



COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 86

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Deputy Valerie Espinoza Valerie Espinoza  
County Clerk, Santa Fe, NM

**SANTA FE COUNTY**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**September 14, 2010**

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

**Santa Fe Board of County Commissioners**  
County Commission Chambers  
County Administration Building

**REGULAR MEETING**

**September 14, 2010 at 2:00pm**

*Please turn off Cellular Phones during the meeting.*

***Amended Agenda***

- I. Call To Order**
- II. Roll Call**
- III. Pledge Of Allegiance**
- IV. State Pledge**
- V. Invocation**
- VI. Approval Of Agenda**
  - Amendments
  - Tabled Or Withdrawn Items
- VII. Approval Of Consent Calendar**
  - A. Consent Calendar Withdrawals
- VIII. Approval Of Minutes**
  - A. Approval Of August 10, 2010 Special Meeting BCC Minutes
  - B. Approval Of August 10, 2010 BCC Minutes
- IX. Matters Of Public Concern –NON-ACTION ITEMS**
- X. Matters From The Commission**
  - A. A Proclamation In Recognition Of Family Day – A Day To Eat Dinner With Your Children (Commissioner Montoya)
  - B. A Joint Resolution Urging New Mexico’s Congressional Delegation To Support Immediate Congressional Action To Authorize Legislation Allowing Property Assessed Clean Energy Programs (PACE). (Commissioner Holian)(TABLED)

- C. Request Special Recognition For Members Of The Santa Fe County Fire Department Who Participated In The July 9, 2010 Technical Rescue At The Nambe Pueblo Falls (Commissioner Montoya And Commissioner Holian)
- D. Recognition Of Penny Ellis-Green Who Served As Acting County Manager.
- E. Proclamation In Recognition Of Hispanic Heritage Month 2010, (Commissioner Montoya)

**XI. Appointments/Reappointments/Resignations**

- A. Recommendation To City To Appoint A County Representative To Serve On The City Of Santa Fe Library Board.

**XII. Consent Calendar**

**A. Final Orders**

1. CDRC Case # VAR 10-5070 Lorraine Archuleta Variance. Lorraine Archuleta, The Land Development Code To Allow A Third Dwelling Unit On 1.79 Acres. The Property Is Located At 4 Corte Arroyo Alamo, Within Section 8, Township 20 North, Range 9 East, (Commission District 1). John M. Salazar, Case Manager, (APPROVED 5-0)
2. CDRC Case # VAR 09-5430 Guadalupe Bustillos Variance. Guadalupe Bustillos, Applicant, Requested A Variance Of Article II, Section 4.3.2c (Family Proper) Of The Land Development Code To Allow A Family Transfer Land Division Of 2.5 Acres Into Two 1.25 Acre Lots From A Child To A Parent. The Property Is Located At 7 Calle Aventura, Within Section 22, Township 16 North, Range 8 East, (Commission District 3). John M. Salazar, Case Manager, (APPROVED 5-0)
3. CDRC Case # VAR 09-5420 Luke And Megan Stavrowsky Variance. Luke And Megan Stavrowsky, Applicants, Requested A Variance Of Article II, Section 4.3.2c (Family Proper) Of The Land Development Code To Allow A Family Transfer Land Division Of 40 Acres Into Two 20 Acre Lots From A Child To A Parent. The Property Is Located At 3201 Highway 14, Within Section 17, Township 14 North, Range 8 East, (Commission District 3). John M. Salazar, Case Manager, (APPROVED 5-0)
4. CDRC Case # VAR 10-5040 St. Juliana Of Lazarevo Variance. St. Juliana Of Lazarevo, Applicant, Requested A Variance Of Ordinance 2007-2, Section 10.6 (Density And Dimensional Standards) To Allow A Church Cross Which Exceeds Twenty-Four Feet (24') In Height Located At 3877 West Alameda Street Within Section 29, Township 17 North, Range 9 East (Commission District 2). John M. Salazar, Case Planner, (APPROVED 5-0)
5. CDRC Case # VAR 10-5090 Florencio Romero Variance. Florencio Romero, Applicant, Requested A Variance Of The Pojoaque Valley Traditional Community District Ordinance 2008-5, Section 12.5 (Density And Dimensional Standards) To Allow A

**Second Dwelling Unit On 1.6 Acres. The Property Is Located At 4-B Molino Viejo, Within Section 10, Township 19 North, Range 9 East, (Commission District 1). John M. Salazar, Case Manager, (APPROVED 5-0)**

- 6. CDRC Case # V 10-5060 Hari Hari Khalsa Variance. Hari Hari Khalsa, Applicant, Requested A Variance Of Article III, Section 10 (Lot Size Requirements) Of The Land Development Code To Allow A Second Dwelling Unit On 0.59 Acres. The Property Is Located At 8 Athens Way, Within Section 7, Township 20 North, Range 9 East, (Commission District 1). Wayne Dalton, Case Manager, (APPROVED 5-0)**
- 7. CDRC Case # V 10-3032 Gerald Medina Variance. Gerald Medina, Applicant, Requested A Variance Of Article III, Section 10 (Lot Size Requirements) Of The Land Development Code To Allow A Land Division Of 4.9587 Acres Into Two Lots. The Property Is Located At 312 C Rabbit Road, Within Section 10, Township 16 North, Range 9 East, (Commission District 4). Wayne Dalton, Case Manager, (APPROVED 5-0)**

**B. Miscellaneous**

- 1. Request Approval Of Amendment No. 3 To The Professional Services Agreement With Montgomery & Andrews, P.A. For Legal Services. The Amendment Will Increase Compensation In The Amount Of \$35,000. (Legal Department)**

**XIII. Staff And Elected Officials' Items**

**A. Public Works Department**

- 1. Consideration Of A Resolution Establishing The Schedule Of Water Deliveries For July 2010 – December 2010**
- 2. Resolution No. 2010 – A Resolution To Authorize A Low-Income And / Or Senior Citizen Credit For Residential Solid Waste Permits Pursuant To Santa Fe County Ordinance No. 2010-5, Section 13A(6).**

**B. Community Services Department**

- 1. Second Public Hearing For Discussion And Adoption Of Santa Fe County's Infrastructure And Capital Improvement Plan (ICIP) For Fiscal Year 2012-2016 And Approval Of ICIP Resolution.**

**C. Matters From The County Manager**

**D. Matters From The County Attorney**

**1. Executive Session**

- A. Discussion of Pending of Threatened Litigation**
- B. Limited Personnel Issues**
- C. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights**
- D. Collective Bargaining**

**XIV. Public Hearings****A. Growth Management**

- 1. Ordinance No. 2010 - \_\_\_\_, An Ordinance Amending Article III, Section 7, Community Service Facilities Of The Santa Fe County Land Development Code, Ordinance 1996-10 For The Purpose Of Clarifying Standards And Submittal Requirements.**
- 2. BCC Case # MIS 10-5420 La Plancha De Eldorado Restaurant License. Pieneda LLC, Applicant, Requests Approval Of A Restaurant Liquor License To Serve Beer And Wine With Meals. The Subject Property Is Located At La Tienda At Eldorado 7 Caliente Road, Within Section 16, Township 15 North, Range 10 East, (Commission District 5). Jose E. Larranaga, Case Manager**
- 3. CDRC Case # VAR 10-5160 Larry Martinez Variance. Larry Martinez, Applicant, Requests A Variance Of Article III, Section 10 (Lot Size Requirements) Of The Land Development Code To Allow A Second Dwelling Unit On 1.25 Acres. The Property Is Located At 20 Camino Vista Grande, Within Section 25, Township 16 North, Range 8 East, (Commission District 5). Jose E. Larranaga, Case Manager**
- 4. CDRC Case # MIS/V 10-5260 Kurt Bowker Accessory Structure/Height Variance. Kurt Bowker, Applicant, Requests Approval Of An After The Fact Accessory Structure Totaling 21,132 Square Feet To Be Utilized For Personal Use On 10.01 Acres. This Request Also Includes A Variance Of Article III, Section 2.3.6b (Height Restrictions For Dwellings Of Accessory Structures) Of The Land Development Code To Allow The Accessory Structure To Exceed 24' In Height. The Property Is Located At 74 Martin Lane, Within Section 33, Township 10 North, Range 8 East, (Commission District 3). Wayne Dalton, Case Manager (TABLED)**
- 5. CDRC Case # Z/DP 09-3132 PNM Caja Del Rio Substation. Public Service Company Of New Mexico "PNM" (Jeanette Yardman), Applicant, Requests Master Plan Zoning/Preliminary And Final Development Plan Approval For The Construction Of The Caja Del Rio Substation On 2.4 Acres. The Substation Is Needed To Serve The City Of Santa Fe / Santa Fe County Buckman Direct Diversion Water Pumping And Treatment Facilities, And Future Growth In The Area. The Project Will Consist Of The Substation, Installation Of Two Tap Structures Approximately 70' Feet In Height And Two Termination Structures Approximately 45' Feet In Height, And An Interconnection With PNM's Existing 115kV Transmission Line. The Property Is Located At 11 W. Caja Del Oro Grant Rd., Within Section 22, Township 17 North, Range 8 East, (Commission District 2). Wayne Dalton, Case Manager**

**XV. Adjournment**

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SFC CLERK RECORDED 10/19/2010

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

**September 14, 2010**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:10 p.m. by Chair Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Ailegiance led by Lorraine Gurule, and the State Pledge led by Lisa Garcia, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

**Members Present:**

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

**Members Excused:**

[None]

**V. INVOCATION**

An invocation was given by Diolinda Roybal.

**VI. APPROVAL OF THE AGENDA**

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

CHAIRMAN MONTOYA: Next we have approval of the agenda, and I'd like to welcome our new County Manager for her first official County Meeting. Katherine, welcome.

KATHERINE MILLER (County Manager): Thank you. Thank you, Mr. Chair, Commissioners. We do have a couple of changes to the agenda. Under Matters from the Commission, item X. B, the joint resolution urging the congressional delegation to support immediate congressional action is tabled. Item X. E, a proclamation in

recognition of Hispanic Heritage Month has been added, and then under Public Hearings, item XIV. A. 4, the CDRC Case has been tabled. I believe those are the only changes to the agenda, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Thank you.

COMMISSIONER HOLIAN: I move for approval.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Holian, second by Commissioner Vigil. Any further discussion?

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

**VII. APPROVAL OF CONSENT CALENDAR**

**A. Consent Calendar Withdrawals**

CHAIRMAN MONTOYA: Are there any removals?

COMMISSIONER ANAYA: So moved.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Motion and second.

**The motion to approve the Consent Calendar passed by unanimous [5-0] voice vote.**

**XII. CONSENT CALENDAR**

**A. Final Orders**

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**B. Miscellaneous**

1. Request Approval of Amendment No. 3 to the Professional Services Agreement with Montgomery & Andrews, P.A. for Legal Services. The Amendment Will Increase Compensation in the Amount of \$35,000 (Legal Department)

**VIII. APPROVAL OF MINUTES**

**A. Approval of August 10, 2010 Special Meeting BCC Minutes**

COMMISSIONER VIGIL: Move to approve.  
COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Stefanics. Any discussion?

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

**B. Approval of August 10, 2010 BCC Minutes**

COMMISSIONER HOLIAN: Move for approval.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Holian, second by Commissioner Stefanics. Any discussion?

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

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

CHAIRMAN MONTOYA: Matters of Public Concern, this is the agenda item where people who would like to address the Commission on any issue that is not on the agenda. If you'd care to speak, now's the time. Yes, sir. Please come forward to the microphone and if you could just state your name.

FREDRICO RAE: My name is Fredrico Rael, and I live in the county and I came here to voice my opinion on some of the tax issue and also ask for my gift that the County is giving. I want to give you my name and my address so you can send me my check. And I'd also like to know what is happening with this Roman Abeyta, this \$30,000 give-away. Where is it at now?

CHAIRMAN MONTOYA: It's done.

MR. RAE: It's done?

CHAIRMAN MONTOYA: Yes.

MR. RAE: You mean it's a done deal? He gets the money and he's gone?

CHAIRMAN MONTOYA: Correct.

MR. REAL: Is this a legal thing to do?

CHAIRMAN MONTOYA: Yes. We would not do anything that would not abide by our Human Resource policy and procedures. So, yes.

MR. RAE: There was no policy in it. There was nothing on it. You guys just decided he gets 30 grand because he quits. And you gave it to him. That's my tax money you're giving away, and I don't like it. That's why I came to ask for my portion now. I'd like to know why you people did this.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I can respond for myself personally, because the arrangement we had with Mr. Abeyta is a contractual arrangement. So it's his contract we reviewed. So in looking at that as a personnel action and looking at the past actions that have been done and how other managers have departed, we decided, from my

perspective, to be equitable and fair to him and to protect the taxpayers in that manner so that in fact there is no lawsuit brought against the County where he might be treated unfairly in comparison to others. So it's a personnel action. It involved a lot of intricate information that is contractual. It's all based on a contract.

MR. RAEL: Even if he quit the job.

COMMISSIONER VIGIL: Even if he quite the job.

MR. RAEL: He just up and left and said, I'm done. You people decided amongst yourselves to give this money away. I as a taxpayer protest that and I'm going to look into it and I'm going to talk, if I have to to the State Attorney General to see if this is legal. You people just can't open the box and give it away.

COMMISSIONER VIGIL: And you will have to have the Attorney General also make inquiries with the Board of County Commission with regard to the legal parameters of that and when the Attorney General does the Attorney General will have a better understanding. And because it is a personnel action it doesn't become highly disclosed.

MR. RAEL: No. It's got to be kept quiet.

COMMISSIONER VIGIL: Personnel actions and people who are involved in personnel actions are entitled to their privacy and there are many things that are public and many that are not.

MR. RAEL: So that's nice and cush for you people, but then now our County taxes are going up. Our refuse is going up. We've got here a nice little retreat ranch where people are just – we're not getting no tax dollars out of that. All of this money is just going out, out, out, and the people right here in this county are paying for it. Now, I came to voice my opinion; I'm unhappy about this. Very unhappy.

CHAIRMAN MONTOYA: Okay. Thank you, Mr. Rael. Any other people that would like to address the Commission at this point?

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

### **A. A Proclamation in Recognition of Family Day – A Day to Eat Dinner with Your Children (Commissioner Montoya)**

CHAIRMAN MONTOYA: This first matter is a proclamation that I brought forth in terms of Family Day, a time to eat dinner with your family. I'll just quickly read this.

Whereas, the use of illegal and prescription drugs and abuse of alcohol and nicotine constitute one of the greatest threats to the well being of America's children; and

Whereas, frequent family dining is associated with lower rates of teen smoking, drinking, illegal drug use and prescription drug abuse, as demonstrated by 15 years of surveys conducted by the National Center of Addiction and Substance Abuse, CASA, at Columbia University, which have consistently found that more often children and teenagers eat dinner with their families the less likely they are to smoke, drink, and use illegal drugs; and

Whereas, the correlation between frequent family dinners and reduced risk for teen substance abuse is thus well documented; and

Whereas, parents who are engaged in their children's lives through such activities as frequent family dinners are less likely to have children who abuse substances; and

Whereas, family dinners have long constituted a long substantial pillar of family life in America;

Now, therefore be it resolved by the Santa Fe Board of County Commissioners that we do hereby proclaim what's going to be on Monday, September 27<sup>th</sup>, 2010, Family Day, a day to eat dinner with your children throughout Santa Fe County and urge all citizens to recognize and participate in its observance.

I move for approval.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Second by Commissioner Holian. Any discussion?

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

**X. C. Request Special Recognition for Members of the Santa Fe County Fire Department Who Participated in the July 9, 2010 Technical Rescue at the Nambe Pueblo Falls (Commissioner Montoya and Commissioner Holian)**

CHAIRMAN MONTOYA: I see all the blue and white shirts out there and I really want to thank you for the service that you provided on this particular day. I know a lot of time, a lot of effort was put into it and wound up by saving someone's life, and certainly putting your own on the line in order to save someone's life. I just want to thank you and I want to ask Commissioner Holian, she has a little story.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I am going to read the story of the rescue, and this was very technical and very difficult and I'm just in awe of what they accomplished. And I think when I'm reading it that there are going to be pictures that will be put up on the screen. I hope.

On the afternoon of July 9, 2010 a group of teenagers involved in a summer program were hiking in the Nambe Falls area. At 1500 hours the Santa Fe Regional Emergency Communications Center received a call reporting a 14-year old male who had possibly broken his ankle near the top of the dam in the falls. Pojoaque Med 1 and Pojoaque Fire District were dispatched to the scene.

After receiving the dispatch information Lt. Renda requested a full Northern Regional and Technical page. Units from Chimayo, La Puebla, Pojoaque, Tesuque responded immediately, along with the County Battalion Commander. Squad 62 and Turquoise Trail District Chief Kevin Barrows responding in the technical rescue truck.

Once units arrived they were briefed by Nambe Pueblo Tribal Rangers and Pojoaque District Chief Nick Martinez established command, positioning himself at the ranger station in order to provide a radio relay back to Santa Fe. Lt. Renda and firefighter Lundquist proceeded up the trail as a hasty team. Squad 62 and northern district volunteers arrived at the parking lot. Regional firefighter/EMTs Archuleta, Gabaldon, Trujillo, Chimayo Captain Julian Sandoval, Jr., Tesuque volunteer Ron Mayhill started

up the trail with the Stokes litter, wheel and technical rope rescue equipment. The trail lasted about 30 yards, then into the water the team went. A base of operations was established next to a pond at the base of the last waterfall. Serving in the role of operations officer, Lt. Renda took a position of high ground so he could observe all areas of the rescue operations. EMTs Lundquist, Trujillo and Gabaldon proceeded up the river to reach the patient, soon to be joined by Tesuque District Chief J.D. Damron and La Puebla firefighter Andrew Ulibarri.

Once the crews arrived at the patient the complexity and acuity of the rescue changed. The single patient with a possible ankle fracture became a patient who was in moderate hypothermia and could not bear any weight on his leg. There were four patients in addition to the original one. All were wet and presenting with mild hypothermia. This group was located next to the first waterfall in a rock ledge described as a partial cave opening. Encompassing the waterfall were hundred-foot vertical rock faces. Additional resources were requested and additional full northern page, as well as a request for Atalaya Technical Search and Rescue Team, New Mexico State Police SAR Coordinator and County Rehab resulted.

A plan to immediately extract the four ambulatory patients was executed. Meanwhile County BC Shane Todd arrived and set up a staging and accountability area in the parking lot. All personnel deployed needed to be dressed for backcountry operations, including the use of swift-water rescue PPE. I'm not sure what that means but I'll ask later. District Chief Barrows arrived with additional County technical rescue personnel and was assigned the role of the rescue group leader. As the four mildly hypothermic patients arrived at the base of operations they were medically evaluated. After they had warmed up they were escorted out to the parking lot, traveling through the river still a half-mile hike.

As more personnel arrive more attention was placed on the rescue of the original patient. Helicopter hoist operations were ruled out immediately as was a high-angle haul-out based on a cost/risk benefit discussion between operations, safety and the rescue group leader. The decision was made to bring the patient down the river and through each of the waterfalls.

Atalaya was requested to continue their response in the event we needed RIT operations, which means RIT operations are rescue of the rescuers.

Once the patient was packaged in the Stokes litter and a belay line was attached the slow, deliberate and physically demanding evacuation took place. There were few places to rest the litter as one was either on vertical rock or in the cold river. Three waterfalls were traversed. The last waterfall was the deepest, swiftest and longest. Everyone was soaked including the patient. Once the patient arrived at the base of operations his wet clothing was removed. His split was checked, he warmed by the fire and his hypothermic state was treated by placing him in a vapor bivi bag. Once warmed up the patient was again packaged in the litter for the final trek out.

Once at the parking lot the patient was reunited with his parents, placed in Pojoaque Med 1 with EMT-1 Marcos Archuleta, and eventually transported by private vehicle for further medical follow-up. County Rehab, staffed by EMT Christian Mee and EMT Stevie Maley managed to pick up hot burritos while responding to the incident. They were well received.

Observation: The strength of a combination department was clearly demonstrated that afternoon. To mobilize a team of over 30 individuals consisting of career staff and volunteer members who came from seven different Santa Fe County fire districts as well as the administration command staff, all with a wide array of technical rescue, emergency medical training and experience, and to observe how such a diverse group of professionals melted into one cohesive force with a single mission to safely rescue someone in need located in a very extreme environment. Thank you.

CHAIRMAN MONTOYA: Now we have certificates we'd like to present to all those involved. This is again in my district, in District 1 and I'm not going to say how many of you have been there because you guys have actually been there. Certainly you know the terrain. It's tough terrain. I remember going there as a young kid myself and thank God I didn't need you guys to go rescue me because I did some of that adventurous climbing along those walls and it's not a safe place and certainly what happened can happen to anyone and I'm just thankful it didn't happen to me. But I certainly want to recognize you all, starting with Julian Sandoval, Jr., Christian Mee, Nick Martinez, Martin Vigil, Jeremy Renda, Shane Todd, Marty Maley, Stephanie Maley, Marco Roybal, Marcos Archuleta, Grant Lundquist, Esteban Orneles, Saylor Alley, Walter Dasheno, I want to recognize Governor Walter Dasheno who is also here from Santa Clara. Governor, this is obviously your son. Mike Fuelner, Garrett Allen, J.D. Damron, Donald Yardman, Charles Yardman, Andrew Ulibarri, Joseph Sandoval, Ron Mayhill, Robert Gabaldon, Patrick Trujillo, Mick Montoya, Kevin Barrows, and Mark Herrera.

**X. D. Recognition of Penny Ellis-Green Who Served as Acting County Manager**

CHAIRMAN MONTOYA: This is for Penny Ellis-Green. Penny, we just wanted to thank you and give you this token or our appreciation for your having served as acting manager for almost two months. It was certainly a period of transition and I'm sure that you're probably glad that you're not doing that job anymore. But you did a wonderful job and I just want to read this. It's a certificate of appreciation. Santa Fe County recognizes Penny Ellis-Green for her exemplary service and dedication to Santa Fe County while serving as acting county manager. And it's presented this 14<sup>th</sup> day of September 2010. And we present this to Penny. Commissioner Holian,

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Penny, I would just like to thank you so much. You handled a very difficult situation with grace and skill and I am in awe. So thank you.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I think that Penny Ellis-Green could give other people lessons. The building could be burning down and she would look unflappable. And she would be very calm. She would at least on the outside let you know that life is going to go on. So thank you, Penny, for putting that

forward. Whether or not the staff saw that every day I'm not sure but we saw that. So thank you very much.

CHAIRMAN MONTOYA: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Penny, thank you very much for what you did for the County and what you continue to do. And I love the way you talk.

CHAIRMAN MONTOYA: She just talks like that when she talks to you, Commissioner.

