used the work of Al Pitts that all of us rely on to make these types of projections and it appears that even including Las Campanas as a County customer the lines don't cross. In other words, the County won't reach its capacity in the Buckman Direct Diversion until the late 2030s at the earliest. We think that probably far sooner than that there will be a need to address the capacity of the Buckman Direct Diversion anyway. During that period it would be possible to accumulate a large amount of capital to address any issues with the infrastructure that might arise in the late 2030s.

In the report that I gave you [*Exhibit 2*], I think it's in the packets, there's a brief report from Dennis Gee, and he's here if you have any questions, that describes the beneficial effects on the rate base were a large customer like Las Campanas to be included. Also included is a projection – this is what I was alluding to – the work of Al Pitts that indicates when the County's demand plus Las Campanas' demand will equal 1700 acre-feet, which is the County's capacity in the Buckman Direct Diversion, or stated another way, when the peak day demand of Las Campanas or the City reaches its assigned maximum. I think it's around 150 million gallons a day, or maybe it's 1.5. I'm sorry. 1.5 million gallons per day. Once that capacity is reached there's an issue. Those lines don't appear to cross until the late 2030s.

So essentially the proposal is that Las Campanas would be signed up as a County water customer and we would establish a rate, a special rate, for wholesale water customers. We don't currently have such a rate, and we would have to do probably a cost of service study to get there. Then the cooperative that's currently set up out there would become a County customer and pay for water that's delivered through that co-op to its customer. We'd have one meter and we'd send one bill for this activity.

Somebody at Las Campanas, probably the water co-op or perhaps the limited partnership would deed the County the water rights that are necessary to back up these deliveries. So supplying water to Las Campanas in this manner would not affect the County's water rights portfolio. They would provide all the water rights that are necessary to do these deliveries, and they would also dedicate to this project any capacity in the Buckman Direct Diversion that's necessary, or that they have that would assist the County in making the deliveries. They have substantial capacity in the at-river facilities – 1800 acre-feet. Indeed,

that's more than the County has at the at-river facilities, but they don't have any capacity in the treatment plant whatsoever. That's because of the decision that was made years ago that they would just take raw water from the system as opposed to treated water.

The golf course is not a part of this proposal. The County would not supply water to the golf course. Las Campanas would be on its own to take care of that issue and they have a simple engineering fix that they'll describe to you that the County wouldn't participate in. But there would need to be some changes to the existing agreements between the City and the County and Las Campanas with respect to how costs are allocated, what facilities are three-way facilities, facilities that are managed by all three parties as opposed to just the City and the County. So the Buckman Direct Diversion Board would realize, and the project would realize a small cost savings because Las Campanas would participate in more of the project than they currently do.

And with that, I think I'll turn the program over to some Las Campanas folks and see – I'm not sure who's going to talk. They have a brief slide show with I think about six slides and then maybe we'll take questions at that point.

GREG GATES: Hi, I'm Greg Gates. I'm with CH2MHill, a consultant to Las Campanas. I have a few slides here. Hopefully we can get through this fairly quickly and get on with the evening here.

CHAIRMAN ANAYA: Thank you, Greg.

MR. GATES: The outline of the presentation is basically we're going to look at the Santa Fe County capacity in the Buckman Direct Diversion system and look at the growth projections that have been completed by the County along with growth projections for Las Campanas. We'll look at the total demand of the two combined, and how those compare to the water treatment plant capacity. Then we'll look at, based on a rate that's been proposed by Mr. Gee, consultant to the County, what the income to the County would be for those services, both fixed and operating, and how that would apply over time.

This plot shows the total capacity, the peak day capacity of the plant for Santa Fe County. It's roughly 3.7 million gallons per day. The green line is the Santa Fe County demand that would be projected over time, based on County staff projections from, as Mr. Ross pointed out, the work that was done by Mr. Pitts. The red line underneath that is the projection of Las Campanas' demand over time with a full capacity for Las Campanas being reached about 2036. The blue line on top of both of those is, if you add those two together and get the total. What you see is that total reaches the peak day capacity of the plant in approximately 2040, or as Mr. Ross pointed out, late 2030s. So that gives you a picture of the timing with that particular scenario when demands have reached peak capacity of the plant and facilities, with both the Santa Fe County and Las Campanas.

This next plot looks at revenues associated with Las Campanas being a part of this, as a wholesale customer of the County. The top line is the total revenue. The line with the triangles as symbols is the fixed cost, and the line with the red squares is the variable costs. The variable costs are costs that are accrued due to the use of water from Las Campanas. So that would be the cost of power and chemicals and other items that vary with the volume of

water that is being produced. The fixed costs are costs that are in place due to the infrastructure. So these are costs that the County of Santa Fe would pay regardless of whether or not Las Campanas was involved in the system. As you see, that's a significant portion of the total cost.

What this plot looks at is just the fixed cost portion. So this is the revenue that the County would see on an annual basis that would be replacing some of your costs. So again, the fixed costs are costs that you would be paying regardless of whether or not Las Campanas was involved in the system. So these are fees that Las Campanas would be paying you that would be offsetting costs that County customers would otherwise be paying.

This final slide is the cumulative, the last slide. So over the time period through 2040 from the point of inception it would accumulate approximately \$14 million, which would be savings to County customers, and as Mr. Ross pointed out, it comes out to something more than \$2 per thousand gallons for County customers. And I believe that's it.

CHAIRMAN ANAYA: Do you have any questions? Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Do you have these slides in a print form?

MR. GATES: In a print form? We've got a least one – a couple of copies.
Yes.

COMMISSIONER STEFANICS: Could you give it to our County Manager so we can refer to it when we take this up further?

MR. GATES: Sure.

COMMISSIONER STEFANICS: Thank you.

CHAIRMAN ANAYA: Any other comments? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I think it was referenced that you were going to make a proposal with regard to the golf course.

MR. GATES: Yes. There are a number of different options that Las Campanas is considering. One of those options is running a line parallel to the existing Buckman line and bringing raw water into Las Campanas' wastewater pond to provide that supply, and then Las Campanas would be paying for those facilities to be put in. So that would provide that supply. In addition, right now the goal of Las Campanas is to provide as much of the supply for the golf course with effluent as possible. They currently have an agreement that's through 2027 with the City of Santa Fe that provides up to 450 acre-feet of water for the golf course, and their own wastewater plan then provides an additional quantity of water for that.

By the year 2036, 2040, somewhere in there, the bulk of the demands of the golf course could be met with wastewater. The raw water is to get – to pass that time until you have enough wastewater available to meet those demands.

COMMISSIONER VIGIL: Let me make this statement and tell me if you agree with it. So up until 2027, the current contract that is with the City on the use of effluent would be the source of watering.

MR. GATES: That contract would provide a portion of the source of watering. The total demand of the golf course is somewhat over 600 acre-feet. That contract provides

approximately 450. Las Campanas' effluent is approximately 70. So there's an amount less than the total demand that is still made up of raw water, which is why that system would be put in place.

COMMISSIONER VIGIL: Okay. But it would be just the amount that's needed outside of the effluent.

MR. GATES: That's correct.

COMMISSIONER VIGIL: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you. Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: On the second page of this memo, Steve, on the very top, the last statement, Not only would a default shift additional burdens to the County for service it could implicate and delay the completion of the BDD. How?

MR. ROSS: Mr. Chair, Commissioner Montoya, the City and the County and Las Campanas are equal partners in all the river facilities up to a certain point on the pipeline that goes up to the water treatment plant. We share the costs three ways. So were Las Campanas to experience serious financial trouble their share of the cost of those facilities is somewhere in round numbers around \$10 million. That money would have to be made up at some point. The City or the County would have to come up with the money to complete those facilities. That's why that statement's in there.

COMMISSIONER MONTOYA: So at this point then, are there any other infrastructure costs that we would be picking up that Las Campanas would have been liable for?

MR. ROSS: Mr. Chair, Commissioner Montoya, the idea is that the County wouldn't be responsible for any infrastructure costs. The Buckman Direct Diversion Board is studying the infrastructure issue and there are a number of items that need to be addressed, additional valves, pumps, pipelines, things like that, and there's a report that's just come out today, or a draft report from Brown & Caldwell that's contracted with the Buckman Direct Diversion Board to study this and it's identifying those types of things but it's not as – it doesn't seem, my reading of the draft is it's not as significant as it was originally thought, the capital improvements that might be necessary to accommodate this request.

COMMISSIONER MONTOYA: Okay. And then under this agreement or proposed agreement, the water cooperative from Las Campanas would deed to us 600 acre-feet?

MR. ROSS: Mr. Chair, Commissioner Montoya, there's quite a large block of water rights that's owned either by the LP or the water cooperative. I'm not sure. I think the idea is that the water co-op owns the water rights and they would be deeded to us from the water co-op. Whoever owns them would deed them to the County.

COMMISSIONER MONTOYA: Okay. Then, Greg, not having all these in front of me, total savings, \$14 million? Is there any downside, con – pros and cons – are there any cons to what we're being asked to consider here?

MR. GATES: I don't see any particular downsides to it. The primary upside that I see, I guess is that again, it's a portion that you'd be paying anyway. It would be equivalent to you having another customer come on, more users come on that are providing some of those costs. Providing water to a single meter, having Las Campanas cooperative actually do their own internal billings and what have you, you only having to issue one bill for that quantity of water I think is probably fairly advantageous to the County. It means that you don't have to maintain all those additional records and meter-readers and other types of things that you would associate with that volume of water for individual users.

COMMISSIONER MONTOYA: What about in times of drought? We wouldn't be able to monitor other than overall usage, right? So, say we go into a Stage 3. That applies to you also?

MR. GATES: In terms of how that technically applies, I'm not entirely sure of the legalities. Now, I know that Las Campanas observes the same types of restrictions as the City and the County do with respect to those different stages. So right now, as a customer of the City, Las Campanas does reduce their usage by the same percentage for the Stage 1, 2, and 3 drought conditions.

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

CHAIRMAN ANAYA: Thank you. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you. Roman, do we have that handout yet?

MR. ABEYTA: No.

COMMISSIONER STEFANICS: I really would like to look at that figures and compare them with what we're looking at, because this cost savings I really have concerns about. Mr. Chair, also, you're talking about the benefit to the County of having one entity be the management between the County and all the residents, and not having separate meters and reading all of those meters, etc. What happens when there is no management there in Las Campanas? Fifty years or ten years or five years from now?

MR. GATES: You're saying if there were no cooperative there to manage the water system?

COMMISSIONER STEFANICS: Right. Life changes, and we've seen businesses, come, go. We've had some developers start projects, have to stop projects, and I'm talking about for our protecting the taxpayers, and our doing business that is sound, we need to look at the what-ifs. So my question is a what-if.

MR. GATES: Well, right now, the cooperative is made up of residents, so there's not a business there per se that is running that that could go out of business. It is actually individual residents who make up the board, so they are actually running their own system. That being said –

COMMISSIONER STEFANICS: Mr. Chair, what I'm asking is I understand the cooperative concept today, but I'm asking if it was totally organized differently, because the structure was somehow financially changed down the road, 20 years from now, 50 years from now, 10 years from now – who knows? Then there might not be this cooperative in this

group that would be an owner. It might be individuals out there all on their own.

MR. GATES: I believe I understand your question. If there were a situation if there were not a cooperative to do that collection or some other entity to do that collection, what would happen? And I think in that case, and this is an assumption on the fly, here so to speak, in that case I would assume that the County would then be doing that billing, but the County would also have the discretion to set rates appropriately for the individual users that were their customers. So I would think the additional costs associated with that, the County would be able to pass through their rates to their customers.

COMMISSIONER STEFANICS: Okay, and Mr. Chair, I don't know if Steve can answer this. Are we in agreement with the figures that they have provided in terms of the cost savings?

MR. ROSS: Mr. Chair, Commissioner Stefanics, largely, we are, yes. We've run it through our own set of people which include Dennis Gee and Karen Torres. We have a small internal group. Doug Sayre is a part of that. We think – we don't agree completely on the numbers and you probably never will get to that point but it does appear there's substantial cost savings and maybe Mr. Gee, at the risk of calling him out of the audience, he has some really coherent explanations of why the cost savings occur, if you want him to address that.

COMMISSIONER STEFANICS: That would be great if he would come up. And the other question I have, I don't know if he would address it or you would, Steve, and Mr. Chair, is whether or not there's any other recommendation for structure that you would put on the table for consideration. So Mr. Gee, why don't you address the cost savings and anything else you want to?

DENNIS GEE: Mr. Chair, Commissioners, thank you for this opportunity to address you today. The cost savings come about because – well, let's go back. In general, the cost savings that have been computed by Las Campanas, we're in general agreement with those numbers. They may not be exactly the same numbers that we came up with but certainly it's the correct magnitude for this analysis. The reason, and just as important as the cost savings, the County is about to transition from one cost structure to a different cost structure. Right now, your fixed costs, before BDD goes into operation, is essentially a lot fixed cost, high variable cost operation. When BDD starts it completely flips around. You have a high fixed annual cost.

Currently your fixed cost essentially amounts to your three meter charges a month that you pay to the City. So your fixed cost on an annual basis is \$15,660. When BDD comes on board your annual fixed cost, regardless of usage on the system becomes over \$800,000. So a larger customer base essentially helps you pay for that fixed cost on that annual basis. When you have a high fixed cost operation a larger customer base, you spread those fixed costs over more customers, and that's where the cost savings come about.

COMMISSIONER STEFANICS: So, Mr. Chair, Mr. Gee, you're saying that high variable would help assist the County.

MR. GEE: Well, high variable is what you have now. You will be going to a

high fixed cost, with or without Las Campanas with the beginning of operations at BDD. And once those fixed costs are there on an annual basis, whether you use water or not, that \$800,000 will have to be paid for by the customers of the County.

COMMISSIONER STEFANICS: So, I'm thinking of the formula, Mr. Gee, so we'd go to a low variable. We'd go to a high fixed cost and a low –

MR. GEE: A lower variable cost.

COMMISSIONER STEFANICS: Because it would be fixed.

MR. GEE: That is correct.

COMMISSIONER STEFANICS: So in terms of my question regarding the cost savings, while we might not agree on the same dollar amount, we agree that it's significant.

MR. GEE: They are extremely significant, and I believe the magnitude is very correct between what Las Campanas came up with and what we came up with.

COMMISSIONER STEFANICS: Okay, and then as to my second question, I don't know who wants to address that. Is there any other structure that should be considered in that than what's been proposed?

MR. ROSS: Commissioner Stefanics, we looked at four or five other scenarios but this was the most favorable in terms of cost. We also looked at the do-noting scenario, which means simply to don't agree to provide any water to Las Campanas. But the concern we have for that is given the financial condition as we're able to determine it of Las Campanas LP there's a possibility or a probability perhaps even that they bankrupt or default the LP and then the residents are left to fend for themselves. So we didn't see that as a particularly desirable option, although it's certainly the least cost option to the County in some respects, but also, if you look at the cost savings as Mr. Gee has identified it may not even be that.

And then we looked at taking over the system, all or in part, and that was a less desirable alternative because it shifted more cost to the County, and that is the cost of maintaining all the lines, reading all the meters, being responsible for replacing the lines. Also, there's a unique situation at Las Campanas in that the domestic system is fully integrated with the sewer system and we don't have a dollar option or an option to purchase the sewer system. So in order to really address that option you need to consider at least getting the sewer system and then you get into, by necessity, the golf course problem. So that didn't seem like a particularly desirable option to consider either, and that's why we ended up studying this one more than the other options.

COMMISSIONER STEFANICS: Okay. Thank you, Steve. Mr. Chair, then back to Las Campanas, and thank you, Mr. Gee. The golf course. Commissioner Montoya asked a question about drought and water savings and water rules, what would happen with our assumption of this plan and asking Las Campanas to change anything that they're doing with the golf course? Their golf course agreement is with the City to use effluent?

MR. GATES: That's correct. Well, the current plan that we're discussing with respect to say, the County capacity and the water treatment plant and the BDD system does

not provide for water to the golf course. So the golf course is completely separate and independent of that. I think you're asking would the County have the ability to request changes?

COMMISSIONER STEFANICS: Regulate, that would be stronger.

