

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

**August 11, 2009**

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

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:10 a.m. by Chair Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Mike Anaya, Chair  
Commissioner Harry Montoya, Vice Chair  
Commissioner Kathleen Holian  
Commissioner Liz Stefanics  
Commissioner Virginia Vigil

**Members Absent:**

[None]

**V. INVOCATION**

An invocation was given by Cpl. William Pacheco from the Sheriff's Department.

**VI. APPROVAL OF THE AGENDA**

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. We have a couple of amendments to the agenda, the first being under Matters from the Commission A. That is a resolution calling for a change in the design of paving used on roads and streets in Santa Fe County to enhance the safety of bicycle riders.

Under the Consent Calendar, XI. B Miscellaneous, we added an item 4, which is a request approval for a 2007 competitive grant targeting violent crime initiatives for \$164,395.

Then we added an item number 5, which is request approval of a joint powers agreement between Santa Fe County and the Glorieta Estates Mutual Domestic Water Consumers Association to upgrade its water system. Those are the amendments from staff, Mr. Chair.

CHAIRMAN ANAYA: Okay. Is there any other amendments from the Commission? If there's none –

COMMISSIONER VIGIL: Move to approve with new amendments as stated by our County Manager.

CHAIRMAN ANAYA: Motion by Commissioner Vigil.

COMMISSIONER HOLIAN: Second.

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

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

**VII. APPROVAL OF CONSENT CALENDAR**

**A. Consent Calendar Withdrawals**

COMMISSIONER STEFANICS: I'll move approval of the Consent with the changes that have been mentioned by the County Manager.

CHAIRMAN ANAYA: Okay, there's a motion. Is there a second?

COMMISSIONER HOLIAN: Second.

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

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

**XI. CONSENT CALENDAR**

**A. Budget Adjustments**

- 1. Resolution 2009-135. A Resolution Requesting an Increase to the Law Enforcement Operations Fund (246) to Budget a Grant Awarded Through the Department of Justice/ Office of Justice Programs for the Targeting Violent Crime Initiative/ \$164,395. (County Sheriff)**

**B. Miscellaneous**

- 1. Finding of Fact CDRC CASE # MP/DP 08-5340 Thunder Mountain Water Co. Thunder Mountain Water Company, Inc. (Ed Cardenas, President) Requested Master Plan Zoning**

- Preliminary and Final Development Plan Approval to Permit Three Water Storage Tanks Consisting of Three Hundred Thousand Gallons Each, to be Installed in Phases on 4.8 Acres. The Subject Property is Located at # 60 Sunny Dale Road, Within the Sunshine Valley Subdivision Near Edgewood, within Sections 17 & 18, Township 10 North, Range 7 East, (Commission District 3). Approved 5-0 (Wayne Dalton)**
- 2. Finding of Fact CDRC CASE # DP/V 08-5400 PNM (Camel Tracks Feeder 13) Development Plan. PNM, Applicant, Requested Development Plan Approval to Allow the Construction of Approximately 2000 Feet of a Three Phase Distribution Line From the Camel Tracks Substation to Connect to an Existing Single-Phase Electric Line. The Request also Included a Variance of Ordinance No. 2007-5 Subsection 2.3.9b (1) to Allow Electric Utility Lines that Transmit Electricity At a Voltage Less Than 46 Kilovolts to be Placed Overhead. The Subject Property Is Located in the Vicinity of County Road 56 and Calle Debra, within Section 17, Township 16 North, Range 8 East (Commission District 3). Motion Was to Approve the Development Plan and Deny the Requested Variance 5-0 (Wayne Dalton)**
  - 3. Request approval of Change Order No. 11 to AIA Contract for Construction with Advantage Asphalt (“Contractor”) for the Stanley Transfer Station Project \$84,036.25 (Growth Management)**
  - 4. Request Approval for 2007 Competitive Grant/ Targeting Violent Crime Initiative No. 2007-DD-BX-0696 for \$164,395.00 Be Transferred into Fund No. 246-1201-424. This Grant is Funded by the Office of Justice Programs which was Awarded, Jointly to the Santa Fe County and City of Santa Fe Law Enforcement Agencies for Wireless Communication Equipment. (Sheriff’s Department).**
  - 5. Request Approval of Joint Powers Agreement between Santa Fe County and the Glorieta Estates Mutual Domestic Water Consumers Association to Upgrade its Water System**

#### **VIII. APPROVAL OF MINUTES**

COMMISSIONER HOLIAN: I move for approval of the minutes.  
COMMISSIONER STEFANICS: Second.

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

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

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

CHAIRMAN ANAYA: Is there anybody in the audience that would like to address the Commission on any public concern? Okay, hearing none, we'll move on.

**X. MATTERS FROM THE COMMISSION**

**A. A Resolution Calling for a Change in the Design Of Paving Used on Roads and Streets In Santa Fe County to Enhance the Safety of Bicycle Riders (Commissioner Stefanics/Commissioner Montoya)**

COMMISSIONER STEFANICS: Thank you, Mr. Chair, Commissioners. Before you have a revised resolution. I have received many compliments for the paving that was done in Eldorado for the main road coming into Eldorado, but then after the paving was completed, there was perhaps an oversight or an issue was brought to our attention by many bikers. Once the bikers in the Eldorado area got organized then the statewide bicycle association got organized, and they also went to see the Governor. And they made the issue to the Governor that the Department of Transportation and cities and counties should adhere to some of the national guidelines or have their money withheld for any road projects. So even aside from any threats of withholding of money, I looked at the AASHO guidelines and that is an association that deals with the safety for bike riders. And we drafted a resolution. At first we thought we would follow the City's resolution, but we have changed it quite a bit. And what this does call for is for our County to try to follow the guidelines so that bikers will be safe, as well as asking the State Department of Transportation to also follow those guidelines. And I stand for any questions or comments. And I did move that resolution.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Let me first of all make a statement that I fully support all of the initiatives in our communities with regard to pedestrian and bicycle safety and recognize the difficult that that creates on many of the roads that have not been designed to accommodate those. Commissioner Stefanics, does this say that these roads must be designed to meet the safety guidelines from this point forward? In other words, you're not asking for retroactivity, are you?

COMMISSIONER STEFANICS: Mr. Chair, Commissioner Vigil, we're not asking for anything retroactive but we're asking that in the engineering of paving or repaving

projects, that there not be a lip or uneven paved road surface so that bicyclists would not fall off of them.

COMMISSIONER VIGIL: Okay. And that makes perfect sense to me. And I think originally that the initiative with regard to this came to us because there was a road, I believe in Eldorado that was having difficulty. Is that correct, Commissioner Stefanics?

COMMISSIONER STEFANICS: Mr. Chair and Commissioner Vigil, what happened is one of the main roads into Eldorado was repaved recently, and the constituents are very happy with the repaving – the constituents who drive. And the constituents who bike brought it to our attention that it was dangerous. Now, in Eldorado there happens to be a side path that's available for walkers/bikers, but their issue was larger than just the county. It also is Highway 285. On Highway 285 the Department of Transportation hasn't necessarily always looked to follow the AASHTO guidelines of leveraging out the pavement so that people don't fall off. So they're asking that when the County does roads in the future by paving, that we follow engineering standards.

COMMISSIONER VIGIL: Okay. So that would have been my next question. Does this affect any other county roads in Santa Fe County?

COMMISSIONER STEFANICS: It will, Mr. Chair and Commissioner Vigil. The way it's written, and Steve, you could help me with this if you would, because Legal has rewritten it once or twice. So in the future if there are new roads or repaving of roads that this design would be looked at. And Steve, do you want to comment at all on that?

STEVE ROSS (County Attorney): Mr. Chair, Commissioner Stefanics, yes, that's correct. Apparently the practice has been when money is tight not to do the final layer of paving all the way to the edge, and what the resolution asks the Public Works Department to do is discontinue that practice and pave, do the overlays all the way to the edge of the current pavement, so that there's not this lip somewhere in between the edge of the pavement and the white line.

COMMISSIONER VIGIL: It would be good to know how many roads in the future this might affect, but I certainly support promoting safety features for bicyclists, pedestrians and all. Are we in compliance with federal regulations with this resolution, Mr. Ross?

MR. ROSS: Well, Mr. Chair, Commissioner Vigil, we're in compliance with federal regs and state standards now. The AASHTO guidelines are just guidelines. They may become more than guidelines at some point but we certainly could adopt them here voluntarily and adhere to higher standards should we desire.

COMMISSIONER VIGIL: Okay. No further questions, Mr. Chair. Thank you.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Well, I just want to say that I strongly support this. I myself was the victim of an accident that had to do with a poorly paved road. Well, actually a paved road where the edge of the pavement occurred right at the side of where the lane ended. I was riding along on the road and somebody thought that they would play a – well, it was a car full of young men who decided that they would show off and

they decided that they would tap me on the back when I was bicycling, and I went off the pavement onto the shoulder, tried to get back onto the road, and my bike skidded and it was on an embankment and I went sliding down the embankment. Fortunately, it was just cuts and bruises but it could have been really bad and I might not be sitting here right now if circumstances had been a little bit different.

So I am really in support of this and I have to say that also in my bicycling, touring career, the very best place in our country to tour is Oregon, because they have huge shoulders that are well paved. And even though I was sharing the road with lumber trucks I never felt the least little bit scared because I had plenty of room on the shoulder to ride. So I think we could sort of learn a lesson from Oregon. And I think that it's really important to give bicyclists the same consideration that we do motorists, and to make sure that any paving project that we do takes them into account because I think in the future we want to encourage people to bicycle more.

Anyway, I would like to, with that, move for approval of this resolution.

CHAIRMAN ANAYA: Motion by Commissioner Holian.

COMMISSIONER VIGIL: I'll second it.

CHAIRMAN ANAYA: Second by Commissioner Vigil.

COMMISSIONER VIGIL: I do have a question for staff, Mr. Chair, if Commissioner Holian is done. With regard to this resolution, I'm not sure, Robert or James, if you want to field this and maybe it's a question that you might have to get back with me. Is there going to be a fiscal impact and do you have any idea what kind of a fiscal impact this would provide? I think that's an important piece of information that we need to get.

CHAIRMAN ANAYA: I'm sorry. What was the question, Commissioner?