**X. E. Proclamation in Recognition of Hispanic Heritage Month 2010  
(Commissioner Montoya)**

CHAIRMAN MONTOYA: Next I have a proclamation and this is for Hispanic Heritage Month, and it reads:

Whereas, in September 1968 Congress authorized President Lyndon B. Johnson to proclaim National Hispanic Heritage Week; and

Whereas, the week was expanded by President Ronald Reagan in 1988 to cover a 30-day period starting on September 15<sup>th</sup> and ending on October 15<sup>th</sup>; and

Whereas, September 15<sup>th</sup> was chosen as the starting point for the celebration because it's the anniversary of independence of five Latin American countries, Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua. In addition, Mexico and Chile celebrate their independence days on September 16<sup>th</sup> and 18<sup>th</sup> respectively; and

Whereas, America celebrates the culture and traditions of US residents who trace their roots to Spain, Mexico and the Spanish-speaking nations of Central America, South America and the Caribbean; and

Whereas, National Hispanic Heritage Month is a time to recognize the contributions of Hispanic Americans to the United States and to celebrate Hispanic heritage and culture; and

Whereas, we honor and celebrate the achievements and culture of our nation's Hispanic population;

Now, therefore, we the Board of Santa Fe County Commissioners hereby proclaim September 15<sup>th</sup> through October 15<sup>th</sup> 2010 National Hispanic Heritage Month throughout Santa Fe County.

I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya. Any discussion?

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

**X. OTHER MATTERS FROM THE COMMISSION**

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I understand that quite a bit of business went on at the last meeting that I was not present at and I thank you all for covering for me, and I'm sure we made some great decisions. Secondly, besides welcoming our County Manager I'd like to put out a couple of expectations. One of the issues we have for the County is transparency, and we would like to see our County Manager present at public places and public meetings whenever possible. So hopefully, when staff and the County or members of the public would like to hear from the County about the County that they would extend the invitation to our new County Manager so that they could get to know her a bit. And secondly, more on an administrative matter, with all the budget decisions we've made in terms of trimming our budget, I'd like to make sure that at least monthly we have an update on how we're meeting some of those goals that we have for trimming our budget. Thank you very much, and welcome to the job.

COMMISSIONER VIGIL: Thank you, Commissioner Stefanics.  
Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. Again, congratulations, Katherine, for coming on board. I look forward to working with you. Last – was it two weeks ago we brought up the issue with our queen. We wanted to try to get her some money and this Friday Valerie Espinoza and the Clerk's Office, the Finance Department, and the Manager's Office are going to have a frito pie sale to raise money for the queen, Sarah Czmyrid, who is going to go compete at the State Fair to become hopefully, become the State Fair Queen. The frito pie sale is going to be from 11:30 to 2:00 here, downstairs in the lobby? Up here? You pay \$5 or you can pay more for a frito pie, a soft drink and some dessert. So come on by this Friday and help out our queen to raise money for her to go compete in the State Fair.

If you'd like to send some donations you can send them to – you can call Jennifer Jaramillo at 986-6293. That's 986-6293. I don't see anybody getting a pen out. And I'm wondering if we could, County Manager, send some emails out to the rest of the County people and maybe – I don't know how our parking situation is. Let's say somebody wants to come and have a frito pie. Can we park them at the parking garage for free? I don't know how that works. But anything we can do to try to get the word out and see if we can raise some money to help our queen. Thank you, Madam Chair.

COMMISSIONER VIGIL: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I too would like to welcome our new County Manager and say that I'm looking forward to working with you, Katherine, and also to learning from you because I know that you know a lot of things from a very rich and varied background.

On another note I wanted to tell you about something that might be of interest in the long run to the County. I was asked by the New Mexico Wilderness Alliance to take part in a reconnaissance flight, and the purpose of the flight was to actually look at the Pecos Wilderness Area and the new roadless areas that they are proposing to be added to the Pecos Wilderness Area. And you may remember, we actually passed a resolution supporting that in the past. It was really incredible to be able to see things from the air. There's nothing like getting an overall view. You can look at maps all you want but seeing things from an airplane, there is just no other way.



It was a little four-seater plane. I wasn't scared, really, except for when it got a little bumpy. But the interesting thing about it is there's this outfit out there called Whitehawk and they actually donate flights and there are pilots in New Mexico, in fact all over the world, who donate flights for various causes, and in this case it was to champion environmental protection of the Pecos Wilderness. But it was all for free. The New Mexico Wilderness Alliance didn't have to pay anything for this. And they told me that keep in mind that if as a County, as a local government, if you need something like that we're here for you and it's not going to cost anything. So I thought I'd just throw that in.

I also wanted to say a big thank you. John Olivas, who is the northern director for the New Mexico Wilderness Alliance was the one who set it up and he is soon to be county Commissioner of Mora County. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Thank you. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I wanted to recognize Pablo Sedillo out there in the audience from Senator Bingaman's office, and the reason I'm doing that, Pablo, rather than having the chair do it, is one of the announcements I wanted to make is that a couple of weeks ago Senator Bingaman was in town and one of the requests he made was to do a tour of the Buckman Direct Diversion and the solar component of that. Senator Bingaman and Pablo Sedillo were there one morning and we did a tour. It's on film I actually have the film and this certainly is one of the initiatives that Senator Bingaman has as a priority, that's renewable and alternative energy.

I wanted to thank Pablo Sedillo and thank Senator Bingaman for being here and allowing us the opportunity to explain to him how far we've done with the Buckman Direct Diversion and how we've incorporated alternative energy in that. So thank you, Pablo.

I also wanted to bring that up because that's going to be a little eclip in my enewsletter and I don't think I've mentioned under Matters from the Commission but I do have an enewsletter that goes out to my constituents in District 2. It is specific to District 2 projects. So if anyone's interested to get on the enews list to find out about District 2 projects you're welcome to contact me and we'll place you on the list. But anyone who hasn't heard about it out there in the public and who's interested in receiving that enews, particularly if you are in District 2 because it does give an update on roads and projects that are going on in that district this is a good way to get that update. So I wanted to announce that. Please contact me at 986-6200 and I'll be happy to place you on the enews list.

I also do not want to pass up the opportunity to welcome Katherine Miller and I also want to say I have never received so many kudos about who we've hired for a County Manager until you came on, Katherine. I really appreciate what you're bringing and what the community has done in supporting this appointment of you. So welcome. And that's it, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Thank you, Commissioner. I would just quickly, and hopefully this gets to Albuquerque, but tomorrow is my grandson's birthday. I want to wish him a blessed day tomorrow. He turns 11. Then on September 17<sup>th</sup> I've been invited to talk to the New Mexico Acequia Commission. It's really specifically around issues as relates to a government to government relationship regarding acequias

and county governments. Then on September 21<sup>st</sup> I want to invite everyone. We're having a northern New Mexico community forum. It's called Take it Back. Take your Community Back and it's going to be around issues of substance abuse. It's going to be in Espanola from 9:00 to 1:00. It's kind of a follow-up of the town meeting Congressman Ben Ray Lujan had a couple of weeks ago, so I'd like to invite everyone to that. It's on September 21<sup>st</sup> at Northern Community College.

The last comment I just wanted to make regarding the Sustainable Land Development Plan. I really want to thank the staff that's been involved with that. We talked – well, we didn't talk too much this morning but certainly we have a lot of talking to do. And in terms of the schedule I think what I heard this morning was that we will have one more study session which we'd like to schedule within the last couple of weeks and then have the public hearing probably a month from today, which would allow us to take action at that time, if appropriate, if we feel that we're ready to adopt the plan at that point. So I just think we're at a point now where I think a lot of good information, a lot of good feedback, a lot of good comments have come and like it was stated this morning, the unfortunate reality is people sometimes find out at the last minute that this is going on and it's a little bit tough to jump on a moving train but I think we've at least made some accommodations to slow it down to allow people to get on.

And then the last thing, Katherine, I'd just like to offer you the opportunity if you'd like to say anything in regards to your first meeting back after being gone from Santa Fe County for seven years, almost eight.

MS. MILLER: Mr. Chair, Commissioners, thank you. Yes, it's good to be back. Actually, it's been great. I've been back I think it's seven working days, eight working days and it's been really nice to see a lot of familiar faces, a lot of new faces. I haven't had the opportunity yet to get out and visit all the departments and the employees there which I hope to do over the next few weeks, but I have had an opportunity to meet with several of the department directors and some of the division directors and I'm working my way through the elected officials and I've met with most of you. There's a lot going on here and quite a few challenges, opportunities, great things happening. I'm really looking forward to it. I've had a really positive reception as Commissioner Vigil said from the community and from the staff here, the management, so it's been very enjoyable to be back so thank you very much and I look forward to a strong future working together.

CHAIRMAN MONTOYA: Okay. Thank you, Katherine, again, for taking on this task. The honeymoon ends December 31<sup>st</sup>.

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

### **A. Recommendation to City to Appoint a County Representative to Serve on the City of Santa Fe Library Board**

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I'm the one who asked for us to advertise for some interested parties for this and I'm happy for Penny to do the presentation but I understand that we only have one vacancy to recommend and we had

three applicants that are appropriate. So I will alternately, or at this point I'll make the motion that we forward all three names to the City for their selection of one of the candidates. That's in the form of a motion but I'm happy to hear Penny's –

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

COMMISSIONER HOLIAN: And I will second that.

CHAIRMAN MONTOYA: Penny, do you want to add anything?

PENNY ELLIS-GREEN (Deputy County Attorney): Mr. Chair, that would be staff's recommendation as well.

CHAIRMAN MONTOYA: Oh, okay. Any further discussion? Okay so we will forward the names of Will Heinbach, Jr., Stanley Rosen, and Cynthia Dobson to the City of Santa Fe to their advisory board for the appointment on the public library board.

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

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

#### **A. Public Works Department**

##### **1. Resolution No. 2010-159. A Resolution Establishing the Schedule of Water Deliveries for July 2010 – December 2010**

PEGO GUERRERORTIZ (Utilities Director): Mr. Chair, members of the Commission. What you have in front of you is simply the stated approximation or projection of water use that we'll have for the fiscal year. We do this every year. We try to estimate as much as we can by talking to all the potential users. We do this on a yearly basis just to have an idea of what the allocation of water rights should be or whether or not there should be any additional water rights.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: This is related. I have no problem supporting this resolution but as we were listening to the plan this morning it came to me that what we really need is a long-term plan that we as the County could look at what areas we really plan to serve and what areas we won't be touching for many, many years so that the constituents of our county know if they sit in a service area or not. And so I hope that as we go forward with the plan, the sustainable plan, that you could think about developing something like that for our review. And I'm not just talking about drinking water but also the wastewater. There seems to be a perception out there that people are in line to become one of our customers and other people are saying, take ours. Take ours, we'll give it to you for a dollar. So I just think that we need to have some kind of overarching plans so that we know what our goals are.

I realize that Penny and I were just at a meeting about a month ago with a community that was ready to just give us something for a dollar and I'm sure there's going to be other examples like that around the county. So, Mr. Chair, since I don't have questions about this I would move support or approval of the resolution.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTTOYA: Okay. We have a motion by Commissioner Stefanics, second by Commissioner Holian. Any other discussion? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. I certainly agree with Commissioner Stefanics. We definitely need long-range planning but I would image that we have some plans right now that are in place so I would be very interested in the current state of our planning as well and I would be very grateful to have a presentation on that at an upcoming BCC meeting as to what our current state of thinking is about our water and wastewater, particularly in District 4. For me of course, the Glorieta area, I'm very concerned about that and the Cañoncito area. So anyway, I'd like to request that.

And then I also have another question. If a pipeline is going through a district and there's an individual homeowner who has a well, if they want to join into the County water system and give up their well, say, do they have to bring water rights to become part of our County system?

MR. GUERRERORTIZ: Mr. Chair, Commissioners, at the moment we are preparing an ordinance that would summarize all the policies and resolutions and the rules that may be implicit at this point so that we can have in one book and codified all those details and all the provisions that the County will have for those who want to become part of the system. That ordinance will state clearly whether or not the person who has a distribution line in front of their property is required to connect and whether or not that person will have to bring in water rights or simply pay what constitutes the right to become part of the utility, which many utilities call utility expansion charges or may call it installation charges or connection charges, whatever that name is going to be for that particular requirement would be stated in this document that I plan to have for your consideration before the end of the year.

Regarding the planning, yes, absolutely. We are in the process of planning the short and the long term. We have been neglecting a few responsibilities or simply we were overwhelmed at some point in time with the responsibilities that we had in creating a utility. And some of the things that needed to be done are still coming up at this point. And I plan to have by the end of this month a report to you as to where I see us going and to address Commissioner Stefanics' concerns regarding the planning, the long-term planning. This will tell you how the ideas that we have today as to what we need to do immediately, tomorrow and the day after tomorrow will jibe with this Sustainable Land Development Plan that you were introduced to this morning.

We do need to plan and we do need to plan both in the long term as well as the short term, but we do need to catch up with some of the things we should have done months or maybe even years ago, but we are taking all those things into consideration. This one is kind of a step that we take in the absence of a plan that has been adopted by the Commission. And we're just trying to anticipate for the very short term, one year at a time what would be the use of the water rights that we have today or what water rights that we anticipate to have to sell to developers who already have an approved plan. Because this is not for people who plan to do something in the very long-term future. It's for people who already have an approved plan – approved by the County that is – a plan for development, and they simply have either several phases to pursue or incomplete work to be completed.

COMMISSIONER HOLIAN: Thank you, Pego. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Any others? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Pego, as we were looking at adopting the Sustainable Development Plan and how it affects County projects, I noticed on this there is no allocation for County projects even though below the County projects we do have our detention facilities and all of that. There is a particular project that in order to meet the goal of retiring our aquifer and getting everything on line through a water delivery system, that project would be the Agua Fria Park. There are several wells that service the Nancy Rodriguez Center and our fire department there. We had always tried to get water from the City for the delivery of those but never were successful, but now that the Buckman Direct Diversion would be on line perhaps we can retire those wells and have a surface water delivery system there. So I'd like for us to be responsible towards what we're setting as our own goals and look at that particular projects as perhaps a model in transferring underground aquifer water to surface water.

MR. GUERRERORTIZ: Mr. Chair and Commissioner Vigil, that's precisely one of the items that we have in our capital improvement plan. In some cases the name might not be reflective of all the items that are going to be included in those projects, but there's a connection for the southern portion of Agua Fria, the Agua Fria community, and that connection is probably CIP for I think it's the seven years, between now and seven years from now so that the community would have access to higher pressure and have the ability to provide service to areas that today are now served by the tank, for instance.

And the other thing is that in my mind healthcare facilities should have access to potable water systems that are community based rather than domestic wells and it is in my mind one of the highest priorities. I've been working with the City so that we can work on the operation of this utility as if it were one. So there's a seamless transition throughout the area that is on the outside of the city limits or the outside of the service area for the city. So if you have two neighbors, one on the county side and one on the city side served by water they will never know that they are served by two different utilities. They will have the same quality of service and they will have exactly the same prerogatives on either side.

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

CHAIRMAN MONTOYA: Pego, on these water service agreements, they expired in 2009 according to this, so are we going and getting all of these renewed or what's happening? They're expired and they're done?

MR. GUERRERORTIZ: Mr. Chair, one of the things that we have in our plans, as I said before is to put together the ordinance. And the ordinance begins by defining the service area. So anybody within that service area of the county that you have adopted or that you will have adopted may be served by the County. And all these contracts we have, these agreements that we have that are – I don't know how many right now. It's very difficult to keep track of. They'll be overwritten by this ordinance and the ordinance will simply say if you are within our service area you have access to service. And of course there will have to be some conditions to accomplish that or to obtain that service. But the ordinance will codify mass agreement, basically.

CHAIRMAN MONTOYA: So by having the ordinance it will in effect terminate any water service agreement that we have currently that we're entered into.

MR. GUERRERORTIZ: Mr. Chair, yes. The ordinance will supercede all those agreements, if the development is within the recognized and adopted service area.

CHAIRMAN MONTOYA: So the ones that we have now, for example, Suerte del Sur, the term was 2005 to 2009 for 45 acre-feet, so that's over? That contract's over?

MR. GUERRERORTIZ: The contract will be – I think there is a sunset clause also in the development so they have initiatives on the development and if they went past the sunset period they would have to come back to the Commission. If they are within that sunset period and they have initiated the development then we have a commitment, the County would be passively committed to the customers in that area. So you wouldn't be able to terminate an agreement for water service.

CHAIRMAN MONTOYA: So I guess the concern that I have though is this says 2005 to 2009 allocations. We're in 2010. Were all of these renewed or were they not renewed?

MR. GUERRERORTIZ: I don't think they have been renewed.

CHAIRMAN MONTOYA: They haven't been renewed?

MR. GUERRERORTIZ: I don't think so.

COMMISSIONER STEFANICS: On this point.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. So, Pego, if someone was on the list lost water because they had not renewed, what would be the process for the entity to come back to get into service?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Stefanics, I'm not sure that the County has a specific process for that but I will tell you what I imagine the process will be, and this could be part of the proposal in the code. I think that those developments, for instance, who have been initiated, who were approved by the County, the initiatives worked and because of the market conditions they had to stop their work, for instance, but let's say something was approved for 200 lots and they managed to build 20. The County had a commitment to serve that subdivision so all those people who, say, bought a lot but they never actually formed the connection to the system they're paying right now a standby fee as a way of keeping their space reserved, basically.

So I don't see the County backtracking and saying your agreement has been voided or has expired and we no longer have that commitment for the water. Now, the case would be different if you had a subdivision for instance that went through master plan but you never completed your affairs. They had a specific right reserved and they had a sunset period. So if the sunset period has come to an end they would have to come back to the Commission and they would have to start the process all over again.

COMMISSIONER STEFANICS: Thank you. So just to clarify, based on your question, Commissioner. No one would be cut off of water without ensuring that they were receiving water?

MR. GUERRERORTIZ: No one would be – if the County had a commitment by virtue of having approved the development and having had an agreement for water service I don't think that we would be able to walk out of that agreement saying you're out of luck; you're going to have to drill a well. I think that we would complete

that commitment even though the agreement, the specific agreement for water may have expired.

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

CHAIRMAN MONTOYA: Okay. So kind of what I heard you saying, that the term may be expired but they are still paying a standby fee?

MR. GUERRERORTIZ: Mr. Chair, if they had begun their development and they say, as I said, some of the lots already had been built or having assigned lots so they are lots of record and the County has been committed to serving those lots, each lot pays what is called a standby fee. And that standby fee is a way of recovering the cost of maintaining infrastructure that exists in front of each lot even though the connection or the water is not being distributed to that specific lot.

There are several cases in town – Oshara, Rancho Viejo – places where we committed to serve, or the County committed to serve and the plans for development did not go the way the developer had envisioned. So there are many empty lots that are not receiving any water at this point but have the utility in front of them ready to provide the service. And that's why we call them standby fees because we're simply waiting for them to ask for the service itself.

CHAIRMAN MONTOYA: So then let's go back to Suerte then that doesn't have anything out there but has a water service agreement with us for 45 acre-feet. Are they paying a standby fee for that 45 acre-feet also?

MR. GUERRERORTIZ: If the lots are lots of record they would be. I'm not familiar with the case.

CHAIRMAN MONTOYA: They are. Okay. So I guess the bottom line is are we taking action now to update these so that these go from – it doesn't say how long, but typically these have gone for five-year periods. Is this going to be from 2010 to 2014?

MR. GUERRERORTIZ: Are you talking about the resolution in front of you? That's only for one year.

CHAIRMAN MONTOYA: So it's just for the one year. So it doesn't really affect any of this other information that we have.

MR. GUERRERORTIZ: The other information is just to let you know we have commitments to people, and it's based on that commitment. If they say for instance, we plan to have – to require 45 acre-feet by the year 2010 or by the year 2015, every year we go back to them what they anticipate needing to have for the 12-month period ahead.

CHAIRMAN MONTOYA: Okay. Could you provide us with the information on these ones we have here in terms of getting it updated for all of the water service agreements that we have and what our obligations are? I think that would be helpful.

MR. GUERRERORTIZ: I will make it part of my report at the end of the month, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I guess the question I would ask is are we taking action on this? And if so, is this committing us to this water allocation?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Vigil, the only commitment is that if these people who have had already a prior commitment come this year and say I am going to require the two acre-feet a year that I had anticipated, we will

have that commitment. If they come in and say I'm not going to require that because I haven't built anything else then no harm has been done. If they come in and say we need 20 acre-feet, not two for this year we may say we don't have 20 acre-feet. We may.

COMMISSIONER VIGIL: Can I ask a legal question, Mr. Chair. Mr. Ross, are we committing ourselves up front here to requests that maybe we should hold off and commit when they come before us?

STEVE ROSS (County Attorney): Mr. Chair, these should already be approved developments. So once you make a commitment here today, let's say for example, La Entrada, Phase 1, Windmill Ridge – those are existing platted subdivisions and these expectations that they're putting in here for three acre-feet are their expectations of how many lots they're going to hook up in the next six-month period. And the policy, 2006-57, says that once the water deliveries commence they're perpetual. But until the deliveries actually commence it's a contingent obligation. So this commits you to delivering three acre-feet to La Entrada so long as they actually hook up three acre-feet worth of customers and start taking water within the next six months.

COMMISSIONER VIGIL: And Mr. Guerrerortiz, you're saying this is an annual review and action. And say, if they don't use their three acre-feet, next September you'll come before us again?

MR. GUERRERORTIZ: Mr. Chair and Commissioner Vigil, this is only for our own accounting purposes. We have water rights that could be called for if they need to. We want to make sure that we don't call any more than we need to or any less. In the absence of having a code or an ordinance that says this is the way everybody will operate we try to take steps that will keep us a little ahead of the game.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Thank you. Can I just ask Steve, is there any follow-up on this?

MR. ROSS: Mr. Chair, Commissioner Vigil, the resolution is actually a six-month cycle. So it specifies that every six months – it's right here in the beginning of the memo. But it cycles every six months.

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

COMMISSIONER VIGIL: Okay. We have a motion by Commissioner Stefanics, second by Commissioner Holian. Any further discussion?

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

**XIII. A. 2. Resolution No. 2010-160. A Resolution to Authorize a Low-Income and / or Senior Citizen Credit for Residential Solid Waste Permits Pursuant to Santa Fe County Ordinance No. 2010-5, Section 13A(6)**

OLIVAR BARELA (Solid Waste Manager): Mr. Chair, Commissioners, as directed by this body we come before you to authorize this resolution that would approve or direct the manager to proceed to initiate the low-income and senior citizen credit. As mentioned in the resolution the credit would be \$10 for low income and \$5 for senior citizens or the higher amount if they qualify for both.



COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Olivar, have you had any thoughts about making this a percentage discount so it could apply to different years. Because \$10 this year is not going to be \$10 in the year we've raised it to \$105.

MR. BARELA: That has not been considered, however, I think that is open for consideration. This is just what we had brought forward.

COMMISSIONER STEFANICS: Well, I appreciate the effort because we did ask for some consideration for low income and for seniors, so I appreciate this very much. I'll be interested in what my colleagues have to say because I think we want to put something in place that we wouldn't have to bring back every year.

CHAIRMAN MONTOYA: So just for my clarification, you're talking about something that similar to what the task force recommended, that's going to go up?

COMMISSIONER STEFANICS: Mr. Chair, my thinking here is if \$10 is – it's not quite – it's higher than 10 percent, but if it was 10 percent of the \$65 dollars then maybe we could just put in 10 percent, so regardless of what your and what amount there'd be a percentage, rather than it be \$10. Because \$10 off of \$65 is not the same as \$10 off of \$105. So I was just trying to make it so that people would expect a proportionate discount every year.

