



COUNTY OF SANTA FE ) BCC MINUTES  
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County Clerk, Santa Fe, NM

**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**January 13, 2004**

- Paul Campos, Chairman
- Michael D. Anaya
- Jack Sullivan
- Paul D. Duran
- Harry B. Montoya

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING  
(Public Hearing)

January 13, 2004 - 3:00 P.M.

## Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
  - A. Amendments
  - B. Tabled or Withdrawn Items
- VI. Approval of Minutes - November 25, 2003 - approved  
- December 9, 2003 - approved  
- December 16, 2003 - approved
- VII. Matters of Public Concern-NON-ACTION ITEM
- VIII. Matters from the Commission
  - A. Resolution No. 2004<sup>03</sup> - A Resolution Supporting Release of Funds to Clean Up Waste Materials at Los Alamos National Laboratory
  - B. Resolution No. 2004<sup>04</sup> - A Resolution Addressing Concern for La Cienega and It's Need for Environmental Cleanup and Safety Measures
  - C. Appointment to Regional Development Corporation Board of Directors - Reuben Montes
  - D. Approval of MOU with Rio Arriba County to Work Cooperatively to Secure Funding for Alcohol and Substance Abuse
- IX. Presentations and Awards
  - A. Presentation and Update by First Judicial District Court Regarding General Issues Relating to the Steve Herrera Judicial Complex
- X. Committee Appointments/Reappointments
  - A. Appointment and Reappointment to the County Open Land and Trails Planning and Advisory Committee (COLTPAC)
- XI. Consent Calendar
  - A. Resolution No. 2004<sup>06</sup> - A Resolution Requesting an Increase to the Clerk Filing Fees Fund (218) to Budget Prior Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Clerk's Office)

- 06
- B. Resolution No. 2004 – A Resolution Requesting an Increase to the General Fund (101)/Maternal Child Healthcare Program for a Contribution Received from the Los Alamos National Foundation for Expenditure in Fiscal Year 2004 (Community & Health Development Department)
  - C. Request Authorization to Accept and Award a Price Agreement to the Lowest Responsive Bidder for IFB #24-25 for Curbside Waste Collection and Disposal for the Santa Fe County Housing Division (Community, Health & Development Department)
  - D. Resolution No. 2004 <sup>01</sup> – A Resolution Requesting an Increase to the General Fund (101)/Land Use Department to Budget Special Appropriation Project (SAP) Grant for a Regional Water System Feasibility Study for Cuatro Villas Mutual Domestic Water Users Association Received from the New Mexico Environment Department for Expenditure in Fiscal Year 2004 (Commission District 1) Robert Griego (Land Use Department)

**XII. Staff and Elected Officials' Items**

**A. Community Health and Development Department**

- 1. Approval of Amendment to Fiscal Year 2004 Memorandum of Agreement Between Santa Fe County and St. Vincent Hospital TABLED
- 2. Approval of Fiscal Year 2005 Memorandum of Agreement between Santa Fe County and St. Vincent Hospital TABLED
- 3. Approval of Sole Community Provider Requests for Espanola, Holy Cross, and Los Alamos Medical Center for Fiscal Year 2005

**B. Fire Department**

- 1. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP #24-16 for the All Hazard Emergency Response Plan for Santa Fe County

**C. Land Use Department**

- 1. CDRC CASE # A/V 03-5741 – Samuel Ortiz Appeal Variance. Samuel Ortiz, Applicant, is Appealing the County Development Review Committee's Decision to Uphold the Land Use Administrator's Decision to Deny the Placement of a Third Home on 2.01 Acres, Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 1 Paseo de Antonio in the Traditional Community of Cuyamungue within, Section 20, Township 19 North, Range 9 East (Commission District 1). Wayne Dalton (DELIBERATION AND DECISION)

**D. Project & Facilities Management Department**

- 1. Resolution No. 2004 <sup>05</sup> A Resolution Supporting a Grant Application for 2005 National Scenic Byways Grant Program and Authorizing a Local Funds Match for the El Camino Real Scenic Byway

**E. Matters from the County Manager**

- 1. Update on the Transition of the Youth Development Facility
- 2. Discussion and Action Regarding Electronic Monitoring

F. Matters from the County Attorney

1. Executive Session

- a. Discussion of Pending or Threatened Litigation
- b. Limited Personnel Issues
- c. Acquisition or Disposal of Real Property
- d. Discussion of the Purchase, Acquisition or Disposal of Water Rights

XIII. Public Hearings:

A. Land Use Department

*Approve*  
1. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 1996-16, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Revise the Village of Agua Fria Traditional Historic Community Boundary. (Commission District 2) Robert Griego