COMMISSIONER VIGIL: Is there going to be a fiscal impact?

ROBERT MARTINEZ (Public Works Director): Yes, there will be a fiscal impact. Just to give you an example, we paved 4.8 miles of Avenida Vista Grande with the funding that we had available. If we had to work with that same amount of money we would have only been able to pave 3.5 miles of that road to accommodate the full width of paving to accommodate the shoulders. So yes, there will be a fiscal impact. We'll have to pave less mileage.

COMMISSIONER VIGIL: Okay. That would have been my next question. We'll be paving less roads and I'm not sure if that's a policy decision. Do we want them to be fully safe and pave less or do we want to pave more and worry about the safety of it. I think that's the bottom line question. With regard to this and the Agua Fria Phase 3 project, for example. That project has already been designed. Part of the problem in that district, in that area, and in many of the areas in surrounding Santa Fe County it's the roads nor easements were designed for bicyclers and pedestrians. We've seen that at Agua Fria. What is your response to that? How will we be able to comply with this if we don't have the easements?

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, for example on Agua Fria, where we're going to be constructing sidewalk and curb and gutter, that does take up quite a bit of room that could be accommodated for a bike lane. For Agua Fria we will have to post

share the road signs to allow the bicyclists to use the driving lanes as the motorists do.

COMMISSIONER VIGIL: Okay. And that's really more to do with the width of the road, right?

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

COMMISSIONER VIGIL: So it seems to me that this resolution in moving forward as Public Works would look to accommodate and comply with it as roads were being designed perhaps through new developments or through current ones, and perhaps even at Eldorado, because I know the width of many of those roads could accommodate this. You'd have to incorporate that into this.

MR. MARTINEZ: Mr. Chair, Commissioner Vigil, that is correct. For example, South Meadows. That's a new road that we have designed, we're going to construct that's going to include shoulders, it's going to include bike lanes. So on a new road that we have sufficient easement and sufficient funding it's easy to accommodate this.

MR. ABEYTA: Mr. Chair, if I may also clarify though, it's my understanding that if you have an existing road that doesn't have the full easement you don't have to go out and get more easement to put a bike lane. The resolution doesn't say that. The resolution just says you pave to the edge of wherever the edge is right now. So I don't want the Commission or Public Works to leave with the impression that we're going to be adding bike lanes to all these County roads now, because we're not. All it's going to require that we pave to where the existing paving ends now.

COMMISSIONER VIGIL: And I guess it's the point I was driving. In many of the roads we don't have the easements, so while this might work for newly designeds it may not work for some of the current designs and the current roads that we don't have sufficient easement for. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Okay. Robert, I think Roman clarified what the question is and that is, if for example, like we paved 42. We followed this resolution then, because we paved, we put a top seal on the pavement from one end to the other.

MR. MARTINEZ: Mr. Chair, County Road 42 is a little bit different. Remember we had those public meetings with the residents of Galisteo and Cerrillos, and they were concerned with the pavement width, because they were concerned about drainage, the surface area of pavement and creating more erosion and drainage problems. So it was their suggestion to eliminate the bike lanes and narrow the paving – the driving lanes. So based on the public input that's what we did on County Road 42. We reduced the lanes to 11 foot, but eliminated the bike lanes to accommodate their concern about additional erosion caused by runoff.

CHAIRMAN ANAYA: But if we would have done the bike lanes, we wouldn't have paved – we would have had a lip, right?

MR. MARTINEZ: Mr. Chair, if we were to repave 42 right now we would go all the way to the edge. The difference on Avenida Vista Grande is from shoulder to shoulder we've got about 36 to 38 feet in width. The driving lanes plus a foot of shoulder that we did on Avenida Vista Grande is approximately 26 feet. So there's plenty of new pavement that



we've put down to accommodate the motorists. So to answer your question on 42, we would have gone the full width of the existing pavement because it's only 22 feet. So it's a lot less pavement width of 42 than on Avenida Vista Grande. The shoulders on Avenida Vista Grande did not need paving. They were structurally sound compared to the driving surfaces on Vista Grande.

COMMISSIONER STEFANICS: Mr. Chair, I would appreciate everyone's consideration because what this does is it takes away the unevenness of the paved road at the edge. So if we cannot put in an extra bike lane it would just mean that we would not have a sharp edge that people would fall off. Thank you.

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

**X. B. Mobile Health Care Van Update (Anaya)**

CHAIRMAN ANAYA: Joseph, the reason I put it on there is because I wanted you to talk a little bit about it so I could get the public informed about what we have and what we do, and how they could use it if they like. Go ahead, Joseph.

JOSEPH GUTIERREZ (Community Services Director): Mr. Chair, members of the Commission, I will give you a brief report that Steve Shepherd prepared and he just left sick so I'm kind of filling in here. I don't know if you have this memo. I'll go ahead and read some of the facts and information that Steve put together.

There's three people in the medical healthcare van: Angela Thorndyke, who's a registered nurse, Ruth Sabiers, Promotora, and Gerald Smith, who'd the driver. The visitation has significantly increased from fiscal year 2008 to 2009. In 2008, 2,232 people visited the van. In fiscal year 2009, 3,603 individuals visited the van. So the monthly average has jumped from 223 a month to 327, so there's significantly more traffic.

The flu vaccinations given in fiscal year 2008 were 205. In 2009 that jumped to 1019. So that's another significant area of increase. There's a new van that's coming; it's being constructed in Ohio and it's due here in October. I think it's smaller and more mobile and it's going to provide better service to the community, be more agile to get to different areas. There's a new program called the National Mobile Health Map Project, which was developed by Harvard Medical School. It's going to give us more information on our clientele. The Harvard Medical School Dean of Students, Nancy Oriol, has developed these measures of prevention, and she states that for every dollar that we invest that there's going to be \$36 of value in return.

Just quickly, some other numbers. Blood glucose checks for the fiscal year 2009 was 2292. I gave you the flu vaccinations. Cholesterol checks have been 341. The number of referrals from the van has been 74. People using the discount drug card has been 247. Dental referrals has been 37, and then they also encourage people to get in the free exercise program

that we have. And that's pretty much the update that Steve gave me.

CHAIRMAN ANAYA: Joseph, is this service free?

MR. GUTIERREZ: According to this, the exercise classes – I guess they are free. They were down for a while. They started back in October of 2008. There's been 14 classes and 68 participants.

CHAIRMAN ANAYA: No, but I'm talking about –

MR. GUTIERREZ: Oh, when people visit the mobile health van? That's correct.

CHAIRMAN ANAYA: It's free.

MR. GUTIERREZ: It's free.

CHAIRMAN ANAYA: And where can people –

MR. GUTIERREZ: We have a calendar. It's posted on the website. I have the August calendar in front of me. Let's see what it says.

CHAIRMAN ANAYA: And that's the Santa Fe County website?

MR. GUTIERREZ: Yes.

CHAIRMAN ANAYA: So if people want to visit the van they can get on the website.

MR. GUTIERREZ: Right. It's going to be in Chimayo on Thursday from 10:00 to 2:00. It will be in Edgewood on Monday from 10:00 to 2:00. And I assume that Steve will have this calendar posted also on our website.

I've actually visited the van at Fort Marcy and they were quite friendly and they had a good screening. It was a very pleasant visit.

CHAIRMAN ANAYA: How was your cholesterol?

MR. GUTIERREZ: It's great. I think.

CHAIRMAN ANAYA: I just went to the doctor and my cholesterol was 270 but I brought it down to 207. It's still high. Any questions of Joseph? Do you have any questions of Joseph on the mobile van?

COMMISSIONER STEFANICS: Mr. Chair, yes. And Joseph, are there any areas of the county that you think we haven't hit at all in the past couple of years?

MR. GUTIERREZ: Mr. Chair, Commissioner Stefanics, I really couldn't answer that. I don't have a wealth of information on the subject but I can ask Steve and he can get back to you. I'm sure that there is, and I'm sure with this new van – the old van was limited in terms of its size, where it could actually go. With the new van it's much more mobile so I'm sure there'll be more outreach with the new van when we get it in October.

COMMISSIONER STEFANICS: Well, Mr. Chair, the reason I'm asking this is we're doing this study at the RTD about the cost effectiveness and the cost efficiency of different routes. And in health, any person we can reach is a great efficiency because hopefully we're saving their life or we're giving them something that will be useful in the future. But I'm just wondering if there are some areas that are better attended than others. And I know that Steve and staff have presented this at the Indigent Board meetings and we might just take that up there. But if there are some areas that are more frequented, do they

need more visits versus some of those areas that aren't. Thank you very much, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Joseph, for giving us that brief summary and we look forward to seeing our healthcare van in our neighborhood.

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

COMMISSIONER HOLIAN: Thank you, Mr. Chair. First of all I would like to say congratulations to Mr. and Mrs. Joaquin and Micah Zamora on their recent nuptials. I don't think she's here, but anyway, hopefully she's watching on TV. I can attest to the fact personally that she was a beautiful bride and her dress was absolutely gorgeous. And I want to wish them a lifetime of love and happiness.

And on a more mundane matter, I wanted to give an update on the renewable energy and solar energy financing programs that we're putting together. First of all, Duncan Sill set up another meeting that we had week before last with members of our local financial community, and Peter Franklin attended which was really good because he could answer a lot of questions about how the special assessment districts are put together. Also Representative Egoff and Senator Wirth were there as well, and so they were asked a lot of difficult questions. Some of them were answered and some of them are still yet to be determined but we are continuing our dialogue with not only the members of the financial community but also the installers as well while we put this program together.

I think the meeting ended on a really positive note because one of the participants who was asking some of the hardest questions ended by saying, you know, this is a program that we just have to make work for our children and for our grandchildren. So that was a wonderful thing to hear him say that. And I just wanted to then also add that Duncan and Peter Franklin and I got together last week to start hashing out some of the actual elements of the program. We talked about elements of the application process and Peter Franklin had a really good idea to put together an information pamphlet which we will tell people sort of what are the benefits to property owners for signing up for this kind of a program, as well as laying out a number of different financing scenarios, even though we don't know what the interest rate is going to be we can sort of guess at some reasonable alternatives and lay out some different scenarios for them as to what it would mean to their bottom line.