MR. GATES: Regulate. I don't know if I'm equipped to answer the logistics of that necessarily. I think the golf course is a separate entity from the cooperatives and everything else, the entities that we're discussing specifically with respect to this capacity issue.

COMMISSIONER STEFANICS: Okay. Thank you.

CHAIRMAN ANAYA: Okay, any other comments? Steve, are we just discussing this right now?

MR. ROSS: Yes, Mr. Chair. We wanted to bring this up to both you and the public so that everybody kind of knew what was going on. I think the next step is the Buckman Direct Diversion Board is going to look at the recommendations from Brown & Caldwell and discuss that and at that point we may be able to come back to you and talk about what you want to do. Certainly, if you have some impressions right now we'd be glad to hear them or if you want to provide some ideas for how we should approach the problem, that would be helpful, but the next step is really we're going back to the Buckman Direct Diversion Board and talk about the infrastructure issues with them.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thanks. And I do see some members of the staff of the Buckman Direct Diversion Board here. It would seem to me that as part of this analysis it would be really important for the Commission, for the Buckman Direct Diversion Board and for residents of the County to know if in fact when we're dealing with the capacity issue there needs to be a consideration of negotiations with the City with regard to the acre-feet of water that we currently have contracted with them and whether or not capacity for the future needs to be renegotiated. Are you following me on that? And I just probably will get a better insight into that once we get the figures and the report give to us.

But we are currently working with the figures we have based on the agreements that we have all entered into. And it seems almost seamless the way this proposal is coming to us. I'd like to know if there's any impact to current county residents, and the only impact I can think of is part of the reason at least that I've advocated for this surface water delivery system is to in the future allow for current well-owners to be able to hook up to this. What does that mean to the current capacity? And if that is factored into this? And Mr. Gee, I don't know if you can address that or anyone, but my concern would be, do we have the appropriate figures to work out not for new growth but for current delivery systems?

MR. GEE: My understanding of the work that was done to look at county growth did include some capacity of existing users hooking onto the system. I've forgotten the exact number of what that was in acre-feet terms but I know that was part of the consideration. Whether it was the full capacity of existing users, I don't believe it was, but there was some annual allotment for hookups of current users.

COMMISSIONER VIGIL: Okay. And I guess maybe we'll get more into that at the Buckman Direct Diversion Board, I'm hoping. So I think I'll be able to better understand once we get the data from the report, but that would be a concern for me.

CHAIRMAN ANAYA: Okay. Thank you.

XII. C. 1. Executive Session
a. Discussion of Pending or Threatened Litigation
b. Limited Personnel Issues
c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights – Discussion of Water Rights Purchase Agreement with J. Gonzales For 18.65 Acre-Feet of Pre-1907 Water Rights With L. Gonzales for 8.65 Acre-Feet of Pre-1907 Water Rights

CHAIRMAN ANAYA: Steve, how long is executive session going to take?

MR. ROSS: Mr. Chair, it shouldn't be all that lengthy. We might be able to get through it in an hour, an hour and fifteen minutes, something like that.

CHAIRMAN ANAYA: What time did we have our public hearing?

MR. ROSS: I think they're always noticed, Mr. Chair, for 5:00.

CHAIRMAN ANAYA: Okay, because I've been getting some notes, people are going to be leaving early on the Commission. So we need to try to speed it up.

MR. ROSS: Okay. We can do that. We'll also work on the presenters for the evening session, the growth management items, and make sure that they can back here early from wherever they are.

CHAIRMAN ANAYA: Yes, if we could do that. So if I could entertain a motion for executive session. Are we going to talk about all those?

MR. ROSS: Mr. Chair, we need to talk about a, b, and c.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I move that we go into executive session for the purposes of discussing pending or threatened litigation, limited personnel issues, and the discussion of the purchase, acquisition or disposal of real property or water rights.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER VIGIL: Second.

The motion passed by unanimous [4-0] roll call vote with Commissioners Montoya, Stefanics, Vigil and Anaya all voting in the affirmative.

[The Commission met in executive session from 4:40 to 5:55.]

CHAIRMAN ANAYA: Do we have a motion?

COMMISSIONER STEFANICS: Mr. Chair, I move we come out of executive session, having discussed pending or threatened litigation, limited personnel issues, and discussion of the purchase, acquisition or disposal of real property or water rights.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and second.

The motion passed by unanimous [4-0] voice vote.

XII. C. 2. Approval of a Water Rights Purchase Agreement By and Between Santa Fe County and J. Gonzales For 18.65 Acre-Feet of Pre-1907 Water Rights and L. Gonzales For 8.65 Acre-Feet of Pre-1907 Water Rights

MR. ROSS: Mr. Chair, we just discussed in executive session these two water rights that are made available to the County. One owned by Louie Gonzales and the other by his son Jeremy Gonzales and [inaudible] Figueroa. The Louie Gonzales rights are 8.7665 acre-feet of pre-1907 water that's currently located in a point of diversion, the Buckman Direct Diversion point of diversion. The other transaction, the Jeremy Gonzales rights, 18.65 acre-feet of pre-1907 rights, also located at a point of diversion at the Buckman Direct Diversion projects.

The rights are for sale for \$19,750 per acre-foot. Like I say that both are located already at the Buckman Direct Diversion, placed there by the developers, so there are zero costs to move those rights to County ownership, just filing a simple, one-page document will transfer those rights to the County. I'll stand for questions.

COMMISSIONER MONTOYA: Mr. Chair, I move for approval.

COMMISSIONER STEFANICS: Second.

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

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

XIII. PUBLIC HEARINGS

A. Growth Management Department

2. Sustainable Growth Management Plan Update (Growth Management Department)

MR. ABEYTA: Mr. Chair, before Jack gets started I want to go ahead and remind the Commission that the growth management plan is something we identified we needed to start working on since 2006. More recently, we had our charette report and it's a pleasure to introduce to you this evening Bruce Peshoff, who's been working with us. Dr.

Bob Freilich is here, Dr. Bob Burchell, and Neil Popowitz are with us today. And like I said, this has been quite an undertaking for us. I want to also acknowledge Jack Kolkmeier and the work that he has done, not only with the internal staff but also with the individuals that are with us this evening that we have contracted with and so I think what you're going to hear this evening is that we are well on our way as far as the growth management plan and we're going to, from this point forward I think we're going to make a lot of progress.

After the growth management update is given then we will get into a presentation by Dr. Freilich regarding the County Code, which is another long-standing initiative that we have been working on for years and years, but there again, I think we're reaching the point with the County Code to where we're going to see a lot of progress from this point forward and hopefully, by the end of this year, possibly early next year, we will have a growth management plan that is updated, and we will have a new County Code. So I think this evening is the beginning, and again, I want to thank you, Jack, for all the work that you have done to get us to this point with both the internal staff and the contractors. So, thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you for that introduction. We look forward to your presentation. I'd also like to recognize one of our representatives, Representative Rhonda King, for being here. Thank you, Rep.

JACK KOLKMEYER (Land Use Administrator): Thank you, Mr. Chair and good evening, Commissioners. We have a lot of really, really rich information for you this evening. There's a lot of it and we want to go through it as expediently as we can, and I think that probably the importance of tonight is to really be able to touch on the real concepts about what is going to unfold here. As Roman was saying, we're really at the beginning point of an incredible effort that's already taken place but we're now really moving forward into understanding what the strategic growth plan and the Land Development Code are all about. So it's really a great pleasure to start off this evening and introduce some of these aspects to you.

There will be two principal parts of what we're going to do here for the next hour, probably. The first portion will be presentations by myself. I'm going to talk to you briefly about the community planning process that's now in a draft format and has been unfolding for quite some time. Bruce Peshoff is going to talk to you about the future land use framework, projecting demands for the future of the county, and looking at the importance of data that we have accumulated so far in talking to you about the next steps.

Also with us this evening, as Roman pointed out, we have Dr. Bob Burchell, and this will be a first presentation from Dr. Burchell on fiscal impacts and capital improvements programming tonight. It's really fascinating to listen to the work that he is embarking on. Then the three of us will be followed with the initial presentation on the first parts of the Land Development Code by Dr. Bob Freilich, who has spoken to you a number of times and has some really important information on the procedures section of the Land Development Code for you.

So having said that, my role for a few moments here with you this evening is to go

over one of the kind of controversial things that has been happening over the last couple of months and that is the role of community planning. As you know, we started the community planning program with the '99 growth management plan. As a result of that we created a district plan, seven traditional community plans, four contemporary community plans, a district plan, and we've really put together a lot of interesting community plans and ordinances. As you also know, doing these plans literally involved thousands of people in Santa Fe County and therefore the interests from your constituents into what's the future role of community planning as we move forward into a new growth management plan and also a new Land Development Code.

The major drawback of community planning really turned out to be that the local development review committees, as you may remember, really only had a small function, and that was to review development review plans and ordinances and some of the development activities that were limited to them in their role as being advisors to the Board of County Commissioners for development issues. What was lacking in those groups was really the ability for those groups to take on and to be involved in other activities outside of land use. So we think that as a result of the charette workshops that we conducted and what we heard from the communities was that they really wanted to have a stronger role in community planning and better communication from Santa Fe County.

So after we have terminated the role of the Land Development Codes, my staff under Robbie Griego and his staff, we spent quite a bit of time meeting with different community members and really going over the feedback from the charettes, and we think that we have now come forward with a community planning process that is really much more functional than the previous process than we had before.

So I'm going to take you through a document that is in your handout there very briefly with some of the – we did this as a question and answer format so that the very questions that were asked of you as Commissioners we have taken on and provided answer for you on how we plan to put this together. Because I would like to then segue pretty quickly into what Mr. Peshoff wants to present so we'd like to suggest that we maybe hold the questions that you might have until the three of us get finished and then because a lot of the things will be interrelated we can answer them all at the same time.

But the 2009 planning process, that's this document that has draft on the front of it, it should be in your packets. There's two really functional things that will come out of the community planning process. There's going to be what we call CPOs, community planning organizations, and then registered organizations. So the first question is what is a CPO? And the definition in there that we worked hard at really preparing for you, I think this says it all: A CPO will be a self-appointed group of community representatives recognized by the BCC with the authority to recommend and make comments on non-administrative pre-development applications within the community or area represented to the Planning Commission – which is now the CDRC. That's the basic function of a CPO.

Which communities can become the CPOs? We think that the traditional communities, the ones that have plans and ordinances already have the right to become that

immediately, once this process is approved. We're suggesting that the CPOs, this process that we're presenting to you today, be adopted as part of the growth management plan. This is kind of important, not separately or ahead of the time that the growth management will make this happen, and that's the point at which we would start these community planning organizations. Also, any other group that the boundaries for any community that has been adopted by any other plan or ordinance would be recognized. All other communities that may want to form a CPO that haven't done a plan or an ordinance also have the opportunity now to come forward, such as Eldorado, or the 22 or 23 subdivisions south of Eldorado, they could form a community planning organization and go forward.

Will CPOs have official recognition? Yes. They will be approved by resolution by the Board of County Commissioners.

Will the County support CPOs? Maybe the question is better framed How will the County support CPOs? We think a number of really important things can happen differently than they have before. When a CPO is formed, what we will do as the County is we will help them create a projects database for their community, so we will know everything that's going on within that community and have it in a computerized database here at the County, just like the database that you get from the County Manager's office right now.

We're also going to formulate a communications plan for each of these communities. Because they said to us over and over again, we want you to communicate better with us. We're going to work with them to decide how they want to do that and specifically, how we would embark upon that. We're going to have an annual congress of community organizations which will meet with all the CPOs annually to let them know about the County budget, about activities that are going on in the county, about specific things that are problematic, we've never met with the communities all together at one time.

How will the CPOs be organized and governed? They're going to be organized by bylaws which they create themselves. We've already gotten some feedback from the communities that say, well, they would like some help on this. We will develop model bylaws for which these CPOs can govern themselves.

How does a community get involved and how do they start once we have official recognition of this process? We are suggesting that each community that forms a CPO have a – well, there's two important things up front. One is that they create a coordinating committee that works with everybody in the community to find out what groups there are in the community, who wants to be involved. The community coordinating committee would actually be the organizers of how the CPO moves forward within that community. They would also be required to do some thing that again, we've never done before but we think is extremely important, and that would be that each CPO would have to put together a community representation plan. In other words, if La Cienega, for example, gets their coordinating committee together and they come back and they tell us there's eight different groups that need to be involved in this CPO in La Cienega, they would provide for us the information on who those groups represent, how they represent them, and what function that group has within the community. So that when we get all this information together we'll

know that we have a CPO that actually represents everybody in the community that they say they do. So that we won't have this problem again when plans or problems come together in some of these communities where somebody at the end will come up to you and say, well, we didn't know anything about this, or we weren't represented. We think the real importance of community planning from this point forward is that we get really good representation from our communities.

Once they've done that then they officially get recognized by resolution by the Board of County Commissioners. They have to provide us with what the boundaries are, now they're organized, bylaws, and a representation plan. When they have done that and they're recognized, the first work that they do is each of these CPOs will put together a strategic work plan. And this is going to be really different than it was before, because as you remember some of the community plans that we had their strategies were all over the place, but mostly what got done in those communities was the land use piece. With this strategic work plan this will be the first time when we're going to take all of the projects that they're interested in doing, bringing them together to the County Manager's office, so we know what departments and divisions need to be involved in furthering some of the other issues in the community that we didn't deal with before, and work according to this strategic work plan for however long it takes for us to solve some of the problems inside these communities.

Now, there's going to be another organization that we're recommending happen also. We're referring to these as ROs, or registered organizations. And this is really more just a matter of being able to communicate with all of the groups in the county that have told us, well, we'd like to know if there's a development project going on. We'd like to know when there's a road going through our – road maintenance is going to happen in our community. So what we're suggesting is that any group that is already officially organized, has some kind of charter to work in the community, whether it might be an acequia group, it might be a homeowners association, they will register themselves with the County, and anytime there is a project within an area of influence of that registered organization they will be notified that that project has been submitted to the County, so they will be able to then deal with that project to contact you as Commissioners to appear at the meetings that are associated with whatever that project is, but this will be the first time that we've ever had a really detailed notification plan of organizations that come forward to us and ask to be registered with the County.

So on page 4 in the handout that you have there, then there's just some information on what's the difference between a CPO and an RO, and you'll notice in the little chart that we did there that the existing functions of the LDRCs, that they were as I've already said, were really focused on project review about discretionary development applications in particular. They really only had one function. Now, if you look at our little chart there you'll notice that the proposed rule for community planning organizations really involves them in many, many more activities, including participation in having the opportunity to look at the annual budget and look at the prioritization that the County is looking at in regards to that particular community.

Quarterly townhall meetings. We want to do – the townhall meetings are really effective in many ways and we think that by having these CPOs organized it makes it easier for you as Commissioners also to have groups that you can communicate with. Annual leadership programs and workshops that we can do. We have a lot of different workshops and activities that we want to involve these particular groups with.

So that's really the basic tenets and principles of how we're viewing the CPO process right now. And on the last page of the handout that I gave you there's a listing of the 11 steps there of what a community has to do to be involved in this and I think that will probably be helpful to you in answering the questions from your constituents. And by the way, we have the – we've had two kind of quasi-community meetings. We've had lots of phone calls, lots of letters and lots of conversations with a number of your constituents and by and large the feedback on this has been positive. We know that there are some little snags and some concerns about how to get organized and really how much work they can do and how much help they need from the County. So the reason we would like to not move forward with actually creating any CPOs right now and to do it through the adoption of the growth management plan is that gives us about two months for us to really work, to go out and meet with all the communities now, to sit down with them and hammer out any differences that we might have or take in any good feedback that we get from them to incorporate in this.

So this will actually commence – that last paragraph on page 5 is a little bit misleading because we're telling people to contact us right now but we won't do that until after we formally adopt a community planning process as part of the growth management plan. So we hope that you'll have an opportunity to really take a look at this and discuss this with your constituents and please give myself or Robert Griego a call, or any of the planners will be happy to meet with you and any of your communities or constituents and work out a lot of the details on this as we move forward. That's our presentation on the community planning process.