*w/ amendments*  
2. EZ CASE # 03-4422 – Rancho Viejo Reduced Water Usage Proposal. Rancho Viejo Inc., Applicant, Isaac Pino, Agent, Requests Approval to Reduce the Allocation of Water from 0.25 Acre Feet Per Year Per Lot to 0.17 Acre Feet Per Year Per Lot in Previously Approved Subdivisions. The Property is Located within the Community College District, Off of Richards Avenue, within Sections 28 & 29, Township 16 North, Range 9 East (Commission District 5). Liza Vitale

*Tabled*  
3. CCDRC CASE # Z/DP 00-5302 – Sandia Vista Commercial Property. Sonny Otero, Applicant, Michael Bodelson, Agent, Request a Master Plan Amendment with Preliminary and Final Development Plan Approval for Six Additional Warehouse Buildings Ranging in Size from Approximately 8,000 Sq. Ft. to 10,800 Sq. Ft. for Commercial and Light Industrial Uses and Storage on 5.4 Acres. This Request Also Includes Multiple Variances Which Would Allow the Applicant to Utilize an On-Site Well and Septic System Rather than a Public Water and Community Wastewater System; to Exceed 30% Lot Coverage; to Reduce the Amount of Open Space Below 50%; and to Reduce the Parking Below what is Required by County Code. The Property is Located off of State Road 14, North of the intersection of NM 599 and SR 14 within the Community College District, within Section 25, Township 16 North, Range 8 East (Commission District 5). Vicki Lucero

*Tabled*  
4. EZ CASE # S 02-4321 – La Pradera Subdivision. Gardner Associates LLC. (Alexis Girard), Applicant, Design Enginuity, Agent, Request Final Plat and Development Plan Approval for a Mixed Use Subdivision Consisting of 69 Lots with 80 Dwelling Units and 32,667 Sq. Ft. of Commercial Area on 69.2 Acres. The Property is Located West of Richards Avenue Between I-25 and the Arroyo Hondo within the Community College District, within Section 17, Township 16 North, Range 9 East (Commission District 5). Vicki Lucero **TABLED**



*Tabled*

5. EZ CASE # A 03-4691 – Daniel Santos Appeal. Daniel Santos, Appellant (Christopher L. Graeser, Agent), is Appealing the Extraterritorial Zoning Commission’s Decision to Deny a Request of Plat Approval to Divide 2.491 Acres into Two (2) Tracts for the Purpose of a Family Transfer. The Property is Located at 988A Chicoma Vista, within the Wolfe Subdivision, within Section 29, Township 17 North, Range 9 East (Commission District 2). Victoria Reyes  
**TABLED**

*w/ Approved Staff Conditions*

6. EZ CASE # S 01-4322 – Tessera Subdivision Phase I. North West Villages LLC (Michael Hurlocker) Applicant, Jim Siebert, Agent, is Requesting Final Plat and Development Plan Approval for Phase I of a Residential Development, which will Consist of 88 Lots on 75.01 Acres in Accordance with the Previously Approved Master Plan. The Request Includes a Variance to Allow Disturbance of 30% Slope for Road Construction and to Allow 3% Grade within 100 Feet of an Intersection. The Property is Located North of NM 599, within Sections 17 and 20, Township 17 North, Range 9 East (Commission District 2). Jan Daniels

*Approved*

7. CDRC CASE # V 03-5770 – Marquez Variance. Bernie Alarid, Agent, Guillermina Marquez, Cruz Marquez, and Guadalupe Dominguez, Applicants, Request a Variance of Article II, Section 4 (Family Proper) of the Land Development Code to Allow a Family Transfer Land Division of 2.82 Acres into Two Lots; One Consisting of 1.26 Acres and one Lot Consisting of 1.55 Acres. The Property is Located at 25 Corral Blanco Way, within Section 4, Township 15 North, Range 8 East (Commission District 5). Jan Daniels

*Approved w/ conditions*

8. CDRC CASE # MIS 03-3765 – San Lazarus Mine. Paul Parker, Applicant, Jim Siebert, Agent, Request an Amendment to a Condition Previously Imposed by the County Development Review Committee and the Board of County Commissioners Pursuant to a Court Decree, and Approval for a Change in the Method of Operation as Stipulated by the Condition, for an Existing Sand and Gravel Mining Operation on 5 Acres Located on BLM Land, to Permit Stockpiles of Sand and Gravel Material for a Temporary Time Period and a Weigh Station to be Located on Property Adjacent to the Existing Sand and Gravel Mine Consisting of 320 Acres. The Property is Located off State Road 344 in the San Pedro Contemporary Zoning District, within Section 27, Township 12 North, and Range 7 East (Commissioner District 3). Dominic Gonzales