And then in this pamphlet we would also have a complete description of the application process, what the special assessment is like as well as the financing process. Then we talked a little bit about what the application would look like for homeowners who would like to sign up for this. We talked about the role of Renewable Funding, which is a private company which is financing the Berkeley program and is actually running the Boulder program. Peter Franklin is getting in touch with them going to sort of hash out more what role they could play in our particular program.

We also talked about the role of the County staff, and Duncan Sill is going to put together a whitepaper that lays out exactly what has to be done by our County staff and how

much that might cost, what kind of resources we would need for that. And finally we talked about the financing structure if we went with Renewable Fund to do micro-bonding that would help us get the program up and running as quickly as possible but in the long run we will almost certainly want to look at creating a bond-funded loan pool because we could probably get better interest rates for people. But that is more of a long-term scenario. So anyway, that's just sort of a short summary of where we are with that.

We're continuing our meetings. We will lay out some decisions. Some decisions will be policy decisions that I think that the Board of County Commissioners will have to make, and then there will be a lot of details that are sort of administrative details that we work out. But we want to keep everybody up to date and informed as we go along. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I actually just have one item to report and it's a fairly recent item. This morning I went with Duncan Sill who has been working with the coalitions and the partnerships for broadband. We visited with Senator Jeff Bingaman and in that meeting was Mayor David Coss. We had representatives from the Commission in Rio Arriba. We had Councilors from Los Alamos, and of course Monica gave the presentation with the Regional Development Cooperative that's been in – and I'm sorry I don't have the full name in front of me. Senator Bingaman was very receptive to that. The broadband, from our mind, I propose that it resolves three major issues. It creates the rings for connectivity for rural areas and regionalizes many of the projects that need to be regionalized, such as health for telemedicine, such as emergency response to meet all the gaps in emergency response that we currently have.

More importantly I think it really is a huge economic development component to many of the issues that we have not only in the city and the county and without the broadband or the extension of the broadband we're stuck. We won't be able to provide the services that we need to. I was very happy to see Senator Bingaman and Pablo Sedillo was there too, being very responsive to that. I just wanted the Commission and the public to know that broadband is a priority. We've been working with many of the economic development initiatives on this and now there are stimulus dollars available, and that's the purpose of the meeting.

I believe the group is trying to meet with Senator Udall and also Congressman Lujan with regard to this in hopes of creating all of their support, to bring in the fiber for the broadband, to partner both public and privately to make this project happen. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I have a question for Commissioner Holian or Steve Ross about the solar and the energy possibilities. We have been contacted, and I'm sure I'm not the only one, about some companies in town who are really requesting that this be a retroactive program. I understood from conversations and the formal study session that we had from both Peter Franklin and Steve Ross that we could not make this a retroactive program, that we had to wait until we enacted an ordinance. Could somebody comment on that?

COMMISSIONER HOLIAN: Well, Commissioner Stefanics, I did discuss that with Peter Franklin very briefly and we didn't really get into a real deep discussion about it but he did seem to think that it would not be possible to make it retroactive, unfortunately.

COMMISSIONER STEFANICS: And Steve, do you have any other take on that?

MR. ROSS: Mr. Chair, Commissioner Stefanics, I have talked to him about that and I'm pressing him for details on the reasons why he believes it. I don't think it could be retroactive prior to July 1 or the effective date. I don't know if it's July 1 or somewhere in June, but I'm pretty sure it couldn't be retroactive before the date the enabling legislation became effective, but I would like to understand why he believes that it couldn't be retroactive from that date for installations that are completed on or after that date. So I'm going to continue to press him for the reasons and I'll get back to you.

COMMISSIONER STEFANICS: Okay. Commissioner Holian, I would ask that your committee look at that strictly from the standpoint of businesses who are claiming a loss of business today because people are waiting. And I don't know if this is actual fact, or if this is one individual who is complaining, but we certainly don't want small businesses to be hurt in this economy. So perhaps your committee could look at that.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Yes, Mr. Chair, Commissioner Stefanics, I'm very sensitive to that myself. I've heard from quite a few installers about that and I really need to get more details. In a way I don't understand why it couldn't be retroactive, at least until July 1<sup>st</sup> when the bills were signed into law because it seems like all the material that would be required for the application would exist. But in any event maybe it's too soon for me to really comment on that but I am sensitive to that and I am investigating it.

COMMISSIONER STEFANICS: I have one other item but are you –

COMMISSIONER VIGIL: On this one, I was just going to say my understanding of this is that there has to be an application and a certification and a qualification for participants in this. So in actuality there's a practical sort of response to this. Those people who have already undertaken any of these projects have not been certified, have not been qualified, have not been accepted. Now, I guess your question would be towards do we retroactively qualify, certify and accept them? It seems to me that that acceptance and certification would be a sort of springboard to allow for participation in this project. So I don't know if there's a practical answer to that but I'm happy to explore it with the committee that we're serving on.

COMMISSIONER STEFANICS: And one other item Mr. Chair and Commissioners, on the Regional Transportation District Board this past week we are again looking at future routes that might be addressed by the RTD. And while the County participates with the City and the RPA, I have asked Andrew Jandacek who is our County Transportation Planner to at least meet with all of you for five to ten minutes or to ask you via email what your concerns, issues, or priorities are for transportation in the county.

[Commissioner Montoya joined the meeting.]

Oftentimes the RTD identified that they set up routes based upon phone calls from riders and sometimes petitions, and that's how some of their routes rise to the top. So I just want to make sure that for you in your area of the county that if you have some areas that you want to make sure are considered, that they are put on that list when Andrew comes around. And that's it. Thanks, Mr. Chair.

CHAIRMAN ANAYA: Thank you. And Roman, we talked about the list. Could you put La Cienega on that?

MR. ABEYTA: Yes.

CHAIRMAN ANAYA: Commissioner Montoya, thanks for joining us, we are at Matters from the Commission. Do you have anything that you'd like to talk about?

COMMISSIONER MONTOYA: Thank you, Mr. Chair. I apologize for being late. Yes, just a couple of items, Mr. Chair. We are continuing to work on the transition from the senior services in Chimayo from the old Bennie Chavez Community Center to the new facility that was just recently built in Rio Arriba County. Commissioner Corriz along with staff here, Ron Pacheco and Lisa and some of the staff from the agency on Aging have been involved in those transition talks. So we continue to work on and toward that, Mr. Chair.

Also, this Thursday we're having the joint City-County meeting once again to discuss the progress in terms of the DWI Task Force and what we've been working on so far.

And then Friday at 9:00 we're meeting for the first time on the Alcohol Excise Tax Committee to discuss what it is that we're going to be working on there. So again, we welcome everyone's participation. I know Commissioner Stefanics and Vigil have been involved and we'd like to see Commissioner Holian and you, Mr. Chair, on one of those committees if possible. I know it's just another one of many things that we do. So I certainly would like to invite you.

Then just lastly, this Wednesday is Santa Clara Feast Day so if you have a chance to head up to Santa Clara and participate in their festivities certainly we are all welcome to do that. So I want to extend that invitation to you all also. Thank you, Mr. Chair. That's all I have for now.

CHAIRMAN ANAYA: Thank you, Commissioner. I just would like to say that ended up another year of Santa Fe County Fair last week and it turned out great. A lot of participants. I want to thank Roman and his staff. I want to thank the Fair Board and Pat Torres and his gang for working together. They have improved the fairgrounds tremendously. And I just want to thank everybody for participating and look forward to another year next year of it.

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

**A. Corrections Department**

**1. Request approval to award contract # 2010-0020-CORR/MS for Medical Director Services to Northern New Mexico Emergency Services, Inc. (Corrections Department)**

MARIA SANCHEZ (Purchasing Division): Good afternoon, Commissioners. Annabelle was supposed to be here but I think she has another meeting going on in the legal conference room. The medical director services contract had expired and so the Legal Department and Purchasing Division went out to do a bid for the medical service director for Corrections, and in this case we only received one proposal and that was from Northern New Mexico Emergency Services, and that's Dr. Rolig and his staff that support the adult detention and also the youth development program.

So they're requesting another four-year contract with NNMES. I know it doesn't state here in the memo but the contract amount is \$273,000 inclusive of GRT.

CHAIRMAN ANAYA: Okay. Is there any questions?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I would like to know if this is the actual bid or the negotiated rate.

MS. SANCHEZ: This is the negotiated rate.

COMMISSIONER STEFANICS: And Mr. Chair, is this rate considered to be acceptable by the contractors?

MS. SANCHEZ: Yes, they are, and they're here, I believe. They are here if you have any questions.

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

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER MONTOYA: Second.

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

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

**XII. B. Matters from the County Manager**

**1. Updates on Various Issues**

**2. New Judicial Courthouse Complex**

MR. ABEYTA: Mr. Chair, I do have an update on the new judicial

courthouse complex. I met with Steve Ross, Joseph Gutierrez, Paul Olafson, our environmental consultants from Intera, the project manager and the contractors last week, and it looks like we're getting close to putting together a plan that we can present to the Commission as far as how we can proceed with the courthouse. It looks like we may be able to proceed with building the courthouse at the proposed location, but all of those issues we are analyzing right now and again, we are going to bring forward a plan and recommendation to the Commission for your consideration. But it looks like everybody seems to be on the same page and there's a long list of items that we're addressing one by one, whether it's us or Intera or the contractor, but I'm pretty satisfied with the progress that we've been making.

The Environment Department has also been very helpful and is working well with us, so like I said, I hope that we could come before the Commission – when do you think, Steve, we could have a plan? The first meeting in September with a plan for you to react to and ultimately sign off on.

CHAIRMAN ANAYA: Okay. So you're going to tell us – you'll know a little bit more.

MR. ABEYTA: Well, I think we'll know a lot more.

CHAIRMAN ANAYA: And we could possibly move forward.

MR. ABEYTA: Yes.

CHAIRMAN ANAYA: Okay. Any questions of Roman on the courthouse?  
Commissioner Vigil.

COMMISSIONER VIGIL: I'm just wondering how much we're updating the judges on this and all the interested parties on this project.

MR. ABEYTA: We met with them last week also, so we're keeping them in the loop.