COMMISSIONER STEFANICS: Mr. Chair, do you want questions now or later?

CHAIRMAN ANAYA: Later.

COMMISSIONER VIGIL: Mr. Chair, on this, can I just ask you, Jack to email this to me?

MR. KOLKMEYER: Absolutely. Yes. We'll email it to you all if you'd like an email copy of it.

COMMISSIONER STEFANICS: Is it on the web?

MR. KOLKMEYER: Robert, is this on the web yet? When can we get it? Tomorrow? We'll have it on the web for you tomorrow.

COMMISSIONER STEFANICS: Thank you.

MR. KOLKMEYER: Thank you, Mr. Chair, Commissioners. Next, I'd like to introduce Bruce Peshoff who as I mentioned to you is going to talk to briefly about the future land use framework, projecting demand and the importance of the data that we're using in the growth management update. Thank you, Commissioners.

CHAIRMAN ANAYA: Thank you, Jack.

BRUCE PESHOFF: Good evening. It's good to be in Santa Fe again and I appreciate the opportunity to give you an update.

CHAIRMAN ANAYA: You mean you left?

MR. PESHOFF: My presentation, I've just got two pieces I'm going to talk about. The first is building the growth management framework, how we're trying to design the growth management plan, and the second is projecting demand – identifying how much demand is projected, how much growth is being projected, and what the implications are for the availability of land. In building that framework, we structured this in a very logical, hierarchical manner. We've got future land uses, tiers, and sustainable development areas. I'm going to go through each of these concepts over the course of the next few minutes.

[Exhibit 3]

We'll start with the tiers hierarchy. You've seen this before in the summaries that we've made, that there are four tiers: an ag tier, agriculture tier, rural, communities tier, and a growth areas tier. And the growth areas are divided into primary growth areas and secondary growth areas. Within those tiers, and you can tell by the colors, we tried to color code these to make them just a bit more logical. Within the ag tier there are two broad future land use types: an agricultural-ranch type use and an agricultural tier. Within the rural tier we've got two future land use types: a rural and a rural-transition. Within the communities tier we have three different land use types: rural-contemporary, contemporary, and traditional. And within the growth areas: A low density, a moderate density and a high density. And the differences among these are primarily based on density and lot size.

There's another component within the tiers framework as well, and we're calling these opportunity centers, and what these are are unique, free-standing uses. They're really an opportunity for the County, each one is unique, each one is different. They're mixed use to the extent needed in order to support that center and it would include items like our R & D center, a high-tech, a business park, eco-tourism, some type of clean industry, an employment center, the media district that we already have, as well as different types of renewable energy facilities as well.

The map that's up on the screen now is the growth management tiers map. It's very similar to the ones that you viewed through the charettes. There have been some refinements to it, and that does identify the broad functional tiers – ag, rural, the communities and the growth areas. The stars are those opportunity centers and each represents a unique opportunity for development, for employment, for preservation of cultural facilities, whether it might be in the southeast, a potential area for some type of renewable energy, solar or wind power, ecotourism, a number of these facilities, the airport development district as an opportunity center, as well as the – and there are a number. We don't need to go through all of them but suffice it to say what we're trying to do is create the structure. And that's really the message that I'd like to convey this evening is that the structure that we're working on and the relationship of the tiers to the land that's projected.

This is the future land use map. What we've done is again, consistent with the tiers,

we've established what are the different development patterns and density types, the lot sizes, within the different types of tiers? Because the direction we're going is how much land is going to be needed to accommodate the development. We don't want to have an excess amount of land because we don't want to enhance, provide opportunities for sprawl development to continue.

I mentioned that the differences are in density, and the column on the right identifies what the lot sizes are, or the densities for each of these future land use types. From the ag-ranch, we've got the 160-acre average density, and this is in the ag tier. And then in the agricultural type use, 100-acre average lot size. In the rural tier we have the two different land use types, rural and rural-transition, and the lot sizes are 30 acres per lot and 15 acres per lot. And the communities, three different types of densities, based on whether they're five-acre, 1.75, and .75. And we believe that these ranges, using these average densities, we'll be able to accommodate all of the standards that are in the existing community ordinances.

And then for the growth areas, low, moderate and high densities, and now we're going not from lot size but dwelling units per acre, from 2.5 dwelling units per acre in the low density, eight units per acre in the moderate, and 12 dwelling units per acre for the high density. These are averages which we're able to make some estimates and projections of population.

I also included the hydrozone map, just again to refresh how the hydrozone does fit in and relate to the tiers.

So first let's talk about the sustainability component. What do we mean by sustainability? We went to the Community College Plan to use our definitions for sustainability. What we're trying to do is be able to meet the needs of the present without compromising the needs of any future generations to meet their needs. Using sustainable design to try and incorporate natural resources and technologies, and recognizing that there are opportunities as well for economic sustainability.

What we've also created is a SDA hierarchy – a sustainable development area hierarchy. SDA areas 1, 2, and 3. And what these are doing now is providing a temporal element to the tiers. The tiers provide the broad functions. The future land uses are a range of uses within each tier and the SDAs are a way to try and time-out what's the appropriateness for development to occur, based on largely the availability of infrastructure. In sustainable development area 1, this is an area where development is likely to occur within the next ten years. Infrastructure is either planned or budgeted, or also it's reasonably available.

And SDA 2, this is development that's likely going to occur in more than ten year, probably a ten- to 20-year or more window. Infrastructure isn't currently planned; it's not available, and if development comes forward and there is a need for facilities and services there is a requirement that they would be participating. And SDA 3 is a long-term reserve area. It's the area that likely is not going to see any development within the next 20 years. Infrastructure is not available, and it effectively creates a green line. And that's what we're referring to as a sustainable development area. That green line is effectively a boundary, that this is the area that's preserved for ag use, for ranch use, as well as for conservation of natural

resources.

These next three maps are the sustainable development areas. This shows all three of them. The orange is the SDA 1, the yellow the SDA 2 and the green the SDA 3, and what this really shows us in the orange is this is the area that we anticipate being able to be served by infrastructure over the course of the next ten or so years. The areas in yellow are the areas that can be accommodated in the longer term and the green is largely the conservation type area, in terms of timing.

If we place the SDA 1 boundary on top of the tiers map we can see the range of different types of uses – community development activity, primary and secondary growth development activity, rural area development activity, as well as in the ag and ranch as well, to a very limited extent. With SDA 2 we see the areas within the tiers, the functional tiers, that would be appropriate for development in the next ten to 20 years, based on infrastructure availability. And then SDA 3, the areas that likely won't be available long term unless there's some very significant contribution in terms of infrastructure and mandatory clustering.

We're also incorporating the environmental sensitivity analysis that Jack's staff has put together. The purpose of this is to identify areas in addition to land use development patterns, identifying those areas that have very sensitive, critical natural resources and features. And effectively, with this map, green means go, red means stop. It's the green area that is the most appropriate based on not having as critical of a resource score as in the red and yellow colors.

Now, let's talk about demand, because this is the other side of the coin. It's one thing on one hand to talk about these are areas where growth should occur. We use the SDA to identify now, well, how much of that area really needs to be developed? How much area do we need to prep and prepare for facilities and services based on the amount of demand that we're projecting that's going to occur, based on the population. Now, these population projections that I have in the next set of slides are just very preliminary. Al Pitts, the County's demographer, is going to be providing a detailed set of projections by mid-June.

But the purpose for these projections tonight are to put in perspective how much land is available and how much land do we really need? Because we only want to be able to identify enough land, plus some additional amount, usually for 100 percent extra, to provide some flexibility, to provide ability to respond to market conditions as well. The projections are based on GIS-based data. We start at the parcel level and we've got – the County has an absolutely phenomenal GIS parcel-based database going back for the last ten years. As part of this process and the demographer's work, we've got the structural information from 1999 to 2008, year by year, which gives us an absolutely near perfect read of how much growth has been occurring. And from that we can make some assumptions about the average annual increases that may occur in the future.

From those parcels we've assembled districts. And the purpose of the districts is to make this a more manageable tool. There are 80,000 parcels in the county; we've got 120 districts, and we've effectively cut the county into these 120 statistical district areas in order to be able to aggregate later into other uses for other purposes or questions. Those are

aggregated into communities as well as sectors and then statistical regions, which are similar to the growth management areas. The reason that we're doing this is because we don't want the data to just be based on a growth management area. That's too broad to be of any functional use for planners, for engineers. We need to be able to say, if there's a proposal for development around Canoncito, Glorieta, this area, we want to know what's happening in this area. What's the projection? This dataset can provide those types of answers.

The importance of the districts is to look at them as building blocks, and you can also think of them as an analogy to census tracts and the hierarchy that the US Census uses as well as TAZs, traffic analysis zones.

And this is a map identifying all of the 120 statistical districts. What I thought was extremely interesting is that Al Pitts has done a tremendous amount of historical work in assembling this as well, and nearly all of these have names to them, not just Statistical District #3 or #15, but references to ownership, ranches or places, that again, try to imbue a sense of character for each of the districts. From the districts we aggregate upwards into statistical communities, upwards into sectors, upwards into regions. And it's a puzzle, it's a system, it's a hierarchy. It's a way to try and ask questions and get answers for very specific areas.

We projected the population. The methodology we used was identify the amount of future land use, and we did that based on vacant parcels and residential parcels that are vacant and 160 acres or larger, 160 acres in size or larger. And then we calculated, based on the density that applied to each future land use type to get the number of dwellings, and then we applied a per-person household number that was based on each region, each growth management area. So this is all based on actual, local data, and very recent trends data.

Based on the tiers map it would provide for 69,000 dwellings at build-out, and that's the allocation within the structure, and a population of 175,000 people. And we knew it was going to be high but we didn't know it was going to be this high. What this means from this number is that the tiers map right now can provide for an ultimate population of 175,000 people, and that is a lot.

But what population is actually projected? There aren't any population projections that have recently been done, and we know that the new projections are coming out and we need something to compare because we need to create an information circle. We need to identify how much land will produce how much demand, but how much to we actually need. So we created two different scenarios. One was a trends projection, and that's based on the very detailed 1999 to 2008 county data. It has not been adjusted to reflect the recession we're in, but what it does say it's a number that we can relate to over the past ten years. It means that if the development activity over the past ten years were to continue, that number is the projection for trends. The BEBR projection is an alternative, and that's a very low projection that was produced in August of 2008. That also doesn't reflect the recession and the impact on the economy. They've made some adjustments to that and they've extended it out but it hasn't dramatically changed the short-term scenario.

What the trends projection yields is that we are going to experience, under this

scenario, 34,000 increase in population in the unincorporated county. The BEBR projection, and that's their average annual increase each year, would project a countywide population of 174,000 by 2030. So as we compare the 175,000 built-out population we only need enough land for 34,500 from the trends projection, or 11,000 based on the BEBR projection. But that's still 16 times more land that the tiers map identifies, which is why we need to use the suitability analysis, the SDA, the sustainable development area, to tone that back to a more reasonable number. For example that graphic we looked at earlier that had just SDA 1, that would provide for 110,000. So that's one way to tone back the amount of land that would be available. And that's not a number that's far off. If we had enough land for 110,000 people, while we were projecting 35,000, it's a little high, but it's not completely unreasonable. It means we need to go back and refine the tiers map as well as refine the SDA boundaries. And this was the graphic I was referring to.

In terms of what's next, our to-do list for the planning team, for our firm as well as for the Planning staff, is ensure that we're all using the same, best available data projections and assumptions. Yesterday morning we had a great meeting. I had senior staff here and we went through virtually the same presentations that we're doing tonight, and asking for their participation to review these districts, because it's important for these districts to work for their service areas, that the district boundaries coincide with the fire districts, that the patrol zones for the Sheriff, that any of the service areas, that any of the departments have.

We also are in the process of completing the level of service analysis. We'll be revising the tiers and the SDAs, as well as the future land use map, refining the land suitability and sensitivity analysis and incorporating and testing these new projections to see what the feedback, the output, is, and then estimating preliminary CIPs and fiscal impacts. And with that, I'll use as a transition for Dr. Burchell to come in and talk about his role with the fiscal side of this. Thank you.

CHAIRMAN ANAYA: Thank you, Bruce.

BOB BURCHELL: Hi. While we're getting the next slide presentation, *[Exhibit 4]* let me just introduce myself. My name is Bob Burchell and I'm director of the Center for Policy Research at Rutgers University and also chair of the Department of Urban Planning at Rutgers. Really, what I'd like to talk to you about is trying to get the best type of development for you and ways to analyze what is the best type of development.

And so if we begin, one of the things that you have to bring on board in the county is looking at the cost of your development so that you have enough money at the end of the year to pay for your various public services, your jails and other kinds of public services that continue to cost you money. And the reality of that is that you're able to do that by different levels of revenue that you get from residential and non-residential development. And it's important, really, for you to look at blue chip types of non-residential development to balance the costs of your residential development. And I'm going to talk about that as it relates to fiscal impact analysis.

The other thing that you have to be very careful about is your pattern of development, because sprawl development can cost you two to three times as much or even more as it

relates to more compact development. And so your Land Development Code will help you and point you in the direction of savings as it relates to the type of development. So two different types of savings – one, whether you get residential or non-residential development, and then when you get residential development, keeping it close in as opposed to allowing it to go further out.

And then finally introducing other concepts, such as tax increment financing, in which you get others essentially to pay for infrastructure, which you again would not have to put in yourselves, and then you would take a look at the increase in your property tax value and your increase in your gross receipts, and once all services are paid for, essentially say to a developer who might be putting that infrastructure in for you we will reimburse with a small portion of our GRT or a small portion of our property tax, but only after we accept the infrastructure and only after those structures are filled with people generating GRT and generating new property tax. And the basis for getting you there is the new Land Development Code which Bob Freilich will talk to you about.

So we're just going to very quickly discuss fiscal, and I'm used to teaching from 7:30 at night to 10:30 on Thursday nights, so I'm going to go through this quickly because I know what the attitude of my students are as it relates to presentations at that particular point. So we can go through this reasonably quickly. So we'll talk about fiscal impact analysis first. I'll show you the type of fiscal hierarchy that relates to future development and why you have to be careful about the types of development that you get. I'll go through the types of information that you must begin to collect to analyze your development fiscally, then just talk briefly about sprawl and how it consumes resources, and show an alternative to sprawl – compact growth, show the savings of that, and then go into this very briefly, this extra revenue raising device, tax increment financing, which we actually did for Bernalillo County, and then draw some conclusions as they relate to the new Land Development Code.

So to begin, fiscal impact analysis is really an analysis of the costs of future growth. You worry about the costs and we get that from your local County budget. We'll work with your new budget, the fiscal 10 budget. We'll work with your new resulting property taxes, your assessment ratio, and then that's on the revenue side. And then we'll again go into the budget and develop both per capital and per school child costs. We'll take a look at the costs to the Santa Fe Public School system, and they we'll take a look at the net fiscal impact. In other words, we'll take a look at costs on one side, revenues on the other side, and the balance between revenues and costs. And we'll do that separately for your budget and then we'll also take a look at what the costs might be to the school district.

And fiscal impact analysis, and we did this again in Bernalillo County, is both operating and capital costs, and so we'll make projections of your costs likely to incur as it relates to development for both operating – again, police, EMS, other kinds of costs that you will incur and the support for those costs that might come as a result of the budget. Again, we calculate costs as it relates to future growth by going into the budget and going into the abstract of ratables, assigning costs to residential and non-residential uses, and projecting those costs into the future. And this is a point that Bruce made: we all have to be on the same

page as it relates to population projections and even more important, and even more difficult to project, employment projections for the future. So the future is not just made up of future residential growth, but it's also made up of non-residential growth. Non-residential growth is very, very important, obviously, to the county. We then calculate net fiscal impact, which is essentially revenues minus costs, and that's the end state in which you take a look at the end of the year and hopefully you're in a cash-positive position. In other words the revenues related to that development are more than the costs related to that development, and as a result you can either extend services or you can look at possibly reductions in cost related to that development, and you haven't been able to do that lately. And really, balance is the key. Controlling sprawl is the key.