*w/ Approved Staff Conditions*

9. EZ CASE # S 03-4880 – Santos Subdivision. Andrew Leyba, Applicant, is Requesting Final Plat and Development Plan Approval for a Residential Subdivision to Subdivide 12.5 Acres into Five Lots. The Property is Located at Camino Del Rey, off of Caja Del Rio Road, within Section 23, Township 17 North, Range 8 East (Commission District 2). Dominic Gonzales

10  
*with conditions*

**EZ CASE # S 03-4830 – Valle Serena Subdivision. Zena Boylan, Applicant, Jim Siebert, Agent, is Requesting Final Plat and Development Plat and Development Plan Approval for Phase I Consisting of 6 Lots of the Valle Serena Subdivision, a 20 Lot Subdivision on 50.019 Acres. The Property is Located Approximately One Mile East of NM 14 on Vista Del Monte, within Section 25, Township 16 North, Range 8 East and Section 30 (Commission District 3). Vicente Archuleta**

**XIV. ADJOURNMENT**

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

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

**January 13, 2004**

This special meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Chairman Paul Campos, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

Commissioner Paul Campos, Chairman  
Commissioner Mike Anaya  
Commissioner Jack Sullivan  
Commissioner Paul Duran  
Commissioner Harry Montoya

**Members Absent:**

[None]

**IV. Invocation**

An invocation was given by County Treasurer Phillip Trujillo.

**V. Approval of the Agenda**

- A. Amendments**
- B. Tabled or withdrawn items**

CHAIRMAN CAMPOS: The first item is approval of the agenda. Are there any changes from staff?

GERALD GONZALEZ (County Manager): Mr. Chair, members of the Commission, we have, under Section VIII, the addition of item D, Approval of MOU with Rio Arriba County to work cooperatively to secure funding for alcohol and substance abuse. Then item XII, Staff and Elected Officials' items, under Community Health and

Development Department, A, items number 1 and 2 are tabled. Then Section XIII, Public Hearings, under Land Use Department, item number 3, Sandia Vista Commercial Property has been tabled. And that was at the request of the parties. Item number 4, La Pradera, that item has been tabled and item number 5, Daniel Santos Appeal, also tabled. Those are the only corrections I have at this time, Mr. Chair.

CHAIRMAN CAMPOS: Mr. Gonzalez, item XII. A. 3, approval of the sole community provider request. Do we have any documentation in our file? I didn't see any. Is there something that's going to be presented to us?

MR. GONZALEZ: We're prepared to discuss that from the staff level when we get there. I don't think that we had any kind of a print-out or anything with respect to that.

CHAIRMAN CAMPOS: Okay. Would any Commissioner like to make any changes to the agenda? Commissioner Duran.

COMMISSIONER DURAN: Thank you, Mr. Chair. I was wondering if it might be possible to move item IX, the presentation and update by the First Judicial District to the next on the agenda or just after Matters of Public Concern before we move into Matters from the Commission. We have several judges here. I think it would be best if we just let them take off after they make their presentation.

CHAIRMAN CAMPOS: Commissioner, are you suggesting that IX. A be moved up to after Approval of the minutes? Is that what you're saying?

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Any objection to that?

COMMISSIONER SULLIVAN: Is that after the minutes or --

COMMISSIONER DURAN: No. After Matters of Public Concern.

CHAIRMAN CAMPOS: Okay, after Matters of Public Concern.

COMMISSIONER DURAN: And one other one, Mr. Chair. I spoke to Vicki in the Land Use Department just a few minutes ago and item number -- never mind.

CHAIRMAN CAMPOS: Okay. Is there a motion?

COMMISSIONER DURAN: So moved.

CHAIRMAN CAMPOS: With the amendment? Is there a second?

COMMISSIONER ANAYA: Second.

**The motion to approve the agenda as amended passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]**

**VI. Approval of Minutes: November 25, 2003**

CHAIRMAN CAMPOS: Any comments? A motion?

COMMISSIONER SULLIVAN: Mr. Chair, I move for approval. I have three typographical corrections that I can give to the Clerk.

COMMISSIONER ANAYA: Second.

**The motion to approve the minutes of the November 25<sup>th</sup> meeting as amended passed by unanimous [5-0] voice vote.**

**December 9, 2003**

CHAIRMAN CAMPOS: Comments or a motion?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER DURAN: Second.

**The motion to approve the December 9<sup>th</sup> (with amendments provided by Commissioner Montoya) passed by unanimous [5-0] voice vote.**

**December 16, 2003**

CHAIRMAN CAMPOS: Any comments or a motion?