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

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair, and Roman, are we still working closely with the Department of Environment on this?

MR. ABEYTA: Yes, we are. We're making sure that every step of the way they are in the loop and they're approving what we're moving forward with.

COMMISSIONER STEFANICS: Thank you very much.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Roman, does it look like we can actually build it as originally planned perhaps?

MR. ABEYTA: At this point it's looking like that, but I don't want to get too far ahead and give people hopes. But I'm optimistic right now, but until we actually have all the facts in September.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: So, Roman, at that point we'll have maybe some cost estimates, breakdown on what it is that we're looking at and length of time?



MR. ABEYTA: Yes. We'll have cost estimates, length of time, modifications to the grounds we may have to make to accommodate it. Things like that.

COMMISSIONER MONTOYA: So a pretty thorough analysis at that point?

MR. ABEYTA: Yes.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you.

**XII. C. Matters From the County Attorney**

**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**

MR. ROSS: Mr. Chair, we need a closed executive session to discuss pending or threatened litigation, limited personnel issues and discussion of purchase, acquisition or disposal or real property or water rights, a, b, and c.

COMMISSIONER MONTOYA: Mr. Chair, prior to doing that, did you acknowledge our new Water Utilities Director and Wastewater, who's here? Marvin Martinez. Marvin, welcome to Santa Fe County. Appreciate your being here. Thank you.

CHAIRMAN ANAYA: Welcome. Okay, so –

COMMISSIONER MONTOYA: Move to go into executive session to discuss the items Mr. Ross mentioned.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER VIGIL: Second by Commissioner Vigil.

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

CHAIRMAN ANAYA: We're going to break now and we'll be back at 5:00, Steve?

MR. ROSS: I think we can do that, yes.

CHAIRMAN ANAYA: We get back here at 5:00 so we can start our long afternoon meeting.

[The Commission met in executive session from 3:50 to 5:45.]

CHAIRMAN ANAYA: I want to call the meeting back to order. Can I have a motion to come out of executive session?

COMMISSIONER VIGIL: So moved.

CHAIRMAN ANAYA: Motion by Commissioner Vigil.  
COMMISSIONER STEFANICS: Second.  
CHAIRMAN ANAYA: Second by Commissioner Stefanics.

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

**XIII. PUBLIC HEARINGS**

**A. Growth Management Department**

- 1. CDRC CASE # 09-5120 Verizon Wireless Telecommunication Facility. Verizon Wireless, Applicant, Scott Dunham, Agent, Request Master Plan Zoning/Preliminary and final Development Plan Approval for a 36 Foot Monopole and a 288 Square Foot Equipment Shelter on a 1,050 Square Foot Leased Site Within a 5,000 Acre Parcel. The Property Is Located West of US Highway 285, 16 Miles North of Clines Corners and I-40 Within Section 32, Township 12 North, Range 11 East, (Commission District 3). Jose Larrañaga, Case Manager**

JOSE LARRAÑAGA (Review Specialist): Thank you, Mr. Chair. On June 18, 2009 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request with staff conditions. The applicant requests master plan zoning, preliminary and final development plan approval for a communication facility on a 1,050 square foot leased site within a 5,000 acre parcel which is currently being taxed as agricultural. The site will house a two hundred eighty eight square foot equipment shelter, containing electronic equipment and a diesel generator, a monopole thirty-six feet in height, with twelve mounted antennas and a microwave dish.

The applicant states that the communication facility will provide cellular telephone coverage to US Highway 285 and the surrounding area. The facility operates un-manned with the exception of routine maintenance and testing. The facility would operate 24 hours a day, 7 days a week and 365 days a year. The site will be fenced with a chain link fence for security and safety concerns.

The proposed development meets the requirements set forth in Ordinance 2001-9, an ordinance relating to wireless communication antennas, towers and other facilities, prescribing regulations for location, placement, appearance and design.

This application was reviewed for the following design standards: setbacks, physical design, color and material, screening and landscaping, fencing, access, terrain management, noise, lighting, and immediate necessity.

Recommendation: The applicant's request meets the provisions set forth in the Wireless Communications Facility Ordinance 2001-9. This application complies with Article V, Section 5.2 and Article III Section 4.4 of the Santa Fe County Land Development Code.

Staff recommends master plan zoning, preliminary and final development plan approval to allow a Wireless Communications Facility on a 1,050 square foot leased site within a 5,000-acre parcel, subject to the following conditions. Mr. Chair, may I enter those conditions in to the record?

[The conditions are as follows:]

1. All staff redlines must be addressed, original redlines will be returned with final plans.
2. The applicant shall comply with all requirements of the County Land Development Code and Ordinance 2001-9 (Wireless Communications Facility Ordinance).
3. Master plan and final development plan with appropriate signatures must be recorded with the County Clerk prior to the issuance of any permits for grading or building permit.
4. The applicant will be required to submit a financial guarantee in an amount approved by the County for all improvements including but not limited to fire protection, roads and retention pond.

CHAIRMAN ANAYA: Okay, are there any questions of Jose? Is the applicant here? Go ahead and come forward, sir. Do you have anything to add?

[Duly sworn, Scott Dunham testified as follows:]

SCOTT DUNHAM: Really nothing to add. My name is Scott Dunham. I represent Verizon Wireless on this. Jose basically did an excellent job in summarizing what it is we plan on doing out there. We had looked for other existing telecommunications facilities in the area to see if there was a co-location possibility prior to moving forward on this site. In case any of you have ever driven out there on 285 unfortunately, there are no cellular communications sites, which is why we're now proposing this new one. So having exhausted other co-location opportunities we are seeking to build a new tower.

CHAIRMAN ANAYA: Who are you leasing from?

MR. DUNHAM: The gentleman's name is Joe Russell. He owns a large ranch out there. Actually several parcels that make up his ranch.

CHAIRMAN ANAYA: Okay. Any questions of the applicant? Is there anybody in the audience that would like to speak for this case? Is there anybody in the audience that would like to speak against this case? The public hearing is closed. What's the pleasure of the committee?

COMMISSIONER VIGIL: I have a question, Mr. Chair. I was just waiting to see if there was any public input.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: There actually is a case that was just decided on that Verizon was involved in. Are you familiar with that?

MR. DUNHAM: No, ma'am.

COMMISSIONER VIGIL: I didn't mean to impose it on you because you may not. I was just curious if you did. Thanks so much.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval with staff conditions.

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

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

- XII. A. 2. **CDRC Case # V 09-5060 Zia Credit. Zia Credit Union, applicant, Jeffery White, agent, request a variance of Article III, Section 4.4.3a (Driveway Access), a variance of Article III, Section 4.4.3c (Parking Lot Location) of the Land Development Code and a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Section 12.5 (Density and Dimensional Standards). The property is located at #1 Luz de Amado, within Section 17, Township 19 North, Range 9 East (District 1)**

MR. LARRAÑAGA: On June 18, 2009 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval of the applicant's request.

The applicant proposes to develop a 1.12-acre parcel to allow a new facility to house the Zia Credit Union. The primary purpose is for branch banking with four remote drive-through lanes and one ATM lane. The project will be located on the southwest corner of Gutierrez Road and Highway 84/285 abutting the west access road in Pojoaque. The proposed building area is a total of 7,723 square feet with 4,707 square feet on the first floor and 3,016 square feet on the second floor with a rooftop patio. The project will be Santa Fe adobe style design to be consistent with the local architecture.

The design of the proposed structure, configuration of the parking and access design does not meet Code criteria, therefore the applicant is requesting variances of Ordinance No. 2008-5 Section 12.5, Article III, Section 4.4.3c and Article III, Section 4.4.3a (Driveway Access) of the Santa Fe County Land Development Code.

The applicant has addressed each variance and staff has a response to each one of the variances. May I enter that into the record, Mr. Chair?

[Variance Material as follows:]

**Variance One:**

The applicant states that it is not possible to meet the Pojoaque Valley Traditional Mixed-Use building height of twenty-four feet and meet the Credit Union's development needs and considering the site availability, site constraints and lower site elevation, a variance from the building height requirement is needed. The applicant's criteria, for a variance of Ordinance No. 2008-5 (Pojoaque Valley Traditional Community District), Section 12.5 (Density and Dimensional Standards) consists

of:

- site and building appearance from the highway
- the center of the site and finish floor height of the building would be situated four to six feet below the highway, there is an existing four-foot concrete barrier along the highway which would conceal the building
- the property on the northeast side of the highway is typically at the same level or higher than the highway (while this property is substantially lower)
- there is a concern of trying to conceal the roof top equipment while vehicles line of site is approximately eight to eleven feet above the base of the building
- the Museum complex situated just northeast of the site was constructed at various heights between twenty-six feet to thirty-four feet tall with the main tower at forty feet tall and the museum site elevation is at or above the adjacent highway and still does not seem to detract from the area and the proposed Credit Union structure with its highest point (33 feet above the finish floor elevation) will not appear to be inconsistent with the adjacent structures

**Staff Response:**

The proposed design submitted by the applicant for the structure at the highest point is thirty three (33) feet ten (10) inches high. The Pojoaque Valley Traditional Community District Ordinance (No. 2008-5), Section 12.5 (Density and Dimensional Standards) states: the maximum height for non-residential uses within the mixed-use sub-district shall not exceed twenty-four feet. Article III, Section 4.4.4.c (Development and Design Standards - Maximum Height) of the Land Development Code states: Structures shall be limited to a maximum height of twenty-four feet in height in Neighborhood or Local Center Districts.

The applicant's proposal for a two-story structure can be designed to meet the twenty-four foot height requirements. The topography of the site does not warrant a structure thirty-three feet in height and appearance or visibility are not inhibiting factors to justify a variance of the dimensional standards set forth in the Pojoaque Valley Traditional Community District Ordinance.