So if you then take a look on the next page, we see the types of development that might take place in the county that would be more positive, less positive, typically break-even, least negative in terms of future development, and those most negative as we get towards the bottom. So in your future development you want a combination of development that enables you to get more positive development and balance it with some of your less negative development and of course you may need affordable housing and that must be balanced in with all of the other types of development. But again, that's your fiscal hierarchy and whether it's a property tax state or a GRT tax state or some combination as you have in New Mexico, generally speaking, those at the top are more positive and those at the bottom are more negative.

Now, if those are the costs associated with growth, then why does anybody bother to grow? The reason that people grow is that there's a direct correlation between future growth and a higher quality of life. In other words, if you say – and you may not buy into but most people do, this definition of quality of life. In other words, having a job, owning a home, having that home appreciate in property value over time, have good public education, confirmed by high SAT scores, have low violent crime rates and low taxes, the single most important variable as it relates to that definition of quality of life is expansion of the tax base, particularly the non-residential portion of the tax base.

So we start off from Bruce and from Al Pitts, the demographer, with regard to the best information that we can get on both population and employment projections, and you can see, as you go out from 2010 to 2030, that there's a high – and we're going to nail it down much better than this – and a low. A high of 60,000 as it relates in population from 2010 to 2030, a low of about 30,000. With regard to employment, a high of about 40,000 and a low of about 20,000. And the important thing is right now, you see your relationship between employment and population. Population is a little higher than a 2:1 ratio. Going forward into the future you want to get that ratio down to about 1.5. And so you essentially want to get additional non-residential growth of blue chip types if you can as it relates to the future.

So those are your population projection data, and again, they're preliminary and they will be nailed down for the future. We're also going to have to get information on the average price per residential unit which we can get from census and we'll confirm that with other development professionals in the area. And also not only residential but non-residential on

the right-hand side of the page. The average cost per square foot to develop various types of non-residential development.

So we also use demographic data within residential. We're going to have to get estimates of the relationship between single-family detached, single-family attached or townhouses, and then multi-family development. We know from the census that different numbers of people and different numbers of school children come from these different types of development. We also – and each of those has costs, and costs to different service provided – obviously, the people and the workers to the County, the schoolchildren to the school district. Your various types of non-residential also have different types of workers that are found within them, and those are workers per square foot on the right-hand side of the page. And then we have to do projections of how much of each type of non-residential development you would likely get into the future.

So then we would set those up in a matrix and then project that forward for a 20-year period, again, taking a look at your hypothetical development in units and non-residential space, your price per units, what that adds in terms of ratable value and also what that adds in terms of assessed value. We would then come out with, again, a residential total with regard to persons in the second to last column, and a non-residential total. And again, those are the middle projections. We take this information and then we calculate costs. We calculate revenues, and we calculate then net fiscal impact. And that information is absolutely critical to growth in the future.

Now, that's the way you exist as you currently are, but the reality of it is that sprawl is present in most standard types of growth and most historic growth that you would get information on. So in other words, if you want to take a look at what that definition of sprawl is, it's low-density development, it's development that knows no bounds, is unlimited outward extension. It's skipped over good development land is left behind, looking for the cheapest piece of land to develop on. There's usually no attempt at clustering, mixing of uses or center establishment, and again, this is what hopefully is to be cleared up in your Land Development Code. Sprawl is also resource consumptive, and the only way you can access most of the development under sprawl patterns is via the automobile.

Now, what does sprawl do and why do people react to sprawl? Sprawl requires almost unlimited use of the automobile. It causes ultimately exurban in the rural areas, congestion at the expense of the tax base of the more urbanized areas. It really creates two systems of infrastructure, under-utilized and under-maintained urban infrastructure, and insufficient and incomplete rural infrastructure. And generally speaking, sprawl guarantees increasing property taxes and inadequate public services. So you really want to try to get away, hopefully if you can, from sprawl development patterns.

Now, if we take a look at what are the characteristics of compact growth, we see that we have the components, essentially, of the compact growth, the alternative to sprawl, are some type of way, and again, you get this through your Land Development Ordinance, some control of outward movements of development, and you can get it through a variety of techniques: service areas, purchase and transfer of development rights, and a variety of

others. You're also looking for simultaneous inner area revitalization, so you're looking to strengthen your inner areas as you're attempting to get some measure of control of the growth that's moving out into the metropolitan area. You're looking for new design techniques that would create much more creative neighborhoods, integrating living and working environments, the densifying of centers, providing walkable environments.

When you do that, and when you try to save land, you're looking for land and resource protection through conservation, through protection of natural lands and habitats, and making open spaces to the degree that they can and to the degree that they're not threatened, in terms of active and passive recreation. You're also looking for transportation reorientation, which you're moving away from the automobile, encouraging multi-modal – bikes, walking, transit – basic alternatives to just solely the automobile.

Now, why do you do that? There's very significant savings associated with more compact growth. Twenty to forty percent on the amount of land consumed, 15 to 20 percent on local and state roads, 8 to 15 percent on water and sewer costs, somewhere on the order of four to eight percent on housing costs, four to eight percent on fiscal impacts, the costs to provide public services, and overall, about a 15 percent savings.

Now, when you experience the development that you're going to likely experience in the future, and when you take a look at that which we did on national studies, we're not talking about chickenfeed here. We're talking about – again, nationwide – an ability, and we've done studies in many, many states nationally and we also did one for the National Academy of Sciences for nationwide costs of sprawl. But the bottom number is the most important number. It's like \$350 billion, based on national growth over that 2005 to 2030 development period. But the savings is as much as \$10,000 a unit. It is very significant if you can get that kind of savings related to a non-sprawl development pattern.

Now, one other type of source of funding. So we said that if you balance your residential and non-residential you can get savings. If you move to non-sprawl development patterns, you can get savings, and also if you look to other people to provide the development infrastructure for you in terms of a sharing of revenues with tax increment financing you can also get wonderful amounts of infrastructure at significantly reduced prices, encouraging non-residential development, again, which are provided by the developer. The developer is not reimbursed until the structures are occupied. You have an option of accepting or not accepting that infrastructure based on its quality and what has been produced, so there's nothing incomplete, nothing not done as it relates to the future. And generally, it's out of the developer's pocket, but again, the increment that is shared is the increment in property and GRT taxes that really occurs to the development and to the County. Now, in Bernalillo County, Bernalillo County received as it relates to GRT and property tax increases to attract non-residential development and in addition, there are provisions within the state that you can go to the state for additional sums of money.

Now, the unique thing about the New Mexico law is that you have a no-negative-impact provision, which means that before anybody can ask for a portion of it to be reimbursed for the developer you set the guidelines on what kind of improvement you want at

the local level. And one of the things they did in Bernalillo they said that we want 135 percent of the current levels that are being extended in the unincorporated area to serve new development in that area. And before the developer would share in those additional revenues they essentially said that all of our costs are going to be paid, and the same thing was done at the state level.

So, again, for 100 percent increase in property tax and 100 percent increase in GRT revenues, Bernalillo County, to remain fiscally neutral, only had to share, and share the increments, so it's not giving away any money, ten percent of the increment in property tax and 33 percent of the increment in GRT, which meant it kept 90 percent of the increment of the property tax, and 67 percent of the increment of the GRT.

So what are the recommendations for future growth? One, you're well on your way to being able to analyze fiscally, to be able to implement cost of sprawl studies, to be able to implement tax increment financing, because you're going ahead with the Land Development Code. So the Land Development Code and its projections ensure a reasonable balance between residential and non-residential development. That balance creates positive fiscal impacts. That balance also creates compact development, which creates additional savings to a much broader array of participants. In other words, not just County government, but state government, homeowners and business owners.

And so having up to date and forward regulations will allow both residential and non-residential development to take place with positive impacts on the County's overall fiscal position, and also encourage new methods of infrastructure financing. And what I'd like to do is turn it over to Bob Freilich to go through the Land Development Ordinance. Thank you very much.

CHAIRMAN ANAYA: Thank you, Bob.

XIII. A. 3. Presentation by Robert H. Freilich of Chapters 1 Through 5 of the Land Development Code Rewrite, and Possible Referral of the Document to the CDRC for Public Hearings

ROBERT FREILICH: Good evening. Great to be back, great to see the Board. I'm sorry, I think Commissioner Holian was sick? Is that right? Or couldn't make it? I hope maybe she's listening to this program, whatever it is. But I have now the really great news and that is that of the 12 chapters of the Land Development Code, six have now been completed and ready for review by the CDRC, and the thing we're going to be asking you tonight is to simply ask the CDRC to hold public hearings, public workshops and everything else on the first half of the Land Development Code. That doesn't mean you're approving anything. You're not approving anything. You haven't seen it. We're not asking you to approve anything, but we are ready now to go forward with the public hearing process and the timeline for the completion of everything is December 31.

I don't think Bruce Peshoff or Jack told you but the timeline for completion of the

general plan is August 31. So what that means is that in two months we're going to be looking to finish up the work on the community planning organizations. You are getting close to this dream that the County has had for a long time, and when we were working on the oil and gas I can remember that all of you said, can we do this for our entire Land Development Code? Can we do this for our growth management plan? The same kind of incredible work we did on the oil and gas and the answer is you're seeing it now. [Exhibit 5]

This is Neil Popowitz, who's my new partner and who's working with me. So our firm is Freilich and Popowitz now, so you actually have Freilich back in the name of the firm that's working with you.

The big picture. What I want to just simply show you is how I've integrated into this Land Development Code what you've heard so far from the general plan and what you've heard from the fiscal impact. And let me tell you, it was only yesterday morning when Roman had the whole staff here and asked us the question, if we don't reorganize our fiscal situation, if we don't control the way that land use is done, the way the costs of services, of spending, he said I'm going to have a County that basically is going to do nothing but finance the jail, and I'm not going to be able to provide services to anything. There won't be any growth in the budget; there won't anything to match; it won't give you the general revenues you need for everything other than land use, for the running of all of your state functions that you have to carry out, the social functions, the functions dealing with employment, with welfare, with health, with jails, with all of these things that are given to you by the state and then you have all of these local functions as well.

So we want to make sure that the local functions, as Bob Burchell said, work to create that positive fiscal impact for you, so that you have the money to carry out the other responsibilities that the state is mandating upon you. And so this is why we're looking at all of this. This is the big picture for the County, why it's so important. And let me just say one thing. These people are so modest. Bob Burchell gets up, says, I'm Bob Burchell and I teach a class on Thursday from 7:00 to 10:00. Bob Burchell is basically the author of fiscal impact analysis in the United States. He wrote the famous book *The Costs of Sprawl* for the Urban Land Institute and Real Estate Research. He's done probably more than 60 major communities across the United States. His plans are so brilliantly accepted and so wonderful, we were very fortunate that he was willing to travel from New Jersey all the way here. And he's a great sport. He takes red-eye flights and he does things and so forth. But I just wanted to say I'm so thrilled that Bob Burchell is here.

Let's go on to the big picture. So number one, I was originally charged, if you'll remember, with preparing an oil and gas ordinance for Santa Fe County, and we completed that February 8, 2008, so we're exactly 15 months from where you adopted the oil and gas. Now, when we did the oil and gas project, you'll recall that what we discovered were major deficiencies in the current Land Development Code. Major deficiencies. There was a dire need for the citizen participation that Jack has been talking about and I'll show you how I worked this into the Code.

Environmental review, financing and provision of adequate public facilities and

services, real water availability – not this business of I've got a well and I therefore have water availability, and I can get down-zoned to 2.5 acres, but everybody else is using the same water. You never looked at the accumulation of all of these wells. Was there really water there for all of these wells? Were they affecting pollution? Were they really available? And then water was the only thing you looked at. You never looked at the environment. You never looked at the questions of adequate facilities. You never looked at fire, police and emergency services. You never looked at anything other than, is there a well there on that site. So you're really jumping from the 19th century to the 21st century, and in a way that's great.

Sustainability and green development, this county, these people are telling you over and over and over again, they tell me, they tell all of us, we want to see us grow green. We want to see us have sustainable uses. We want mixed use. We want to walk to places. We want to be able to walk to work. We want neighborhoods where we can meet people and we don't want to just live on ten-acre tracts, 60-acre tracts and not have neighborhoods. And the procedures of the Code, the enforcement, etc.

So after we finished the oil and gas and you saw that we had incorporated all of these studies and reports into oil and gas – the environment, the traffic assessments, the fiscal impact, the sustainability – so you charged me then with going on and developing a new Code. You've tried this several times. You had the '96 Code and then you hired a firm, Duncan and Associates, to do a Code draft which wasn't really ever successfully integrated because it didn't integrate all of the amendments you have. I don't know if you know that but you have 1000 amendments to your current Code, none of which is integrated into the Code, so they just sit out there.

I think there are four or five people in this County who know what's in your Code. It took me – seriously – it took me 12 months to finally figure out what your Code is, and I've done work for 40 years with 250 cities and counties. I never had a Code like this. There's no index. There's no table of contents. Every single ordinance that's adopted is never parsed out and integrated with the other ordinances or with the Code. Nobody knows what's in there. Half of the ordinances you adopt are inconsistent with other ordinances that you have, but nobody knows about these inconsistencies. There's no enforcement mechanisms. People violate things all the time; there's no provision even to give your enforcement people the right to go in and to enforce or to get civil injunctions, for example, to other things.

Your fee structure is so antiquated and so impossible, and yet in some cases larger developers are getting hit harder than cumulatively the smaller developers. So you're discouraging the kind of development that you want. So we've looked at all of these issues and that's what we're coming up with.

So over two years now – this is important – some people may criticize you and say, why have we presented you with a Code, simply a draft, and we're asking you to start the public hearings and process. Why don't we just circulate Freilich's draft and let's spend 14 more months, where everybody's going to hammer at it from here, there and everywhere else, and they'll never be a Code again. That's what happened with the Duncan Code.

So what we just simply thought was the best process for you was, I've come up with this, I've worked for over two years, talking to every stakeholder, the public, the County staff, the community organizations, environmentalists, developers, consultants, oil and gas, the realtors, to gather information about how to make this sustainable Land Development Code work. And I've completed chapters one to five, which is just – it's a draft. And the whole purpose of this is just send it. Send it to the CDRC and we're going to show the schedule. They're going to have intensive public hearings, public comments, workshops, and this Code may turn out to be wholly different. Or people may say to you, no, we don't want this Code at all. Or we want major changes. But you've got to have something to begin to work with that people can react to and can comment on, rather than just vague – go out to people and say, hey, let's create a Code through a public hearing process and let's redefine what's zoning. What's going on.

So we think this is the right process for you, and some people may get up and criticize you and say, we should have had a six-month period of reviewing this draft before you ever even entertain going into public hearings or public workshops or otherwise. So I want to present that because I know there may be people – we don't think there are very many of them who may say that, but that's not what we're doing. We're giving a structure that people can look at, because it organizes things. It puts things into perspective. It covers all the subjects. Tries to integrate the planning that you're doing and the fiscal necessities that are facing you, and then basically have people say does it work or doesn't it work, etc.

But without having that structure or that format people wouldn't know what they're reviewing or what they're analyzing. I just wanted to explain that. This is not a surprise move. It's not something intended to be a sneak Pearl Harbor attack or anything like that. It's really we just open up the County public hearing and workshop process to start discussing changes in the Code.

All right. So those are ready to be reviewed by the CDRC, and they're very happy. I've talked to the County Attorney. We have a schedule. They're very anxious to get started with this and they will help you develop the full public record on this. So when it comes back to you you'll have the full record on everything, and everybody will have an opportunity – we're sending this out to every organization. We have over a month before we start any hearings, for them to analyze in depth what's here. They can make all of their comments and changes. They can suggest changes. They can do all of this.

So let me just run through with you what those chapters are. By June 9th, we'd laid out chapters one through five, laying out primarily all of the procedural requirements of the Land Development Code. And actually, that's now an SLDC, it's not an LDC. And basically, it's a sustainable Land Development Code. We thought that was very important, not just because of the use of the word sustainable added to it, but because people will get confused with the original LDC, so this is the SLDC.