COMMISSIONER SULLIVAN: Mr. Chair, move for approval. I have some typographical corrections on the December 16<sup>th</sup> minutes.

CHAIRMAN CAMPOS: Any other corrections for 12/16 minutes? Is there a second?

COMMISSIONER ANAYA: Second.

**The motion to approve the December 16<sup>th</sup> meeting minutes, as amended, passed by unanimous [5-0] voice vote.**

**VIII. Matters of Public Concern – Non-Action Items**

None were presented.

**IX. Presentations and Awards**

**A. Presentation and Update by First Judicial District Court regarding general issues relating to the Steve Herrera Judicial Complex**

CHAIRMAN CAMPOS: Judge Hall, you have the floor.

MR. GONZALEZ: While we're waiting, Mr. Chair, on behalf of the staff and I know the Commission also, we want to welcome our judicial court judges for being present here this afternoon and we want to make their stay as comfortable as possible. So if any of you have any requests, please them pass them on to the staff. Thank you.

JUDGE JIM HALL: Mr. Chair, Commissioners, my name is Jim Hall and I'm a district judge here in the First Judicial District. Right now I'm serving as chief judge in the First Judicial

District, and I have with me all of my colleagues from the First Judicial District, and we're honored to be here today. We certainly appreciate the time the Commission has given to us.

I think when we originally asked to appear before the Commission, we asked for an hour. I'm

going to try to shorten that up in respect for the rather lengthy agenda that it looks like you all have in front of you. And I am going to be introducing my colleagues here in just a minute. But let me just say a couple introductory remarks.

We asked to appear before the Commission so that we could give you an update on the facilities issues that are facing the District Court. As all of you know, the County has the obligation legally to provide the facilities for the District Court. It's a bit of an unusual relationship. You're obligated to provide the facilities, and yet you don't have any role really in our day-to-day operations. And we in the court feel that we're reaching a point where we're going to need to take some actions in connection with the facilities before the court. We've had some dialogues in the past, but we wanted to get a bit more precise as far as some of the things and steps that we need to take in the First Judicial District.

Now, today we're not going to ask you to take any action. Obviously, that wouldn't be appropriate. Today what we want to do is give you a bit of a broad overview of the issues that we're facing in connection with the facilities. Because I think if you're going to make decisions regarding actions we need to take, you need to have a good understanding of what we do. Now, many of you have been to the courthouse, and I think many of you have toured it. I know Commissioner Sullivan's been a juror, I know Chairman Campos obviously has tried cases over there. And I'm sure the next of you have been there. But I think that doesn't really give you an overview of what we do, and I want to provide that.

I also want to provide you with some information about what's changed since we went into the building, the Steve Herrera Judicial Complex, because the times are much different from when the court went there, and I want to give you some of that information. We do have a PowerPoint presentation, hopefully to make this more interesting. We've always had an excellent relationship with the County, and it's our hope to be able to keep that up as we move forward in addressing the facilities.

Let me start by introducing the judges in the First Judicial District Court. They're all seated behind me. We're going to actually put pictures up there. Most of these pictures were taken when they came into office, so you can look at them and see if they look any older now. That's me, and I came into the court in 1995. We also have present here Judge Carol Vigil, who works in the Civil Division. She oversees the ADR program, which I'm going to talk briefly about. She also has experience in domestic violence and is a child support hearing officer.

Also present is Judge Barbara Vigil, who came on the court in 2000. She is our Children's Court judge. She handles abuse and neglect cases, and she is also responsible for our juvenile drug court.

Also present is what we call our senior judge, Judge Michael Vigil, who's been on the bench since 1994. He handles criminal cases, and he has also served as chief judge in the past.

Also present is Judge Steven Pfeffer, who came to the court in 1997. He handles the docket that consists of half criminal cases and half family court cases.

Present as well is Judge Daniel Sanchez, who is the chief judge of the family court, and in that role he oversees family court cases. He oversees our mediation program, the domestic violence hearing officer and the child support hearing officer, who I'll talk about in just a bit.

Finally, we have Judge Tim Garcia, who came to the court in the year 2002. He's the judge that's assigned to Rio Arriba County, and I'll talk a little bit about him as well.

I would say this: we're all here for a reason, because we think what we want to present you is very important. It's rare that all the judges come to make an appearance before the Commission. But, to me at least, that's a sign of how important we think this issue is.

Just to give you an overview of the court, we have a total of 74 employees in the court. And I do want to introduce Steven Pacheco, who's over there working the presentation for me. He was recently named our court administrator just about three weeks ago. He has a lot of experience with our court as the court accountant and then as deputy court administrator. But he is now our court administrator.