**Variance Two:**

The applicant states that they are attempting to create a safe environment while adhering to the intent of the codes and due to the limitations of the site and the unique design requirements for the Credit Union they are limited in safe ingress/egress alternatives while maintaining parking to the rear and side of the property. The applicant's criteria for a variance of Article III, Section 4.4.3c (Parking Lot Location) consists of:

- the proposed building will be situated on the site so that the drive-thru traffic enters the site through an entrance only lane without interfering with the on-site exiting traffic or traveling behind parked customer/employee vehicles and to accomplish this with the parking located in the back an additional curb cut would need to be added
- the property's frontage road is separated from Hwy 84/285 by a four-foot high concrete barrier which screens a large portion of the parking area in front of the facility, the actual site elevation is four to six feet below the highway surface which further shields the view of a parking lot in front of the building and large shade trees

and shrubs will be incorporated in the landscape design which will further buffer the parking area from Hwy 84/285 traffic

**Staff Response:**

The proposed parking lot design submitted by the applicant does not meet the provisions set forth in Article III, Section 4.4.3.c (Site Planning Standards - Parking Lot Location) which states: Parking lots shall be placed or oriented on a site to the rear or side of buildings (or both).

The topography of the site lends itself to a parking lot design which would meet the provisions of the Code. The current design as submitted by the applicant is a self-inflicted condition and does not justify a variance of the parking lot location requirements set forth in the Land Development Code.

**Variance Three:**

The applicant states that the building would be situated on the site so that the drive-thru traffic enters the site through an entrance only lane without interfering with the on-site exiting traffic or traveling behind parked customer/employee vehicles and the drive-thru customers would not be forced to stack up on the roadway waiting for a parked car to back out or the drive to clear before they can enter the site. This "entrance only" drive is situated so that they will have a clear line of sight of oncoming traffic while they are turning left into the site. The existing access to the property will be used as the site exit and main entrance for all of the building and lobby traffic. People entering the site intending to enter the building will not have to cross the traffic flow of the vehicles exiting the site therefore reducing the time they are waiting on the roadway to turn in. All traffic exiting the site will exit through one exit lane. Clear visibility will be maintained to facilitate the ease of traffic coordination exiting the site. The applicant's criteria for a variance of Article III, Section 4.4.3a (Driveway Access) consists of:

- there is no current or anticipated development to the northwest of the site and the current access road dead-ends approximately one hundred ninety-five feet beyond the northwestern most corner of the property
- all of the traffic exiting the site will turn right to exit the property thus reducing cross traffic
- the current highway access road does not have a posted speed limit and is approximately six hundred fifteen feet in total length (from the stop sign at Gutierrez to the dead-end sign just northwest of the property line)
- due to the unique characteristics of the access road and the Credit Union's desire to have safe access too and from and through the site and the additional "entrance only" lane would provide an easier flow of traffic in and around the site with less congestion while trying to enter and leave the site.

**Staff Response:**

The proposed access design submitted by the applicant does not meet the requirements set forth in Article III, Section 4.4.3.a (Site Planning Standards - Driveway Access) which states: Spacing between points of ingress and egress shall be determined by the posted design speed and intended function of the road creating access to the development site. The posted speed limit on Gutierrez Road is 30 miles per hour therefore the distance between the access points should be 200 feet. The separation of the proposed access points submitted by the applicant is ninety-two feet.

The length of the property fronting Gutierrez Road is two hundred and ninety-nine feet. The combined width of the proposed access points is sixty feet allowing for a two

hundred and thirty-nine-foot separation between the access points. The site lends itself to achieving the purpose of the code allowing for a two hundred-foot separation of the two proposed access points.

Recommendation: The proposed site is within the boundaries of the Pojoaque Valley Traditional Mixed Use Sub-District. These districts are intended to accommodate a mixture of uses provided the performance standards and criteria set forth by the code are met. The applicant's request for variances of the Pojoaque Valley Traditional Community District Ordinance, Section 12.5 and the Land Development Code, Article III, Section 4.4.3.c and Article III, Section 4.4.3.a do not meet the performance standards and criteria set forth in Article II, Section 3 of the Code.

The applicant's design of the proposed project is a self-inflicted condition and not a reason for variance as contemplated by the Code. The topography, location or the size of the site do not inhibit the applicant from complying with the provisions set forth in the Land Development Code and the Pojoaque Valley Traditional Community District Ordinance, therefore staff recommends denial of the applicant's request.

CHAIRMAN ANAYA: Okay. Any questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Jose, what's meant by a self-inflicted condition?

MR. LARRAÑAGA: Mr. Chair, Commissioner Montoya, self-inflicted would be basically that's what they're wanting to do. They're trying to impose something that they're inflicting on themselves, such as height. There are requirements of height, so they want to build it higher, so they're inflicting that situation on themselves.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN ANAYA: Any other questions? Okay, is the applicant here? Do you want to come forward and let's swear you in.

[Duly sworn, Jeffrey White testified as follows:]

JEFFREY WHITE: My name is Jeffrey White and I'm the architect in charge of this particular project, working for Zia Credit Union. In regards to I want to go through these variances in number. Variance one is in regard to the building height. One of the concerns of the client was one, to get enough square footage to allow for future growth and due to the limitations of the site we couldn't accomplish that in a single-story building along with providing adequate parking and drive-through stack space requirements that are typical.

A little background: I design specifically financial institutions, whether it be banks or credit units. So we put a lot of thought into the planning and layout of the desired and require stack space as well as parking space requirements. In a credit union facility, especially in New Mexico it usually requires more parking than the normal City or County requirements. So in doing so we needed to design a two-story building.

Also one of the concerns of the client with a two-story building with the flat roofs and

the leaking problem they wanted to have a steeper pitched roof and we discussed and did research on using a heavier sloped roof, a two in twelve, but putting in a metal roof. Well, that requires a higher parapet height and more structural height required for a steeper pitched roof so you eliminate the flat roof problem. Also, this particular site is four to six foot below the highway. Four foot in the middle to the northeast corner, and six foot on the other side. That distance when we have a two-story building also would increase height due to the roof slope. Rooftop units would be exposed, and we didn't want to have our rooftop air-conditioning units exposed to the highway.

So we're trying to create a building to keep it as low as possible but also, since it was in a hole we needed to raise it up a little bit to give it a better appearance as well as hide the rooftop equipment, as well as provide positive roof drainage. Therefore our preliminary estimates to our rough sections we established at 33 foot. We could potentially go down to 30, 31, foot and still accommodate everything we need. If we go much below that then our rooftop air-conditioning units would be visible.

On item variance number two, that was the parking requirement of having the parking to the side or behind the building. Parking to the side or especially behind a building in a financial institution can be a security risk, especially in rural areas. The surrounding property, the entire property is surrounded by pueblo. On the back side and the side, on the back side is an arroyo, undeveloped, undevelopable property. On the side, kind of the north side of the property is – it also drops down about 15 to 20 foot and it's an old sewer, septic leach field. And it's fairly undevelopable. There is a convenience store on the other side on the highway in the front.

So there was nothing to monitor, to be seen on the side and we felt that it was a security risk to having employee and customer parking, or member parking – since it's a credit union the members all have ownership in the facility. To have them back with a security concern. So the desire was to have the parking in the front. What we've done to help alleviate that is, one is since the site is lower than the highway and there is also a barrier wall that's 3'6" in front of it, which actually leaves a seven- to eight-foot height difference between the highway in the sight line and the parking lot, but we're going to provide a landscape buffer in between to help soften the feel of having the parked cars in front of the building to minimize some of the effect but still have the parking open to the front. Which that is the main concern, the reason for the parking on the front.

The third is the curb-cut accesses. The distance between curb-cut access is less than the County requirement, and one of the concerns on our facility, a financial institution is mixing up the drive-through traffic with the lobby traffic. When you have drive-through traffic that's either going to or coming out of the drive-through, having to drive behind parked vehicles, because of the huge risk as far as the credit union is concerned, of accidents on site. So we always try to separate the drive-through traffic with the lobby traffic to create a safe environment on the site. But due to the limited length we have on the overall property, to do that we would have to put a curb-cut access on each end of the property and then come in, come in and out on one and come in and out on the other, on the drive-through.



It created a traffic concern on the drive-through traffic. If they came through and entered the site on one side and exited out the same, all the entering drive-through traffic would have to cross the exiting – or the exiting traffic would have to cross the entering and they would have no distance to stack or turn. And so it created an onsite problem and it was happening on a corner. And so it was – and ideally we would like to have three curb-cuts on this property but we absolutely couldn't have that. If having two was going to be the maximum that we could have on this property with those requirements. But ideally, we'd have one on each end and one in the middle. The one on one end would be an enter-only, the one in the middle would be an exit only and the one on the far end would be an entrance/exit.

But not being able meet the distance requirement on that we tried to take the lesser of all and just provide two, trying to provide a safe environment on the site. We've also had through the process a traffic impact analysis which didn't identify any concerns with the traffic flow patterns in and through and off the site. No improvements, other than a stop sign on the property to stop people before they enter the road that we access. We also had the traffic and the curb-cuts reviewed by the New Mexico Department of Transportation and they issued the permit for the curb-cuts, not finding any concerns, and it is on the highway right-of-way. So they didn't find any concerns with what we already established either.

Also, this road, this particular road is the end of the line. It's an access road but it's the last property on this access road and the access road actually ends another 120, another 140 feet. At the end of it it's not deemed developable in the near future, or anytime really since it was a septic field and the elevation drop, and it's in a floodplain. Therefore there's not going to be any future traffic that we can see or project entering that road and creating additional traffic hazards.

CHAIRMAN ANAYA: Okay. Any questions?

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. White, have you had any opposition to this from any of the residents, pueblo or non-pueblo?

MR. WHITE: No. Just the opposite. We've had a lot of support from the community. We did present this to the community in Pojoaque and had a very good meeting, had very little opposition. There was one concern on a traffic issue, as far as if we could possibly provide an exit route at the back end of the drive-through. In case of an emergency, a gravel road connecting to the Kick 66 station, but it would have to cross pueblo property, was one of the only concerns, and we would be more than happy to do that if we can get it approved from the pueblo to have an emergency exit drive, gravel, down their property. But we'd have to get approved from the pueblo. Sometimes that takes a little bit of time. But more than happy, but had no opposition.

We've got environmental clearance for the curb-cuts. We got the pueblo to approve connecting to the sewer line that's on their property. That's on the pueblo and we're going to be connecting to that.

COMMISSIONER MONTROYA: What about water?

MR. WHITE: Water, we have onsite well existing, and we're also going to have to build a storage tank for fire protection. So the well in its current state doesn't provide the proper flow needed, so we're going to have to have the storage tank to provide that flow.