We will deliver to you by August 31 all of the overlay zoning districts. So all we've got right now is the procedural framework for the Code. So we haven't made any of the decisions on the zoning districts yet, to implement what the plan is we're talking to you

about, etc. By August 31, we will deal with everything that's a major problem to you and in the Code for review – floodplains, naturally the oil and gas, mineral extraction, junk and auto wrecking yards, land fields, brownfields, everything. We're going to have a complete – it's going to take us months now to prepare this, but a complete sustainable and green development design and improvement standards for every type of building project, every subdivision, every neighborhood. And by the way, you're going to see these great benefits to the development community that this Code is going to bring. The numbers of savings, the time, the efficiency, the concurrency, etc.

Then on December 31, we're going to give you the capital improvement program, a complete capital improvement program from years 00 to 10. The fiscal impact analysis of what you need, an official map. An official map means every single right-of-way for future road expansion and existing road expansion. Every park, every trail, every open space, every historic archeological site, every environmental resource, every wetland, every floodplain will be protected from the intrusion of building permits by an official map. And that's something that has just been needed forever here.

Impact fees. We're going to use the creation of public improvement districts which will allow you not only to get financing of infrastructure but of all of the operation and maintenance of the infrastructure and all of the services that are required. Development agreements, the best way for developers on the other hand to get agreements as to when that infrastructure is coming and how it's going to be paid.

Utilities, how they're going to be handled with their charges. How solar and wind renewable energy can be financed almost at no cost to developers and no cost to homeowners and for all new development that will reduce their energy bills by something like 80 percent. So all of these basic benefits to the community as a whole. And you will have the opportunity to even look at creation of solar energy and major wind energy. I just came back from a county I'm working with in northeastern Colorado, Logan County. It bounds Nebraska on the north and Kansas on the east, and they are now getting \$67 million a year in fees to the county from solar and windfarms that are consigned. The industry has built the entire grid and all of this electricity is going into the Denver metropolitan area and it's going to handle about 50 percent of the electrical needs of the Denver metropolitan area.

So what we're seeing now is the reduction of global warming, the production of renewable energy. But also we're going to put you on a fiscal basis that you can go forward and have quality of life. And then finally, we're going to give you the zoning, the base districts. What are those base districts that Bruce laid out for you? The accessory uses, the supplement. I'm going to give you things that you've never had before. Sign ordinances. Take the affordable housing and also revamp it to make sure you get workforce housing and to make sure you're using it. It's not adequate enough for the federal low-income housing tax credits and for donations of state land.

We met with the State Land Development Office. They're willing to contribute a substantial amount of land for your affordable housing so we can have actually the land component of the affordable housing basically removed from the developers' costs, which

will remove a lot of their opposition to affordability of housing. We're going to have sign ordinances. We're going to deal with the wireless facilities. All the new intense litigation around religious land uses. Adult uses that will no doubt pop up at some point here and are very difficult unless you're prepared in advance. What it can do in the rural and agriculture districts, integrating all of your traditional community plans and districts. The new urbanism plan districts. So all of that is going to be in there.

Finally, there's going to be a Chapter 10 on Housing Code. You don't have a Housing Code. This just astonished me when I came to this County, that you don't have a Housing Code. So every house that's built, nobody ever knows any longer whether it meets electrical, plumbing or heating, whether it's safe, sanitized. Is the sewer connection cut off? Is there really water? Are they poisoning the wells? We don't have any authority in this county to go in and inspect housing or if people make complaints or tenants or anybody else. The existing housing stock is a total unknown wilderness, and you need to have a Housing Code. 99.4 percent of all counties in the United States have Housing Codes. And I've talked to people, etc. So this is just to maintain the quality of neighborhoods. You go down, you see your house in and your neighborhood that's ill-kept, unmaintained, there's no heating. The place is freezing. Walls are collapsing. The roof isn't maintained. How do we go in and deal with these things?

So when the community organizations ask for County help, one of the things is what's the Code? Is there just a basic simple Code that establishes standards that you have to keep up after you get building permits and after you get construction. I would also have forms for every development approval application, for enforcement, it will all be attached to the Land Development Code so everybody knows what the forms are, and we're going to completely redo your fees, including impact fees. But all the administrative consultant staff and application fees, so all of this finances itself.

Okay, let's move on. I want to move on because I know you have questions. So here are just a couple of quotes from some of your favorite people. Shelley Cobau, "The present Santa Fe County Land Development Code is inefficient and difficult to enforce. All right. Steve Ross, County Attorney. "The County is constantly in litigation because of its current Land Development Code." Okay. Let's go on to the next one. Bob Burchell, "Reorganization of the Land Development Code can bring enormous savings and positive revenue to the County." Okay. These are just some of my favorite people.

So let's go on. So what is the purpose of this? This is going to apply to everything in the county, including, by the way, federal and state lands. There's a number of interesting Attorney General opinions. Most federal development right now is subject to County zoning across the United States because they're built by private developers and they're leased to the federal government. So they are subject to zoning and building permit requirements and all of that land use. The same thing with a lot of the state projects too. The new state office buildings, other types of things.

So we're not saying – if they're exempt by statute, fine – but if they are operative they will be covered. By the way, public projects – most citizens said to me, the County project,

this administrative center, if we had had analysis of the environmental impact and everything else with County projects as well as private projects we might have avoided some of the problems that are present. So we're not saying the public projects ought to be exempt any differently from the private.

Number one, what we want to do is consistency with the general plan, with area plans, specific plan, we are now creating a Planning Commission, an official, statutory Planning Commission along with CDRC that can handle development approvals along with the Board. We want to get all applications. If a development comes in and wants to get a plan amendment, he wants to get a zoning amendment, he needs a CUP, he needs a subdivision and he needs a site plan review, we're going to do it at one time. There's no reason to have them stretched out over 18 months. All that does is give people in the community a shot. The sixth time around they get a shot at saying, oh, what did you do the first five things? Let's stop it right now in phase 6, with all the monies expended. So we want to make this more efficient.

We do want the growth management, the more compact development. We want the adequate facilities for fiscal impact. We have this incredible now environmental impact reports. And we're going to protect all of the environmentally sensitive lands in the community. We have a development agreement process to vest developers, to get things straight. We have financing of capital facilities and services. We have the CPOs, neighborhood association registration. We've added pre-application mandatory meetings so developers in the community can get the issues. Analyze them, mediate them. When they come to you, instead of having 15 issues they may have two. They may have agreed on a lot of things. We have water availability and protection of the aquifers, sustainable clean development design.

Now, we don't want you to get involved in takings cases. Your good city down below of Albuquerque just lost \$18 million in a case in the Supreme Court in May of 2008. Why did they lose that? They basically lost that because they didn't do an analysis of whether or not their regulations as they affected property created a taking. Well, now if a developer is going to claim a taking he has to come to us and go through a beneficial use and value determination so we can determine whether there's a true case for a taking and then we can either mitigate it, we can do transfers of development rights, we can allow them to cluster. We can do things. But now we're not going to get into that constitutional litigation. Finance solar, wind and rainwater capture systems for buildings, and then all the procedural stuff.

So Chapter 1 that's going out is the intent. What is it? What are we trying to do? What's the intent of this thing? And that's in there.

Okay, let's go to Chapter 2. Chapter 2 gives the role of the plan. Now, we're talking about four types of plan. There's the general plan, but there's also area plans that are going to be done for things like putting in major districts for infrastructure financing – that may need area plans. A specific plan that's going to allow developers now to create their own specific plans. These will include any plan amendments, any text zoning amendments or map amendments. All subdivision activity, all CUPs, all permits, all variances, whatever is needed

can all be put into this specific plan. When it's adopted they can go straight to the building permit stage.

So what we're trying to say is we can deal with all of these things and really help people. Now, let's just talk about neighborhood participation. I've taken everything that Jack said and all of the community participation, and what we're doing is that CPO, that community planning organization, is going to have standing now. They can appear at hearings with standing to basically represent their community. They can go to court. We've given them rights to intervene or to bring court cases if they want to with regard to things that they think are mishandled. They can participate in these pre-application meetings. They get notice of every development application in their area so they can review them. They participate – they can provide evidence and witnesses at hearings and so forth. They can participate in revisions of the general plan or revisions of the community plan. They can advise on development approvals, but they will no longer have what we call LDRCs. They will not be involved in the development approval process. Everything in the development approval process will now move to a single Planning Commission and to the Board. So there is uniformity of the enforcement, uniformity of applications, of the standards, etc.

So I think the communities are extremely happy. We've conferred on them rights, obligations, standing, given them credibility, given them the opportunity to participate. But we've taken away the idea that local communities can grant development approvals on critical projects of importance as well to the County.

Now the second thing is those neighborhood organizations, we allow any neighborhood organization, homeowners associations, special districts, anything else, they can register. They register with the administrator and then they get notice of all applications and they are entitled to meet in this pre-application meeting with developers. And if they don't participate in the pre-application meetings, and they come along and they try to delay the developers' applications and so forth, we say to them no, you can't do that. We're not going to give you continuances and so forth because you didn't sit down. You had a chance to sit down with the developers. We're giving the opportunity to mediate. More mediation of land use rather than controversy and conflict. Try to make the process more efficient.

Chapter 3, Development Approvals. What we've got, the plan amendments, the text of the Code, amendments to the Code with the map, the zoning districts, conditional use permits, that chapter redefines all the procedures and the standards for obtaining those processes. There's the overlay zoning district classification for oil and gas but it will be for all these developments of countywide impact, the floodplains, the landfills, the auto-wrecking yards, the new urbanism districts variances, site plans. Every single development that hasn't gone through subdivision approval, parcel division, family transfers – anything that goes through and gets divided – they can continue to divide. State statute gives them the right to simply divide down by these family transfers. But they are subject to zoning. And when they come in to get building permits, they will have to go through a site plan process to see what are the environmental conditions there? Whether there's adequate public facilities? What's the fiscal impact on the County? Is there water availability? They'll have to do that in order

to get the building permit.

Now, if they carve down to ten-acre lots and the base zoning districts says that ten-acre lots are the minimum, they won't get a building permit. Because the building permits are for the base zoning districts. And so they're going to have to comply with zoning. But in exchange for that, we're lessening monumentally the restrictions on that development in terms of things that they will have to go through. They're going to go through a minor site plan process, concept plan, and get a final, and they're through. Now, if they go through minor subdivisions, they won't have to go through anything when they go through the building permit but 90 percent of all the development going on in this county doesn't go through subdivision review, doesn't go through review of any kind, except for that geo-hydrological – my well has enough water to enable me to go to 2.5-acre lot sizes, anywhere in the county, anywhere in any district, regardless of services, regardless of infrastructure. And the thing is you want to cut up your lots any way you want, if they qualify with the statute, but basically, you do have to meet the zoning part of the Code.

Okay. We're dealing with development agreements to speed things up for developers. Registration of non-conforming lots. Everybody has 12 months after the thing is over will register all their non-conforming uses. Bring in the pictures, bring in the affidavits, get a registration if they're non-conforming use. They don't have worry then with variances or hearings, or anything else like that. Before the Board of Appeals people will have their non-conforming uses. But if they don't come in and register, they don't register those uses, there will be a presumption that they don't have a non-conforming use and they'll have a very, very difficult time to establish it. So this way you know, throughout the whole county who's non-conforming, where these uses are, whether they can expand or not, and you'll have a much better control over something that's really out of control now.

And there are three kinds of development approvals as you know. There's legislative, when you adopt a whole general plan or adopt an area plan. But if you get down to where you're dealing with specific applications involving one or a few developments then they're going to have to go through quasi-judicial hearings. And the ministerial hearings are your building permits, etc.

Now, let's go on to the next thing. What's important about this whole thing is that if they go down to administrative – have to go down to quasi-judicial hearings, you sit as a Board as judges. That's what this latest Supreme Court case, the Albuquerque [inaudible] affair. You can't go out and look at the site. You can't talk to the applicant. You can't talk to people who are opposing the applicant. This is not legislative. You can't have any ex parte contact. You're not in a legislative mode. This is not someone who can come up to you and say, hey, give me my project or don't give me my project because Albuquerque got an \$18 million hit because they did that. They just did that. They had this Commissioner, Councilpeople were talking to the applicants and talking to our position and they got nailed. Procedural due process. You can't do it.

So what we've done is we've created a hearing officer. And the hearing officer will have a judicial hearing. Witnesses can appear. It can go two days if they want to. Everybody

can get their evidence in. The applicant can spend hours getting his evidence in, getting his consultant reports in. The neighborhoods can get their concerns in and the hearing officer will then render a report, findings of fact back to you, and so you'll have a record. And so when you sit and review it you'll know what the site looks like. You'll know all of the complaints. You'll know everything about how – there'll be staff and consultant reports on the environment, on availability of public facilities. You'll get a complete picture so that when you make these decisions you'll be really informed. And it will cut down on the incredible amount of time you spend reviewing everything over and over, reinventing the wheel, over and over and over again.

So there will be a Planning Commission that will review certain things and then get it up to you. Some things will go directly to you. There will be the appointment of an administrator. We'll have to decide who that will be, but the administrator will be the recipient of all applications. Everything will be filed in the administrator's office. No more of this confusion about all these different offices and where they are. There will be a technical advisory committee of County staff where every application gets reviewed by all the departments quickly, and basically, what they need or what they don't need. The administrator is going to do a completeness review. Is the application in? Do we have the consultants' reports? Do we have everything? If it's not complete, we're not going through all these hearings and everything. So once it's complete we give out the notice. There'll be these pre-application meeting. The community planning organizations will have these quasi-judicial public hearings. Now, on subdivisions, I haven't given that to the hearing officer. The Planning Commission will hold the hearings on subdivisions, but you'll also hold the hearings on subdivisions because of state law on preliminary and finals.

To define what the appeals are to the Planning Commission and Board from the administrator, and also appeals from the Planning Commission to you, we'll have a whole procedure for revocation of development approvals and we have this whole hearing officer process. And you have one hearing officer you'll appoint for the County, and that hearing officer will enable you to get all of this information. And you'll be amazed at how all of your counties around here are doing the same thing in this whole Rocky Mountain land use.

Chapter 4 is Subdivisions, and so what we're looking at is how we'll handle major and minor subdivisions. Also antiquated. You've got thousands of lots that have been subdivided before you had subdivision regulations. Nobody knows what the status of them are. Can they build? Can they not build? So we're going to look at those, and we're integrating the subdivision types 1 through 5, which was never done before. That was a statutory classification.

So now we're going to get offers of dedication, exactions, impact fees, public improvement districts through this process, mitigation fees for environment, construction plans. Developers will come in phase. There will be an easy way for them to basically get a whole subdivision approved and only go for a section for final. There will be as-built plans. They'll be able to have vesting through development agreements and the subdivision improvement agreements. We're going to have much better and more efficient security and

bonding requirements. We're going to basically say in rural and agricultural and in these secondary growth areas that there has to be conservation subdivision clustering. We use TDRs to conserve environmental lands. The application materials will be identified, what the need, the completeness review and then the vacation and amendment of plats.

So what I've laid out is a complete methodology for how a subdivision would go through. If you're a minor subdivision, four or fewer lots, if you're involved in a family transfer of four or fewer lots, you'll just go from a concept plan directly to a final plat and you'll be through.

Okay. If you want to go through that process, you can go through the family transfer process and then you'll have to go through a minor site plan. Whichever way you go you'll go through that process.

The last one, these studies and reports. What's important about this is based on what we did in the adopted Oil and Gas Ordinance, we're going to have an environmental impact report on every development approval, an adequate public facilities and services assessment, a water availability report, a traffic impact assessment, a fiscal impact study, emergency service studies for these problem areas such as hazardous things or heaving construction sites or major land alteration, more than 100 cubic yards of movement of earth. And then we're going to have a complete consistency.

All these communities kept saying we have these plans; we have these ordinances. Only we look at them. Nobody looks at these other things. So in general we're going to have – that's how these CPOs are going to know that there's consistency with the plans that have been adopted by the Board and with those specific plans and those area plans, etc. Now, one thing is important. How are we going to finance these consultant reports? If you are a minor subdivision, and there are 1,000 building permits a year – let's say the cost to the County to do for all these consultants is \$500,000 a year. I don't know what it's going to be. \$150,000, \$500,000. You've got 1,000 building permits. So it's going to cost – it's basically going to be \$500 a building permit to basically have the County do all of these studies for you. We're not asking the family transfers, the rural or agriculture to do any of these studies. They don't have to hire the consultants. The County will be hiring consultants from our consultant group.