As I said, we have a total of 74 full-time employees in the court. Our court covers three counties: Santa Fe County, Los Alamos, and Rio Arriba. As a result, we have courthouses in each of those counties. The next slide will show you a picture of our Los Alamos courtroom. That courtroom, Los Alamos County has decided they're going to do some renovations in connection with that courtroom. And we're looking forward to those.

We also have the Rio Arriba County Courthouse, which we skipped over, and we'll hopefully come back to. I do want to talk for just a moment about the Rio Arriba County Courthouse. In the last few years, Rio Arriba County has spent a substantial amount of money to renovate that courthouse. And as a result of that, last year we determined that we would place a judge there full-time, as well as the staff to man a clerk's office. And that went into effect in January. That essentially took five positions that had previously been working in Santa Fe and moved them, as far as their home offices, up to Rio Arriba County. That's important because it's only because those five positions have left that we are able to fit into the facilities that we presently have. The Rio Arriba County Commission also intends to spend additional funds to expand that courthouse, extending the second floor and establishing a clerk's office there. So that's going to help make permanent our efforts to have a judge and an office up there.

So now let me turn to the reason why we're here today, which is the Judge Steve Herrera Judicial Complex. Most of you know, I assume, that this building was dedicated to Judge Steve Herrera, who died unexpectedly in August of 1998. And it was actually Judge Herrera who started this process of looking at court facilities and determining what we need to do for the future. He didn't get to complete that project, but we've worked on it since.

This building that we're in now has a rather interesting history. It used to be, as some of you may know, Harvey Junior High School. That was its original purpose as I understand it. And then, in the mid-70s or so, it was converted into the judicial complex. Prior to that, the district court actually I think was here. I think this was one of the courtrooms that the district

court had. Then we moved down the street to that building.

This building has been a courthouse then for about thirty years, and then had a prior history as a school. And, not surprisingly, it's showing its age. Many of you know we have some mechanical facilities types of issues in this building in connection with the heating and cooling. We've had some water damage issues. The age of the building has made its maintenance I think somewhat difficult for the County, and the way it is set up has made security difficult for us as well.

I do want to sort of as an aside say we are very pleased with the County staff and their responsiveness to the courts. When Corky Ojinaga was running the property division or -- I forget how you title it -- and now with Tony Flores running it. The actual staff, Frank Jaramillo, Dennis Hernandez and Ish Lovato and all of their staff, they've been very responsive to us. But it's been an uphill battle. With the age of the building, we've had them out quite frequently to try to address problems with that courthouse. But I did want to commend them for the work that they've done.

Now, I'm looking at the courthouse; I just want to point out a couple things so you'll get a perspective as to how we're looking at the facilities issues. And the first is to give you an idea of what's happened between the time we moved in there 30 years ago and today. If I could go to the next slide, Steven, and if we could go ahead and put the chart up.

We were only able to get numbers back to 1986. But this shows how our staff has increased since 1986 up to the present. We used to have about forty employees, and now we're up over seventy. You might wonder how that has happened. Well, effectively what we've done is we've displaced all the other agencies. When the building was opened, the district attorney and the juvenile probation office were in there. At one point, the sheriff's dispatch office was in there. And over time, those agencies have all moved out, and our staff has increased. Now, there's no one else there. There's no one else for us to displace, and the building is full.

We've asked the legislature for a couple of additional positions and, to be honest with you, we hope we get them. We need them. But if we do get them, we're not quite certain where we're going to put them, because there aren't any open offices or places for us to put people and that's just a result of the increase in our staff over time. When we moved into that building in the early '70s, there were only three judges. Now there are six in that building, as well as several hearing officers.

In addition -- and I'm not going to hit you with too many numbers -- but we've also had an increase in the cases that we're dealing with, which has generated additional staff. If you take a look here you'll see back in 1977 we had about 3500 cases. Now today we're closer to 7500 cases. And so over that time frame you can see the increase in the cases.

And to take a look at just one particular area of cases, that's the criminal filings, I guess it's particularly noticeable. Back in 1976/77 we had maybe three, four hundred criminal cases filed. Now today we're up over 1200, and have been well in excess of a thousand for the last few years. Obviously, those increases in criminal cases affect security issues as well.

So that gives you sort of a big picture of how the increase in staff and increase in case-load has put pressure on the facility. But I also want to talk about another I think substantial



change in the way the judiciaries operated in the last 25 or 30 years. And that's the advent of special types of programs. I think 25 or 30 years ago, the court was essentially the judge, the judge's staff, and a clerk's office. But the judiciary as a whole has recognized that we need to be more proactive in dealing with community problems, and so we have created special programs that are sort of outside the mainstream. And we're very proud in the First Judicial District, because we tend to be a leader in that area, establishing these programs really early on.