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

CHAIRMAN ANAYA: Any other questions? Okay, thank you. Is there anybody in the audience that would like to speak for or against this project? For? Okay, come forward. We'll swear you both in at the same time.

[Duly sworn, Benito Garcia testified as follows:]

BENITO GARCIA: My name is Benito Garcia. Mr. Chair and respected Commissioners. First of all I want to commend your CDRC board for the job they did in scrutinizing this project and making sure that we are following the rules and regulations for construction in our community. The public hearings we had, we've had no opposition. I've served as a volunteer on the Zia Credit Union, on their board of directors and the Zia Credit Union, we find ourselves at a crossroads. We have realized considerable growth in northern New Mexico and the need for this branch in Pojoaque is the fruit of several needs assessments. We've been involved with our staff and employees in Espanola and Los Alamos and with the public, with our membership. We're member-owned, member-operated and this need for a branch in Pojoaque was realized.

We've been involved with the conceptual design, the 30-60-90. We've gone back with our staff, gone back to our needs assessment, gone back to our lessons learned, and this is a culmination. This is the final – well, not final, but 80 percent design. And again, the height variance, the purpose, that was something that came about from going about and looking at buildings that had the rubberized, welded type ceiling on a pueblo, flat-roofed type building and the problems they had with water leakage. Our long-term plan for this building is not to have those types of problems so that was a driver for that.

And then the other two variances deal with safety and security. So I can't say for the board but we have all – we are all in favor of this project and I would ask that this board consider it in the positive.

CHAIRMAN ANAYA: Thank you, Mr. Garcia.

[Duly sworn, Sefarino Ortiz testified as follows:]

SEFARINO ORTIZ: My name's Sefarino Ortiz. I'm the senior vice president with business development with Zia Credit Union. I'd just sort of say a few words about kind of what the credit union – we're a non-profit organization that provides affordable financial services to people, and we also provide people with an opportunity to get credit where they can't get it otherwise. It would only be pay-day lenders, stuff like that. We really provide a good service for the community. So when we started to go out and look for different properties in this area, well, first of all we found a real big, underserved area in the Pojoaque Valley. There's a real big need for this type of service. So when we went out to look for different pieces of property in this area, there's not a whole lot that's not owned by the pueblo, like Jeff had alluded to earlier.

So after we looked at our needs assessment, worked with Jeff White on the design and

looked at different ways to provide, to fill this need for the community. We really felt that in order to ensure the safety and the needs of our members that this design is really something that we would be able to go forward with to be able to serve the people of the Pojoaque Valley. So I would really respectfully request that you approve these variances. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Ortiz.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: In terms of projected customers, are they going to be kind of be splitting out, do you think, between the Española branch and the Pojoaque branch, and thus the need for the Pojoaque branch?

MR. ORTIZ: Yes. We're actually – we do have many of our members from the Pojoaque Valley that do go to our Espanola branch, and our Espanola branch is quite congested with the people from Espanola. So we believe that it will alleviate some of the traffic in Espanola and many of the people – we've gotten many requests from lots of our members. They're really looking forward to this branch and I think not only for the existing members but then for a lot of potential members that tell us, we're going to join your credit union because we know you guys can help us but we're really waiting for a more convenient – especially a lot of people that work up here for the State or for the County, they're looking for a more convenient place to do their financial transactions.

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

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Staff, question. Are the variances requested specifically variances from the Pojoaque Valley Traditional Community District Ordinance? Or are there any Code variances?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, the variance from the height is specific from the ordinance from Pojoaque, and the distance from the driveways and the parking lot requirements are directly from the Land Development Code.

COMMISSIONER VIGIL: Okay. Were there any other designs proposed to accommodate those requirements? Or was this just an original design that is being brought forth?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, what the applicants submitted was for development plan, which they didn't need the master plan because they were in the area in Pojoaque where they could do this type of use, and when they submitted the development plan that's when we found out that what they wanted to do with the height, parking lot and the design, the actual design that they submitted were going to need variances and no, we didn't get another design to meet the Code requirements or ordinance requirements.

COMMISSIONER VIGIL: With regard to its site location and relationship to the Pojoaque Museum, what is the height difference between those? I think I read it somewhere but I can't recall.

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, I believe the museum

and the other buildings on pueblo property would actually look a lot higher than this building and are probably somewhat higher than what the proposed building would be. And then this building sits below where those other buildings are. So it won't be as visible. Just the height requirement is 24 feet and that's what the Pojoaque ordinance has as far as height.

COMMISSIONER VIGIL: Okay. And I don't think the Pojoaque Pueblo needed to come before us for any land development review, did they?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, they were notified as far as notice requirements of this project.

COMMISSIONER VIGIL: No, I meant when they built their museum.

MR. LARRAÑAGA: Oh, no. We do not have jurisdiction on the pueblo property.

COMMISSIONER VIGIL: With regard to the mixed use in the area, does this project fit within the mixed-use design?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, as far as the mixed use, yes, it does fit into the design.

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

CHAIRMAN ANAYA: You're welcome. Okay, is there anybody else who would like to speak for or against this case? Hearing none, what's the pleasure of the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I'd like to move for approval of this project, Mr. Chair. I think the applicant and the members of Zia Credit Union have pointed out very appropriately that this is not going to be a major impact visually. There are huge buildings just right across the street, catty-corner to the proposed location. I think the need for an additional facility, banking institution is needed in the Pojoaque Valley. At least the footprint on the environment in terms of what is being experienced with the traffic going back and forth between Espanola and Pojoaque. So I would move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya. Second by Chairman Anaya. Any further discussion?

**The motion tied 2-2 with Commissioners Montoya and Anaya voting in favor and Commissioners Vigil and Stefanics voting against.** [Commissioner Holian was not present for this action.]

CHAIRMAN ANAYA: The motion fails.

COMMISSIONER VIGIL: I think it can come back, right?

MR. ROSS: Yes. Mr. Chair, members of the Commission, when this happens our rules state, this being a tie vote when a member is absent means it gets placed on the next agenda in hopes that we'll have a majority, the entire Commission there to conclude the matter by voice vote.

CHAIRMAN ANAYA: Okay. We'll see you on the next agenda.

**XIII. A. 3. CDRC Case #VAR 09-5110. Rigoberto and Gildardo Ortega, applicants, request a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow two Dwellings on 2.5 acres. The Property is Located at 8 East Sunset Trail, within Section 24, Township 15 North, Range 8 East, (Commission District 5)**

JOHN MICHAEL SALAZAR (Review Specialist): Thank you, Mr. Chair. As stated in the caption, the applicant is requesting a variance of Article III, Section 10 to allow two dwelling units on 2.5 acres. There are two dwellings and four accessory structures on the property. The property is served by an onsite well and a conventional septic system. The property originally received a Notice of Violation from Santa Fe County Code Enforcement for exceeding density. It turns out that the structure was not permitted.

The property is located within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 10 acres per dwelling unit. Lot size may be reduced to 2.5 acres with water restrictions of 0.25 acre-feet per year, which this lot currently has. This lot was created in 1985, originally a five-acre lot. There are two 2.5-acre lots resulting from that land division. Lot size can further be reduced by way of a small-lot family transfer to an adult child. The applicants do not have adult children and they do not qualify for a small-lot family transfer land division since the Code states you can't go brother to brother in a small-lot family transfer.

The applicants state that they purchased the property in 2007 so both their families could reside on the property. The applicants also admit that they converted the garage into a dwelling and didn't know he needed a permit to convert the garage into a dwelling.

The CDRC at its regularly scheduled meeting on June 18, 2009 recommended denial.

Staff recommendation: Staff agrees with the CDRC's recommendation. Article III, Section 10 of the County Code states the maximum allowable lot size in this area is 2.5 acres with a quarter acre-foot water restriction. I'll stand for questioning.

CHAIRMAN ANAYA: Okay, any questions?

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Could you tell me how many people are living on the property?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, I believe it is nine people.

COMMISSIONER STEFANICS: And of all the dwellings, I'm reading that there's two dwellings and four structures, and then an apartment on the garage? I'm a little confused by how many structures there are that people could inhabit.

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, there is a mobile home on the property, along with the garage that was converted into a residence, and then four sheds and horse barns and things of that nature. So there are only two residences on the property.

COMMISSIONER STEFANICS: So let me be clear, Mr. Chair. There's a mobile home that people live in and the apartment in the garage that people live in.

MR. SALAZAR: Right. The garage was converted into a residence.

COMMISSIONER STEFANICS: Oh, I see. Into an apartment. And are people living in any of the other structures?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, as far as I know they are not.

COMMISSIONER STEFANICS: Okay. Thank you.

CHAIRMAN ANAYA: Okay, is the applicant here? Do you want to come forward? Do you have anything to add?

[Duly sworn, Gil Ortega testified as follows:]

GIL ORTEGA: My name is Gil Ortega and my brother is Rigoberto Ortega. Well, when we bought the property, we bought the mobile home and the property and then we have a family, we're nine on the family, so we want to convert that, the garage, to an apartment. But we didn't know we needed a permit for that. So I don't know what we can do now. And we're sharing the well, but I don't know what we can do now. This has happened since 2007 and we have a family and I don't know what we can do about this now. I know we have a sharing well; we live up there for this many years and I don't know what we can do now.

CHAIRMAN ANAYA: Okay. Do you have anything else to add, sir? You're fine? That well that you're using, is it shared with somebody else that's not on that property?

MR. ORTEGA: Yes.

CHAIRMAN ANAYA: How many people?

MR. ORTEGA: There's two, four people.

CHAIRMAN ANAYA: Four more?

MR. ORTEGA: Four more people and the neighbor –

CHAIRMAN ANAYA: On that one well? So there's five total?

MR. ORTEGA: No, it's four.

CHAIRMAN ANAYA: Four. Okay.

MR. ORTEGA: Four people and the neighbor. The neighbor that we share the well is only four.

CHAIRMAN ANAYA: So there's two other people and you two. Or three other people and you guys.

MR. ORTEGA: No. In the family, there's nine, and then the neighbor, the one that we share the well is four people.

CHAIRMAN ANAYA: Oh, okay. Commissioner Stefanics

COMMISSIONER STEFANICS: So I want to clarify this. There are 13

people using the well?