By the way, I call this our Consultant Full Employment Act. So I don't expect to hear from them any more about the fact that they're not getting any work out of this thing. But I can just basically tell you that all of these small people – ranchers, family transfers, lot divisions and so forth – this is going to be done and their fees are going to be minimal. And developers will have the opportunity to either use the County and take its number of lots to the total number to pay the cost, or they can prepare their own. The only thing they'll have to do is just pay the County to review their plans. So they have a choice for the majors.

So I've tried to work out an equitable, rational system whereby the County can get this information, get a fair, independent evaluation, but at the same time notice everything is compressed. Developers can get current applications, a single, specific plan and do all this work themselves and get it in quickly, and this thing is going to come down from two years, it's going to come down to six months. We're talking about approvals, because we will have

the information and the studies. We're going to have greater densities for developers. Greater land values. We're going to have many different types of development they've never had before. More industrial, more non-residential as Bob Burchell said. More solar and wind stuff. Plus more retail. We're going to have better mixed-use communities. Mixed housing types, not just single family but ranging up and down.

There's a tremendous opportunity now for the development community – increase in value, shortened time, and defined fees. [inaudible] But what you're simply doing now is giving this to the CDRC and saying run this through, see what it is, because if we really do want to finish by December 31, which is what you told us, we have to start the process now, the public hearings and everything else like that. So that's where we are. And we have just a couple things. These are just a few slides to show that it's good for development because they're going to pay prorated fees by total number of lots to engage these consultants. The consolidation means a much faster process.

Oh, by the way, I didn't mention, we're going to give zoning certificates under this proposal. You're a buyer of land, or you're a developer, you want to know what can I build? What's the zoning on my property? You can come in. You'll get a certificate. It's going – for 18 months it will guarantee that you can build that project and we can't change the zoning on you. Then you can go to your bank; you can go to your lenders. You can go to everybody. You can go to your joint venture partners and everything and say, here's what we can build. This is what we can do. This is the certificate. If we need changes to the zoning certificate, whatever it is, you may need changes. But this is the zoning status you have. This is what you can rely on. Nobody's ever done this here before.

We create a record for the developers. If they want to appeal, expedited Planning Committee hearings and Board hearings. Uses by right. These mixed-use projects, these new urbanism, these traditional neighborhoods, we're going to create palates. They can come in and say here are the design standards; here's what we can build. They're going to get uses by right. They're not going to need variances. They're not going to need conditional use permits. They're not going to need all this stuff. We're simplifying it. The greater building density, higher property values. We're going to cut their costs of putting in solar and wind on homes to basically zero, because we can use the state grants, the federal tax credits, and the savings from utility charges to finance to develop this portion of all of the solar and wind and rainwater capture.

And we're going to reduce costs for developers. We're also going to get reduced costs for housing types. We're going to use public improvement districts to equalize the load on developers and development agreements will lead to vesting of rights.

So this is what I've tried to keep in mind. I've tried to keep in mind what's good for the neighborhoods. So we worked with these community organizations for about four months. The pre-application process means that these people have an opportunity to go into and meet with the developers before hand and have input into the development before it becomes finalized. The neighborhood participation means that they're going to have standing and participation and notice and evidence and participate in planning and CIP, and advise on

development approvals and if they want to they can go to court. They have rights. And these are things the community planning people have said, great. We understand this and we're happy about this. There are some people who are not happy.

Let's go on to the last one. It's good for the environment, because we're now for the first time going to get these comprehensive environment impact reports. We're going to know really whether water is available. We're going to look at traffic congestion, vehicle miles reduced, improving air quality, reducing global warming. We're going to look at renewable solar and wind energy systems, and actually we should have added rainwater capture for homes. We're going to look at LEED design and improvement systems to create green development in neighborhoods. We're going to protect our habitat corridors, our agricultural and rural lands. We're going to protect our hillsides, our wetlands. We're going to have equestrian trails, walkable trails, bicycle trails. We're going to use TDRs. We're going to protect floodplains. We're going to protect our archeological, historical and cultural sites.

For the environment, this is I think what people have been asking you to do. And yet we've integrated this into a single Land Development Code with a shorter process, shorter time for review, greater concurrency of applications. Now, let's give it a hearing. See what the public says. There will be lots of things, etc., but that's where we are.

So what's to be done? I think we told you what's to be done, the remaining chapters. The time will be August 21 and 12/31 and that's it. Okay. So I'm done. Thank you.

CHAIRMAN ANAYA: Thank you, Bob. Is there any questions from the Commission? None? Okay. Do you want to hear from the public? All right, let's hear from the public. Who wants to speak? Come up sir.

WALTER WAIT: My name is Walter Wait. I'm representing the San Marcos Association. One question. I applaud all of the work. I'm impressed as everyone else is at the vision, but one thing that I would ask, if we are to take the first part of this document to review, which you can be sure we will, one of the things that I think is vital in reviewing a document of this nature and of this complexity is that the definitions that are in Appendix A are not going to be produced until later on, and I think that you would be well served to provide the definitions that go along with Chapters 1 through 5 with Chapters 1 through 5. Thank you.

CHAIRMAN ANAYA: Bob, why don't you come over here and sit over here. That way we have a microphone and that way you can address those questions.

DR. FREILICH: I do have the definitions for everything that's in Chapters 1 to 5. We were holding back because definitions can change as other sections come in, but I'm very happy to – we'll send digitally tomorrow the definitions we have finished and they can definitely be available. And they can be available for everybody. We're going to make it available; it's going to go on the County website tonight or tomorrow morning, and then every group, everybody will have these five chapters and we'll make available the definitions as well.

CHAIRMAN ANAYA: Okay. Any other comments? Come forward.

ROSANNA VAZQUEZ: I just had a couple questions. With regard to the fiscal impact work that was done, it talks a lot about public improvement districts, are those going to be mandatory public improvement districts as a way of paying for infrastructure? Or is it still going to be something – state law requires the Board of County Commissioners to approve them and there have been no public improvement districts approved in the last few years and so I'm not sure putting it in a document; actually using it for application of payment of infrastructure is another.

So I was wondering how you were going to deal with that problem.

DR. FREILICH: Responding to that, yes, of course. The statutory procedures for the public improvement district would have to be approved by the Board, but what we're talking about now is basically, when developers come in with large tracts of land we can create public improvement districts on that land itself and the only thing that you need for establishment of that public improvement district is the consent of that developer. So if they don't have adequate facilities or adequate services they can agree to provide for that public improvement district that way they don't have to lay out everything all at one time and never get reimbursed, but they can be reimbursed over time through assessments or charges or other things as those homes or non-residential or both. So it's a way of making sure we get our infrastructure and services in and up to the standards, the level of service that's required.

But right. You can't force public improvement districts on homeowners or other property owners without the consent to the statutory procedures. But we expect this public improvement process to basically be a critical land development approval process for parcels and tracts as they come through.

MS. VAZQUEZ: Mr. Chair, it is a positive thing. I'm not criticizing the inclusion of the public improvement district. I am merely talking about the reality of using them, putting them in a document and actually implementing them. We've only had a few; they've been in Rancho Viejo when Rancho Viejo initially started and there was much, much opposition to any other public improvement districts that came forward. So it was really more of a policy question. I think it's great that we have them in here.

The other question I had with regards to fiscal – I'm going to go by the format –

COMMISSIONER VIGIL: Mr. Chair, with regard to that.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I wanted to comment. I would like to keep it in the policy area because our state legislature has provided alternatives for public improvement districts that might be compatible with some developments and others, the TIDs, the PIDs, all of those may be particularly compatible to particular districts. So I don't think, to get to the bottom of your question, I would not agree with making it a mandatory –

MS. VAZQUEZ: Commissioner Vigil, I don't think it should be mandatory either. My question is really, there has been a hesitancy to use those types of improvement districts, so my real question is – and I think largely because developers have funded infrastructure, that when they come in, they've funded the roads, they've created the utility systems. So there has been a hesitancy to implement this and all these other sorts of

development funding structures because, as Commissioner Sullivan put it, I think there was a direct pass-on to each of the homeowners and there was a concern with regards to that. So my question is really more of a policy issue, like how are we really going to do this when big developments fund all the infrastructure. And that's just a question that I sort of had out there.

They don't fund maintenance, and I'm assuming that these will fund maintenance costs as well. Is that the case?

DR. FREILICH: Do you want me to answer that?

COMMISSIONER VIGIL: I would just say that I'm not sure that that cost doesn't go on to the homebuyer, one way or the other. And I think PIDs or TIDs actually give a more accurate representation of where the cost actually lies.

DR. FREILICH: Yes, I think we've showed many, many different ways. There were impact fees, there were developer contributions, there are assessment districts, not just PID districts. There were development agreements that we're talking about that are agreements with developers about when they can advance facilities and do things. We have a complete array of financing of infrastructure and services. The PID is only a step where if a developer chooses, of course he can use bonding through a PID. He can do other things other than laying out money completely in advance. It's much more efficient for a developer to try to use that.

If they don't want to use that in certain instances they'll have to come forward and advance those facilities out of equity. But whatever they choose to do the system lays out a complete and variable finance mechanism. It's not just a PID district approach.

MS. VAZQUEZ: My next question with regard to the funding, there was a slide that was with regard to fiscal impacts, I think to the County, on the costs of infrastructure. And my question was was that capital costs or maintenance costs or a combination of both? You've got hypothetical future development through hypothetical fiscal impacts and I just didn't know if it was a combination of both.

DR. FREILICH: That's the slide presentation that we made to the staff, and we actually changed the slide presentation here, simply because it's preliminary and we were giving a hypothetical example. But in that presentation it includes both operational and capital costs. Both operational and capital costs.

MS. VAZQUEZ: Thank you. And then just two more comments, Mr. Chair. In the presentation done by Mr. Freilich, and thank you for putting this slide presentation because you gave us so much information there is no way we were going to be able to remember it all, or go through the draft of the first five chapters and get it all. But under Chapter 2, Plans, you've got the community planning organizations advising on development approvals. What happens if they don't like it?

DR. FREILICH: It goes up to the Planning Commission or the Board as their comment. It's a recommendation on their part, but it's not something they can – they don't act on it. They don't have final approval authority.

MS. VAZQUEZ: Mr. Chair, if I can address a question to Mr. Freilich, so if a

community organization doesn't like it, then the hearing officer still makes a recommendation one way or the other, based on the Code, and includes that comment by –

DR. FREILICH: It includes all evidence that he's heard, everything thing he's heard he creates written findings of fact. The hearing officer does not necessarily recommend approval or disapproval. He can, but he's just creating a record, organized, with all of the issues, all of the facts, the pros and cons, he outlines all of that, and that record then goes to the Board for review. He may accompany it with a recommendation. He may say that they're not consistent with law and he's therefore recommending against it. If there are factual issues or other things he may simply point those issues out and leave them for the Board to address.

One of the critical things of the Supreme Court decision last year was a heightened emphasis that when the Board acts on anything it has to make complete, detailed, written findings of fact, of evidence, of issues, of everything else. So after you – under your current process, when you're reviewing things and making findings, you're not getting those detailed, written findings of fact and so forth that then can support your decision if it every goes to court. And this is – that hearing officer process fills that gap, and makes it easier for you to understand the issues and to get to the real heart of what you're here for, which is what are the policies? What's the effect on the County? And to add your input into that. But it gives you a lever to work with on that.

And of course at your public hearing you can hear additional evidence and take additional things in, because you're holding a quasi-judicial hearing as well. So nothing stops the people from coming up and also presenting to you. But if it's already in the record you'll know that this is cumulative evidence, whatever it is and you'll have an idea. But it's a very – it's almost impossible to proceed now in New Mexico in a major county of this kind without having some hearing officer content. And you may, I didn't include it in the subdivision process, but you may want to include it in the subdivision as well, for the simple reason that that's also a quasi-judicial determination and also needs to have detailed, written findings, etc.

But that's something I left open. That could be added. We'll see what the CDRC recommends on that. Okay, does that help you?

MS. VAZQUEZ: Yes, thank you. I think the hearing officer is going to make the process a lot smoother. I just had that question. My next question is, we, in going through the charettes and discussions with the planners, I represent a lot of clients who have existing master plans and we asked the planners whether those existing master plans would still be protected under the new Code. I was just wanting to get a clarification or an answer as to whether that's been addressed in the first five chapters. And if not, will it be addressed in the other chapters and is that still the way we're going to proceed?

DR. FREILICH: We haven't got yet to the vesting of rights section, so that will be addressed, yes. I'm not sure though. If you're referring to the master plan process –

MS. VAZQUEZ: Yes.

DR. FREILICH: I've been meeting with the County Attorney on this at great length and I don't think we're sure what a master plan really means in terms of vesting final

plat approval and that type of thing. I think it depends upon the document, etc., which is one reason why I'm now recommending that the developer is able to do a specific plan that will vest it through to final approvals and protect it against subsequent changes in law for a period of time to get the construction going and everything. Because it's been very unclear as to whether a master plan really means that preliminary plat approval is assured. Or that final plat approval is assured. I don't really think it gave that kind of status. But we are looking at the question of what status it should have and should be entitled to. And you won't have to go through that process. Whatever you did in the master plan process will certainly be credited towards what application or how you go through the application.

MS. VAZQUEZ: Thank you. I would like to know where we can get copies of all the maps that are in here, because they're a little hard to see in black and white, so if you could let us know where we can get colored copies of those. I want to thank you all for trying to balance the interests. I know it's been difficult with the development community and the – and balancing the interests of the development community and the neighborhoods. And I thank you for putting everything together and working so hard on this. And we'll have comment for you when we have our public hearings. Thank you.

CHAIRMAN ANAYA: Thank you.

FRANK HERSCH: Frank Hersch, Galisteo. First I commend you on a fantastic job. I'm very pleased to see this process beginning. A very simple question. At the last BCC meeting you passed a resolution in which Galisteo, among other communities, you said the community plans developed not by a CPO but by a similar process would be incorporated in the overall planning. Where does that resolution now stand? Will that be taken into consideration?

DR. FREILICH: I don't believe there is an adopted Galisteo Basin Plan.

MR. HERSCH: It hasn't been adopted.

DR. FREILICH: So I think that is a priority concern. Where these traditional communities have not had their plans adopted or their traditional community zoning district ordinances adopted it will be a priority to get plans for the balance of those communities done, at least with regard to critical archeological, cultural types of growth design. The different environmental and design concerns of the community. That should be done as soon as the general plan is completed.

MR. HERSCH: I think the actual wording was that the – it was resolved that it shall be addressed in the growth management plan.

DR. FREILICH: It is being addressed. It outlines of what those plans would look like. Everything else like that. But the actual sit-down with the community addressed, that's going to be handled by Jack's department as soon as the growth management element – the general plan amendment is approved.

MR. HERSCH: Okay. Thank you.

CHAIRMAN ANAYA: Thank you, Frank.

SAM KING: My name's Sam King. I'd like to thank everybody for all the work they've done and appreciate the Commission hearing all this and trying to sort through

it all. It's going to be quite a monumental task. But I don't feel that our southern end of Santa Fe County is really represented on the maps or the growth. We're not taking into account that I-40 – a lot of the growth is going to be along I-40, and we're only 2 ½ miles from the Santa Fe County line from I-40. And I don't think we've taken all the – kind of cutting our growth off for people in the Estancia Valley to have a job. Now they drive to Santa Fe or drive to Albuquerque. Talking about saving money, if they had jobs – once you start getting jobs along that I-40 corridor. Santa Fe County is telling us it's all going to agriculture, how do you get those jobs?