But it does affect our need for facilities. Programs like drug courts, domestic violence alternative dispute resolution, mediation, and child-support hearings are all special programs that we've entered into. And I just want to touch on those briefly so you'll get an idea of what we're doing in those areas.

In the drug court area, I think we formed the second felony drug court in the state of New Mexico. There was one in Albuquerque, but I believe we were the second. And it's been in operation for about six years now. Judge Michael Vigil is the judge that presides over our adult drug court. We also a few years ago started a juvenile drug court. Judge Barbara Vigil presides over that. And the drug courts have been a very successful program for us. We have 39 clients in the adult program, 25 in the juvenile program, and the graduations have increased. I know it's always something that Commissions are interested in -- those types of programs have an effect on the cost of incarceration. Most of the statistics we take a look at indicate that programs that we have, the treatment costs are about \$3500 a year. That's as opposed to an incarceration cost of about \$30,000 a year. In the juvenile area, it's probably even more compelling, with the treatment costs being about \$5000 an year and the costs of incarceration about \$35,000 a year. So, again, this is the type of program that we think is very helpful generally. But it does require additional staff and additional facilities.

Another program is our program related to domestic violence. We have a domestic violence hearing officer. And that hearing officer has seen a substantial increase in that caseload in the last few years. I believe last year it was an increase of about eleven percent in connection with new cases. So again, that's an area where we see increased cases.

Another program we have is the Alternative Dispute Resolution program. We've seen an increase in that area as well. The number of settlement conferences have gone from about 150 to about 240 over that year.

We're one of the first districts to have a mediation program, which has been in effect for a number of years. For those of you that might not be familiar, mediation is something we employ in every child custody case that we have. The parties are required to go through a mediation program. And again, that's an area where we've seen significant increases really just in the last few years.

Another area is the child support hearing officer. Fortunately, I think, the state has become much more interested in pursuing child support obligations. And as a result, the state agencies are filing many more petitions in connection with child support hearings. And the number of hearings that we've seen has just risen almost astronomically, up about 80 percent of the last year, because the state has been able to get funding to pursue these types of child support enforcement proceedings. And so that's another area where we've been quite active

with the court.

One final area I just want to mention, and that's the idea of retention of public documents. The first picture you see is really just a picture of the filing that we're required to keep. And that amount grows year by year. Now, we've undertaken to put a number of these files on CD-ROM, but the burden still exists. A couple years ago, we actually had -- the Fire Marshal raised a concern that the number of files that we were keeping posed a fire hazard. And so it gets to the point where the facilities affect our ability to keep up with those obligations.

We also keep exhibits, and we're required to maintain those for a set period of time. Here you see a number of exhibits, including fire arms, that we're required to keep. I will let you know that of course this facility is very secure. It's locked up. It's not something that someone can access. But it's still something that we're required to keep. And, as I mentioned, we have imaged over 55,000 case files, and still we have an issue with space. And we're hoping that the legislature will provide us with some funding to continue that process. But it's still pressure on our facilities.

Finally, I guess to sort of make the point as to how complex the courts have become, I just threw in an organizational chart. It'll give you an idea that it's not simply the judges trying cases, but it's all of the underlying staff and special programs that we're involved in that affects issues regarding facilities. I point that out really because I think most people, although you all have experience with the courts, but many of you may not know that it's more than simply what you read in the paper about judges conducting trials. There are many other programs that are going on within The First Judicial District Court. We think they are very positive programs for our community, but they do affect the facilities issues involved.

Now, when we took a look at the issue regarding court facilities, we of course began looking around nationally to see what the expectations are. And one of the places we went is the National Center for State Courts, which helps advise local jurisdictions on court facility issues. And they identified these four areas that need to be considered in connection with appropriate facilities. And of course the one that jumps out for us is the first one up there, which is security.

This building that we have I think was adequate for certainly the time period that they first moved in and through the 80's and maybe into the 90's. But the thinking related to court security has changed dramatically in the last ten years. And the reality is we are attempting to make do with a structure that is not really designed to be secure. The areas you principally look at is how you're handling inmates and making sure that the building is a safe building for the people that are present. We have an excellent group of deputies that work the building, but the fact of the matter is just the way the building is laid out makes security issues significant for us.