CHAIRMAN MONTOYA: And then more in terms of a – not necessarily a flat but a less significant increase than what's being proposed?

COMMISSIONER STEFANICS: Well, the way this is written right now we had passed \$65 for the 24 punch, which, I want to say to the public is only \$5.25 a month. It's still very, very little. But it has really confused and upset a lot of people. So we as a Commission did ask that low-income residents and seniors receive some other benefit. And I'm just thinking that maybe we want to standardize it for many years coming not just \$10 for this year.

MR. GUERRERORTIZ: Mr. Chair, if I may, Commissioner Stefanics, our rationale was actually the opposite. We were thinking of a discount that would be about 10 percent by the time the rate goes up to \$105. So we're going to have more of a loss today and as we increase our rate we're going to decrease that loss. Right now, the majority of the people using the services will qualify for this discount. So the rate increase that you approved recently will actually be voided at this point almost by giving this discount. So we anticipate that five years from now, the year 2015, the rate of \$105 or the discount of \$10 or \$15 would be between 10 and 15 percent, more or less. And today, that would be a discount that is higher than the 10 or 15 percent. So the logic was there but it was reversed.

COMMISSIONER STEFANICS: I understand. Thank you. That answered my question.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Was there a fiscal analysis done on this at all?

MR. GUERRERORTIZ: There was a preliminary analysis done.

COMMISSIONER VIGIL: So I'm hearing you say that the increase that we adopted is a wash-out with this \$10 and \$5 discount because most of the residents who utilize the \$65 permit are over 65?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Vigil, out of the 9,000 customers that we have that we see purchase the punch card, we anticipate at least 60 to 70 percent will qualify for this. So at this time we've sold about 5,000. So we don't anticipate that everybody that qualified would have been coming this year or would have come this year, but next year we anticipate that out of the 9,000 customers about 6,000 will come requesting the low income and senior citizen discount. So if you're talking about the \$10, 6,000 times ten would be \$60,000. If we're talking about the combination of the \$10 and \$15 for the 6,000 customers that we anticipate it would be higher than the \$60,000. The rate increase would have been about \$90,000. So that was what I was trying to explain was that a good portion of that increase is going to be washed out by this provision if all the customers who qualify apply that qualification.

COMMISSIONER VIGIL: It begs the question or the statement of what benefit was it for us to increase the rates if in fact this is going to be a wash-out? That's going to put us at the same place we were at when we in fact looked at increasing. From my perspective ongoing I don't think we've increased these rates appropriately. I think it should be a fee for service and we haven't even gotten there. So my sense is that we're sabotaging our own action on this. Unfortunately, because I have a sense of empathy for seniors and recognize low income should be a part of that, I'm wondering, there are seniors who are not low income and I guess they would receive the \$5 deduction and there are seniors who are definitely low income and that's where the greatest benefit would be.

And my concern too would be what criteria are we going to use to identify their income level? Has that been established?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Vigil, yes. We are qualifying the same way that we qualify for housing, for instance, low-income housing. And it is additional work for the utility to review and take care of those applications of course, but that is something that goes towards the cost of providing the service of course. We have fielded many, many calls from the public regarding this \$65 fee for the 24-punch card regarding the additional – the fact that people have to come to downtown Santa Fe to buy the punch card. And we're trying to address those concerns. One of our ways of addressing that concern is to move some of the cards and dispense some of the cards from our facility on 599 which is closer to many of the people who receive the services on the south part of the county. We also have some satellite facilities.

But the other concerns have to do with people who call are low income and they cannot afford the \$65 at one time. So we're thinking of different ways in which we can say, okay, let's sell the 24 punches or the 24 services or the 24 visits, or maybe less. Having a card that individual requires the service refill any time they need to. But that means that we would have to have the ability to read those cards or to utilize the technology that we have access to today to make it an electronic process. When you have something similar to what the City has with parking keys. You use it until you run out of money on the parking key and then you take it and have it refilled. You pay another \$25, \$50 and you get an additional number of parking hours.

The same thing could be used here. We have a card issued to the customer and when the customer has used up the money in that card, the money put in or purchased on that card may be returned to us and we'll refill it. That way they don't feel constrained to

having to use 24 services in one year which is what many people are complaining about. I don't go there for any more than maybe eight times a year. Why do I have to pay for 24 visits. And Commissioner Stefanics had mentioned, \$65 divided by 24, the cost is maybe two dollars and maybe some sense for however many tons you bring into the transfer station, so from that perspective it's a very cheap service but it's difficult for many people to disperse \$65 at one shot.

COMMISSIONER VIGIL: I'm curious how my colleagues feel. When this was first proposed and staff was given the direction I didn't realize we would have such an adverse fiscal impact on this, especially now that we're looking at other sources for revenues. I'm curious to know how other members of the Commission feel, now that we know that this might sort of defeat our purpose for increasing revenues.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. How do you know somebody is low income?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Anaya, we are going through a process or we are going to go through a process similar to the one that is used for that somebody qualifies for low-income housing, by federal standards. So they would have to bring in their tax return and they would have to show that they live in Santa Fe County of course and a lot of it is going to be trust that a person is telling us the truth.

COMMISSIONER ANAYA: I don't know about the rest of the Commission but I've been receiving a lot of calls about the increase, a \$65 increase, which I was against, and I brought up the fact of a ten-punch card for \$35. And I was telling you about how I use the transfer station. That I don't go 24 times a year. I might go eight. And you brought up an interesting thing is that there's been many a time that I have an extra card that is already cards with 12 punches on it. That happens over and over and over. Not with me, but with family members, friends. And you brought something up that I kind of like but I know that we're trying to generate money, because it costs money. But you brought up the card deal, that you could pay – let's say I do buy a credit card and I put \$65 on there and I get 24 punches, then I should be able to use that 24 punches and it should not expire. And I won't waste my money. I like that idea. Because there's been time and time again that I've only used less than ten punches in a whole year. And it's not that I accumulate my trash, but it takes time to go to the transfer station. I live 20 miles from a transfer station so I'm not going to go 24 times. I'm going to accumulate it, gather it, put it in a place animals can't get to it and then when I get time I'm going to go and that's the usually the way rural people operate.

But I have been receiving calls, emails, concerned why did the ten punch ticket go away. I know we've got to raise money. In terms of trying to identify who's low income and what is the mark, do you go by how much they make a year?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Anaya, the guidelines by the federal government are based on income and number of members in the family.

COMMISSIONER ANAYA: So do we need to tell people, okay, when you come and purchase a transfer station permit make sure and bring your guidelines so that you can prove you're low income?

MR. GUERRERORTIZ: Mr. Chair, Commissioner Anaya, unfortunately we have to go through some kind of a process because it has to be an auditable exchange,

an auditable transaction. So we have to keep in our records something that proves that we did our work in at least trying to determine whether the person would deserve the service. As I said, there's going to be some level of trust that we need to have there. There's also going to be the issue that many people will not have a tax return. There are many elderly who don't file for taxes. So that's when we're going to have to evaluate based on what they tell us. Perhaps a visit. I don't know.

COMMISSIONER ANAYA: I'm again, trying to make it simpler for the public. If they come over here and try to purchase a ticket and we're going to sell it to them for \$10 less because they're low income and they can't prove it and they're going to walk out of here because they're going to pay \$65 anyway, you've made them mad.

MR. GUERRERORTIZ: Commissioner Anaya, those are the unexpected consequences of some of the decisions that we make and we're trying to do the best with the cards we're dealt.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. There are a lot of points I'd like to make actually, but I think one thing that is worth pointing out to the people in Santa Fe County is that we as a County are not mandated to operate transfer stations and it is supposed to be an enterprise fund, that is it's supposed to be paying for itself. And the cost of using transfer stations is way less than transfer stations in neighboring counties. It's way, way less than having someone pick up your trash in the county. Some people are paying I think almost \$400 a year to have their trash picked up and I'm not even sure that includes recyclables.

I would also like to make a point that there is a way that people can save money if they want to do a little extra work. Recyclables are free, so if somebody wants to separate out the recyclables they can dump them at the transfer station for free, and then they can use bag tags for the rest. For my husband and me, we generate about 20 bags of trash a year when we separate out our recyclables. So that means that in principle we could end up paying \$20 a year. Now, my optimal solution for this, and I don't know how we get from point A to point B, but is to put in a pay as you throw system. Now, I know that they have this in a lot of different places in the country so we could sort of investigate different possibilities. But the point is that you pay based on the amount of trash that you're throwing away and I think it is appropriate still to have recyclables be free, to dispose of them because the Solid Waste Management Authority actually gets income from those recyclables. So I think that that's a pretty much zero sum game as far as that goes. But anything else that's actually dumped into the landfill costs a fair amount of money.

The regulations on landfills these days are quite tremendous and with good reason. We don't want to pollute our groundwater. So it's very important how we create the cells where we put the stuff that we're landfilling and it's very important that we don't pollute anything. It costs money. So I would like to really urge us in some way to move towards a pay as you throw system. Now I don't know if that's like measuring the volume of trash that people bring it. That's a fairly cheap way to do it. I know that back east they actually require people to put all their trash in bags and the reason they do that is because they don't like papers flying around on the side of the road and junk flying off.

So there is something to be said for that, and of course that would be an easy way to actually measure how much trash people are producing. But another way is through weighing stuff, because you can't put everything in a bag. What happens if you bring in a couch or something like that?

So in any event, I don't know if we need a task force or if we need to within the County staff investigate how we come up with a fairer system, but I think that the ultimate fair system is to pay for what we are throwing away, to pay the costs that it costs to dump it at the landfill, but to make it proportional to how much trash we're throwing away, not how many trips. So that's my take on it.

MR. GUERRERORTIZ: Mr. Chair, if I may say one more thing. Commissioner Holian, we are trying to do that within our staff right now, looking at different possibilities, of reconciling what we spent on taking this trash to the landfill, because at the landfill we pay by weight and at the transfer station we pick up anything. Whatever they bring in we pick up. The ideal situation would be to reconcile those two things where if we pay by weight then we pick up by weight. However, that is a lot easier said than done. We don't have a scale system at the transfer stations. We're in the process of investigating using high technology to have the scales, not the conventional ones, but scales that could go with the type of arrangements we have in these transfer stations. And those scales would be not as accurate so we'll have some losses at some point, but it will be something that we can move from one place to another or locate at the transfer stations without having to have a lot of infrastructure included.

So we are working on that. We also have to balance. There is a cost associated with people dumping trash illegally, in arroyos or highways, so that cost is something that we have to face. And if provide some facilities in the county, even though they may be subsidized just as much as highways are we are trying to balance those two ends. What we pay for cleaning up versus what we pay for helping people dump legally. So we'll bring that to you also and we'll keep you informed as to where we're going and what kind of progress we're making.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: I wonder, Commissioner Stefanics, if you would consider – it seems like there's some proposals that we've talked about that might create a resolution for the imbalance this does to our budget and where we need to go with it. If you would consider maybe holding off on taking action on this and directing staff to come forward with a recommendation based on the comments that we've had. I've heard Commissioner Anaya say he likes the card idea and Commissioner Holian say – I say fee for service; Commissioner Holian speaks to her amount of trash issue. It's really somewhat more resolvable than what we have now and I think if staff maybe actually looked at those options and came forth we might be able to address the low-income issue along with this because perhaps low income could be given an option of the card, which they could use for whatever length of time and it might create a benefit to them without having to do a percentage or \$10 or \$5 reduction in service. I'm just proposing that, Commissioner Stefanics.

COMMISSIONER STEFANICS: Well, thank you, Commissioner Vigil, but I think it was Commissioner Anaya and I who asked for something for low-income

people. Tell me if I'm wrong, Commissioner Anaya. But I don't think that the other changes that we're talking about here – a swiped card, scales, would happen over night. We're not talking about something that would happen this fiscal year. So the issue is we either just let it go about this particular resolution and live with it for the rest of the year and then hear what we can come up with because everything needs a timeline. And everything that's being discussed is not next month's proposition, correct?

MR. GUERRERORTIZ:: Correct.

COMMISSIONER STEFANICS: So anything that we hold off on to wait to hear is not going to happen this year. Now, I will tell you that the majority of my calls have been about two things. About our raising the cost, and I've tried to say we're still the lowest and even if you divided it by 12 months. The second issue is why did you get rid of the ten-punch card? And the ten-punch card went to commercial, correct? And it went to a higher fee.

MR. BARELA: No, actually the ten-punch card was –

CHAIRMAN MONTOYA: Eliminated.

MR. BARELA: When we changed to \$55 and the ten-punch stayed at \$35 everybody used the ten-punch at \$35.

COMMISSIONER STEFANICS: Thank you for your clarification. So the issue is change is hard for everybody. So either we just let this go until we hear the next proposal.

COMMISSIONER VIGIL: Thank you, Mr. Chair, Commissioner Stefanics, if I might respond. In terms of implementation it's going to take a while to implement this also. As Commissioner Stefanics said nothing can happen over night. If we were to evaluate what would be less time available for implementation this probably would versus looking at a slide card or something like that, but I'm throwing that out not knowing how much work you all have put into it so I'd like you to give me some feedback in terms of timeline and implementation.

[Commissioner Holian left the meeting.]

MR. GUERRERORTIZ: Mr. Chair, Commissioner Vigil, I think Commissioner Stefanics is right; it's not going to happen overnight. We have to go through an analysis of what options we have available, and then the implementation time will take some time too. The implementation time will be at least six months as well. So what I would propose, if your goal is to help those constituents who are struggling to pay the \$65 perhaps we can have a system where we bill them for a year. Instead of paying \$65 in one time they pay \$65 in 12 months. I personally believe that system as complicated as it may be would be less complicated that what we're going to go through in just assessing whether or not a person qualifies for the benefit. So if somebody comes in and establishes an account they would have to make payments monthly for their account, a payment that would be \$65 divided by 12, approximately \$5 a month, \$5.50 or so a month.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. We have this before us. I don't want to let it slip away from us. We have an opportunity right now to help senior and we have an opportunity to help low income. If we approve this then all we

have to do is ask to see their driver's license when somebody comes in and you can issue them a senior discount. If this gets approved now people that are low income can bring their certificate of low income or whatever proof they have so at least we can start helping people now. Mr. Chair, I move for approval.

CHAIRMAN MONTOYA: I've got a motion by Commissioner Anaya.

COMMISSIONER STEFANICS: I will second.

CHAIRMAN MONTOYA: Second by Commissioner Stefanics. Any further discussion?

COMMISSIONER STEFANICS: Yes.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, when there is a different proposal to come forward I'm happy to hear it and change the process.

COMMISSIONER ANAYA: Likewise.

CHAIRMAN MONTOYA: And I'll just add my comments since Commissioner Stefanics finally gave me a chance. I totally agree with this. I think this needed to be done. I'm like Commissioner Stefanics and I would imagine Commissioner Anaya where all of the comments that I've been getting either person to person or over the phone has been why did you get rid of the ten-trip punch. We can't afford the \$65. And correct me if I'm wrong. Did I hear you say that 60 to 70 percent of the people are going to qualify for a low income?

MR. BARELA: That's what we're assuming, because the number we're looking at, the low income, was at \$24,000 annual income, something like that.

CHAIRMAN MONTOYA: So if we're looking at that large of a number, that means that only 30 to 40 percent of the residents in Santa Fe County can afford what's being proposed now, much less when Commissioners who are still going to be here in fiscal year 15 are going to pay \$105. So I think it probably would be something to look at in terms of a per-cost trip or something that's going to be a lot more feasible if already that many people are low income. That's a huge number when we're talking about giving decreases and it's not going to be commensurate to where they're at last year to where they're going to be in fiscal year 15 as far as the payment. So I guess – I don't know how else that may be reconciled in terms of a person's fixed income and the continued increase on the fees. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chair, on those lines I wonder if the maker of the motion and the seconder would consider an amendment to this resolution. Under the fourth whereas it says if such credits are authorized the County Manager shall establish procedures. I'm wondering if we could include rules and procedures under that. Because I'm not hearing a real clear distinct number in terms of what is low income. Is it 80 person of a person's annual income. There are a variety of federal guidelines. I actually think we need to be very clear and distinct and when we are we'll know exactly how many people will qualify. I think I'm hearing you say that you just sort of made the assumption that about 60 or 70 percent. So I'm wondering, Commissioner Anaya, if you would allow for the County Manager to establish rules and procedures and under Section number two, that the Board of County Commission direct the County Manager to establish rules and procedures – the very bottom of the page. Wherever procedures are identified in the resolution that it include rules. Because the rules are going to be what

guides us in terms of what is low income. Procedures just identifies how the customer will come in and provide information for us. But I think those rules need to be adopted and that isn't part of this resolution.

COMMISSIONER ANAYA: So you want to have rules? I don't have a problem with that.

COMMISSIONER VIGIL: Does Commissioner Stefanics agree with that?

COMMISSIONER STEFANICS: Fine.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTOYA: So that would be under number 2?

COMMISSIONER VIGIL: Under the fourth whereas, second line, the County Manager shall establish rules and procedures by which county residents may obtain such credits. At the very bottom, the last paragraph, Further, the Board of County Commissioners of Santa Fe County directs the County Manager to establish rules and procedures by which county residents may obtain such credits, and the rules and procedures to be used in Santa Fe County for the sale and implementation of residential solid waste programs.

CHAIRMAN MONTOYA: Okay. So the maker of the motion and the seconder both agree. And I just wanted to state also that one of the things that I've had, because I knew this was going to be an issue in my district, and it's been a huge issue, is that I didn't support the original one either because of the pending, now real concerns that I'm getting from my constituents. So with that, let's take a vote on this one.

**The motion passed by unanimous [3-0] voice vote, with Commissioner Vigil abstaining.** [Commissioner Holian was not present for this action.]

COMMISSIONER VIGIL: Mr. Chair, I'm going to sort of abstain. I'm happy that the rules are incorporated in to the resolution. It's really difficult for me to go on record not supporting seniors and low-income people. Staff's the rationale for my abstention. And the other rationale is if we're going to move forward in balancing our budget we need to look at these more clearly and I don't think we have the right answer but I do agree with Commissioner Stefanics that staff should look at a proposal to try to balance all of these issues. And I think there might be a better way to do it rather than cutting our nose to spite our face. That's it, Mr. Chair.

CHAIRMAN MONTOYA: Okay. So three for and one abstention

**XIII. B. Community Services Department**

**1. Second Public Hearing for Discussion and Adoption of Santa Fe County's Infrastructure and Capital Improvement Plan (ICIP) for Fiscal Year 2012-2016 and Approval of ICIP Resolution**

PAUL OLAFSON (Community Projects Division): Mr. Chair, Commissioners, Joseph is handing out a list of the projects for consideration that we collected through our community meeting process this year. [Exhibit 1]



CHAIRMAN MONTROYA: Paul, has this changed from what you sent us in the email yesterday?

MR. OLAFSON: Mr. Chair, no. The email on Friday was the exact same as this one. Additionally, Joseph has handed out a one-pager. [Exhibit 2] This is a list of last year's top five projects. Just sort of a brief summary for the record. The ICIP plan is required by the Department of Finance and Administration to be submitted by the County. It requires public hearings and we've gone beyond that, done community meetings as well. This is the second of two public hearings and what we're asking the Commission to adopt is the whole list, which is the seven-page list that was just handed out, identify at least five top priorities to submit along with that list and also approve the resolution that will accompany that plan as it's submitted to DFA. And with that I would stand for any questions.

CHAIRMAN MONTROYA: Any questions?

COMMISSIONER VIGIL: Just to clarify, and I needed to ask you this. Thank you, Mr. Chair. This is the ICIP that DFA requires, or this is the CIP our sustainability plan requires?

MR. OLAFSON: Mr. Chair, Commissioner Vigil, this is the ICIP DFA requires. We have done some preliminary work on the CIP, which is part of the sustainable plan. Some of those projects are included in this as well as new projects that were proposed through the community meetings process this year. And just also another note, in each district, every page has a separate district on it. The projects are listed alphabetically. There's no ranking or order to them other than alphabetical order. And then on page 6 and 7 of this list there's also County projects. I separated out all the County facilities and projects from the different districts to differentiate that one is a community-driven request and one is considered I guess a County internal-driven request.

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER STEFANICS: I have a question.

CHAIRMAN MONTROYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: So we have identified or I'd like to know how the top five were identified.

MR. OLAFSON: Mr. Chair, Commissioner Stefanics, this is last year's top five list. I just presented this as a reminder of what the Commission decided on last year as maybe a benchmark to maybe start looking at for this year. But this is not the top five for last year; this was last year's list.

COMMISSIONER STEFANICS: But the resolution that we're looking at, Mr. Chair and Paul, identifies us identifying these top five from last year as the top five for this year.

MR. OLAFSON: Mr. Chair, Commissioner Stefanics, that is not the way it's intended. What you submit today or what you choose as the top five today, we have to have a discussion or you all have to have a discussion to choose that five and that will be submitted along with this resolution and along with the entire seven-page list to DFA. But the top five is at the Board's discretion and needs to be selected as part of this discussion we're having now.

COMMISSIONER STEFANICS: Okay, Mr. Chair, I'm sorry Commissioner Holian had to leave for a few minutes but we had discussed a few months

ago, and I don't know if it was in relation to a resolution to the land plan or in an ordinance, that we would try to make sure that every district was represented with a project in our priorities so that when we worked with the taxpayers of Santa Fe County that all taxpayers felt and believed that we were taking their interests and their needs into account. So certainly the projects that relate to Santa Fe County that we are currently providing, and I'm mentioning some from last year – the corrections facility improvements, our RECC, which is our 911 emergency center, the public housing site improvements, our media district and the Santa Fe River Trail benefit many, many people.

I know that some of our constituents question how we spend their tax dollars and how we spend our bond money from past bonds. So I just want to remind everybody that we did talk about trying to have some representation across districts, and I know it's rather hard in a year when there's no money but we do want to let the people of our county know that we're working for them.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. These five priorities – let me back up. I don't see how the Santa Fe River Trail benefits everybody from the county. I do see that on the last page, 7 of 7, the top one, Santa Fe County Public Works equipment, water trucks, graders, loaders, back hoes and dump trucks – that would probably benefit county residents more than the river trail. So I would like to see that scratched and even that be put on top.

The Santa Fe County Media District, I'd like to put work into that but there's probably other things like the Public Works Solid Waste upgrades to transfer stations throughout the county. I know we have mentioned here Jacona. That's important to upgrade.

And then I guess I'm okay with the public housing sites and the RECC 911 center and corrections facility, but I think that the equipment would benefit each district in our county. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: The other thing, I'm sorry I forgot to mention earlier, Mr. Chair and Commissioners, is that we did do a community survey of approximately 700 individuals around the county to ask them what their priorities were for our funding or our continuing services, and I think that some of those priorities should be reflected in the decisions that we make today. And I'm wondering if the staff looked at that.

MR. OLAFSON: Mr. Chair, Commissioner, no, I've never seen those. I would like to add also that it is possible as you did last year that you can rank more than five. We need an initial five and it has to be in an ordinal fashion, one first, second, third, fourth fifth. But on top of that other priorities and I believe there were two other projects that were added on additionally to last year's list. So that's another option. It maybe makes it more complex to go through this discussion. And the top five priority listing I don't believe – it doesn't eliminate any other project on the list. I think we have somewhere near \$190 million in requests here and I don't even know the ordinal number of projects that is but it's a lot. And once they're on the list any project is still available or eligible for funding. So I don't know if that eases the discussion or not.