So we still – anybody I've talked to in southern Santa Fe County feels that we kind of got left out on our input on this. And I don't know if that's right or not but I do. We really haven't had any input on those meetings and the growth projections, it's showing a couple thousand people for Estancia over the next 25 years. Well, that – it wouldn't take one business to make that change. I don't agree with it for sure. So we're not – people have to realize we're not in Santa Fe. We're 30 miles away. The growth's different. I agree with that. But we need to have input in this growth, how it's going to happen. I kind of feel like we're being left out. So that's –

CHAIRMAN ANAYA: Thank you, Sam. So I guess to piggy-back on what he's saying is I noticed a lot of green on the maps and that is for agricultural and farming, but when those ranchers and farmers don't want to farm anymore, and want to turn that into residential or commercial, this wouldn't allow it. And who decided that that is going to be ranching and farming? Did the ranchers and farmers decide on that? Or was it the people that live in the urban areas looking out, saying we don't want to disturb that beauty that we have now, and now the rancher and farmer is going to be stuck with not having to develop. Is that what you're getting at, Sam?

MR. KING: Right. We grow corn and have water, and I've tested my wells over the last three years to get them proved up to where they have 120-year supply. So we have the water, the land and the people to have growth and have jobs and have really a better community. But if you're telling us we can't use any of that land or this water to do that you're kind of taking that away from us and that's what you've got us all in that map that I saw is all agriculture.

DR. FREILICH: One of the reasons why December 31 draft is the last one because the base zoning districts and the mapping is just because of what you heard tonight. If we do the mapping first you don't get anywhere on getting all the other things in the Code. You start putting out maps and people just run up to the map and say Where are we?

Let me answer your question in several ways. Number one, we are planning for having primary and secondary growth areas in the southern part of the county. Secondly, even if you are in a rural or agricultural area such as a ranch, you're going to be entitled to cluster and develop residential on that ranch. And you'll be able to do it on – you won't have to do it on 50 or 60-acre lot sizes. You'll be able to average down to three-acre or five-acre lot sizes. We're going to let you cluster all of that and to be able to build. You're going to see when we do the rural and agriculture zoning a whole host of techniques that will help you. In fact, as I

said in the meeting of yesterday morning, we'll be able to demonstrate to most ranchers that they'll make more money from not developing through federal tax incentives, state tax incentives, transfers of development rights – all kinds of things. Building, clustering subdivisions, yet still retaining the land and being able to continue to use it for ranching and agricultural purposes.

But again, that's why we're putting this all out for public review. I'm thrilled that people are coming up and saying, I want to look at this. Now, this is not my area of concern. Right now, that's an area that Bruce Peshoff and Jack are working on, where are these growth areas and how they deal with them. Basically, we'll listen to your comments and deal with them.

MR. KING: The meetings that you had in Edgewood, in our area, you brought that? Because people that I've seen that talked about it, it doesn't really sound like their input is in there. So maybe it's going to be, but it doesn't seem like it's in there yet.

DR. FREILICH: This is what the intent is; this is what we're coming out with so I think you're going to see those things. We know a lot about rural and agricultural districts. To me the most important thing about a rural and agricultural district is to maintain the economic viability of the landowner, to make sure that that landowner gets the same opportunity for value of land, etc. that other people in other areas, the other growth areas, so they're not left out economically. And that to me is a commitment. I indicated that at the very beginning of this process, and we will continue to follow that process through.

MR. KING: It looks like if you force us to get Moriarty to annex us or get Edgewood to annex or somebody, well then you've kind of wasted all this, trying to have some sense out of the growth and you force us to go along with other cities to annex us where you didn't. Santa Fe County doesn't really get the money or doesn't really fit in the master plan or anything, because we're going to be annexed by Moriarty. It seems like you're forcing us into that, really. But anyway, thank you. Thank you Michael.

CHAIRMAN ANAYA: Thank you, Sam, and I know another thing that's happening down in the southern part, it's right across the line, is that they're going to have a big – they're talking about a big racetrack that's coming in.

DR. FREILICH: NASCAR-type racetrack? Auto racetrack?

CHAIRMAN ANAYA: Horse racing.

DR. FREILICH: Or horse racing. Okay.

CHAIRMAN ANAYA: So anyway, thank you, Sam, for coming forward. Sir.

RAY SEEGARS: Hi. I'm Ray Seegars. I'm from Edgewood in the southern part of the county, and I attended the various meetings we had down there with the Planning staff and I think we missed out and didn't communicate what we really want down there. We tried to, but I think there's really two important factors in the Edgewood area. We have a town that's taking care of our density requirements, the Town of Edgewood. We look to the southern part of the county, that outside the municipal area of Edgewood, is pretty much being on a slightly larger lot, and believe it or not, sprawl area. In fact we were developed using the word sprawl. But we find sprawl to be a good word. It creates a very nice lifestyle, a

lifestyle that's important to us on one-acre, two-acre, five-acre tracts, and the Town of Edgewood is quite capable, being, I think the second largest land area town in the state now, because they annexed quite a bit, to take care of our concerns about density.

One of the words that we keep hearing, and it's important because I've never met all these people down there in Edgewood and they haven't discussed it with us, is clustering. We formed the Town of Edgewood in the southern part of the county to avoid clustering. That's not the lifestyle we like. We like the lifestyle where you have the larger lots. This racetrack is a very important element and when this racetrack comes is what's happening now is we're becoming in and around Edgewood and especially in the county areas kind of an equine oriented area.

I'm getting people moving in here from California, Oklahoma, this sort of thing, and when the racetrack hits I think you're going to find that that's going to be a very enjoyable, good element as part of our growth. And that requires larger lots. That requires something different than clustering. You can't go out and cluster people on a one-acre tract and then have 1,000 acres of common ground and carry on the type of things that we're moving towards and we desire. You've got to have enough land for your horses and that sort of thing. What we look for from the county, since like I say, Edgewood will take care of our density and our clustering and that sort of thing. We look to the county more for the larger lot development, interlocking trail systems, and that type of thing. Those type of things we can plan together.

I do think that what we tried to get across to the Planning staff, and I thought we did get it across to them, it doesn't seem to be consistent with some of the things I hear here and that's cluster development. That's why we got out of the county when we were in Edgewood.

CHAIRMAN ANAYA: Thank you, Ray.

DR. FREILICH: The only comment I'll make is cluster development doesn't mean specific lot sizes. You can cluster down to 60 to five-acre lot sizes. There's no magic in the word cluster meaning eight units per acre. I just want to get that clear. When we're talking about rural cluster, we're talking about the types of lots that the previous gentleman just talked about.

There is a category, and I'm happy to hear all of this. There's a category we can look it, which is sort of like a rural estate – I don't mean estate meaning rich type thing, but there could be rural estate lot categories in certain areas. We don't have to have anti-sprawl everywhere. And I don't think this gentleman realizes that sprawl development pays about 60 percent of the actual costs through its taxes for the services and capital infrastructure and everything else the County contributes to it.

So it's really an issue that if allow this – first of all, you still have two things. Number one is this county is vast, and the actual demand for housing is small, when you look at compared to this county. So if everybody comes out and says it's my ranch that's going to get 60 units or 70 units or with everyone else, he'd be looking at a county of a million and a half people. So what's really happening is we're trying to coordinate the provision of services and infrastructure and mixed-use development, but that doesn't mean we can't have some of that

rural estate-type areas.

I did the Baltimore plan. We took maybe eight, ten percent of areas and we turned them into equestrian rural estate areas, interconnected trails, the type of lifestyle we've been listening to. So it's possible we can do that. The other thing is I think Edgewood, as we get more of the primary and secondary growth that it thinks it's getting out of this thing, which will also help them in terms of providing for jobs and housing, etc.

So I think you need to look carefully at what's happening, but we will certainly listen to that testimony and pay some attention to it.

CHAIRMAN ANAYA: Okay. Thank you very much. This public hearing is closed and I'll go to the Commission if they have any short comments, so we can move on with the meeting.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I would probably start with Jack. How does this – in your first presentation about the CPOs, I'm likening them to neighborhood associations, but would it include any neighborhood associations?

MR. KOLKMEYER: Mr. Chair, Commissioner Stefanics, yes. The neighborhood association probably becomes one of the components of the groups that represent that CPO. So when I talked about the representation plan, that would be one of the components that makes that up.

COMMISSIONER STEFANICS: Okay. And could you address how this plan would fit in with annexation, since our annexation won't be complete for the next five years.

MR. KOLKMEYER: Specifically how the CPOs fit in?

COMMISSIONER STEFANICS: No, how the entire growth management plan is going to fit in with annexation. Like if the City is going to move ahead – we've just had a little debate about SPaZZO and hearing people concerned about whether or not their development and their density is going to be affected when it was intended to be not sprawl but country. And we have something coming up but not within maybe five years. So how will our growth management plan affect anybody in that annexation area that might be planning to do something? I'm just saying we have a timeframe; we're going to have a little limbo here. And I want to know where you're thinking this annexation area is going to fit into our growth management plan.

MR. KOLKMEYER: Mr. Chair, Commissioner Stefanics, if I understand the question correctly you're asking how would the growth management plan affect any of those areas that will not be annexed until this plan is adopted.

COMMISSIONER STEFANICS: That's correct. But also within the five years. We have this train that's moving, but it's not going to move real fast, the annexation. But this growth management plan will probably be completed before all of the annexation is accomplished. So how is the overlap, how is the overlay going to occur?

DR. FREILICH: We're going to have transition provisions in there for potential annexation areas. One of the things that's very important is that if the County builds

up the capacity for infrastructure and services before the City annexes that, or even before there could theoretically be petitions for incorporation for certain areas as well. But the key thing is that under state law we can protect the formation of those districts and those assets and those services and that infrastructure that the County puts in.

On the one hand, putting in the infrastructure and putting in the services might encourage more annexation. On the other hand, by the County doing that it makes it more – it basically protects its investment in the annexation and at the same time makes it more capable for cities to even look at annexation, because right now – are we getting at what you're saying?

COMMISSIONER STEFANICS: Excuse me. We have an annexation plan. There is an order already in place. What I'm talking about right now is the interrelationship between the City and the County and the delicateness of the plan moving ahead, not just with the neighborhoods but just in terms of the City and the County. And here we come up with a growth management plan that we probably will adopt before a significant portion of the annexation occurs. So we might not be able to answer it tonight, but I think it's an issue that needs to be worked out in the plan. And maybe my colleagues who have been involved with the annexation discussions more than I will have some insight on this, but I think it's an unanswered question in terms of what I've heard tonight.

DR. FREILICH: I think the annexation area that was agreed on between the City and the County is going to be a primary growth area. So it will enable the plan to go forward as was envisioned for how that would build up prior to the annexation into the City. But it's a great question and we certainly will follow up with that.

COMMISSIONER STEFANICS: And, Mr. Chair, I'll just ask the staff my other questions later.

CHAIRMAN ANAYA: All right. Thank you for the update.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I just have a couple. When we're looking at this now in terms of life, are we looking at it for a five- to ten-year period, or is this going to be something that is going to be kind of evolving throughout its existence?

DR. FREILICH: Let me explain. Basically, the plan itself would be a 20-year plan. It will be from 2010 to 2030. I think you saw that. It basically has provisions within the plan for how things will occur from zero to ten, then from 10 to 20 and then also what would happen beyond that. Obviously, all plans are not set in stone, so every three, maybe four years, or five years, the County can update the general plan, update the policies. Some things work, some things don't. That's why we've provided for plan amendments and general plan amendments. So yes, and we actually anticipate that there will be annual reviews of the performance.

Where we said capital improvements were going in and growth was going in, if it turned out that's not where it's happening, but the lead is over in this area, it will have to be addressed. We'll keep track of these things so that the County Manager can basically be able

to adapt how his departments are working and where services are going. But that's something that will be brought to you on an annual basis for your reviews.

And of course, all these projects as they come in are cumulative plan amendments, if you think about it, because you're going to be approving subdivisions and major developments, etc. We'll get a lot of cumulative data from that as well. So the idea of the plan is it's a 20-year plan, it's broken down into two ten-year cycles for capital improvement and everything. It can call for four-year or five-year cycle amendments, but it could also call for annual, or for specific amendments that the Board wants to encourage.

You might get recommendations for amendments from the Planning Commission, you might get them from some of these CPOs, you'll get recommendations from the County Manager. He may say to you, we need certain amendments because certain things in the plan are not working the way they should be working, etc. So it's a plan, but it's a flexible document. The Code of course is permanent, until it's changed.

COMMISSIONER MONTROYA: Okay. And then, Mr. Chair, you mentioned there's four or five people now who know the Code? Do they work for Santa Fe County?

DR. FREILICH: I think that percentage of the total population is about one-hundredth of one percent.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Just a couple of questions. And Commissioner Stefanics, I guess I'm not looking or zeroing in on the issue of annexation unless there's some – and there may be some unforeseeable outcomes with regard to this and there always are. But it seems to me that through the creation of the community planning organizations, the representation on the annexation issues can be a part of that. And I look at the district I represent which has the if not the largest portion of presumptive annexation areas. There is strong representation from neighborhood organizations, and as I tried to read some of this document it seemed to me that there's another opportunity for representation from the neighborhood organizations and I think I saw it called residential representation? I'm not real sure about that.

But one way or the other, as the community comes together and creates and discusses and identifies and moves forward on their own plan for their community participation organization, the phased in annexation areas would more than likely have representation in those planning organizations, and perhaps maybe at some point in time their representation may become moot. But as they're created I see this as a simultaneous sort of development, so long as, let's say the north part of Alameda doesn't get annexed, and I think it's phased in as one of the last areas for the presumptive area. And I'm not real sure about that because we're gaining further clarification as we have more public hearings on this. But it would seem to me that those residents who are impacted by development would be a part of the community planning organization.

More importantly, and I think a larger benefit is because part of the issues that we have as County Commissioners is we didn't know about this particular development, yet we're directly impacted. So as much inclusion as we can have with regard to those

annexation areas I think we create a larger benefit.

DR. FREILICH: Well taken. Well taken. And I definitely think that was the intent of what we were creating. And certainly we don't expect any unincorporated land not to be represented by a community planning organization, even if it's interim annexation. They definitely – those people who live there, those owners of property, they should have opportunities to participate in this whole process. And if annexation areas are in some of the community planning organizations, one of their roles ought to be also to discuss with the City, discuss with the County, get involved with what would happen if we get involved in annexation or otherwise, or do we get involved. So I think that's well taken and I think we'll certainly carry that out.

COMMISSIONER VIGIL: I see that as a huge disconnect currently. The other question I have for you, Dr. Freilich is will there be a clause in here for implementation once we adopt it? And what is the foreseeable implementation of that?

DR. FREILICH: The general plan itself will have a series of action programs set out in it. The establishment of the capital improvement program, the levels of service will be in the general plan, the creation of districts – all of these things will be implemented through the general plan. And so there will be a whole series of steps to make sure that these are not just goals and objectives but they actually are carried out. And we'll even have some timeframes for certain actions. It may take a year or two to do certain things to implement the plan, but there will be a timeframe in the plan itself for how those action programs will be carried out and by whom, to what extent and when. So you'll have a complete analysis. There's an entire chapter of the plan devoted to implementation of the plan.

COMMISSIONER VIGIL: And would that also include any staffing analyses with regard to FTEs?

DR. FREILICH: Now, we have never been charged with that. That wasn't part of our scope of service, etc., but one of the things I was talking about with Ms. Cobau, was the question, she says, our fees are too low, but we don't have the staff. We can't even cover the developments and review them and the enforcement. So I have talked to Roman about how if the [inaudible] are improved and really cover staff review and everything else like that you should get proper enforcement of the Code and of the plan.

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

DR. FREILICH: He's been very, very cooperative. You have wonderful staff people. I can't tell you. This has been a joy for me to work in. I don't get out as much into the communities. I went to all the charettes and I participated in all that, but I know the Planning people have been out there even more than I have. But I've been working very, very hard with the staff and I must say it's just been a wonderful inter-cooperative mechanism. And particularly working with your County Attorney. I usually have to drag County Attorneys hook, line and sinker into a project, but we've got our County Attorney here so knowledgeable and so thinks through, helps me think through solutions and deal with issues and I just one to give that compliment to both Manager and the Attorney. I think it's just been a wonderful relationship.

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

CHAIRMAN ANAYA: Okay. Thank you, staff. Thank you, Bob and your crew, and I especially want to thank the residents for coming out and expressing concerns. This is a draft and we'll move it forward and we still want your input. So thanks again.
Commissioner Stefanics

COMMISSIONER STEFANICS: Are we looking for some kind of action on this, to refer this onto the CDRC?