We've looked over ways that we can address them. We've tried to put things into place. But I think as time has gone on, the judges have reached a conclusion that it would be extremely difficult to fully renovate that structure to provide adequate security for court staff and for court users. And that is one of the primary issues and concerns that we have come up with over the last couple of years.

So we've taken a look at it, and we've tried to think what would be the advantages to us if we were able to have a new court facility. And on the next slide are the reasons why we should do that and then what the advantages would be. Probably the primary advantage from our standpoint would be to improve the security measures that we have. As I mentioned, we had the issues related to our staff in having sufficient space allocations for the individuals that are there. We need to do something to affect the traffic flow pattern so we don't have problems between people who are in custody and not in custody.

I'm actually very impressed with the technology that you have here, although we're not running it as efficiently as I think we had hoped. But we don't have any of this type of technology within the courtrooms. And that's the coming trend I think for courts, is to have that type of technology. We don't have access to that.

And although we've put in sort of stop-gap measures to meet the accessibility requirements of the ADA, I'm not sure that everything is in place as effectively as it might be. So those are some reasons why we are concerned about the facility that we have. We would be able to meet those concerns if eventually we end up with a new facility that is designed for this particular purpose. We could separate the staff, the public and prisoners effectively. We would be able to establish some sort of security center and of course that wasn't designed into the building we have as a junior high school. But we certainly would attempt to do that to increase security. We'd be able to provide emergency back-up generators and address issues such as energy conservation. And we would like to see an ability to conduct surveillance and to address parking issues.

Now, we the judges looked at all of those issues. And I think we have come to the conclusion that we think it's an appropriate step for the district to pursue a new facility. And that's what we want to begin as far as our discussion with the Commission, is ways that we can go about achieving a new facility that will actually meet the needs that we have. I want to say a couple things about that.

First of all, I'm sure that you have noticed that I have mentioned nothing at all about the financial side of it. And I'm not ready to address that. I don't know exactly what the circumstances are from the financial side for the County. But I will say this: as indicated by their presence here today, I think the judges as a group view this as the most important project on the table for us right now. So to the extent we are able to assist in any way in achieving whatever's necessary to get the financial backing, we are committed to doing that.

There was a bond issue that went out to the voters a few years back that failed related primarily to parking for the courthouse. And we were disappointed that it failed. In hindsight, I think that we could have done more to achieve success with that bond issue. And we certainly are committed to making those efforts that are necessary to make sure that the public understands why this is an important issue. I'm sure seeing on the front page of the paper that an inmate has escaped from the courthouse indicates to the public that there is a real issue here. But we're committed to doing what we need to do to step out and assist in any way that we can from the financial standpoint.

So basically the reason for this presentation is to tell you that we consider this a very

important issue. We also think that we're willing to do what we can in connection with a new facility, no matter where the County determines it's appropriate. In the past, in our communications with the County Manager or members of the County Commission, we have expressed the view that ideally the courthouse would remain downtown. We still feel that way. Ideally, the courthouse, we think, should remain downtown. But I think the feeling of the judges at this point is it's critical to the success of the court and the security of the community that we move forward with this. If that means that it's not feasible in the downtown area, so be it. Because we need to address these issues, both in terms of the efficient operation of the courts and the security issues that I've talked about.

Let me just close my presentation by -- we have an additional slide which sets forth the missions of the state courts of New Mexico. This is adopted statewide. These are the four mission statements for the courts in general. And I guess I just point to the last one, which is: "To undertake all of these missions, and to do so in a way that is effective and makes courts accessible and easy to use for the public." Well, a lot of that mission goes to the facilities that we have. And we believe it's time to move forward in connection with the court facilities.

I want to thank you on behalf of the judges for the opportunity to speak to the Commission on this issue. We certainly appreciate the chance to be here. Mr. Chair, I don't know how you want to proceed. We certainly are willing to address any questions. If it's all right with you, I'd like to give my colleagues an opportunity if any of them want to add anything to what I have said. Would that be acceptable?

CHAIRMAN CAMPOS: That would be great. Please.

JUDGE HALL: Allow me to see if there is anyone -- no takers. First time you'll see a group of judges that don't speak up. If there are any questions I'm happy to address them or any of the other judges would as well.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Chief Judge Hall for coming and showing up with all the other judges. Thank you all for being here. Do you have -- you've probably heard that we're also trying to build a new building for the County. Would you all be, would you be opposed of being in the same building as us? We were kind of thinking that we could all build one building, one big building with a bunch of parking and we'd all be together and it would probably be maybe simpler. I'm not sure. How do you feel about that?