COMMISSIONER STEFANICS: Well, Mr. Chair and Katherine, this is before your time of course, but there is a summary of the survey that was completed by – I believe it was Research and Polling. I haven't seen the final report yet but what they did is they took about eight to ten questions and asked it in a variety of ways to these individuals living around the county about if we had to downsize or eliminate something what would be the things they thought should go first, what would be the things they thought we should never eliminate, what were the most important things. They asked the same question several ways.

And roads did come out very high; so did senior citizens; so did youth services. But there were some questions with very high percentages of what our county residents want. And I think that those are some of the things that we should be looking at here as we prioritize. And I understand that this is a time-sensitive issue so I'll stop.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. I know that we've recently taken over our senior service buildings, so that could be one out of the five. Our road department, upgrade on equipment, that could be another one. Youth – well, I don't know how the Commission feels about cutting in to the corrections facility because I know that takes a lot out of our budget. But roads, youth and seniors was probably the top three of that survey and if that's what the people are asking for then I think that's something that we should be asking for. Thank you, Mr. Chair.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: We can argue all we want over here. The fact of the matter is we can hand this over to DFA and if there's no money none of these are going to get funded and that's what the prospect is. With regard to the prioritization and the questionnaire that the Santa Fe County residents had I was really pleased to know that but I also know that we went district per district in this process so it's fair to say that this also came from the residents, not only the residents who were picked at random but the residents who are very active within each one of these districts. So with regard to the district priorities I think we're okay. With regard to the overall general priorities to me it's six of one, half a dozen in the other, because if you do say roads, what roads? What district is going to get those roads? It's going to be very difficult.

I'm fine with the way it's proposed, Mr. Chair.

CHAIRMAN MONTOYA: Paul, do you recall what project that we had that we had to return the CDBG funding for? And then secondly, did we submit an application for funding for this year? I don't believe we did.

MR. OLAFSON: Mr. Chair, I'm not exactly sure. I believe that's the Valle Vista water project or wastewater project. I believe that was just at the last BCC meeting. I don't know the current status of that action, where it is in the process, if it is returned or not. It's just not in my realm. And then I don't know when the next CDBG round would come. I think it would probably be later this fall, based on previous years of doing things.

CHAIRMAN MONTOYA: Okay. So based on that particular project, if it was a water project, I would suggest that we look at projects that we're going to be able to apply for CDBG funding as well in terms of any other requests that we have that this tie into the CDBG funds and not just one particular source of funding. So I would just put

that out there also in terms of considering these projects, which ones would also be eligible for CDBG funding. Katherine, are you familiar with –

MS. MILLER: Mr. Chair, I'm very familiar with CDBG. A couple things. I do believe that we have not officially returned those funds. There was some discussion that there wasn't enough to do what was proposed at Valle Vista for a wastewater system and that perhaps there was an alternative, and that whether that would actually still qualify under the grant that was awarded to the County. As of last week I do not think that we had returned it but I also don't think that one of the proposed alternatives would qualify, so there's still discussions going on between the CDBG division at the bureau at DFA and Pego and Utilities about whether there's some other options there.

Secondly I agree that just kind of in general on this, the ICIP, the way that DFA has structured that is the ideal way in order to get local governments to make requests, but in reality how things get funded through the legislature relative to capital outlay, everybody knows that that doesn't necessarily follow what you send in as priority. That's the ideal way. But also realistically, would you get enough to finish a project – a whole other story.

I would suggest that there are ways that when we do our own ICIP that we actually do look at all our funding sources and I said to Paul yesterday, we didn't have a chance to go through this completely but I just said that I think there are ways to prioritize what realistically we could get done with our own funding sources with some maybe additional money through a variety of different funds that are available through the state and federal governments. And we might be able to prioritize based upon let's actually get enough money to finish projects so that we're not returning money to the state because we weren't able to fully fund or put a financing package together, as well as make sure that we do address the needs in each district in the community.

So there's some different ways that we could structure this in working with the state in putting together what they require by rules and regulations and then what really fits and what we can realistically get done.

CHAIRMAN MONTOYA: Okay. That's very helpful. So what – with that additional information – Commissioner Vigil.

COMMISSIONER VIGIL: It seems to me, because what is before us is a course of action to take action on this because there is a deadline that this has to be presented to DFA. I really appreciate the County Manager's perspective on looking at prioritization with looking at funding sources. This looks to the legislature for a funding source, but we know that the legislature can never fund all of our wish list. So again, with all of this and based on the deadline that we have to present this I restate my motion to approve, Mr. Chair.

COMMISSIONER STEFANICS: Clarification. I'm not sure what we're approving. We don't have – those are priorities from last year, that one page. The other pages are in alphabetical order. They not by priorities. So I'm trying to clarify what you're wanting us to approve.

COMMISSIONER VIGIL: I think the entire document. Is that correct, what you're proposing before us, both the priorities and the district projects?

MR. OLAFSON: Yes, I think – what I'm asking for one, is to adopt the entire list, the whole list of projects, and they're in alphabetical order and that's how we

entered them last year on the website, alphabetically on the whole list aside from the top five that were identified separately. So then following those five or seven we just went alphabetically through the list as a prioritization process. And the County Manager is correct that we did an email exchange and discussion about prioritization and we have been working on the CIP process as part of the sustainable plan. That process we have had a further set of criteria and differentiation identifying different funding sources. Some of those projects are included in this as well as new ones that were requested this year. We just aren't in that position.

So what I'm asking for right now is adopt this list and then secondly, or concurrently, adopt a top five list. And that's at the discretion of the Board what the five are. And I also need to ask you to rank them one, two, three, four, five. And so that would be the action that I'm requesting.

COMMISSIONER VIGIL: Okay. That's a different process than what I thought I was making a motion on. So let me just make a motion to adopt the district projects as proposed in alphabetical order.

COMMISSIONER STEFANICS: I'll second that.

COMMISSIONER VIGIL: Okay. And I think we can take action on that.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Stefanics to adopt the overall list of potential projects for each district. Any discussion?

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

CHAIRMAN MONTOYA: So now, how do we want to prioritize the top five?

COMMISSIONER VIGIL: I was going to ask our County Manager, if she, just based on her experience would have any recommendations?

MS. MILLER: Mr. Chair, Commissioners, unfortunately, I've really not had a lot of time to look at this and I am a little concerned about your just restated last year's because I think you have very valid points about maybe looking at this a little bit differently. One of the questions I would ask Paul is – I don't think it's due, the entire thing, until the 30<sup>th</sup>. Could we maybe get some guidance from the Commission as to what they would recommend as the top five and narrow this down because I think to say it's this or pick five out of this today is an awful large task if they haven't even had the discussion to start narrowing it down.

And I don't know. I understand this is kind of the second hearing on this but I don't know to what degree there's been discussion on what the top five should be. I think there's also some different criteria on what might narrow that down which is what I had – I've just seen this yesterday for the first time so I said, well, what about some of these other criteria to help you narrow it down? What would be some priorities and some realistic way to potentially get some funding. I agree with Commissioner Vigil; there's no general fund from the state and probably very limited other funds. But there are certain pots of money that might also be available through not just straight legislative appropriation.

COMMISSIONER VIGIL: With that, Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I would be willing to give staff direction to meet with the County Manager to identify from these top five, allow for any of the Commissioners to bring in any additional projects that they think is important and look at these from the perspective of where we can get the complete funding from and perhaps once we know that we can prioritize in that manner.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I would add to that to identify which of these priorities from last year are no longer hot topics and how we could utilize some of our citizens' comments in relation to the recommendations. I understand that there were hearings in every district, but I attended about three of them and there were like three or four people attending in those districts. And so I want to make sure that we're really getting to what people have been expressing. And perhaps it is some of our all-county things on the last two pages.

So Commissioner Vigil, you're asking for that to come back at our next meeting so that we'll meet the deadline?

COMMISSIONER VIGIL: I think it can come back before the 30<sup>th</sup> I think. We've taken action on the district but I think there probably does need to be more work done on the priorities. Again, not that there's going to be any money for, but perhaps it will help us gain a better sense of focus for priorities and I like the idea of knowing where other funding might be.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. And again I'll stress road equipment, our seniors, and our youth. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. And then I'll just add again that I think it's important that we look at - if we're going to look at these countywide I would agree with Commissioner Anaya that the media district and river trail to me wouldn't be in my top five priorities. I would like it if at all possible if we could come with one from each district as Commissioner Stefanics had mentioned earlier. And the criteria that I would add to that is that we would look at any of these projects that already have existing funds that could be potentially completed with any type of funding, as our County Manager mentioned, whether it be through the legislature or through other sources that we can get potential funding to complete the projects and see which ones in each district are really feasible as opposed to some of the projects that may be desired but not realistic. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. I appreciate the opportunity of knowing we don't have to get this done as quickly as I thought because as I look at the Santa Fe County Media District I think further discussions need to be had about that. For example, one of the projects that needs to happen that is countywide is broadband. Is that part of what is being considered when we identify the Santa Fe Media District, and I think it is, because that broadband is necessary for that, but it's also necessary countywide. It is definitely a project that would benefit the county. The Santa Fe River Trail I do believe is a countywide project. I'm really regretful that we didn't take a strong initiative to get a GO bond or something funded for that river trail, because now we're just

piecemealing it, and it's such a wonderful project. It would have been nice to get it all done at once. So all county residents benefit from a river trail. Youth, seniors, everyone does. So I want us to have real, in-depth discussions on this on this with regard to the specificity of the project and where we might be able to get the most dollars. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Is that clear as mud, Paul?

MR. OLAFSON: Oh, yes. What I'm hearing is – and we asked to have this big list adopted today because we have to manually enter it into a database and it's very time consuming. The next BCC meeting will be the 28<sup>th</sup>. This is due on the 30<sup>th</sup>, so what I will bring back on the 28<sup>th</sup> is a refined list, working with the Manager and communicating with the Commissioners as needed to refine that list. We will also then bring back the resolution that will identify the list adopted today as well as the top five priorities.

COMMISSIONER VIGIL: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Paul, so you can enter the district ones, and that probably will be the most work-intensive, so the only work you'll have after the meeting on the 28<sup>th</sup> are the top priorities, right?

MR. OLAFSON: Just listing them one, two, three, four, five.

MS. MILLER: Mr. Chair, can I just make a little clarification?

CHAIRMAN MONTOYA: Sure.

MS. MILLER: I think that you've adopted that list and we only need to bring back the top five. And we'll bring back a list of recommendations with some additional information. We'll talk about all additional funding sources, whether they were district priorities and whether they were community priorities and things like that so that you'll have some information to base your selection of the top five.

CHAIRMAN MONTOYA: Okay. Excellent. Thank you.

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

MS. MILLER: Mr. Chair, I think I had one thing, other than what I mentioned earlier about what I've been up to since I've been here. I feel like it's 24-hour days that I'm actually up and working with 15 seconds of sleep. The one issue that I just want to bring to the attention of the Commission and that's our tax rates. There's been some discussion of whether that should have been on the agenda. DFA sends out the tax rates to counties by September 1<sup>st</sup> and then by statute they should be adopted within five days, but we had the holidays in there as well as some discussion between the Assessor's Office and Finance Department as to whether all of those rates were correct, and between DFA. I believe that they have gone back and forth with the Local Government Division in adjusting one or two of those rates so they were not ready for approval today. I did contact DFA and said, look, if we send you – we need them to actually resend a letter to us restating the new rates as they've been discussed, then we can send back a letter to them stating that we concur with those contingent upon Commission approval. I think that they will give us till the 28<sup>th</sup>, our next meeting, so we don't have to have a special

meeting to do it, as long as we can verify that we do believe those rates are correct and that action would be more ministerial on the 28<sup>th</sup>. So I'm working with them, but it wasn't noticed and it wasn't ready for today. So those are the issues with that. But I just wanted to make you aware of it because I think there is some concern with the Assessor and probably the Treasurer about whether we're within the statute but we are working with DFA to make sure that we do it correctly and that we certify them at the correct rate rather than having to come back and redo them.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: On this point, when you bring that tax rate forward, if it's different than the current one I think we need to have an explanation of how that's going to affect the taxpayers so that there is a clear understanding that, number one, it's not a tax rate we set, and if it's lower everyone will be thrilled but it won't be, probably, and that we can explain wholeheartedly. Now, did you have other items before I go into another question for you?

MS. MILLER: Mr. Chair, Commissioner Stefanics, no, that was it.

COMMISSIONER STEFANICS: Okay. The second item I have for the County Manager is although I was away I've been scanning newspapers frantically since I got back and one of the items I noticed was that Lovelace had stopped payment at our hospital. And I'm wondering how many County employees are utilizing Lovelace services and are impacted by this problem. Individuals in the public are certainly concerned about it and I'm assuming – I know that's one of the choices that our County employees have. And I'm wondering how we can deal with that.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thanks. Commissioner Stefanics, let me follow up with that. We did have a meeting; Alex Valdez was here. Commissioner Anaya asked him to be present based on that particular issue. Alex did explain the procedure they're going through to try to negotiate Lovelace and last I heard, based on that particular hearing was that they were going to continue those. So I think it's really the hospital that needs to give us an update. As you're negotiating with the hospital on sole community provider we might be able to get that. But the issue did come to the Board of County Commission. I think it was – Commissioner Anaya, was that the last Commission meeting that it was brought forth?

COMMISSIONER STEFANICS: I'm sorry I missed that discussion but I have gotten an email just last week from a County employee who's been charged the full price of an MRI at the hospital and Lovelace insurance is not being accepted so that they're being held accountable. If 25 percent or less of our employees are under Lovelace there's a financial impact so I think we need to look at our own family here and see how that's being impacted.

COMMISSIONER VIGIL: I also know that I think County employees have received a letter about this, those who are under the Lovelace plan. I'll defer it to HR, anyone who might be involved in that. I think I know that because somebody in the County actually told me. Is that correct, Teresa? County employees have been informed about this so they've actually been given the option to look at other providers, at least at this point in time until negotiations occur? Is that correct? Okay.



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

**1. Executive Session**

- a. Discussion of Pending of 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.

CHAIRMAN MONTOYA: Okay. Are there any other issues?

COMMISSIONER VIGIL: Mr. Chair, I would like to include limited personnel issues and acquisition or disposal of water rights.

COMMISSIONER STEFANICS: Mr. Chair, I'd include in there real property as well.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER STEFANICS: I'll make the motion that we move into executive session for the discussion of pending or threatened litigation, limited personnel issues and discussion of the purchase, acquisition or disposal of real property or water rights.

CHAIRMAN MONTOYA: Okay. We have a motion by Commissioner Stefanics.

COMMISSIONER VIGIL: Second.

**Pursuant to NMSA Section 10-15-1-H (7, 2 and 8) The motion passed by unanimous [4-0] roll call vote, with Commissioners Anaya, Stefanics, Vigil and Montoya all voting in the affirmative.**

[The Commission met in closed session from 4:35 to 5:50.]

COMMISSIONER VIGIL: I'm going to call this meeting back to order from coming out of executive session. I need a motion.

CHAIRMAN MONTOYA: So moved.

COMMISSIONER VIGIL: I have a motion. Is there a second?

COMMISSIONER STEFANICS: Second.

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

COMMISSIONER VIGIL: Mr. Chair, I'll just refer our executive session items to Mr. Ross so he can summarize for us.

MR. ROSS: Mr. Chair, in executive session we talked about filing a complaint for declaratory judgment and permanent injunction against David Montoya,

Armenio Montoya and Tom R. Benavides. This arises out of a dispute over title to land that comprises the Cerrillos Hills Park.

COMMISSIONER VIGIL: I move that we give staff direction to move forward to take action on that on behalf of the County.

COMMISSIONER STEFANICS: I second.

CHAIRMAN MONTOYA: We have a motion by Commissioner Vigil, second by Commissioner Stefanics. Any discussion?

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

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

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

##### **1. Ordinance No. 2010 - \_\_\_\_, An Ordinance Amending Article III, Section 7, Community Service Facilities of the Santa Fe County Land Development Code, Ordinance 1996-10 for the Purpose of Clarifying Standards and Submittal Requirements**

SHELLEY COBAU (Building and Development Services Manager): Thank you, Mr. Chair, members of the Commission. On August 10, 2010, the Building and Development Services Division of the Land Use Department requested permission to publish title and general summary of an ordinance amending the Land Development Code. The Commission authorized this action in their regular meeting of August 10, 2010 and I've included the minutes from that meeting as Exhibit A in your packet.

Santa Fe County adopted the current Land Development Code in 1996. The Code specifies the process for development of community service facilities and erroneously references a non-existent code section specifying submission requirements. I've included the referenced code and the erroneous code in your packet as Exhibit B. The proposed ordinance amendment, which is Exhibit C, clarifies the intended and historically applied submittal requirements and review process for evaluating community service facilities. Applicants have historically been required to follow the submission process set forth in this ordinance amendment and therefore applications for development of community service facilities will not be subjected to a change in process as a result of the proposed clarification of the Land Development Code.

Thank you, Mr. Chair. I'll stand for questions.

CHAIRMAN MONTOYA: Okay. Questions for staff? Okay, this is a public hearing. Thank you, Shelley. If there's anyone who would like to speak on this particular subject please identify yourself.

[Duly sworn, Jeffrey Bronfman testified as follows:]

JEFFREY BRONFMAN: Mr. Chair and respected Commissioners, my name is Jeffrey Bronfman and I'm a Santa Fe County resident where I have owned property, paid taxes and made my home for more than 20 years. I'm also the owner of a 2.5-acre parcel of land that I've wanted to donate for the construction of a temple for the religion that I follow. My ability to donate this land for the construction of the church that

I wish to see built is directly affected by the ordinance proposed by the County Attorney and Land Use staff.

For more than 25 years I've also been a student of the law as it relates to civil liberties, particularly in the area of religious free exercise as guaranteed by the constitution of the United States. It is from my study that I present to you my concern about this ordinance and the way that it's currently been written. While this proposed ordinance lumps together churches with other community service facility, federal law treats them very differently. This is because of constitutional provisions specifically guaranteeing freedom of assembly as well as the free exercise of religion.

Congress has recently found a necessity to pass federal laws to preserve and guarantee this most basic civil right precisely because of actions being taken on the local and neighborhood level all over the country attempting to restrict it. Towards this end, ten years ago Congress passed a law called the Religious Land Use and Institutionalized Persons Act, known as RLUIPA, which severely limits the authority of any local, county or city government within the United States to burden or attempt to constrain the fundamental principle of the freedom of assembly and free exercise of religion.

In passing this legislation Congress considered weeks of testimony documenting the national need for protective legislation. Quoting from the Congressional Record at the time of the passage of this law, "The right to assemble for worship is at the very core of the free exercise of religion. Churches and synagogues cannot function without a physical space adequate to their needs as consistent with their fundamental theological requirements. The right to build, buy, or rent such a space is an indispensable adjunct of the core First Amendment right to assemble for religious purposes."

The law that I'm referring to has been affirmed as constitutional in every instance where it's been tested in the federal judiciary. Significantly, a recent case originating in Boulder County was ruled on by the 10<sup>th</sup> Circuit Court of Appeals earlier this year. The judgment and interpretation of the law by this court is controlling for the State of New Mexico. In their judgments the appeals court upheld the lower court decision finding that Boulder County had improperly used its land use code to discriminate against a church in its jurisdiction. The improper action in the end cost Boulder County over \$3 million. This issue of religious discrimination is a very serious issue that I and the members of our church are very sensitive to, having struggled for our civil rights in the courts for more than a decade already, achieving what has been described as a landmark victory in the area of religious liberty before a unanimous Supreme Court of the United States.

It's very much troubled the leadership and members of our church that having struggled for years for the legal right to practice our religion in the United States that we are now being told that in order to build a temple essential to the practice of our faith in Santa Fe County that the license to do so could be conditional upon whether it was judged to be necessary or compatible with existing development.

As you will see when the proposal that we first submitted more than a year ago was finally brought in front of this Commission our small church has already encountered unquestionable discriminatory treatment in this regard. The State of New Mexico and the greater Santa Fe community on the other hand has a long history of religious accommodation and tolerance that defines the local culture, named and founded upon the principle of Santa Fe, holy faith. It has been documented that the San Miguel Mission,

built here in Santa Fe in 1605 is the oldest place of religious worship still in use in North America, and maybe the first public building constructed in the entire United States.

I want this Commission to be aware that what is being proposed through this ordinance on its face violates federal law. It also goes against decades of prior practice where churches in Santa Fe could be built anywhere. This proposed ordinance, in the manner proposed by your staff should be rejected by the Board. It is clearly incongruent with the higher controlling federal law. If the Board sees a necessity to clarify the submission requirements and review process that would apply to religious groups, one to build churches in Santa Fe County it should take the opportunity to do so in a manner that is consistent with RLUIPA, the federal law. I thank you for your consideration and this opportunity that has been granted for me to speak.

This proposed ordinance change is much more serious than it superficially appears to be. I urge the Board to do the right thing and not accept it as it's written. Thank you.

CHAIRMAN MONTOYA: Thank you, Mr. Bronfman. Anyone else, please come forward.

[Duly sworn, Ty Bixbee testified as follows:]

TY BIXBEE: My name is Ty Bixbee, Mr. Chair and members of the Commission. I'm the president of the local chapter of the UDV, which has a pending application and I just had a couple of comments about the proposed ordinance, one of which is that right now, the way that the law is written and my understanding of it as I've been advised by our professional advisors is the County still has the opportunity to approve community services administratively, and I think that there are some circumstances in which it's appropriate for the Commission to approve particularly churches administratively so that religious practices aren't subject to being politicized. Because even if it's happening in a public hearing when there's been full neighborhood notice I don't think the question of whether or not people have the freedom to practice their religion is something that should be vote on in a public hearing, even if it's happening publicly and it's happening behind closed doors, it just doesn't seem like it should be politicized. And the feeling that a Board of elected officials would have the authority that you're being asked to grant it to yourselves to decide whether or not a religion is necessary or compatible with the neighborhood just doesn't seem appropriate to me. So I would urge you also to consider the possibility of separating churches, fire stations, police departments from religious land use because they really are two distinct types of land use and as I understand it the law governing them is quite different. Thank you for the opportunity to speak to you.

CHAIRMAN MONTOYA: Okay. Thank you, Mr. Bixbee. Next please.

CHRISTOPHER GRAESER: Christopher Graeser, 3600 Cerrillos. I'm an attorney under oath. Thank you, Mr. Chair. After the August 10<sup>th</sup> hearing I made a proposal to Mr. Ross which is that my client, UDV, has some of the best religious liberties attorneys in the country available to it and that we would make that resource available to the County to help craft an ordinance that complies with federal law. Mr. Ross called me back yesterday very graciously and accepted that offer and we look forward to work on that. That said, I would strenuously urge the Commission not to adopt this amendment today, or if it does to do what Mr. Bixbee said and exempt churches. The

issue is the language in the code that's currently there dates at least to 1991 and I think probably before, long before RLUIPA was passed, and I don't think anyone or any judge would expect the County to immediately change its ordinances to comply. However, once we take the step of revising the code and amending that language I think it's really incumbent on the County to revise it in a manner that does comply with federal law, and since there's not a rush of community service facilities applying and we're told we would just have to follow the same rules we have been anyway I don't see any urgency. I would urge the Commission to table this until we can in fact revise the language to be consistent with federal law and I think those revisions probably carry forward to the new ordinance. Thank you.