MR. ORTEGA: Yes.

COMMISSIONER STEFANICS: Is there a meter on the well?

MR. ORTEGA: Yes. The neighbor that we're sharing the well, they put a meter for that water.

COMMISSIONER STEFANICS: Okay, and so this question is for the County staff. What do we do about a metered well there? Do we ever check it?

MR. SALAZAR: Chair: Mr. Chair, Commissioner Stefanics, what we've been doing to get people in our system that have water restrictions on their property, whenever they come in for a permit we look at their plat to find the water restrictions, and once they're on there, that's when we get people who haven't been reporting their water usage to us. This is something that we've started doing in the last three years. So it's how the County is going about to record all these water restrictions and find out what's actually being used in the county.

COMMISSIONER STEFANICS: So, Mr. Chair, if these gentlemen are coming in for a permit or a variance and we know that there is a meter on their well, and there are 13 people using that well, what are we doing to check the amount of water on that property from that well?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, what we would want is each property to be meter, that way the neighbor would be sending us her usage once a year and these gentlemen would be sending in the usage on their property once a year too, to our Water Resource Division.

COMMISSIONER STEFANICS: Is that what we expect, Mr. Chair, from all other shared wells?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, that's what we –

COMMISSIONER STEFANICS: That each residence would have a meter?

MR. SALAZAR: Correct.

COMMISSIONER STEFANICS: Okay. Thank you. Now, gentlemen, who are the nine people. Wives? Children, mothers? Grandparents? Who are the nine people?

MR. ORTEGA: Just my daughter. He's got his wife and I got my wife.

COMMISSIONER STEFANICS: So that's four.

MR. ORTEGA: He's four and I am five. Me and my wife and three kids.

COMMISSIONER STEFANICS: Okay. So you do have children. You each have children.

MR. ORTEGA: Yes.

COMMISSIONER STEFANICS: Okay. From the staff comments – I see, they do not have adult children. Okay. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Okay. Do you have anything – let me ask you, John. How many other residents are on the well?

MR. SALAZAR: One other residence, Mr. Chair. It would be the property on the west of this property, Ms. Amanda Olsen, who is here tonight.

CHAIRMAN ANAYA: Okay. All right. Do you have anything else to add?

MR. ORTEGA: Yes. What I was trying to see what we can do to drill another well for that property. I just wanted to see if we can drill another well and that's for our property. That way we don't share that well.

COMMISSIONER MONTOYA: I don't think that's allowable, is it? On that size of a lot.

MS. COBAU: Mr. Chair, members of the Commission, the applicant could go pull a well permit from the Office of the State Engineer regardless of their lot size. However, when that area was platted it's my belief that the lots were platted probably with a plat condition that said that they were to be on shared wells. So they might have to come before you and ask for relief from that plat condition before they could actually drill an individual well on that property.

CHAIRMAN ANAYA: Okay. All right. Thank you. Is there anybody – this is a public hearing. Is there anybody in the audience that would like to speak for this case?

[Duly sworn, Amanda Olsen testified as follows:]

AMANDA OLSEN: Amanda Olsen.

CHAIRMAN ANAYA: Amanda, you're for this case.

KARL SOMMER: Mr. Chair, my name is Karl Sommer, Post Office Box 247 and I'm here on behalf of Ms. Olsen and her husband Mr. Lowry, who could not be here; he's working. She is the next-door neighbor that shares the well and due to her efforts there was a meter put on the well and she can tell you exactly how much water was being used before the two gentleman purchased and started living on the property and after, and that difference tells us how much water is being used by the nine people next door.

She can also describe for you the manner in which this garage was converted. It was hardly a conversion at all. It was a construction project that started and ended with nothing there and then there was a dwelling. No interim period of a garage conversion.

I'd like to just start by saying Ms. Olsen find themselves in the unenviable position of having to oppose their neighbors. I think that people do that with some reservation and some hesitation because you have to live together. Nonetheless, when your neighbors are doing things that directly impact you and directly impact your quality of life it's time to speak up and unfortunately Ms. Olsen has to speak up for her rights. She lives there with her husband and two children. They purchased the property in 2001. This property that is the subject of this case is being sold on a real estate contract, so the owner of the property isn't here joining in this application. If they default on the real estate contract it's a bonus to the owner because he gets two lots back, if he takes the property back. I think that's relevant to your provisions of the Code.

We're here primarily on one simple question. Should a variance be granted? And as you all know, a variance is for one purpose; it's to avoid a hardship that is created by virtue of application of the Code to some special condition of the land. Like it's too steep and you can't otherwise use the property in a reasonable fashion, or there's some condition on the property that limits its normal use. Here this property is flat and there are no limiting



conditions.

What's happening here is that these two gentlemen are in here asking for forgiveness rather than permission. This stuff has gone in. It's in place. And they're saying, well, why don't you just approve it? It's done without a permit. Not only done without a permit but it was done in a way that violates the Code.

The bottom line is they're using two to three times the amount of water allowed by the covenants, which is a quarter acre-foot. We know that by virtue of the meter readings that Ms. Olsen has been aware of from the time that they moved on the property. The impacts are on her water supply. There is no showing of hardship here but she's being asked to bear a hardship, for what reason we don't know, other than these two gentlemen need a place to house their families. Well, everybody needs a place to house their families. The question is should they be made to do it like Ms. Olsen and Mr. Lowry have done, which is in conformance with the law, or do we just disregard the rules because they need a place to live?

I submit to you that the latter is not the way to go and it violates the policies of this Board and the long-standing practice of this Board not to grant variances to zoning when you simply have somebody's desire to house more people on the lot. Why not – do they have another brother or another family that might move in here, drill another well, three acre-feet, an acre-foot? There's no end, as you can see, or limit to that kind of request.

On behalf of Ms. Olsen and her husband and her family we request that you deny this variance and bring this property into conformance, which means take one of the dwelling units off the property and ensure that whatever remains does not become a dwelling unit. Ms. Olsen is here to answer any questions you might have and she might want to add something to what I've said.

CHAIRMAN ANAYA: Ms. Olsen, is the well on your property or their property?

MS. OLSEN: It's on my property.

CHAIRMAN ANAYA: So you've been taking the readings?

MS. OLSEN: Yes.

CHAIRMAN ANAYA: How much water use has increased since the new home has come in?

MS. OLSEN: I need to make a correction and I have to apologize to Karl. The readings actually started in late 2008, so actually the meter did not get on until late 2008. So I don't have the readings from the time before the Ortegas took possession of the property. What I can say is the water that is used by our household has its own meter and there's also a separate meter that reads all the water that's being used by both properties, and it was on that basis that just by subtracting our usage from the main meter that I could determine how much the Ortegas are using.

CHAIRMAN ANAYA: How much?

MS. OLSEN: This last reading, it was an 84-day period, it was 29,000 gallons, which was like 35 percent of the quarter acre-foot allotment.

CHAIRMAN ANAYA: Okay. Do you have anything else you want to add?

MS. OLSEN: I can't think of anything.

CHAIRMAN ANAYA: Okay. Questions?

COMMISSIONER VIGIL: I just sort of had a comment for staff. One of the things I read through this case, it's really clear that there are some Code violations and there needs to be some remedy. It's also clear to me that these applicants did not have a full understanding of what a Code is and what requirements were, and in fact their statements to that effect that when the Code violation was presented to them they were totally unaware. That is perfectly understandable to me in rural communities. We get these kinds of cases.

I'm just wondering if staff – I'm thinking to try to create a resolve here because there are Code violations. We do need to take action on them. I'm just wondering, if we delayed a decision on this for one month if these applicants would have further opportunity to fully understand the consequences of what a decision would be that would not allow for the variance and perhaps create the opportunity for them to start a compliance and see how they are complying, then come to a full decision in about a month.

I say this as an alternative only because I am really clear and I really have a full-faith understanding that these applicants do not know and did not know the consequences of converting a garage into a residence. And all of the Code violations that exist there. And perhaps even staff, from their experience can assist them in creating some remedies. I'm not sure.

MS. COBAU: Mr. Chair, Commissioner Vigil, I think the problem also, it's important to point out, goes beyond just the water use and the shared well agreement. They're also on a conventional septic that was permitted in 1984. Septic systems are sized based on the number of bedrooms. So we're not sure they can even get a permit from the New Mexico Environment Department. So that may be a problem for them also. So maybe a month would give staff time to explain some of the other issues that they have and work toward cleaning up their property and at least bringing the violations into compliance with the Code.

COMMISSIONER VIGIL: That's what I'm concerned about because there are children involved here. There's families involved here for us to make a decision without them knowing what other alternatives they might have to remedy the situation is rather harsh. I don't know if the applicant is willing to allow us to give her neighbors another opportunity to fully understand what the consequences of a decision against them would mean and what other resources might be available for them to create either a remedy or whatever the consequences would be. Mr. Sommer, you look like you want to say something.

MR. SOMMER: I was just going to add that I understand Mr. Salazar has exposed to the applicants precisely what you're talking about, what the consequences are here. They were given the opportunity to have this tabled for a month to see what could be done and that wasn't taken.

However, I'd like to remind the Board what the Board did in another case just recently. We represented the defendants in a case that was in district court, the Casados Case, in Commissioner Vigil, your district. And the Casados were required to remove the structure in the very same circumstances. We were representing the Casados. It was in district court.

And the remedy that the Commission fashioned, which I thought was admirable, they gave them a certain period of time in which to remove the structure and bring it into compliance. It didn't forestall the decision. The decision was made and then they were given, I believe Steve might be able to refresh my recollection. We entered into a stipulation by which day they had to remove the structure. Just to refresh the refresh the Commission. They brought a structure up from Albuquerque, stuck it on the lot and then converted it into a dwelling. This Board said out of there and gave them time to move it. I think that's probably appropriate.

COMMISSIONER VIGIL: I actually think, Mr. Sommer, that that may be the consequences of the decision we make. I do remember the Cassado Case very clearly and I know how invasive that property was, and I also know it didn't involve families and young children to the extent that this case does. I just want these applicants to have enough opportunity to know, as has been pointed out, other violations that they may have barriers with. This is their home. This is where they're choosing to live. I don't believe that they have any other alternative sites for residences for raising their families, for keeping their families together.