MR. ROSS: Mr. Chair, yes. We would like some action. Otherwise we can't send it to the CDRC for further –

COMMISSIONER STEFANICS: I'll so move.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and second to move this to the CDRC. Any further discussion?

The motion passed by unanimous [4-0] voice vote.

XIII. 4. CDRC Case # V 08-5390 Gilbert Montoya Variance. Gilbert Montoya, Applicant, request a variance of Ordinance 2008-5 and Article III, Section 10 (Lot Size Requirements) of the Santa Fe County Land Development Code, to permit a second dwelling unit on .950 acres. The property is located at 139B Camino del Rincon in Pojoaque within Section 19, Township 16 North, Range 8 East, (Commission District 3). John Lovato, Case Manager [*Exhibit 6: Staff Memo*]

SHELLEY COBAU (B & D Services Manager): Thank you, Mr. Chair. The applicant requests a variance of Ordinance 2008-5, Section 12.5, the Pojoaque Valley Traditional Community District, and Article III, Section 10 of the Land Development Code to allow the placement of a second dwelling on .950 acres. The property is served by an onsite well and a conventional septic system. Currently the two homes are served by an onsite well and a conventional septic system.

The applicant was issued a notice of violation on September 15, 2008 for unpermitted development. The unpermitted of development consists of the mobile home and a garage. The property is located in the traditional community of Pojoaque. Ordinance 2008-5 and Article III, Section 10 of the Land Development Code state the minimum lot size in this area is .75 acres per dwelling unit. The property does not qualify for a family transfer land division as the density for this area is that .75 acres per dwelling.

On April 16, 2009 the CDRC met and acted on this case. The decision of the CDRC was to approve the applicant's request for a variance by a 4-1 vote.

The applicant states that he needs the additional home on the property for his

daughter. The applicant states that at the time his daughter was a single parent and needed somewhere to reside. The applicant states that he and his wife are disabled and needed the care of their daughter. The applicant further states that since then his daughter has moved out and had homeless cousins moved in to help care for him and his wife.

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

Staff recommends that the request for a variance be denied. A medical condition does not constitute the sort of hardship contemplated by the Code as a condition for a variance. Should the decision of the BCC be to approve the applicant's request, staff recommends the following conditions be imposed. Mr. Chair, may I enter those conditions into the record please?

[The conditions are as follows:]

1. No additional dwellings shall be permitted on the property.
2. The applicant shall obtain an After-the-Fact permit for the second mobile home and garage on the property.
3. All debris must be removed from the property within thirty days.

CHAIRMAN ANAYA: Is the applicant here? Mr. Montoya, do you have anything to add?

[Duly sworn, Gilbert Montoya testified as follows:]

GILBERT EUGENE MONTOYA: Gilbert Eugene Montoya.

CHAIRMAN ANAYA: Mr. Montoya, do you have anything to add to the case?

MR. MONTOYA: No, basically I don't, because really it's all over here.

CHAIRMAN ANAYA: Do you agree with the conditions?

MR. MONTOYA: I agree with the conditions. I do.

CHAIRMAN ANAYA: All right. This is a public hearing. Is there anybody in the audience that would like to speak for this case? Come forward.

[Duly sworn, Maryann Simento testified as follows:]

MARYANN SIMENTO: My name is Maryann Simento and I'm the daughter. I was looking at the recommendations and I was kind of unclear about the recommendation. Was the recommendation for the dwelling, that is resided there, or is it for the garage and the mobile home? There wasn't really much clarification.

CHAIRMAN ANAYA: Shelley.

MS. COBAU: Mr. Chair, the applicant would be allowed to have the garage as an accessory structure, so the recommendation would be just to allow the second dwelling units.

MS. SIMENTO: So it would be for the home or for the garage?

MS. COBAU: For the home, and then we would be issuing an after-the-fact permit for the garage.

MS. SIMENTO: Okay. That's all I wanted. I just wanted a clarification.

CHAIRMAN ANAYA: Okay. Are you cleared up on that? Okay. Anybody else want to speak for this case? Come forward.

[Duly sworn, Polly Montoya testified as follows:]

POLLY MONTOYA: Polly Montoya, 612 Camino de la Luz here in Santa Fe. I am sister to Gilbert Montoya and I just wanted to clear up a couple of things on this is that I am the sister for the individuals that were trying to oppose this move, and also there was a lot of information that was given bogus as far as this article goes. When I spoke at the last meeting in front of the other board here it was in fact a feud that had stemmed all this, between another sister, Marcos Trujillo, and another brother, Mario Montoya. So I'm glad to see that it in fact did get approved to this point.

Now, I do know that Mr. Montoya has in fact already cleared all the debris off of this and there was the whole issue of the septic and everything like that. Some information has come to light with some other properties, with some water contamination from the Trujillos above that. And so when it came all along with the septic and everything I just wanted to clear that up, that the Trujillos and Mario Montoya were never in any danger of being contaminated from this septic that they were opposed to.

And so I just wanted to say that I want to encourage you to in fact approve this variance and thank you for your time. Thank you.

CHAIRMAN ANAYA: Is there anybody else that would like to speak for this case? Is there anybody that would like to speak against this case? Okay, the public hearing is closed. What's the pleasure of this Commission?

COMMISSIONER VIGIL: I have some questions for staff, Mr. Chair.

CHAIRMAN ANAYA: Questions. Okay.

COMMISSIONER VIGIL: Shelley, have we approved any other variances in this area, or were you able to make that analysis?

MS. COBAU: Mr. Chair, Commissioner Vigil, I'm not able to answer that question right now. I'm not sure if there have been other variances issued. I'm just reviewing through the preceding minutes from the CDRC and I don't believe that anything was brought up at the CDRC meeting regarding prior variances either. I'm sorry I can't address that for you.

COMMISSIONER VIGIL: Having just received this, what was their recommendation?

MS. COBAU: The CDRC recommendation was to approve the applicant's request.

COMMISSIONER VIGIL: Based on?

MS. COBAU: Based on the testimony that was presented and based on the applicant's willingness to accept the staff conditions. It passed by a 4-1 vote.

COMMISSIONER VIGIL: Did they find a hardship?

MS. COBAU: They did not affirm a hardship in their finding, Commissioner Vigil.

CHAIRMAN ANAYA: Any further questions? Commissioner Vigil.

COMMISSIONER VIGIL: I would like to see what this variance would do to the surrounding neighborhoods. Looking at the map I cannot tell what it would do. Do you have any sense of that, Shelley?

MS. COBAU: Mr. Chair, Commissioner Vigil, I believe that the majority of the lots in that area are similar nature to the applicant's and perhaps the applicant could address that question.

COMMISSIONER VIGIL: Maybe the applicant could tell me. Tell me about what the residential area is that you live in, what the density is.

MR. MONTOYA: Basically, the area that we live in, it's all family. Cousins, brothers and sisters. That's really side-to-side is just families.

COMMISSIONER VIGIL: So how long has your family lived there, and your extended family?

MR. MONTOYA: Pretty much over 100 years, I would say. It would seem, a hundred years. The property actually has been passed down generations and just in the families. It's really just family, both sides where I live. My brother owns one side, which is on the right hand side and my cousins, which are the Roybals, are on the other side. The left-hand side, and my father the right-hand side, and I'm in the center. And there's three houses on the side where my father's property that he had, there's three houses on there, and on the other side there's another three houses plus some new people moved on the bottom part. So those are new people, but other than that, it's all family.

And, let's see. I've lived there all my life and the property that I lived on was my grandmother's but my father gave that to me so I've been on that property since 1981, I think. And then after I moved in, then that's when my brother and sister started developing on my father's place. And on the side, on the Roybals' side. So basically, I was the only Montoya on the middle of the block.

COMMISSIONER VIGIL: Question for Shelley. Were most of the divisions that we see in this surrounding neighborhood, were they grandfathered in? Or do we know?

MS. COBAU: Commissioner Vigil, I'm not sure.

COMMISSIONER VIGIL: Okay. Shelley, where this property is, right below that it says Shalom. What does that mean?

MR. MONTOYA: That is my father's place. That's the name of his road, where my father –

COMMISSIONER VIGIL: That's a road name?

MR. MONTOYA: That's a road name. And he had named it that once the other brothers and sisters took – Mark, then Alex put a place and then after that, Mario Montoya put a place on the river. So actually there's three places there, besides my other sister, which his Shareen Martinez. She has a place there on that property.

COMMISSIONER VIGIL: On the same acreage or adjacent?

MR. MONTOYA: No, on the Shalom.

COMMISSIONER VIGIL: On the street. Okay.

MR. MONTOYA: Yes, on that street. On that street, it's two separate pieces of properties, Shalom and where I am.

COMMISSIONER VIGIL: Shelly, what would – how many acres would require a family transfer in this area?

MS. COBAU: Mr. Chair, Commissioner Vigil, in order to have this number of dwelling units the applicant would need 1.5 acres. He has .95.

COMMISSIONER VIGIL: Okay.

MS. COBAU: And Commissioner Vigil, members of the Commission, if your decision is to deny this applicant's request, he would have to remove that mobile home in order to be compliant with the Code.

COMMISSIONER VIGIL: So there's no subdivision being requested here. It's just a request to place the mobile home on the property.

MS. COBAU: That's correct. He doesn't wish to divide. He just wishes to leave the existing modular there.

MR. MONTOYA: May I say something please? I don't have a mobile home there. I removed the mobile home that they asked me to remove. The place that we're talking about is the one that my daughter that I helped her build a house. That's a partial mobile home added on. The mobile home that I was asked to take out of the place, I removed it. I removed several things, matter of fact. I removed [inaudible] \$20,000 of personal things that were on my property because apparently I didn't have permits for those things, and the trailer was one of them. I had to remove that. They gave me 30 days. I complied with it. I had it out in two weeks, and I had that as a storage unit.

There were several things that I had to comply which were little things that – I had been there for so many years and at that time there wasn't any need for permits and because a family feud because my parents passed away. I don't comply according to a trust, which one of my sisters is supposed to be trust-holder didn't like the idea of me complaining about her because they were supposed to tell my parents. I confronted them about the income that my parents had got and what was supposed to be spent on them. They got upset with me, all of them got upset with me and turned on me and reported me to all kinds of people and everything until where it came to a point where we ended up in the doctors, and my wife had to go back in and see a doctor, mental, for a head shrink.

COMMISSIONER VIGIL: Let me ask, Mr. Montoya, Shelley, I'm getting confused now. I'm hearing testimony that there is no mobile home and yet it says the unpermitted development consists of a mobile home and a garage. So clarify that for me.

MS. COBAU: Yes, the notice of violation was issued for one unpermitted mobile home on the property and he has subsequently removed that. So when we went out and started meeting with staff he was told that in order to keep the other mobile home, which is added onto, which makes it more site-built, he would have to come and request a variance from you. I know that's confusing.

COMMISSIONER VIGIL: The other mobile home –

MS. COBAU: There were three and now there are two. There were initially three and he's removed one and now he's down to two, but he still needs the variance to keep two on the property.

MR. MONTOYA: It's only for one, because for one that I live in right now, I have papers, documents, everything for that place when I first put it in. So with the County I have a license and everything for that place. Back when my daughter was 15 years old or 16, that's when I started to build that house. She needed a place to live.

COMMISSIONER VIGIL: So you have a permit approving one of the mobile homes, are you saying? So from your understanding you're here for a variance on the second mobile home.

MR. MONTOYA: I'm here for my daughter's – her place. Not for my place. I have all the –

COMMISSIONER VIGIL: That's okay. I understand that to be correct.

MR. MONTOYA: I have all the documents and everything on it, and also on these papers over here it states that I have .95 acres. In reality, I have 1 1/16 of an acre. The only thing is I have not had the money and I don't want to fight my sister to claim back my quarter of the acre that was mine. So it was given to me actually. Because what happened was my father was short and asked me to leave the fences where they were for my sisters to have a 3/4 of an acre portion. So when they had it surveyed, they surveyed it according to fence line to fence line. And that was because he asked me to leave the fences there. But I spoke to my surveyor, I can get an attorney on that and fight for it, but I don't want to, because it costs more money. So basically, I need the place there.

COMMISSIONER VIGIL: So Shelley, the .950 acres was based on the most current survey? And was staff aware that the applicant believes he has more acreage and that it would entail litigation?

MS. COBAU: Commissioner Vigil, I'm not aware that that has come up before, but John Lovato is the case manager on that and he called in sick today so I'm kind of trying to fill his shoes on this one. So perhaps I'm not as well informed as I could be, but even with the 1.16 acres, that would still not be enough to support two dwelling units on this property.

COMMISSIONER VIGIL: What would the shortage be? It's one point what?

MS. COBAU: It would be about .4 acre, he would be short.

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

CHAIRMAN ANAYA: Thank you. Do you have any other questions or comments? Hearing none, what's the pleasure of the Board? I'll move for approval. Is there a second?

COMMISSIONER MONTOYA: Second.

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

The motion passed by 3-1 voice vote with Commissioner Stefanics voting against.

COMMISSIONER VIGIL: I think I'm going to vote in favor of this. It seems to me that we don't have all of the facts, but I do recognize that families in that area do look for and to their property for affordable housing, I guess. And that would be I guess an empathetic concern I would have. The other issue I have with this is, a full understanding of what staff's communication was with the applicant, if in fact the applicant communicated that they did have larger acreage and there was only .4 of an acre missing that would allow for a family transfer. It seems like such a shortage of it. So I think I will vote in favor of it, Mr. Chair.

CHAIRMAN ANAYA: Motion passes.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Just for the record, I am related to the applicant.

CHAIRMAN ANAYA: Okay.

- XIII. A. 5. CDRC Case # V 09-5050 Joe Albillar Variance. Joe Albillar, Applicant, Requests a Variance of Ordinance 2008-10 to Allow Access through Paseo de Angel Which Does Not Have All Weather Access for a Two-lot Family Transfer Land Division. The Property is Located at 80 Paseo de Angel, within the Traditional Historic Community of La Cienega/ La Cieneguilla Section 21, Township 16 North, Range 8 East, Santa Fe County (Commission District 3). John Lovato, Case Manager**

MS. COBAU: Mr. Chair, the applicant appears to have left. Is there a chance that we could move this to the end of the agenda and see if he returns?

CHAIRMAN ANAYA: Yes.

- XIII. A. 7. **Findings of Fact: CDRC Case #MP 08-5440 Tierra Bello Subdivision.**
Joe Miller, Applicant, Requested 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)
- 8. **Findings of Fact: CDRC Case # MP 08-5430 Spirit Wind Ranch Subdivision, Phase 2.**
Joe Miller, Applicant, Requested 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)

MR. ROSS: Mr. Chair, members of the Commission, last month you heard these two cases together. They are requests by the applicant, Mr. Miller for waivers from our affordable housing ordinance for these two developments. And you asked that staff prepare an order denying the proposed applications, and that's what we've done. It's in your packet [Exhibit 7] and ready for your consideration.

CHAIRMAN ANAYA: So is this a public hearing?

MR. ROSS: It is not.

CHAIRMAN ANAYA: Okay.

COMMISSIONER VIGIL: I move we approve.

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

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Second. Any further discussion?

The motion passed by unanimous [4-0] voice vote.

- XIII. A. 5. **CDRC Case # V 09-5050 Joe Albillar Variance**

CHAIRMAN ANAYA: So is Joe Albillar here?

MS. COBAU: Mr. Chair, I looked out in the hallway for Mr. Albillar and I didn't see him, and I'm disappointed. I was prepared for that case.

CHAIRMAN ANAYA: So what do we do, Steve? Do we just adjourn?

MR. ROSS: Well, Mr. Chair, you could just table it. We'll hear it next month.

COMMISSIONER VIGIL: Move to table.

CHAIRMAN ANAYA: There's a motion to table by Commissioner Vigil.
Second by Chairman Anaya. Any further discussion? No discussion on tabling.

The motion passed by unanimous [4-0] voice vote.

XIV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at 8:50 p.m.

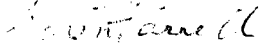
Approved by:

Board of County Commissioners
Mike Anaya, Chairman

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:


Karen Farrell, Wordswork
227 E. Palace Avenue
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