CHAIRMAN MONTOYA: Okay. Thank you, Mr. Graeser. Anyone else? Okay, this public hearing is closed. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. Steve, I'm going to defer to you for any response to the public comments that you've heard and perhaps even for guidance in terms of direction.

MR. ROSS: Mr. Chair, Commissioner Vigil, I did talk to Mr. Graeser yesterday. It's important for you all to understand that 7.11 and 7.12, where the two findings that are necessary to have a community facility approved in the county, is one they be necessary and two, they be compatible, those are in our existing ordinance. What's proposed is to add a 7.13 and 7.2, which is submittal requirements that were lost in an earlier recodification of the Land Development Code and they're not an issue with the UDV folks because they are doing this. That it is a hole that Mr. Graeser pointed out to us early on that we thought needed to be fixed and fixed before the new code comes on line.

Now, Mr. Graeser is correct. Yesterday he and I spoke and we do recognize the need to look at RLUIPA and look closely at 7.11 and 7.12, and determine whether those standards, the necessary standard and the compatibility standard are consistent with RLUIPA, and Mr. Bronfman makes some good points and we're going to look at them. We had intended to do this in connection with the code rewrite but because their application is pending we think they deserve to have their application judged by standards that are constitutionally appropriate, so we want to sit down with them and look at that and make the appropriate recommendations.

What is before you right now is a technical amendment to deal with a procedural defect that was created a number of years ago when we lost that reference. When I talked with Mr. Graeser yesterday I told him I thought we should make some progress here and try and get this technical amendment taken care of with the agreement that we will sit down and work on the more important and larger issue which is how do you deal with RLUIPA in this context with respect to 7.11 and 7.12 and the other attributes of the code that apply to the application. And we're happy to do that; we want to do that, and this is as good a time as any to do it, so we'll do that. Did that help?

[Commissioner Holian rejoined the meeting.]

COMMISSIONER VIGIL: It does. It sounds like we're working cooperatively towards a common end that balances the federal and local law. My specific question is if we take action on this are we prejudicing anyone at this point in time? Would it be more appropriate to table?

MR. ROSS: I think that's up to you. We're adding a procedural requirement so I don't agree with Mr. Graeser that we have an obligation to look at these substantive requirements at the same time. That being said if you think it makes more sense for us to sit down and bring a more comprehensive work we can do that.

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

CHAIRMAN MONTOYA: Other questions?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya for approval. I'll second for discussion.

COMMISSIONER STEFANICS: I have a substitute motion to table.

CHAIRMAN MONTOYA: We have a motion by Commissioner Stefanics to table.

COMMISSIONER VIGIL: I'll second that.

CHAIRMAN MONTOYA: Second by Commissioner Vigil. Mr. Chair, before we do, do we need to table to a specific time?

CHAIRMAN MONTOYA: It's just until the next public hearing.

COMMISSIONER STEFANICS: My motion for tabling is only to roll it over to the very next land use meeting.

COMMISSIONER VIGIL: I'll second that.

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

CHAIRMAN MONTOYA: So it's tabled till the next land use meeting.

- XIV. A. 2. **BCC Case # MIS 10-5420 La Plancha de Eldorado Restaurant License. Pieneda, LLC, Applicant, Requests Approval of a Restaurant Liquor License to Serve Beer and Wine with Meals. The Subject Property is Located at La Tienda at Eldorado 7 Caliente Road, within Section 16, Township 15 North, Range 10 East, (Commission District 5) Jose E. Larrañaga, Case Manager**

JOSE LARRAÑAGA (Building & Development Services): Thank you, Mr. Chair. Ordinance No. 2005-8 designates this site as a village mixed use which allows for beer and wine to be served in a restaurant as a permitted use. In master plan zoning for La Tienda at Eldorado to serve beer and wine with meals. The applicant is requesting approval of a restaurant liquor license. La Plancha de Eldorado will not have a bar but will serve beer and wine with meals. The issuance of a restaurant liquor license will not increase the intensity of the restaurant, as there is not any proposed expansion of the existing site.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-60-4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County

Commissioners are required to hold a public hearing on the request to grant a restaurant liquor license at this location.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: The US 285 South Highway Corridor Zoning District designates this site as a village mixed use which allows for beer and wine to be used in a restaurant as a permitted use; the applicants' request complies with Ordinance No. 2005-08 and the Santa Fe County Land Development Code; master plan zoning on this site allows for a restaurant to serve beer and wine with meals; the applicant has met the State of New Mexico requirements for noticing, distance from schools and churches. Staff recommends approval of the applicants' request for a liquor license to serve beer and wine at La Plancha de Eldorado Restaurant. I stand for any questions, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Questions for Jose? Jose, this is an existing restaurant?

MR. LARRAÑAGA: Mr. Chair, that is correct. Beer and wine does not transfer. There have been several restaurants at this location. Beer and wine doesn't transfer with ownership so it has to come up – you have to apply for a new beer and wine license every time.

CHAIRMAN MONTOYA: Okay. If there are no questions, this is a public hearing. If anyone would like to speak on this case please come forward. Okay, seeing none this public hearing is closed.

COMMISSIONER HOLIAN: Move for approval

CHAIRMAN MONTOYA: We have a motion by Commissioner Holian for approval.

COMMISSIONER STEFANICS: Second.

CHAIRMAN MONTOYA: Second by Commissioner Stefanics.  
Discussion?

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

- XIV. A. 3. CDRC Case # VAR 10-5160 Larry Martinez Variance.  
Larry Martinez, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Second Dwelling Unit on 1.25 Acres. The Property is Located at 20 Camino Vista Grande, within Section 25, Township 16 North, Range 8 East, (Commission District 5). Jose E. Larrañaga, Case Manager**

MR. LARRAÑAGA: Thank you, Mr. Chair. On July 15, 2010 the County Development Review Committee met and acted on this case. The decision of the CDRC was to support staff's recommendation and deny the applicant's request. The applicant requests a variance of Article III, Section 10 of the Land Development Code to allow a second dwelling on 1.25 acres. The property is near the intersection of NMSR 14 and Camino Vista Grande, south of Interstate 25 in the existing Valle Lindo Subdivision. The applicant is requesting a variance in order to move his son and his son's family onto the

subject property. The applicant states that his daughter-in-law suffers from multiple sclerosis and due to her illness the family has become a single-income family resulting in the foreclosure of their home and the inability to pay rent on a mobile home space. The applicant would like to help his son's family by caring for his three grandchildren and providing a place for them to live.

The applicant currently has one home on the property served by a single shared conventional septic system and a shared well. The applicant is proposing that the new residence will have its own septic system and will connect to the shared well. The minimum lot size required for a conventional septic system is 0.75 acres for a three-bedroom home, the lot size minimum increases with each additional bedroom. The state Environment Department has specific regulations regarding maximum design flow based on the parcel size. NMED staff has indicated that the maximum number of bedrooms that could be allowed on a 1.5-acre parcel is six. More than six bedrooms might not be permitted by the NMED, and the applicant is herein advised that an advanced liquid waste treatment system might be required, depending on the current number of bedrooms. Additionally, it is unclear how two residences meet the maximum 0.25 acre-foot per-year water restriction, which is considered the minimum needed for a family of four unless significant conservation measures are undertaken. Code dictates separation of 100 feet between liquid waste and potable water systems.

Article III, Section 10 states the maximum allowable lot size within the Basin Hydrologic Zone is 2.5 acres per dwelling unit with water restrictions. The 1.25-acre lot was created via the small lot family transfer process and is restricted to .25 acre-feet of water use per year and water conservation measures. Article II, Section 4.3 allows for a small lot family transfer of half of the maximum allowable lot size which does not meet the density requirements of the code.

This came to the attention of staff when a neighbor complained about the junk vehicles, litter and an unpermitted mobile home on the property. The applicant was cited and subsequently submitted for this variance.

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

Recommendation: Staff has reviewed this application and has found the following facts not to support this application: staff's analysis of the applicant's interpretation of the variance criteria does not justify the approval of this application; the medical hardship described by the applicant is not the type of variance hardship contemplated by the code; the applicant has not justified a hardship which is justified by the code; the functionality of the existing shared well and liquid waste system does not support an increase in density; strict compliance with the requirements of the code would not result in extraordinary hardship to the applicant; to allow further reduction of the density requirements allowed by the code the purpose of the code would be nullified. The variance requested by the



applicant is not considered a minimal easing of the requirements of the code. Therefore staff recommends denial of the applicant's request.

Mr. Chair, I stand for any questions.

CHAIRMAN MONTOYA: Okay, questions for staff? Seeing none, this is a public hearing, if there's anyone who would like to speak on this case if you would please come forward.

[Duly sworn, Larry Martinez testified as follows:]

LARRY MARTINEZ: Mr. Chair, committee members, my name is Larry Martinez, my wife Teresa Martinez. We're the applicants on this variance and I just wanted to bring to your attention we have been in front of the CDRC which was already explained to you. I have provided some more exhibits for your consideration on this matter. [Exhibit 3] If you'll look at them you can tell right away – the County ordinance, I do strongly believe in and I will abide by it but if you look at a small amount of the exhibits I brought in today there is no way that the Valle Lindo Subdivision is going by these rules and regulations.

For example, on Exhibit 1-A is Mr. Eddy Rivera, he lives right across the street from me. I know his property is not subdivided. I know he has two residences. If you look at the photographs it looks more like a – what would you call it? You can clearly see the pictures there. I also took photographs from behind. You can tell that somebody is living in the rear residence. It is not storage. There is a garage there. Everybody has garages. And then on Exhibit 2, at the end of my street, which is Camino Vista Grande, Calle Corrido, you'll note there that Mr. Tony Sisneros has three residences and they even have County addresses, 09 Calle Corrido A, B, and C.

And then across the street is Rick Tapia showing four residences which are also addressed through the County. Both of these lots are 2.5 acres. Exhibit 3 shows Jack Garrett. He's down the street from me as well. He has two residences besides the junkyard he's got on there which is a health hazard. He's got the two residences which are not connected and they are merely feet apart. Talking about a fire hazard and a health hazard, that's pretty bad there.

Exhibit 4 shows Rose Sena. She does have a subdivide but she has three houses. The first one is a mobile home, the second one is a mobile home and in between them is a fifth wheel trailer that somebody is living in and I have photographs on that one also. And this is just a small amount of what's going on over there. And all I'm trying to do is just help out one of my children. I have three children. I'm just trying to help one out that has problems. The other ones are doing fine. I have no problems with my other kids. This one I'm trying to help out as much as I possibly can.

Like everyone else I pay taxes on my property. I do everything that I possibly can to abide by all the rules and regulations. When I did move the mobile home onto the property I was aware that I needed permits, but I was not aware that I needed a permit to move the house there. You can check with Land Use. They went and checked because I moved the mobile home there on a Thursday. Monday morning I was here getting permits and the County was at my house citing me on it, like that. I thought that was kind of funny.

But if there's any problems with the mobile home I'm trying to put on there that's fine. I can surely look into buying a newer one. I can see that part. What I was trying to

do was like my sister did. She's got a mobile home about the same year and all she did was fix it up, stucco it, and everything. It looks real nice. The neighbors did complain about trash in my yard. It was not trash. I used to have a wireless internet company and I had a bunch of antennas in the front yard. I did get rid of them to comply with the rules and regulations. They said I had junk cars on there. I have two jeeps that I was building for my son and I got rid of them. That's going with the rules and regulations of what the County wanted me to do and my neighbors wanted me to do. And if there's anything else I could answer I'd be very happy to.

CHAIRMAN MONTOYA: Okay. Commissioner Stefanics.

COMMISSIONER STEFANICS: Mr. Chair, I have a couple questions about the water and the wastewater. Are you currently on a septic system?

MR. MARTINEZ: Yes, I am.

COMMISSIONER STEFANICS: So if you had a mobile home you would plumb it into the existing septic?

MR. MARTINEZ: No, no. We had already checked with the state and we have enough land to install a new septic tank for that.

COMMISSIONER STEFANICS: Okay. Second question, Mr. Chair, is that you have a quarter acre-foot water restriction?

MR. MARTINEZ: Yes.

COMMISSIONER STEFANICS: And both houses could live with that quarter acre restriction?

MR. MARTINEZ: Yes. Since the last meeting I went as far as getting one-gallon containers and I monitored how long I took a shower, how long my wife took a shower, how much water it took to wash dishes, etc., etc. And we're using approximately 45 gallons a day. And if you add it up, that comes out to about 42,000 gallons a year. According to the state and the County we're allowed up to just over 81,000 gallons per year.

COMMISSIONER STEFANICS: That's all for right now. Thank you.

CHAIRMAN MONTOYA: Okay. Any questions for the applicants. Thank you. Ms. Martinez.

[Previously sworn, Theresa Martinez testified as follows:]

THERESA MARTINEZ: Yes, I'd like to say for those of you who aren't too familiar with multiple sclerosis that my daughter-in-law has, multiple sclerosis is an auto-immune disease that affects the brain and spinal cord and optic nerves. It is a disease in which the nerves of the central nervous system degenerate. The nerves are damaged. As more and more nerves are affected the person experiences a progressive interference with functions that are controlled by the nervous system, and because nerves in any part of the brain or spinal cord may be damaged patients with multiple sclerosis can have symptoms in many parts of the body, so she's very, very handicapped.

She's in a wheelchair and she loses her balance and she has muscle spasms. She had a multiple sclerosis relapse that resulted in a stroke. So she's having a difficult time, otherwise we wouldn't have to have them. So we're just asking for your help in this matter because it's been a real hardship on my son because he has really bad high blood pressure. The other day when we left the meeting at the CDRC, about five days later my son was in a very bad accident working on I-40. He was hit. Him and several other cars

were hit on I-40 and now he's suffering from – he has some cyst in his brain. They took a CT scan and now he has headaches all the time in his right side. He's having problems with his right side.

We were also in an accident when we left here that night at the railroad tracks. We were hit from behind because it was raining really, really hard. But we didn't get hurt. So we're just here today to please – we're just asking that you please help us with our family. Thank you.

CHAIRMAN MONTOYA: Okay. Thank you. Is there anyone else who would like to speak on this case? Would you please come forward?

[Duly sworn, Gabriel Leyba testified as follows:]

GABRIEL LEYBA: My name is Gabriel Leyba and we're at 6-B Camino Vista Grande. Mr. Chair, Commissioners, I'll be brief. Thank you for allowing us to speak tonight. I do live in the neighborhood and at first I was kind of – I know the code and our family's done a family transfer so I know the difficulties in getting things to code and making sure that everything's abided by. So Larry, when he started talking about it I was under the impression that it couldn't be done in the neighborhood. Everyone's doing things by the book. And when he started showing us these exhibits I realized that either variances have been granted to several landowners in the neighborhood. If that's the case then I think there's a precedent that's been set.

Now, if the people that have these units do not have a variance and have not subdivided and are doing things illegally then I think then it's not a fair playing field. So when you're considering what Mr. Martinez is trying to accomplish I think there needs to be some investigation as far as the Valle Lindo Subdivision because I think there's more units that he hasn't even seen that are out there. There's two or three units that may be in non-compliance. And that's what I have to say.

CHAIRMAN MONTOYA: Okay. Thank you, Gabriel. Commissioner Vigil.

COMMISSIONER VIGIL: With regard to Mr. Leyba's testimony, has staff investigated whether or not variances have been provided to the surrounding property owners or whether or not there are code violations?

MR. LARRAÑAGA: Mr. Chair, Commissioner Vigil, no, staff has not researched variances. This was the first time we've seen this information also. Code violations we have to look into.

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

CHAIRMAN MONTOYA: Okay. Next, please.

MS. COBAU: Mr. Chair, Commissioner Vigil, if I could. I went out to this site myself when this first came to my attention. I did drive the neighborhood and I saw the residence that's shown on this Exhibit 3, on Calle Hermosa that has the large amount of junk vehicles, in fact it's a junkyard. And I asked about it and that junkyard has in fact been in place since before our code and is considered a legal non-conforming use. So a lot of what's happened out here has transpired prior to the adoption of the code.

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

[Duly sworn, Vince Herrera testified as follows:]

VINCE HERRERA: Vince Herrera. I'm a resident of Santa Fe County, right here on Alto Street. Yes, I'm here on behalf of Larry and Theresa Martinez. They

are close friends of ours and we've known, we and our family have known them for over 20 years and their family is in difficult hardship times with their daughter-in-law having multiple sclerosis. There's been numerous times when they've transported the daughter to the hospital by ambulance where the son has had to sit and wait for Theresa or Larry to get down from Santa Fe all the way to Albuquerque to try to take care of the children so he can go be with his wife. And people who've ever had a sick loved one, be it your parent or your spouse or something you want to be there for them and it's hard if your babysitter is an hour and a half away, taking the time to get to you so that way you can go and be with them. A lot can happen in an hour and a half.

And as for the variances, I believe that I know his property well and feel that wholeheartedly that it would support a second unit and a variance should be granted to them because for one, the medical hardship, I don't see where that would not come into play for a variance where people were able to have a code variance. There is such things throughout the state so I wouldn't see why Santa Fe County wouldn't have that type of variance allowable for them to use also.

CHAIRMAN MONTROYA: Thank you, Vince. Appreciate it. Next, please.

[Duly sworn, Gilbert Suazo testified as follows:]

GILBERT SUAZO: My name's Gilbert Suazo and I'm a resident for 38 years at the Valle Lindo Subdivision. I'm here on behalf of Larry and Theresa to see about if there's any way you guys can help them to put the second home that they need very badly. I have two residences there. I don't see nothing about with them having the extra one for their child. Thank you.

CHAIRMAN MONTROYA: Thank you, Gilbert. Okay, anyone else?

[Duly sworn, Christina Vigil testified as follows:]

CHRISTINA VIGIL: I'm Christina Vigil and I'm here to speak on behalf of Larry and Theresa Martinez. They're my aunt and uncle and I live in the same neighborhood. I'm the mother of a disabled child so I can't work and I clearly know what it's like. My grandparents let me live in a trailer in that same neighborhood for way less than what it's worth rent a month and it would be nice to see them help their family like my grandparents help me.

CHAIRMAN MONTROYA: Okay. Thank you, Cristina. Anyone else like to speak on this case? Okay.

[Duly sworn, Monica Ewing testified as follows:]

MONICA EWING: My comments are in opposition to the request for a variance. My name's Monica Ewing. I'm here on behalf of Mark and Martha Ewing who are next door neighbors to Mr. and Ms. Martinez. I'm here to express opposition on their behalf to the application for a variance to place this third residence on the 2.5-acre parcel of land which has been split. As we've heard already today the requirements in Article III are based at least in part on water availability. Section 10 describes how and why minimum lot sizes are set and those limitations are based on water availability and density restrictions which dictate the number of dwellings permitted in an area.

There are currently already two residences on Mr. Martinez' 2.5-acre lot, which has been split as we heard. He is now asking the Commission to approve placement of a mobile home on a 1.25-acre portion of that lot. The mobile home would be placed on a portion of land already supporting his residence, which as far as I understand includes

two residences, so they're asking to add at least another five persons to that parcel of land and for the resources which support that household to support an additional five persons.

Article II, Section 3 of the Land Code allows for variances to be considered when strict compliance of the code would result in extraordinary hardship. I think no one would argue that there are obviously hardships visiting this family right now and unfortunately I believe and I believe the code doesn't provide for variances under these circumstances, however. The code states that in no event shall a variance, modification or waiver be recommended if by doing so the purpose of the code would be nullified, and I think to allow the code in this instance to be disregarded would contravene the intentions of the code. I understand that he's brought forth instances of other perhaps violations of the code. I think that's not strong support for a further instance of violation of the code and perhaps as you all mentioned they should be investigated. But I don't think that justifies a grant of a variance in this case.

So I think for these reasons I would request on behalf of Mark and Martha Ewing that you deny his request for a variance.

CHAIRMAN MONTOYA: Okay. Thank you, Monica. Anyone else would like to testify?

[Duly sworn, Richard M. Rivera testified as follows:]

RICHARD M. RIVERA: My name is Richard M. Rivera. My address is 19 Camino Vista Grande, which is almost opposite of where Larry lives. As a matter of fact the front part of my house I can see Larry's front house too. Okay. Back when we started, our subdivision was only supposed to have one house of 200 feet per 2.5 acres. Larry's dad brought in two modular homes. And I went and confronted him, says you can only have one because our ordinance says only one house per 2.5 acres. And he says, well, I'm going to put these two houses together and then I'm going to build a porch across them and that will make it one residence. And he says if you don't like it you can take me to court.

So there I was, so they kept the two modular homes. They never built a thing to connect them both and there I was. Now, we're only allowed, according to our ordinance one house per 2.5 acres, but then the County allowed a sub between a father and a son or a daughter to subdivide that 2.5 acres and make it two lots. And now Larry split the lots and they have two homes on that same lot and now he wants to put a third one there. So our original lot of 100 lots to one house was 100 homes. When they split the lots it became 200 homes for the same amount of property. Now if we let Larry put another home there we'll have 400 homes that will qualify under this variance for a division that was only allowed one house for 2.5 acres.

I just can't imagine that many houses on that property – water, sewer, electricity everywhere. We tried to get along with Larry but he always does everything behind. Only when he gets caught then he gets out the proper things. He works for the Sheriff's Department and he says he knows every law about it. That law about bringing in a mobile home. The city would not allow that mobile home to be transferred to any other mobile home area because it's too old and that's the mobile home that Larry brought in and that's the one that we were protesting.

Now, I live west of the property where Larry moved his mobile home that's not there and I have to get up every day and look at that dilapidated mobile home. I wonder if

you could ask him to move that mobile home somewhere else because it's just parked there on an empty lot, an empty lot that belongs to one of his brothers or sisters. So it just makes it hard for us. He doesn't qualify on any of the things. There's not enough water; there's not enough sewerage. Just turn our place that we built to trash – 400 units in that area, I can't even imagine it. So please consider what I'm asking. Protect my property value of my home, since I only have one home per 2.5 acres. And this would destroy everything that I have built for the last 30 years. Thank you for paying attention to me.

CHAIRMAN MONTOYA: Thank you. Anyone else like to testify? Please come forward. Is there anyone else that is going to testify in this case? Okay, if you'd please come forward. If there's no one else you'll be the last one. Go ahead, sir.

[Duly sworn, Eddie Rivera testified as follows:]

EDDIE RIVERA: I live right across from Larry Martinez. We oppose his request for an additional unit to his lot. Although the property request is to subdivide an already divided lot clearly has the potential to violate such rules which are currently existent in the Land Development Code. As a result, should property owners in the future decide to divide their lots and place additional dwelling units has Mr. Martinez has proposed to do that will deplete the already declining aquifer table that neighborhood residents depend on for their properties and for their water right. It is our hope that you will consider denying Mr. Martinez' request, and thank you for this consideration.