So it could be that in a month's time we, after staff has had discussion with them, we will be able to say, okay, do you understand this? Because I think those communications have to be had very clearly and I think there are some distinctions between the Casados Case. The Casados Case did not claim that they did not know, nor did they convert a garage to a residence for a family home. There's some real clear distinctions. I think waiting a month's time and then coming forth with a clear plan on how this could be remedied is perfectly appropriate. So I would proposed that we would continue this for one month and that a final decision be made at our next land use meeting, with a proposal for all the remediation that would need to occur for these families. I make that in the form of a motion.

CHAIRMAN ANAYA: I'm sorry, Commissioner. I didn't quite understand.

COMMISSIONER VIGIL: We don't make a decision for now; we continue this case for one more month to our next land use case, to decide that. But within that month's time I'd like staff to work with the applicants to see what kind of alternatives they might be able to have, how they could remedy this, what other barriers they have as we learn they have a septic system issue too that doesn't come before us; it goes before the New Mexico Environment Department. I'm not getting a real strong sense that these applicants actually have a clear understanding of what an adverse decision to them would mean, and I'd like them to have that opportunity in a month's time.

CHAIRMAN ANAYA: Okay, there's a motion by Commissioner Vigil. Is there a second? Dies for lack of a second. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I have a couple more questions, and I might second it after my questions are answered. John, how long have you been working with this family? Or these two families?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, I took over this case from John Lovato. The notice of violation was issued in December of 2008.

COMMISSIONER STEFANICS: So we're talking about seven months.

MR. SALAZAR: Yes.

COMMISSIONER STEFANICS: And Mr. Chair, is one of the options here for the mobile home to be removed, the dwelling that's not a garage but a house be made large enough to accommodate the nine people and all nine people live in one dwelling?

MR. SALAZAR: Mr. Chair, Commissioner Stefanics, that could be done if the applicants were to agree to that. Also, every property in Santa Fe County is allowed an accessory structure, which means they can either have a kitchen or a bathroom but not both. So what I had told the applicant before this meeting was if there's a denial tonight what may be required of them is to possibly tear out the kitchen in what was the garage. That way it meets our standards for an accessory structure.

COMMISSIONER STEFANICS: And Mr. Chair, John, have you seen this property?

MR. SALAZAR: I have not been out there, Commissioner Stefanics. Our Code Enforcement officer has been out there.

COMMISSIONER STEFANICS: Well, Mr. Chair, I'm remembering a case with a mentally ill person living in a second dwelling that we gave 90 days to make some decisions about, to vacate that, because it was against our Code. And there was a hardship there. And yes, this might be a hardship for two families to find additional housing, but there are some options, it seems to me. So I would support Commissioner Vigil's original motion, but I also think that seven months is a long period for arrangements and decisions to be made. So if this comes back to us in 30 days and it's the same exact request then we know it didn't matter if it was seven months or eight months, nothing different is going to be done. So if Commissioner Vigil wants to make her motion again, I'll second it, but if nothing's done in another month –

COMMISSIONER VIGIL: Yes, and I take your point clearly. My question to staff would be why was there a seven-month delay?

MR. SALAZAR: Mr. Chair, Commissioner Vigil, there was no CDRC in January or February. What I'm looking at here, the application doesn't have a date but there is a date when taxes are printed out for this property and it's from March 23<sup>rd</sup>. We have a policy that once an applicant comes in and starts working with staff that we hold off on further violation notices or court proceedings with that applicant until they go through our process.

COMMISSIONER VIGIL: Is it fair to make the statement that it was not the applicant's responsibility, or it was not the applicant's fault, rather, that the delay occurred?

MS. COBAU: Mr. Chair, Commissioner Vigil, there may have been an issue with the taxes and we may not have been willing to take it forward until the taxes were paid because that's our policy. If someone has back taxes they have to become current on our taxes. So that may have been part of the delay. Without John Lovato here it's hard to say exactly, but I suspect that if that was printed out in March then we were waiting on a current tax bill.

COMMISSIONER VIGIL: Okay. Do you, by working with these applicants,

have a sense that if we set a particular deadline they would be responsive, responsible and compliant? What has been your experience?

MR. SALAZAR: Mr. Chair, Commissioner Vigil, my experience has been that the applicant comes in and starts working with staff right away to try to come up with the solution.

COMMISSIONER VIGIL: Okay. So maybe the 90-day deadline would work, Commissioner Stefanics, if you'd like to make a motion of that nature.

COMMISSIONER STEFANICS: Well, I'm not suggesting 90 days, Mr. Chair. I'm only suggesting 30 days. If we – I would move that we hold this for 30 days but no longer. If there's no movement made on any resolutions then we have the facts of the case.

COMMISSIONER VIGIL: Okay.

MR. SOMMER: So, just so the Commission knows, Ms. Olsen and Mr. Lowry don't have any objections to holding off for another month for you all to make a decision so that they can inform themselves, as Commissioner Vigil suggested. There's no objection to that. We do share the concern that 30 days from now if they know what's going on for sure and the clear consequences, we would request a decision be made at that time about which way to move forward. We're all cognizant – we're not trying to kick people out on the street and there is a long time period that they will have to comply with, because in order to really physically remove somebody you've got to go to court and that takes a long time. But I think that the 30 days is not objectionable to help the applicants inform themselves about options and advisability and perhaps Mr. Salazar is correct that they'll come in and get serious about that.

COMMISSIONER VIGIL: Then I move we continue this case for 30 days in anticipation that there will be some movement towards compliance.

COMMISSIONER STEFANICS: I did make that motion.

COMMISSIONER VIGIL: Okay.

CHAIRMAN ANAYA: There's a motion by Commissioner Stefanics, second by Commissioner Vigil. So that I understand it, staff will get with the applicants to come up with some ideas and to inform them more clearly on what could happen if this gets denied. Correct?

MR. SALAZAR: Yes, Mr. Chair.

CHAIRMAN ANAYA: Okay. I'd like to say something, if that's okay. We have to make some tough decisions up here sometimes and when we have situations like this where we are going to task or maybe not, somebody has to move out of their house, not only one person but a family, it's very difficult. If it decides to go that route. But we also have to look at the area and we also have to take the covenants maybe into place, and the water into place. And it sometimes might look like we're bad guys but we're looking out for you and we're also looking out for the neighbors.

If we could maybe come up with a solution, that would be great. But if we had to take a vote now, I would probably not support it, because I know the water issue out there, and I know that if you moved those two houses together you'd still have the same water use. But

we can't continue to do things and then come in for permits after. We have to know – you have to get out there and ask questions. I know it's difficult but I think this Commission needs to really look at that because we can't continue to do this or else we're just going to keep getting cases like this. By now means do we want to be hard; we want to help, so hopefully by extending it for a month we'll be able to help out in some way.

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

**XIII. A. 4. CDRC CASE # V 09-5200 Romero Variance. Helen Romero, applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow a Family Transfer Land Division of 0.54 acres into two lots. The property is located at 2271 Entrada Fabian, within Section 31, Township 17 North, Range 9 East, (Commission District 2)**

MR. SALAZAR: As stated in the caption again, this is a variance of Article III, Section 10 to allow a family transfer land division of 0.54 acres into two lots. There are currently homes on the property. The main house on the property is served by the Agua Fria Community Water System and City of Santa Fe sewer system. The applicant has received a Letter of Commitment from the Agua Fria Community Water System and the City of Santa Fe for additional water and sewer connections for the second home. The property is located in the Traditional Community of Agua Fria, 0.54 acres is a little smaller than what's required by the Code. If you have community water and community sewer you're allowed to go down to .33 of an acre within a traditional community, so they're about .12 of an acre short.

The applicant states the homes were placed on the property prior to 1981 and her husband had left her son the portion of the property that he now resides on. The applicant also states that she is ill and has fallen and broken several bones and her son has been there to care of her. She further states now that while she is still capable, she would like to give her son the northernmost 125 feet of Tract A as it was stated in her husband's will.

On June 18, 2009 the CDRC recommended approval with staff conditions. Staff concurs with the CDRC's recommendation believing that this is considered a minimal easing of the Code. If the BCC decides to approve this case tonight staff recommends the following conditions:

1. No additional dwellings will be allowed on the property.
2. The applicant must comply with the Santa Fe County Land Development Code for all development.

I'll stand for questions.

CHAIRMAN ANAYA: Any questions? Commissioner Vigil

COMMISSIONER VIGIL: What is the staff recommending on this? I thought you were in agreement.

MR. SALAZAR: We're concurring with the CDRC's recommendation of approval.

COMMISSIONER VIGIL: So you think it is a minimal easing?

MR. SALAZAR: Yes.

COMMISSIONER VIGIL: Okay, thank you.

CHAIRMAN ANAYA: Okay, is the applicant here? If we could swear you in.

[Duly sworn, Rick Romero testified as follows:]

RICK ROMERO: My name is Rick Romero.

CHAIRMAN ANAYA: Do you have anything to add?

MR. ROMERO: What I would like to add is that besides everything else that's been said, about six months ago my mom fell down and broke her arm and ever since has suffered a lot of additional ailments. By doing this variance on the property that my dad gave to me some 30 years ago that I never got around to getting legalizing it. For whatever reason, I just never got around to it. My concern now is that because of the home healthcare that my mom needs, we're having a hard time with Medicaid and Medicare to get her some help, I would not hesitate to sell this property to get her the help if it comes down that. That's about it.

CHAIRMAN ANAYA: Any questions of the applicant?

COMMISSIONER MONTOYA: Mr. Romero, do you agree with the conditions?

MR. ROMERO: Yes, yes.

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

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval of this case with staff conditions.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There is a motion by Commissioner Montoya, seconded by Commissioner Vigil. Any further discussion?

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

**XIX. ADJOURNMENT**

Chairman Anaya declared this meeting adjourned at 6:50 p.m.

Approved by:

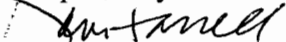
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Board of County Commissioners  
Mike Anaya, Chairman

ATTEST TO:

VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

~~Respectfully submitted:~~



Karen Farrell, Wordswork  
227 E. Palace Avenue  
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