CHAIRMAN MONTOYA: Thank you, Eddie.

[Duly sworn, Maria Leyba testified as follows:]

MARIA LEYBA: Maria Leyba. I live in the subdivision and I know Larry and Theresa personally. All I wanted to point out is areas are changing surrounding Santa Fe. We have Longford homes right next to the subdivision. It appears to me the precedent has already been set with other property owners putting two, three, or actually three four and five units on 2.5 acres. Larry and Theresa have asked that you guys allow them to put this home on 1.25 acres. They're willing to stucco the property so that it looks very nice. They're willing to put an advanced treatment system. Those are expensive. They're, I want to say, anywhere from \$10,000 to \$15,000 for those systems and they're willing to do that in order to go through the process.

If you deny them I'm requesting that the County go to the subdivision, look at everybody that has more than two properties on there and make them put in the advanced treatment systems. Make them meter their wells. Make them do what they would like to do anyway. They're trying to do it properly. They're trying to get a permit and get it done right. If you deny it, please, just go to everybody that hasn't done it properly and at least make them abide by these rules. That's all I have. Thank you.

CHAIRMAN MONTOYA: Thank you, Maria. Appreciate it. Anyone else? Okay. This public hearing is closed.

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: I'd like to make a motion. Mr. and Mrs. Martinez, I sympathize with your situation. Hardship, however, when it's mentioned in the County code does not really refer to medical hardship, I'm afraid, and you have a lot that is a result of a lot split and there was a quarter acre-foot restriction put on that lot as far as the water usage. With the number of people that are expected to be on the lot, if

you were to put another home, I don't see how you could stay within that quarter acre-foot and it would be setting a very bad precedent I think for the County because we do this many times when we do lot splits. We put a quarter acre-foot restriction on it and we do that – we are making the requirement that people stay within that limit and I don't think that we should now open that up. If we granted this variance then suddenly everybody would be coming in and saying, well, you let them use more than a quarter acre-foot so why can't we. So therefore I am moving to deny CDRC Case #V 10-5160.

CHAIRMAN MONTOYA: Okay, we have a motion by Commissioner Holian to uphold the staff recommendation of denial.

COMMISSIONER VIGIL: I'd like to reserve making a second and let the motion stand and perhaps look at making a second. Whose district is in this in?

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER VIGIL: Are you familiar with this subdevelopment?

COMMISSIONER STEFANICS: Up and down Highway 14 we have several areas that reflect what's going on in this area.

COMMISSIONER VIGIL: So perhaps maybe, with regard to a sense of fairness in terms of development out there we should table this case and have staff go out there and investigate how many code violations there actually are. That's, I think, the inherent unfairness in making a decision. While Shelley, you testified to the fact there is on Exhibit 3 a pre-code junkyard, I don't know that the rest are pre-code or that they're in violation. I know that this came to our attention because it was in violation and I don't know the histories of the other. Do you have another sense of that?

MS. COBAU: Mr. Chair, Commissioner Vigil, we've done code sweeps, for example, of the Silverado Subdivision, and when we do a code sweep we send all three of our code enforcement officers out to an area and we cite every violation in the area, but it takes many months to resolve. And I would like to point out that we do have neighbors who have brought this to our attention. This was brought to us on a notice of violation. But if you want us to do a sweep of this subdivision we can certainly conduct one and we can certainly research any kind of density violations we have going out there before we bring this back. But we couldn't, for example, bring it back – we couldn't accomplish that in a month. We'd need several months to perform a code sweep and get letters to people explaining what's going on and let them know that we're coming because before we do a sweep we like to let the neighborhood know that we're going to be conducting a sweep.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Question for Jose. I'm looking at the site plan Exhibit C. I see a residence there with a number 20 on it, number 20. Whose is that?

MR. LARRAÑAGA: That's Larry Martinez.

COMMISSIONER ANAYA: That's his house?

MR. LARRAÑAGA: Yes.

COMMISSIONER ANAYA: And originally that was one lot, right?

MR. LARRAÑAGA: Correct.

COMMISSIONER ANAYA: And number 20 is Larry's. Who's 22?

MR. LARRAÑAGA: That is his step-brother's.

COMMISSIONER ANAYA: Is that the owner?

MR. LARRAÑAGA: Yes. It was originally 2.5 acres and it was split into halves, 1.25-acre parcels as a family transfer, so Larry stayed with one, Lot 20 and his brother has the other parcel.

COMMISSIONER ANAYA: So it was originally 2.5 and he split it into 1.25. So when did he do that?

MR. LARRAÑAGA: That was, Mr. Chair, Commissioner Anaya, that was split – there is a plat in here, Exhibit D. It was done quite a while ago but it was never recorded so when this violation came into us that's when we processed the family transfer which created two lots of an acre and a quarter, which is allowed in the Basin, you can go down to half the minimum lot size as a family transfer.

COMMISSIONER ANAYA: So that's allowed?

MR. LARRAÑAGA: Yes.

COMMISSIONER ANAYA: So I see Steve Leyba.

MR. LARRAÑAGA: Mr. Chair, Commissioner Anaya, he owns that now. As far as I know, I didn't research any title on it but yes.

COMMISSIONER ANAYA: Okay. And is there another house on there? On Steve Leyba's? Or is says shop. I'm sorry.

MR. LARRAÑAGA: On the aerial on Exhibit C you'll see it shows where it looks like a shop where the vehicles are out in front and the dwelling is further back.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I'm going to go ahead and second the motion for further discussion.

CHAIRMAN MONTOYA: Once we table there's no discussion.

COMMISSIONER VIGIL: Oh, was there a motion for tabling?

CHAIRMAN MONTOYA: Oh, to deny, actually.

COMMISSIONER HOLIAN: Do you want to change it? I can go along with tabling it for more investigation.

COMMISSIONER VIGIL: You know, Mr. Chair, I actually think that we could possibly table it. This Exhibit C sheds a lot more light on this. Larry, this is really hard for us because you are a Santa Fe County employee and of course we want to support our employees. When you look at this, yours, along with only one other plat has been subdivided. The others remain the same. So the proposals that you brought before us are either on the southern part or the northern part of these, correct?

MR. MARTINEZ: On both.

COMMISSIONER VIGIL: On both. Okay. Yes, I will motion to table for staff to do an investigation with regard to how many code violations actually exist. In my mind it would be unfair if there are other code violations there and we're just singling out this particular one. So I do move to table, Mr. Chair.

COMMISSIONER HOLIAN: I'll second that, but I guess I would like to define the area that we're talking about.

CHAIRMAN MONTOYA: The Valle Lindo Subdivision.

COMMISSIONER HOLIAN: So it's not too onerous.



COMMISSIONER VIGIL: My sense is that as I asked the applicant, he said that the proposals he's brought forth are to the north and the south of his subdivision so I think all you need to do is look at the circumference of the plats that are there. So if there are lots up here and lots down here it might – that's where they were, Larry, right? These lots – how far away are they from yours?

MR. MARTINEZ: Several blocks. One of them is right across the street. The others are within [inaudible] The whole subdivision is about a mile long.

COMMISSIONER VIGIL: How many lots are there on there? Does anybody know?

MR. MARTINEZ: About 120.

COMMISSIONER HOLIAN: I think that's a bit much.

MR. LARRAÑAGA: Mr. Chair, there is a plat of the Valle Lindo Subdivision as Exhibit H in your packet.

COMMISSIONER VIGIL: But that won't tell us which have code violations.

MR. LARRAÑAGA: Correct, but it will kind of give us an area where we would look at code violations in the near vicinity.

COMMISSIONER VIGIL: On that plat where is Mr. Martinez'?

MR. LARRAÑAGA: It's Lot 4 –

COMMISSIONER VIGIL: On the bottom row?

MR. LARRAÑAGA: Bottom row, yes.

CHAIRMAN MONTOYA: Tract E?

MS. COBAU: That's correct, Mr. Chair. Tract E.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I have a comment about the request for the staff to do this. I believe that this could become a very time consuming process in order to look at equity. And I think that we are faced with decisions all the time where we're split or it's hard or whatever, but I think there are many areas of the county, north, south, east, and west where this has happened. And I think what we suggested today might end up becoming what has to be suggested for other decisions and I think we should be careful. That's all.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. Well, again, I would like to reiterate that this is to me a really special case. This is quite different from other things I have seen when I was on the CDRC and so on. And the reason is is that this is because this involves a prior lot split and an actual quarter acre-foot restriction on the lot. And I just think it's a really dangerous precedent to set to then say – in essence the number of people that are going to be on this lot, I just don't see how they could stay within a quarter acre-foot of water. Then that's like saying that from now on when we do lot splits and we put a quarter acre-foot restriction on it we don't mean it. You could just always come in and get a variance. Anyway, this is what really bothers me about this case. Do you have anything to say, Shelley?

MS. COBAU: I would just like to point out that in the Extraterritorial Zoning Ordinance there is a ten-part variance criteria that in one of those variance

criteria, specifically stated, that an applicant couldn't utilize other violations in the area to add credence to their variance request, and certainly there's nothing in the Land Development Code that says that you can contemplate other code violations or other density violations in your area as a means of getting your variance granted. The code's really clear on granting of variances. They're supposed to be topographic and non-self-inflicted in nature, and I just think that that's important to get in the record. Thank you.

COMMISSIONER VIGIL: With that, Mr. Chair, I'll withdraw my motion to table.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER HOLIAN: So I will reiterate my motion then.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: I move to deny.

CHAIRMAN MONTOYA: Okay. Motion by Commissioner Holian.

COMMISSIONER VIGIL: I'll have to second that, Mr. Chair.

CHAIRMAN MONTOYA: Second by Commissioner Vigil. Discussion?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Every time we come up against decisions like this they're difficult. And I know Larry and I know his wife. And they came in to visit with me to sit down to see how they could get another home on the property and I directed them to staff. And I didn't know the details and at the time I told staff to help them out. And what I meant by helping them out was bringing them through the process so they can get to this point. And I want to help them out. But after seeing all I've seen and what I've heard it's difficult, because you have neighbors. And your neighbors see things going on and you're doing another lot split, another house and it's hard. And don't get me wrong. I'm glad that you want to help your daughter-in-law. We all would do that. But there comes a time when enough is enough. And Larry, I hope this doesn't cause any problems with us. I hope we can still be friends, but I do not see this at this time to vote in favor of what you are trying to do. Like I said, these are tough decisions but that's why we were elected to them. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Any other discussion?

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

- XIV. A. 5. CDRC Case # Z/DP 09-3132 PNM Caja del Rio Substation. Public Service Company of New Mexico "PNM" (Jeanette Yardman), Applicant, Requests Master Plan Zoning/ Preliminary and Final Development Plan Approval for the Construction of the Caja del Rio Substation on 2.4 Acres. The Substation is Needed to Serve the City of Santa Fe / Santa Fe County Buckman Direct Diversion Water Pumping and Treatment Facilities, and Future Growth in the Area. The Project Will Consist of the Substation, Installation of Two Tap Structures Approximately 70 Feet in Height and Two Termination Structures Approximately 45 Feet in Height, and an Interconnection with PNM's Existing 115kV Transmission Line. The Property is Located at 11 W. Caja del Oro Grant Road, within Section 22, Township 17 North, Range 8 East, (Commission District 2). Wayne Dalton, Case Manager [Exhibit 4: Letter from Diego Sisneros; Exhibit 5: Letter from Caroline Semon]**

WAYNE DALTON (Building and Development Services Supervisor):  
Thank you, Mr. Chair. On August 10, 2010 the BCC met and acted on this case. The decision was to table this case in order for the BCC to conduct a field visit at the proposed substation site.

Recommendation: Staff has reviewed this application and has found the following facts to support this submittal: uses permitted under Ordinance No. 1998-15 which amended Article III, Section 8.1, Other Development, specifies all uses otherwise not regulated by the Code are permitted to locate anywhere in the County provided a request for zoning approval is granted per Article III. Such uses specifically include, but are not limited to parking facilities and cemeteries provided the development standards, criteria and submittal requirements set forth in Subsection 4.4 and 4.5 are met. And a development permit is also required.

This application is in compliance with Article V, Section 5, Master Plan Procedures, Article III, Section 4.4, Development Plan Procedures, of the Land Development Code. Staff recommends master plan zoning and preliminary development plan approval with final development plan to be approved administratively for the Caja del Rio Substation on 2.4 acres subject to the following condition. Mr. Chair, that condition is:

1. An alternate method of fencing material to enclose the substation shall be considered by PNM. Staff recommends 8-foot wall with concrete pilasters to be located at 16-foot minimum intervals.

CHAIRMAN MONTROYA: Okay. Questions for staff? Okay. We did have a public hearing last time. Steve, do we need to have another one?

MR. ROSS: Mr. Chair, at your discretion.

CHAIRMAN MONTOYA: What are the wishes of the Board. Is there anything that you may have questions on? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I don't think I need another public hearing but I do have some questions of staff.

CHAIRMAN MONTOYA: Okay. Go ahead.

COMMISSIONER ANAYA: But whatever you all want.

CHAIRMAN MONTOYA: It's up to us whether we want to do it again. Commissioner Anaya, go ahead.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Wayne, I know we met earlier and I asked some questions on this issue. I was out there. I saw where the proposed substation is going to be – or did you want to have PNM talk first?

CHAIRMAN MONTOYA: No, we can ask questions of staff, then questions of PNM.

COMMISSIONER ANAYA: Okay. Thank you, Mr. Chair. I went out and I saw the proposed site of the substation and I think last time I asked the question was how far was it from the proposed substation to the wastewater treatment plant. Do you have that figure?

MR. DALTON: Mr. Chair, that is approximately 6,000 feet.

COMMISSIONER ANAYA: 6,000 feet. Okay. Last time we met the applicant said that there is already a subfeed underground to the wastewater treatment plant. Is that correct?

MR. DALTON: That is correct.

COMMISSIONER ANAYA: And how did they get from the water treatment plant over to the proposed substation?

MR. DALTON: Mr. Chair, Commissioner Anaya, those distribution lines run along County Road 62, along Caja del Rio and through BLM property to the wastewater treatment plant.

COMMISSIONER ANAYA: Okay, and that's the 1,600 feet?

MR. DALTON: 6,000 feet.

COMMISSIONER ANAYA: 6,000 feet.

MR. DALTON: That's the distance between the substation and the water treatment facility. I don't know the exact length of distribution lines that were run between those two points.

COMMISSIONER ANAYA: It's probably a lot longer. Okay. But what exactly – and this might be a question for PNM, but what exactly is underground? Exactly.

MR. DALTON: Mr. Chair, I talked to PNM today and it is 750 distribution table and it is direct burial. There is no conduit involved. It's direct burial line.

COMMISSIONER ANAYA: That's 750 mcm? And how many strands?

MR. DALTON: It's a three-phase.

COMMISSIONER ANAYA: Three-phase? So there's probably four conductors. Is there a ground? Okay. So how much did that cost?

MR. DALTON: Mr. Chair, Commissioner Anaya, it's my understanding that that cost between \$1 and \$1.5 million.

COMMISSIONER ANAYA: Okay. And I want to ask a question of the gentleman behind you and I want to know how many conductors are in the ground.

[Duly sworn, Paul Lopez testified as follows:]

PAUL LOPEZ: My name is Paul Lopez, project manager with PNM, address, Alvarado Square, Albuquerque, New Mexico. Mr. Chair, Commissioner Anaya, what we have currently in the ground is what we call distribution cable, 750 mcm, it's the thickness of the cable, a three-phase circuit, which means we have three conductors in the ground. You're asking about a neutral, the neutral is actually – they call it a concentric, it's built around each conductor. We have from the Caja del Rio site we have two circuits that run to the water treatment plant site. So when you're asking conductors there's actually six conductors because we have two three-phase circuits.

COMMISSIONER ANAYA: Two three-phase circuits.

MR. LOPEZ: Yes, sir.

COMMISSIONER ANAYA: And that cost PNM \$1.5 million?

MR. LOPEZ: That cost was paid by the Buckman Direct Diversion project.

COMMISSIONER ANAYA: So the Buckman Direct Diversion project paid PNM \$1.5 million to put the line in.

MR. LOPEZ: Yes, sir.

COMMISSIONER ANAYA: How deep is that line?

MR. LOPEZ: That line is at least 36 inches deep.

COMMISSIONER ANAYA: Is there concrete over it?

MR. LOPEZ: It's direct buried.

COMMISSIONER ANAYA: Okay. It's not covered by nothing.

MR. LOPEZ: No, sir.

COMMISSIONER ANAYA: Okay. So did the Buckman Direct Diversion Board authorize you to put that line in?

MR. LOPEZ: Mr. Chair, Commissioner Anaya, the BDD and PNM entered into what we call line extension agreement where they authorized us to install those lines as part of their project. We follow right behind their schedule and their installation of their water pipeline. They installed their water pipeline first; we went in directly after them.

COMMISSIONER ANAYA: So – I had a question but it just popped out. Mr. Chair, I'll give it back to you and then when I think of that question I'll get it back. Thank you, Paul.

CHAIRMAN MONTOYA: And if you could maybe, Paul, did the BDD Board authorize that, yes or no?

MR. LOPEZ: Yes.

CHAIRMAN MONTOYA: Yes? Okay. Any – Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Mr. Chair. This is a question I guess for PNM. I understand that there's an option to have a temporary substation that could be at the site of the water treatment plant that could remain there for a while while the water treatment plant is brought up and would serve the needs of the treatment plant. Is that correct?

MR. LOPEZ: That is not correct. PNM has no reason to consider installing a temporary substation. If the substation had not been needed and requested by the BDD the substation would probably be located at another location, which would be more suitable to PNM's needs. There's been discussion about a temporary station but there has not been a site approved for a temporary station and it's PNM's stance that it's not needed at this time.

COMMISSIONER HOLIAN: But my question is would it be possible to do that?

MR. LOPEZ: At this time, PNM, we believe that a temporary substation is not needed.

COMMISSIONER HOLIAN: But would it be physically possible?

MR. LOPEZ: Is it physically possible? Yes.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIRMAN MONTROYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair. Paul, I noticed the big power lines that go towards the water treatment plant, and right there where the water treatment plant is and where the power lines go through, that's BLM property?

MR. LOPEZ: That's correct.

COMMISSIONER ANAYA: Correct. And it looks like it would have been shorter or it looked like it would have been better to put the substation next to the power line, which is closer to the water treatment plant. Why not that one?

MR. LOPEZ: Mr. Chair, Commissioner Anaya, if I understand your question, you're talking about putting the substation directly underneath the power line but further north from where we're proposing it right now.

COMMISSIONER ANAYA: Right. And it would have been closer to the water treatment plant. Just from visual.

MR. LOPEZ: Visually, you asked what the distance was currently at this site and we said 6,000 feet. It is less than that. However, you've also asked the question who owns that property and that property is BLM property and they've denied -- well, not denied, they recommended that the site be moved to what we're proposing today. They would need to approve any lines that go on their property and they did not approve them during the EIS process.

COMMISSIONER ANAYA: So are you saying that that would require an assessment? What do they call those? An EIS or an EA?

MR. LOPEZ: Mr. Chair, Commissioner Anaya, at the CDRC meeting the BLM did state if we were to move the site it would require at least a new environmental assessment and that time would take at least 12 to 16 months.

COMMISSIONER ANAYA: Okay. And we didn't have time for that. So they suggested it not go there so you move it over to the City property?

MR. LOPEZ: Correct.

COMMISSIONER ANAYA: Which is closer. But you didn't run the line through BLM property. You ran it down the County roads, right?

MR. LOPEZ: Mr. Chair, Commissioner Anaya, that is correct.

COMMISSIONER ANAYA: And our wastewater treatment plant, is that on BLM property?

MR. LOPEZ: I don't have those facts but I do believe that is true. We can check with Rick Carpenter, but I do believe that is true.

COMMISSIONER ANAYA: Okay. Mr. Chair, I'll give it back to you.

CHAIRMAN MONTOYA: Is there anyone from BLM here? Okay. No one here. Other questions? Commissioner Anaya.

COMMISSIONER ANAYA: If we decide that this substation should be relocated to BLM, first of all it would take 12 months to two years to do an environmental assessment, and second we'd have \$1.5 million or wire in the ground that we wouldn't be able to use. Correct?

[Duly sworn, Jeanette Yardman testified as follows:]

JEANETTE YARDMAN: Jeanette Yardman, regulatory and public coordinator for Public Service Company. Mr. Chair and Mr. Anaya, in answer to your question, the decision as to where the substation goes is not actually the County's right now. As far as the Commission, we were not able to obtain permission. They are the ones that decided that they did not want the PNM substation on their property. So just like any property owner they can decide what they want done on their property. So they are the ones that decided not to let PNM build the substation on their property for their reasons. Okay.

So the second area that was studied as part of the environmental impact study was the property off of County Road 62. So when you say if you decide that you want to send us back to the BLM, well, the BLM might still decide that they do not want the substation on their property.

COMMISSIONER ANAYA: Okay, but my question was, if you decide to put it anywhere other than that spot you have \$1.5 million in the ground.

MS. YARDMAN: That is a true statement.

COMMISSIONER ANAYA: Okay. I had another question that just slipped out of my mind.

MS. YARDMAN: It's been a long day.

COMMISSIONER ANAYA: So I have a question for Rick Carpenter.

[Duly sworn, Rick Carpenter testified as follows:]

RICK CARPENTER: Rick Carpenter, project manager for the Buckman Direct Diversion project.

COMMISSIONER ANAYA: Rick, where did the money come from? The \$1.5 million to put the wire in the ground.

MR. CARPENTER: It's a line item in the capital budget that was approved by the Buckman Direct Diversion board.

COMMISSIONER ANAYA: So the money just goes into the board and they can do with it what they want? Or does it come out of County or City?

MR. CARPENTER: The Buckman Direct Diversion capital budget is \$216.34 million that was approved by the Buckman Direct Diversion Board. The City as fiscal agent and project manager bills the City and the County for their pro rata share under the intergovernmental agreements.

COMMISSIONER ANAYA: So do you know what the pro rata share is? What we spent?

MR. CARPENTER: Yes, I do. According to the intergovernmental agreements the City and the County share 50-50 in the capital expenses for the budget.

COMMISSIONER ANAYA: 50-50. So we did half of the \$1.5 million. And I'm hearing \$1.5 to \$1 million. What is it? What did it cost?

MR. CARPENTER: Mr. Chair, Commissioner Anaya, to my recollection it was just over \$1 million.

COMMISSIONER ANAYA: \$1 million.

MR. CARPENTER: That's what I recall, yes.

COMMISSIONER ANAYA: Okay. And Jeanette, you said you don't even know why you're here?

MS. YARDMAN: Mr. Chair, Commissioner Anaya, no. I did not state that.

COMMISSIONER ANAYA: I thought you said you don't even know why you're here. I'm hearing things now. Is there any other place you can put this? No. Okay. You don't have to answer. There's not.

MS. YARDMAN: At this time, the only approved site to place the substation is on County Road 62. The only EIS approved site is on County Road 62.

COMMISSIONER ANAYA: Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. You know I represent the constituents in that district so I've always looked for what might work best to balance this issue out. I'm going to address Rick on this. Rick, there was in your memo a temporary option that I actually advocated for before the BDD Board. Do you want to describe that temporary option?

MR. CARPENTER: Mr. Chair, Commissioner Vigil, members of the Commission, the temporary option or idea that was examined would involve or could involve moving a portion of the existing Buckman substation. I think it's about five miles away from the water treatment plant and relocating it temporarily underneath those existing power lines that Commissioner Anaya made reference to, and extending an above-ground line from that temporary substation to the Buckman water treatment plant. We had some cursory discussions with BLM on what that would take from a permitting perspective. They indicated to us that what would be involved is a temporary permit from them that would last for approximately three years. I think that's a summary of what we've looked at so far.

COMMISSIONER VIGIL: Do we have a cost impact on that?

MR. CARPENTER: We've had some discussions with PNM on that. They might be in a better place to answer that particular question but I believe it was \$200,000 to \$300,000 to relocate the substation and extend the line. I have no idea what BLM permitting costs might be but probably less than \$100,000.

COMMISSIONER VIGIL: And with regard to the EIS, what is your understanding on that? The reason is I've heard so many responses with that. That they could not do it, that another site would require a whole new EIS, that it might require an amendment, that it might be a short period of time, that it might be a long period of time. Have you heard the same variety of responses?



MR. CARPENTER: Mr. Chair, Commissioner Vigil, members of the Commission, we've had discussions with BLM on what that might entail. I think at the CDRC meeting Sam DesGeorges phrased it most succinctly when he said it would require a completely new application, that it would likely be an EA and not an EIS, but that was not for sure, and that if it was an EA and all things went normally that it would be at least a year, perhaps a year and a half to process the EA.

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

CHAIRMAN MONTOYA: Okay. Any other questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: This is for Jeanette. Jeanette if this is relocated there on that corner there where you're proposing it, is that going to help out with all the other development that's going to go out there?

MS. YARDMAN: Mr. Chair, Commissioner Anaya, I just want to clarify just a little. The substation is not actually on the corner.

COMMISSIONER ANAYA: It's a little further in. I saw the –

MS. YARDMAN: Okay. So I do want to clarify that. One of the items that I have stated in my prior testimony is that the substation is also to feed future growth in the area. In addition, the substation will support the electric load in Las Campanas which actually has voltage issues and it will serve south all the way to the sewer plant and all the way north to the Mejia Substation. So the project is not just for the water treatment plant. It's actually going to increase our reliability in all those areas.

COMMISSIONER ANAYA: And you mentioned – or I don't know if it was you – but that's a utility corridor.

MS. YARDMAN: Mr. Chair, Commissioner Anaya, that is correct. Existing transmission overhead lines exist in the area.

COMMISSIONER ANAYA: And what else?

MS. YARDMAN: There are existing transmission gas lines, and there's all the new facilities that have been put into place for the water treatment plant.

COMMISSIONER ANAYA: There's water lines there too.

MS. YARDMAN: Yes. There's water lines. Yes.

COMMISSIONER ANAYA: Phone lines?

MS. YARDMAN: Yes. Raw water lines and such. And actually I have a drawing of all those facilities in your packet that you received at the last hearing that identifies all of the existing utilities in that area.

COMMISSIONER ANAYA: Okay. I have a question for Rick. Rick, when did the Buckman Diversion Board give you authorization to put it there? How long ago?

MR. CARPENTER: It's – Paul would probably have the exact number. We negotiated that line extension agreement probably two years ago, maybe even 2 ½ years ago and the agreement had to be brought to the board for approval at that time. It's been a while.

COMMISSIONER ANAYA: Two and a half years ago? Mr. Chair, I'm ready to make a motion if you're ready.

COMMISSIONER VIGIL: Could I just make a statement, Mr. Chair?

CHAIRMAN MONTOYA: I just have to say as I've said earlier I'm put between a rock and a hard place on this because I serve as vice chair of the Buckman Direct Diversion and I'm also a representative of the residents who have expressed a lot of concern about this process and have also stated that they think there might be alternatives. I will just state for the record and my colleagues' purposes that I can't support this particular site based on my representative capacity for the residents in that area. Thank you, Mr. Chair.

CHAIRMAN MONTOYA: Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I would like to go into executive session. So I make a motion that we go into executive session to discuss this case.

CHAIRMAN MONTOYA: Okay. Motion by Commissioner Holian.

COMMISSIONER ANAYA: Second.

CHAIRMAN MONTOYA: Second by Commissioner Anaya.

**The motion passed by unanimous [4-1] roll call vote with Commissioners Anaya, Holian, Vigil and Montoya voting in favor and Commissioner Stefanics casting the nay vote.**

[The Commission met in closed session from 7:25 to 7:45.]

CHAIRMAN MONTOYA: Do I have a motion to come out of executive session?

COMMISSIONER STEFANICS: I move that we come out of executive session after having just considered the deliberation.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Stefanics, second by Commissioner Holian.

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

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. The discussions we've had only bring up more questions. I'm going to move that we table this item until our attorney has an opportunity to review all of the legal documents that are involved here and come back to us to advise us what the parameters are with regard to any decision that's been made here. So with that, I restate my motion to table.

COMMISSIONER HOLIAN: Second.

CHAIRMAN MONTOYA: Okay, motion by Commissioner Vigil to table, second by Commissioner Holian.

**The motion to table passed by unanimous [4-1] voice vote with Commissioner Anaya casting the dissenting vote.**

**XV. ADJOURNMENT**

Chairman Montoya declared this meeting adjourned at 7:45 pm.



ATTEST TO:  
*Valerie Espinoza*  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK

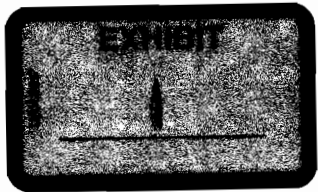
Approved by:

*[Signature]*  
\_\_\_\_\_  
Board of County Commissioners  
Harry Montoya, Chairman

Respectfully submitted:

*Karen Farrell*  
Karen Farrell, Wordswork  
227 E. Palace Avenue  
Santa Fe, NM 87501

SFC CLERK RECORDED 10/19/2010



Santa Fe County FY 2012 - 2016 Infrastructure and Capital Improvements Plan (ICIP)

List of Potential Projects - Second Public Hearing - 14 September 2010

District 1

*Project Description*

	<i>Estimated Project Cost</i>	<i>Commission District</i>
Acequia de Baranco Blanco -Jacona- Improve Diversion	\$50,000	1
Agricultural Revitalization Institute Community Farm Center Proposal	\$1,000,000	1
Chupadero Substation/Tesuque Volunteer Fire Dept - install fire hydrant	\$50,000	1
Chupadero Water System - Install additional 20,000 gal. storage tank, refurbish existing tank	\$59,566	1
County Road 101 B - resurface	\$150,000	1
County Road 115 low-water crossing	\$300,000	1
County Road 78 improvements-resurface	\$200,000	1
County Road 84 - speed bumps	\$20,000	1
County Road 98 - Construction	\$1,550,000	1
CR 84- Tesuque Creek Crossing- Drainage Improvements	\$25,000	1
CR 89 - improvements (parking)	\$50,000	1
CR 89E - Bridge to Jose Rincon-flood control/berming bridge to North 300-500ft	\$25,000	1
CR 113 - improvements (river crossing)	\$250,000	1
Cuatro Villas Transmission Line for Sombrillo Elementary School	\$500,000	1
Cuatro Villas/Greater Chimayo - water system interconnection	\$250,000	1
Greater Chimayo Water System Improvements Water Storage Tank	\$250,000	1
NM 592 - Safety improvements - Separation of traffic lanes	\$50,000	1
North County Area - community wellness center	\$1,500,000	1
Pojoaque Valley Regional Wastewater System - interconnection to non-tribal areas	\$1,500,000	1
Sombrillo/Arroyo Seco - wastewater collection line/lift station	\$10,500,000	1
Tesuque MDWA - water system improvements	\$1,587,810	1
<b>All Projects - District 1</b>	<b>\$19,867,376</b>	

**District 2**

<i>Project Description</i>	<i>Estimated Project Cost</i>	<i>Commission District</i>
ADD area - feasibility study - sewer system	\$100,000	2
Agua Fria - connect community to municipal sewer	\$1,000,000	2
Agua Fria - connect community water system to Buckman direct diversion	\$1,000,000	2
Agua Fria - Drainage Plan to include catchment ponds versus storm drains	\$25,000	2
Agua Fria - Green recycling facility in Village	\$250,000	2
Agua Fria - River Improvements-Bank Stabilization- Sewer Line Protection	\$250,000	2
Agua Fria - Roundabout-Prairie Dog Loop and CR64	\$250,000	2
Agua Fria Children's Zone	\$2,500,000	2
Agua Fria Community Garden and Flood Control Project	\$100,000	2
Agua Fria Park	\$1,000,000	2
Agua Fria Road - shelters at bus stops	\$150,000	2
Agua Fria Road - extension and roundabout at Henry Lynch Rd	\$200,000	2
Agua Fria Senior Center	\$1,500,000	2
Agua Fria Utility Corridor study/engineering plan	\$300,000	2
Agua Fria Water Systems Upgrades and water rights	\$1,500,000	2
Camino La Tierra - Chip Seal/Slurry Seal	\$125,000	2
Camino La Tierra - mailbox turnout/extend lane taper	\$50,000	2
CR 104 - Chip Seal	\$60,000	2
CR 62 - Chip Seal	\$210,000	2
Food Depot - new warehouse/facilities	\$3,652,197	2
La Junta del Alamo - paving	\$50,000	2
Las Campanas area - water transmission line	\$4,000,000	2
Lopez Lane sewer feasibility study	\$50,000	2
Lopez Lane/Rufina - R-O-W acquisition	\$100,000	2
Pinon Hills - chip seal	\$325,000	2
Puesta del Sol - chip seal	\$200,000	2
Siler Road - noise barrier with tree planting	\$65,000	2
South Meadows Road - water and sewer lines extensions to CR # 62	\$625,000	2
<b>All Projects - District 2</b>	<b>\$19,637,197</b>	

**District 3**

<i>Project Description</i>	<i>Estimated Project Cost</i>	<i>Commission District</i>
Calle Victoriano - base course (5.0 mi.)	\$276,276	3
Camino Capilla Vieja - clear and fence staging area	\$25,000	3
Camino La Capilla Vieja - drainage improvements (1mile)	\$250,000	3
Camino San Jose - road improvements	\$500,000	3
County Road 12 B - improvements-chip seal	\$600,000	3
County Road 42 - Galisteo from rr to village -- traffic calming	\$30,000	3
County Road 50/50F - reclaim/pave	\$450,000	3
County Road 50A - Asphalt paving	\$149,803	3
County Road 50F - Asphalt Overlay	\$127,137	3
County Road 52 - Las Estrellas -- reclaim/pave	\$400,000	3
County Road 55 A - improvements-repair & drainage	\$2,800,000	3
CR 16A Jaymar Road - chip seal (4.45 mi.)	\$326,010	3
CR 20B - Base Course	\$560,000	3
CR 26 Simmons Road - Base Course	\$550,000	3
CR 2B - Asphalt Paving	\$109,000	3
Edgewood WWTP/Collection system	\$100,000	3
Entrada Cienega - guard rail, bank stabilization, repairing, and drainage	\$250,000	3
Galisteo - regional trail network development	\$2,000,000	3
La Cienega - supplemental well upgrades	\$100,000	3
La Cienega - W. Frontage and Las Estrellas - repair intersection	\$50,000	3
La Cienega - wastewater feasibility study	\$75,000	3
La Cienega Community Center - land acquisition	\$100,000	3
Los Pinos Road - Drainage Improvements	\$250,000	3
Madrid - wastewater system (study)	\$50,000	3
Madrid MDWA - additional water rights (study)	\$50,000	3
Mutt Nelson Road - Chip Seal	\$100,000	3
North La Cienega - Water Improvements/Water line Improvements I-25 and CR # 54	\$1,731,000	3
Paseo C'de Baca - extend water line	\$500,000	3
Stanley Fire Station - equipment & improvements	\$250,000	3
Upper La Cienega -extension of wastewater collection system (Valle Vista to 599 commercial district)	\$1,500,000	3
Upper La Cienega - PER /feasibility study	\$75,000	3
Upper La Cienega - water-line extension and loop system	\$1,500,000	3
Water Line Improvements - I-25 and CR # 54	\$800,000	3
<b>All Projects - District 3</b>	<b>\$16,634,226</b>	

## District 4

<i>Project Description</i>	<i>Estimated Project Cost</i>	<i>Commission District</i>
Arroyo Hondo Trail	\$1,000,000	4
Arroyo Hondo Trail - bridge	\$1,000,000	4
Avenida Ponderosa - chip seal	\$150,000	4
Camino Pacifico - chip seal	\$100,000	4
Camino Sudeste - chip seal	\$75,000	4
Camino Tetzoco - chip seal	\$75,000	4
Camp Stoney Road - Asphalt Paving	\$500,000	4
Canoncito Water System Project	\$5,510,000	4
Cerros Cantando Sub - road improvements	\$340,000	4
County Road 51 - road improvements (1st mile, chip seal; 2nd/3rd miles, gravel)	\$600,000	4
County Road 60 - road improvements-repair	\$200,000	4
County Road 63 - grading and base course	\$100,000	4
CR 63C - Chip Seal	\$15,000	4
Glorieta - sewer system interconnection - Baptist Center, Village and Estates	\$100,000	4
Glorieta Area - tank upgrade	\$200,000	4
Glorieta Area - Regional Water System Planning (includes Glorieta Village, Glorieta Estates, Glorieta East and surrounding area)	\$100,000	4
Glorieta Estates - acquire/improve fire station road and road to church (0.5 mi.)	\$1,000,000	4
Glorieta Estates - Road improvements (Ponderosa, Pine Have Drive, Raven Tree Road and Pop Challee)	\$500,000	4
Glorieta Estates - Road widening/R-O-W acquisition (Fire Station Rd. to Church)	\$500,000	4
Glorieta Estates - water system improvements	\$96,000	4
Glorieta Village - MDWCA - planning funds for wastewater solution	\$75,000	4
La Barbaria - Road improvements-Grading and Road widening	\$360,000	4
Old Santa Fe Trail - road improvements / ROW acquisition	\$350,000	4
Paseo del Pinon - Chip Seal	\$108,000	4
Puye Road - chip seal (0.69 mi.)	\$69,000	4
Toltec Road - chip seal (0.3 mi.)	\$30,000	4
Vista Redonda County Roads - base course repair	\$500,000	4
<b>All Projects - District 4</b>	<b>\$13,653,000</b>	

## District 5

**Project Description**

	<b>Estimated Project Cost</b>	<b>Commission District</b>
Avenida Azul - bike path (approx. 1.7mi)	\$550,000	5
Avenida Buena Ventura - paving and drainage (0.23 mi)	\$67,619	5
Avenida de Amistad - asphalt (0.5 mi.)	\$144,059	5
Avenida De Amistad - paved bike path	\$45,000	5
Avenida Eldorado - bike path extension (aprox. 0.8 mi.)	\$80,000	5
Balsa Road - chip seal	\$120,000	5
Bike access from Hwy 14 to Railrunner	\$500,000	5
Cedar, Willow, Oak, N. Pinon, Juniper - base course and culverts	\$500,000	5
Cochiti East Road and Cochiti West Road - improvements (1 mi.)	\$125,000	5
County Road 33 - improvements-resurface	\$350,000	5
Eldorado Area Teen center - plan, design, construct, and equip	\$1,500,000	5
Eldorado Water and Sanitation District - maintenance and well building	\$1,000,000	5
Eldorado Water and Sanitation District - water storage tank upgrades	\$300,000	5
Encantado Road - chip seal (2.11 mi.)	\$219,010	5
Fonda Road - chip seal (0.4 mi.)	\$40,000	5
Frasco Road - chip seal	\$43,000	5
Herrada Road - asphalt surface (1.91 mi.)	\$561,531	5
Hidalgo Court - road improvements	\$100,000	5
I-25 and Rabbit Road area - wastewater service extension study	\$75,000	5
I-25 and Rabbit Road area - wastewater service extension	\$250,000	5
I-25 and Rabbit Road area - water and wastewater service extension study	\$75,000	5
I-25 and Rabbit Road area - water service extension	\$200,000	5
Ken & Patty Adams Senior Center - expansion	\$520,000	5
North Fork Road - paving (0.25 mi.)	\$75,000	5
Richards Avenue - Bike Lanes & Lighting Improvements	\$500,000	5
Richards Avenue - Expansion to Four Lanes	\$2,000,000	5
Richards Avenue - Remove Signal & Install Roundabout	\$500,000	5
San Marcos - study to evaluate roads-upgrade/maintain	\$100,000	5
Sandia Road - easement (0.05 mi.)	\$50,000	5
Southeast Connector - phase I (East Chili line to Rabbit Road)	\$2,500,000	5
Spruce - chip seal	\$100,000	5
SR 14 - Public Safety Complex to NM 599 - road improvements	\$1,500,000	5
Sunset Trail East and Sunset Trail West - base course and easements	\$200,000	5
Torcido Loop - drainage and road improvements	\$250,000	5
Verano Loop - reclaim and chip seal (2.0 mi.)	\$180,418	5
<b>All Projects - District 5</b>	<b>\$15,320,637</b>	

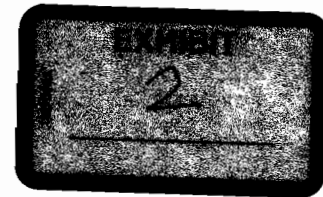


**Countywide/County Facility Projects**

<i>Project Description</i>	<i>Estimated Project Cost</i>	<i>Commission District</i>
Santa Fe County - Additional Vehicles for Solid Waste	\$800,000	all
Santa Fe County - Animal control vehicles (\$40,000/each x 2)	\$80,000	all
Santa Fe County - Corrections - Adult - enhance and repair security and fencing	\$500,000	all
Santa Fe County - Corrections - Adult - mental health unit -- renovate fencing, railings	\$250,000	all
Santa Fe County - Corrections - Adult - relocate/renovate it server room and add equipment for all facility controls	\$1,000,000	all
Santa Fe County - Corrections - Adult - remodel office & public space for bails bonds & electronic monitoring	\$500,000	all
Santa Fe County - Corrections - Adult - renovation of cells at adult medical facility, replace sliders	\$1,000,000	all
Santa Fe County - Corrections - Adult - repair & upgrade perimeter lighting	\$1,250,000	all
Santa Fe County - Corrections - Adult - replace boilers in facility(4)	\$300,000	all
Santa Fe County - Corrections - Adult - replace control panel doors & camera	\$700,000	all
Santa Fe County - Corrections - Youth - perimeter lighting	\$750,000	all
Santa Fe County - Corrections - Youth - repair and upgrade plumbing at youth facility	\$1,000,000	all
Santa Fe County - Corrections - Youth - repair control panel	\$600,000	all
Santa Fe County - Corrections - Youth - replace single-sink commodes related to plumbing	\$800,000	all
Santa Fe County - Corrections - Youth - safety improvements to recreation yard -- landscaping/paving	\$1,000,000	all
Santa Fe County - Corrections - Youth - slider repair	\$200,000	all
Santa Fe County - Corrections - Youth - upgrade and repair perimeter fencing at youth facility	\$500,000	all
Santa Fe County - Corrections - Youth - upgrade youth kitchen facility phase I	\$100,000	all
Santa Fe County - Countywide Facilities Improvements for Energy and Water efficiency	\$6,090,000	all
Santa Fe County - EOC - county mobile command unit (on-site incident management) county wide	\$500,000	all
Santa Fe County - Fire - countywide self contained breathing apparatus/personal protection equip/defib replacement	\$3,000,000	all
Santa Fe County - Fire - equipment (engines, ambulances, pumpers, water haulers, grass vehicles, rescue) county wide	\$5,000,000	all
Santa Fe County - Jacona Transfer Station - road construction	\$675,000	all
Santa Fe County - Media district improvement on Hwy 14 including water and sewer	\$2,630,000	all
Santa Fe County - Office space and storage -- operations and clerk/elections (20,000 sq. ft. )	\$3,000,000	all
Santa Fe County - Public Housing Sites Improvements	\$1,500,000	all
Santa Fe County - Public Works - acquire 2 acres of land in Eldorado area for office/staff fencing, road paving, and storage	\$1,000,000	all
Santa Fe County - Public Works - City/County S-1 transmission line (County portion)	\$360,000	all

Continued from previous page: Countywide/County Facility Projects

<i>Project Description</i>	<i>Estimated Project Cost</i>	<i>Commission District</i>
Santa Fe County - Public Works - equipment (water trucks, graders, loaders, backhoes, dump trucks)	\$3,500,000	all
Santa Fe County - Public Works - Equipment Yard for Community College Area	\$500,000	all
Santa Fe County - Public Works - solid waste upgrade transfer station - Jacona	\$750,000	all
Santa Fe County - Public Works - heavy vehicles (\$200,000 x 4)	\$800,000	all
Santa Fe County - RECC - addition to existing space (6,000sq/ft) and equipment	\$2,750,000	all
Santa Fe County - Renovate county buildings and old court house	\$15,000,000	all
Santa Fe County - Santa Fe Rail Trail	\$1,700,000	all
Santa Fe County - Santa Fe Regional Broadband Infrastructure - greater metro area	\$8,795,000	all
Santa Fe County - Santa Fe River - 8 mile trail (acquisition, trail construction, restoration)	\$21,000,000	all
Santa Fe County - SCADA system for Booster stations, Storage tanks/wells	\$180,000	all
Santa Fe County - Sheriff - equipment	\$100,000	all
Santa Fe County - Sheriff - new vehicles (20/year x \$40,000 x 5 years)	\$4,000,000	all
Santa Fe County - South Meadows open space (22 acres)	\$440,000	all
Santa Fe County - Supplemental Wells x 3 sites	\$4,500,000	all
Santa Fe County - Thornton Ranch open space	\$700,000	all
Santa Fe County - transmission line for CCD area tank	\$400,000	all
Santa Fe County - Updated orthophotography - Countywide	\$385,000	all
Santa Fe County - Utility Rate Study	\$75,000	all
Santa Fe County - Valle Vista Water System upgrades	\$1,500,000	all
<b>All Projects - Countywide and County facilities</b>	<b>\$102,160,000</b>	
<b>Total: All Requests - FY 2012</b>	<b>\$187,272,436</b>	



**Santa Fe County FY 2012 - 2016 Infrastructure and Capital Improvements Plan (ICIP)**

FY 2011 Top Five Projects

Santa Fe County Corrections Facilities Improvements	\$8,200,000
Santa Fe County RECC (911 center) Facility Expansion and Equipment	\$2,750,000
Santa Fe County Public Housing Sites Improvements	\$1,500,000
Santa Fe County Media District	\$2,630,000
Santa Fe River Trail	\$2,500,000

MONTAÑA JOSEFINA  
10439925100240

AGIL, PAUL & MELISSA M. FRULLO  
10439925100240

LILLIAN & JERRY J. LAPOINTE  
10439925100240

AGUSTO MARTIN & SUE WINEA  
10439925100240

ESYLA MARIBO  
10439925100240

DEED

RIVERA, RICHARD NORMAY  
10439925100240

RIVERA, RICHARD NORMAY  
10439925100240

RIVERA, POLETT  
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SERRA, ROBI ANTONI  
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MARTINEZ, RUBEN EDUARDO  
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VAROZ, JOSE ALFONSO  
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FRING, MARKS JAMES MARIBO  
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MARTINEZ, LARRY & THE RESALE-VEA STEVEN & JINA  
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PEREZ, MARIA MARIBO  
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PEREZ, MARIA MARIBO  
10439925100240

PEREZ, MARIA MARIBO  
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MORA MICHAELA &  
1048092408135

LOVATO, TERESA  
1048092410110

LEVA MICHAEL & JOMIE  
1048092404089

CARRITT, JACK & SHIRLEY  
1048092402066

SISNEROS, TONYA & GENE VIVE C  
1048092452419

ULLIBARRI, ANITA PAZ  
1048092452092

CARMONA, GALA M D I A &  
1048092452066

Calle Corrado

Tapia Entrada

SFC CLERK R1

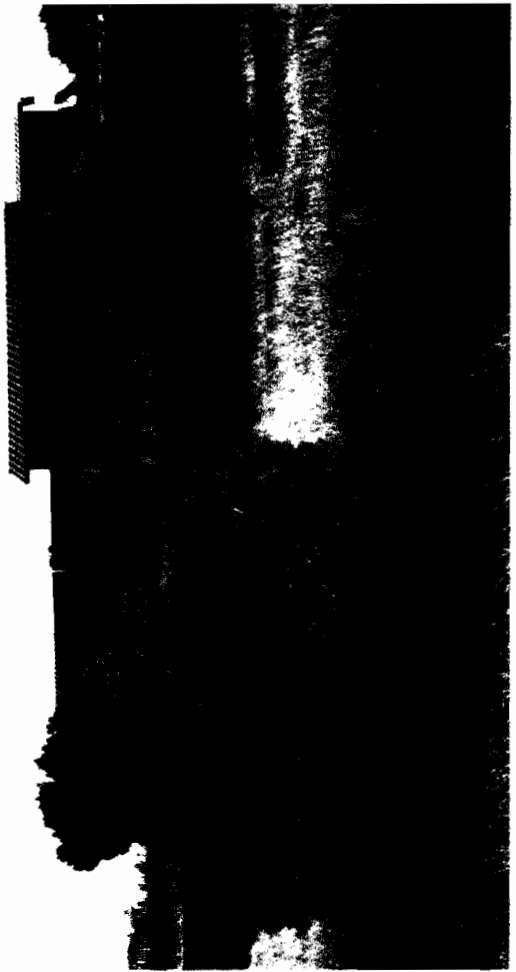
APR 2008

EXHIBIT A

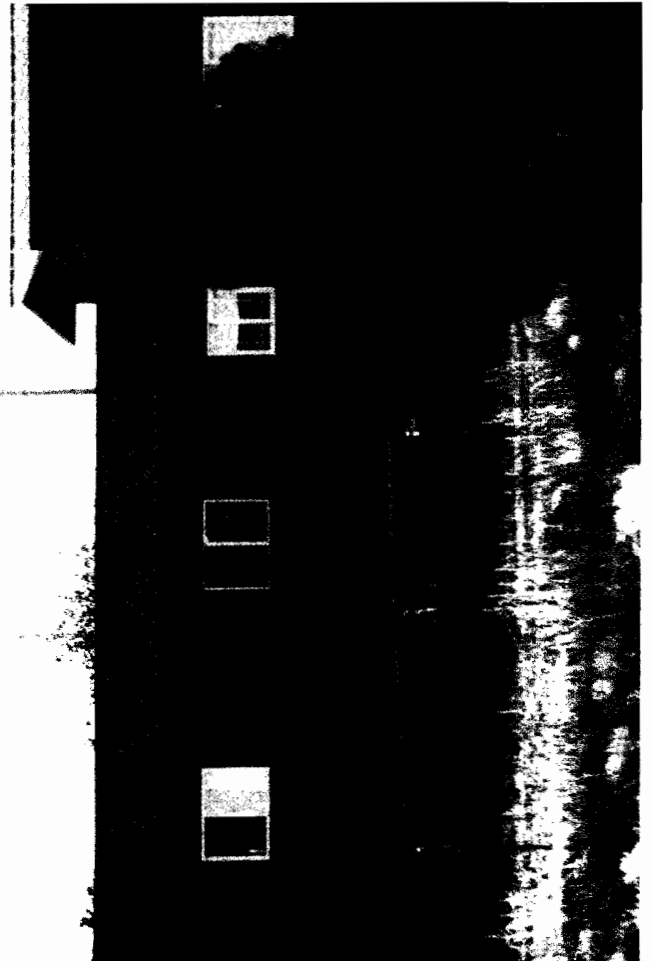


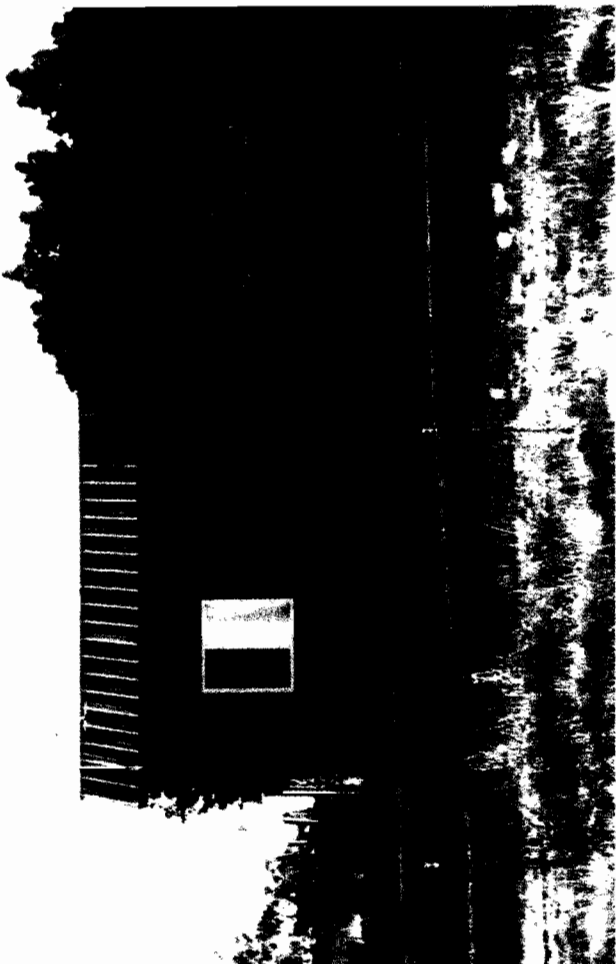
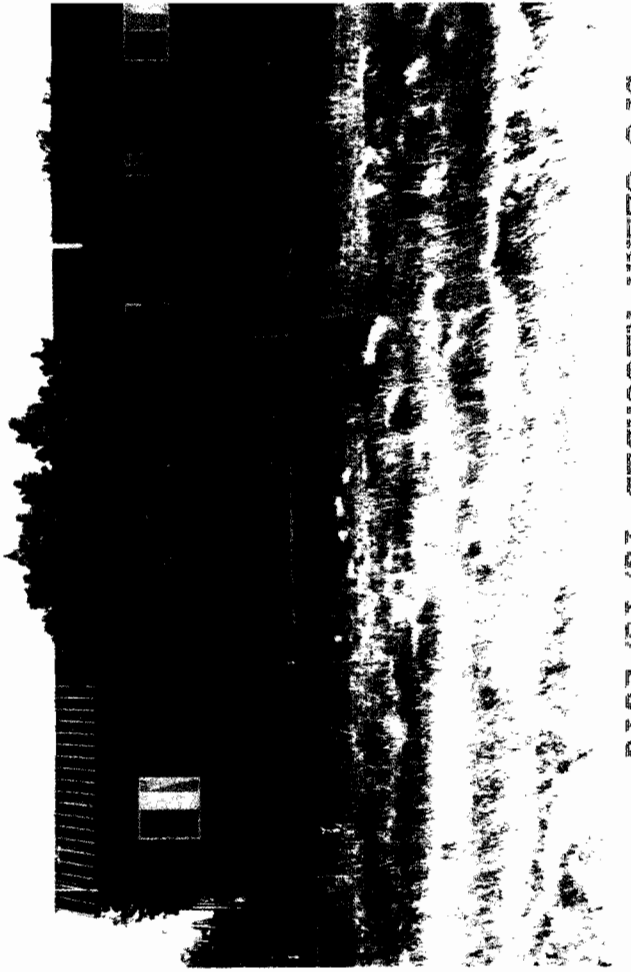
EDDIE RIVERA RESIDENCE 21 CAMINO VISTA GRANDE  
REAR OF PROPERTY

B I +19:4X3



SFC CLERK RECORDED 10/19/2010












Map of Property  
in Santa Fe County  
**Exhibit 3**

*Calle Hermosa*

**Legend**

-  driveways
-  prcsfco\_20100610
-  Minor Roads
-  Major Roads
-  Section Lines

1:600

1 inch represents 50 feet



**WARNING:**  
Two (2) foot contour data sets are  
NOT SUITABLE FOR ENGINEERING WORK.  
These data are appropriate for  
PLANNING PURPOSES ONLY.

Orthophoto from 2008  
Contour Interval 2 Feet

This information is for reference only.  
Santa Fe County assumes no liability for  
errors associated with the use of these data.  
Users are solely responsible for  
confirming data accuracy.



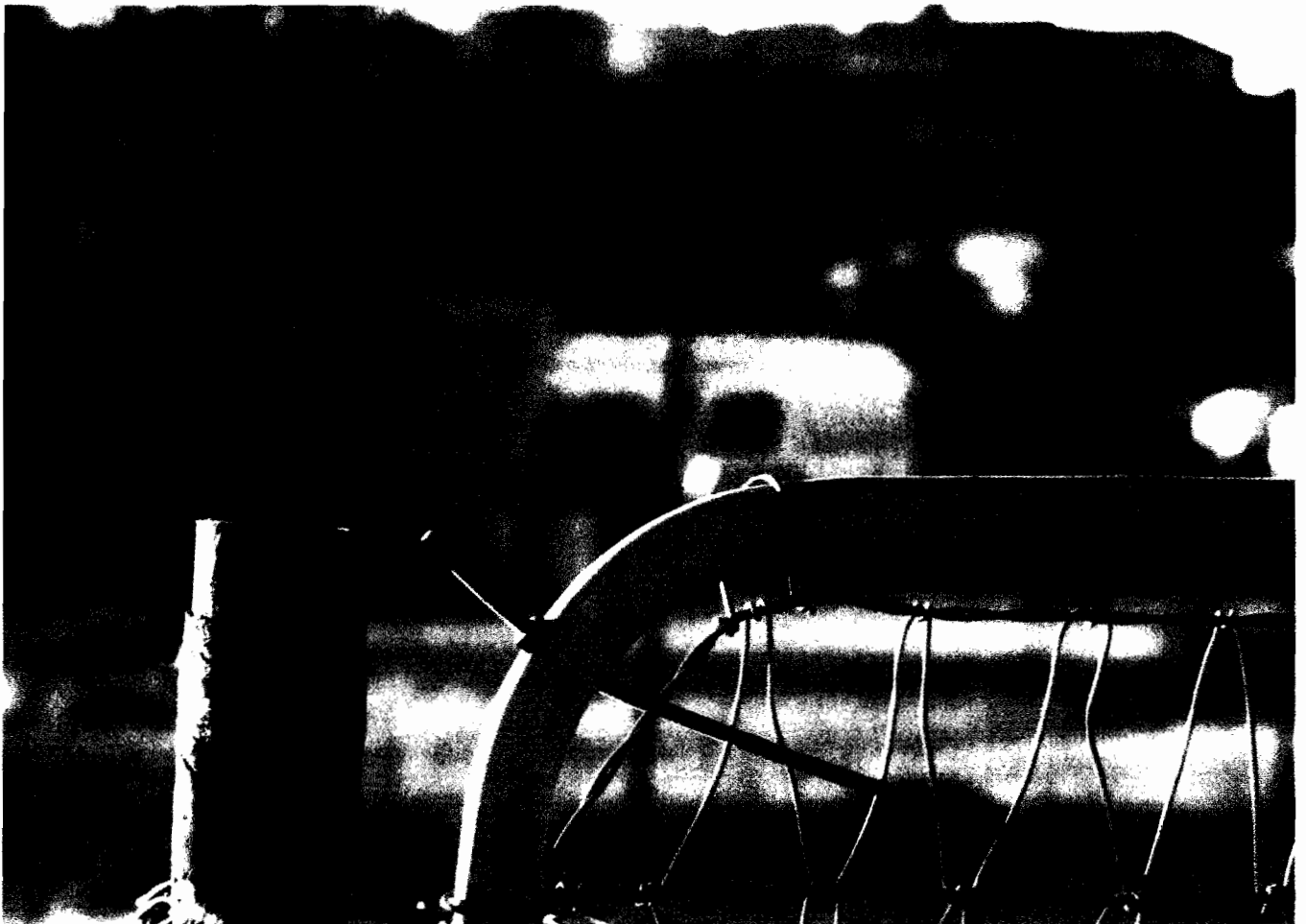
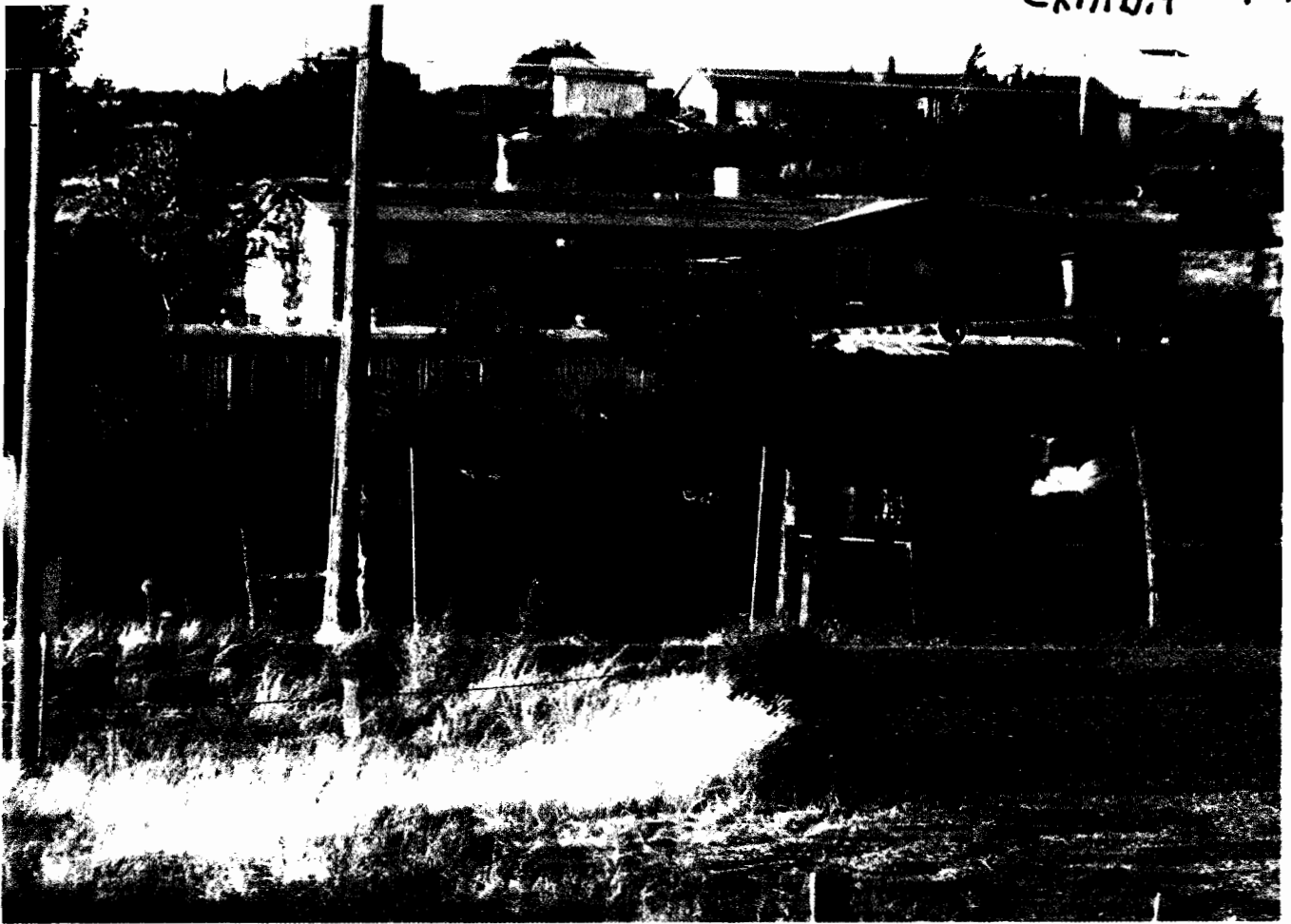
SFC CLERK RECORDED

July 13, 2010



Exhibit 4 A

SEC CLERK RECORDED 10/19/2010



HORNUP'S ENTERPRISES LTD  
1048092002245

MARTINEZ GRILO JR SECUNO JR  
10480920055201

MARTINEZ GRILO JR SECUNO JR  
10480920055201

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MARTINEZ GRILO JR SECUNO JR  
10480920055201

STATE OF NEW MEXICO  
1048092003902

DURAN GILBERT  
1048092006690

DURAN GILBERT R & PAULINE O  
10480920064193

NEW MEXICO  
1048092003902

GARCIA GEAR & JONILIA  
1048092010122

SERRA ROSE  
1048092003079

MANGEL MARY & KATHY  
1048092011231

GARMONA GISSAR & LYDIA  
1048092003200

GUTIERREZ SERGIO & VERONICA  
10480920034230

MONTONA GERARDO H  
1048092007920

BOVIANI GEORGE  
1048092005520

ISAVEVAERRE JOSE M & ROSA L I V  
1048092009179

MONTA ROBERT P & ROSEMARY  
1048092003152

MONTA ROBERT P & ROSEMARY  
1048092003150

MICAL PAUL AMELISSAM FUJILLO  
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1048092000710

RIVERA J & JARROLD DE MARCO J  
1048092001010

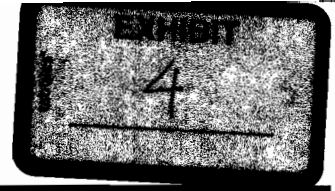
MARTINEZ RUFEN EDWARD  
10480920045720

JOHNSON FREDERICK M  
10480920025022

Rose Serra  
21 and 23 Camisa  
←  
has 3 horses and  
property

Camino Dip

Grain



**Wayne Dalton**

**From:** Diego Sisneros [diegojsisneros@gmail.com]  
**Sent:** Tuesday, August 24, 2010 1:53 PM  
**To:** Wayne Dalton  
**Cc:** Stephen C. Ross  
**Subject:** PNM Substation

Dear Chairman and members of the Board of County Commissioners,

I did some field measurements that contradict what was said at the August 10th meeting. I don't think Jeanette was trying to mislead but was misinformed when she stated it would take an additional 9 power poles to get 3,000 feet from the power line to the Water Treatment Facility. I did some sample measurements and am finding on average 800' + between poles. In some cases where there are changes of direction I found as little as 700 feet to 770 feet. I am not an electrical engineer but by my logic it seems only an additional 2 poles may be needed with a possibility of 3, I guess this could be way off if they are planning on using a different type of pole system. I don't know, but by my calculations 9 poles should get you about 1.19 to 1.36 miles and it is only roughly 0.5 miles from the western boundary of the treatment facility all the way to Caja Del Rio Road. What are the additional poles for?

The interesting thing is that from a couple of locations along what looks to be the closest power lines to the Water Facility I am Measuring 1,300' more or less to 1,480' more or less from one location which I measured to the western face of a round concrete structure and the green Tank respectively. I also measured from a second site due west of the site measuring 1,280' more or less and 1,350' more or less to a round concrete structure and the green water tank respectively. Can we get this information to the Commissioners? I could provide a sketch. It seems this would be helpful for the Commissioners site visit. Please forward this information the Commissioners.

I admit, I don't know what PNM has in mind for the stated 9 poles but given this type of quick answer at the last meeting makes me wonder what else, all of us might be misled of without investigation, even though unintentional.

Diego J. Sisneros, 6 Camino De Rey Cir.

SFC CLERK RECORDED 10/19/2010



**Wayne Dalton**

**From:** Virginia Vigil  
**Sent:** Wednesday, August 11, 2010 9:05 PM  
**To:** Caroline Semon; Wayne Dalton; Liz Stefanics; Kathy S. Holian; Mike Anaya; Harry B. Montoya  
**Subject:** RE: Substation Site Visit

Carolyn: It is my understanding that this is going to be informal site visits that Commissioners will schedule with Wayne Dalton or any other staff that they would like there in accordance with their schedules. The ex parte communication rule still applies and any visitation with residents or PNM would violate that.

Virgginia Vigil

**From:** Caroline Semon [carolinesemon@gmail.com]  
**Sent:** Wednesday, August 11, 2010 7:21 PM  
**To:** Wayne Dalton; Liz Stefanics; Kathy S. Holian; Mike Anaya; Virginia Vigil; Harry B. Montoya  
**Subject:** Fwd: Substation Site Visit

Dear Commissioners, I am not sure where to send this E-mail. Mr. Dalton, If this is to go to you, please, could you see that it goes to the commissioners.

We are happy that you are going to make a site visit. We would like to go on the site visit as well, since we feel that neither PNM nor Buckman are the best to represent what our views of the substation are. I live off of Paseo de Estrellas and our road is higher in elevation than Caja del Rio. If you are sitting at our mailboxes, you would be looking to the south west, I believe, to see the substation. There is obviously a whole different view from Caja del Rio than from Paseo de Estrellas. Also there are many places that we will see the substation from Via de Estrellas, just off of Paseo de Estrellas. That area is higher in elevation as well. Some of the people in those homes will feel as if it is right at their back doors.

Obviously people who live off of Camino de Ray will have the substation looming over them all the time. I have driven down into that area and have been saddened about their situation. Please drive into that area as well.

Coming in from 599 and going north on Caja del Rio, there are many places on the road that the substation will tower over everything.

Going south on Caja del Rio from Las Companas, there are many places there as well. Any time I drive either of those directions, I am aware of the jolt we will have with the substation. I am not speaking about a tall poll or two, but of the mass that makes up the bulk of the substation. A block wall, since it does not look like any of our walls and will not be tall enough, would stand out as well and say "substation". I know it will be seen from many places on the golf course as well.

I hope you will also look at the original site west of and at the water treatment plant. If you make the drive to the back of Las Campanas and come from the north, looking to the south at the WTP, you will see all the buildings, the plant, the electric polls, the wires. You will see that there are no houses near that site. The site seems to be lower as well, however since I have not been allowed to speak with anyone from Buckman about that, I can not be sure. In any case it seems a much more appropriate place. There are maps that show where that site is.

If you would allow us to be there when the commissioners do the visit, we would be most grateful.

SECURITY RECORDED 10/19/2010

Thank you very much  
Caroline Semon

SFC CLERK RECORDED 10/19/2010