JUDGE HALL: Mr. Chair, Commissioner Anaya, a couple things. One is I think we do want to emphasize that we think a courthouse is sort of a special building because of the security issues. If we could get over the security issues, I don't think the judges as a group have any kind of problem with that, assuming we could put into place appropriate security procedures or the facilities for security, I don't think we'd have trouble with that. And we have talked about this quite a bit and some of the Commissioners I've probably spoken to in the past about our desire to remain downtown, but we finally have come to the conclusion that because of the pressures, the overriding concern is getting the new facility. If that's how we can accomplish it, I'm sure we'd be in favor of it.

COMMISSIONER ANAYA: Or it doesn't have to be together. It could be two buildings at the same place. I know that your concerns are similar to our concerns to ours here at the County, parking spaces, an increasing number of employees. You go down to Rebecca Bustamante's office and you're jammed in there. So we're also looking at that. And an increasing number of the cases that you all are handling, that's a lot of cases. So we definitely hear what your concerns are. And if we do decide to go back to the voters, I'm glad to hear that you had mentioned that you would help out and that way we could maybe get a bond or something. But thank you all very much for coming. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: Judge Hall, I was wondering if you could help me with a concern that I have. You know the bottleneck in my opinion that's prevented us from moving forward on this is the fact that, or the understanding that the judges did not want to move from the downtown area. And there have been several opportunities that have presented to us that could accommodate a new judicial complex but they have not been in the downtown area. So I'm happy to hear that you all have considered moving away from the downtown area, because that opens it up tremendously. The opportunities are tremendous then.

We have been discussing a new County administration building, but I'm not sure that the public is going to approve a \$75 million administration building and a \$75 million courthouse at the same time. I could see that if we could find a location for the courthouse, that our needs could be accommodated by moving offices and other needs that we have into the judicial complex. And that would mean that we would only have to go to the voters for one bond issue and that would be to build the judicial complex.

So have you all put the pencil to what your needs are in terms of what you think an appropriate bond amount would be to pay for a new building?

JUDGE HALL: Mr. Chair, Commissioner Duran, the answer to that's no. We did some work on costs involved with the new courthouse a few years back. I don't think there were anywhere near \$75 million even downtown but we have not taken that step, so we don't have a specific proposal to make. We wanted to get some idea of how the Commission felt about it.

COMMISSIONER DURAN: Well, I said \$75 million because I think that's how much the Bernalillo County Courthouse cost.

JUDGE HALL: Mr. Chair, Commissioner Duran, we don't need anything that big. We don't have that many judges. So I'm sure --

COMMISSIONER DURAN: Well, that's good. That's good to know. The problem that we have right now though is we have a limited amount of time to make a decision whether to put it on the coming election in November. Can you help us? Becky, when would we have to have everything put together to go to the voters to have it on the general election?

REBECCA BUSTAMANTE (County Clerk): We would have to have everything by the end of June or second week in July. It would have to have been adopted by the Commission by then.

JUDGE HALL: Mr. Chair, Commissioner Duran, we will do whatever we can

do to move that process along. I don't know procedurally how the best way to do that is in connection with the County, for us to work with the County staff, but if there's a way that we can move that process along, we're committed to doing that.

COMMISSIONER DURAN: Maybe we could ask Tony Flores when he brings forward that contract for our assessment. Maybe we could beef that up a little bit and maybe get the courthouse needs incorporated in to that assessment.

CHAIRMAN CAMPOS: I think that is part of the assessment. Mr. Flores, would you tell us, is the courthouse part of the assessment?

MR. FLORES: Mr. Chair, that's correct. It's part of the assessment that we'll be undertaking. It's to include not only the First Judicial District Court but also the DA's office and other state agencies that we currently house for a consolidated facility. When I use the word consolidated, it could be in a campus environment so that we would not potentially be located in the same building but in a campus environment. So that's already on the drawing board, to improve the assessment, the questionnaires, to determine what the other agencies are as far as needs, space, staffing patterns, etc. That's included in the assessment we'll be gathering in the next five months.

COMMISSIONER DURAN: Is that coming before us today?

MR. FLORES: No.

COMMISSIONER DURAN: When will it?

MR. FLORES: Mr. Chair, Commissioner Duran, we're hoping to bring that up, like I indicated last week, on the 27<sup>th</sup>.

COMMISSIONER DURAN: Okay.

CHAIRMAN CAMPOS: Keep in mind that's very preliminary. We still have a lot more work to do after that, don't we Mr. Flores?

MR. FLORES: Mr. Chair, that's correct. This will lay the groundwork and get our needs established, including basically a program document. From there, that will determine size required for accommodation of services both County admin and other uses. So yes, this is the first beginning phase of that.

CHAIRMAN CAMPOS: Thank you, Mr. Flores.

COMMISSIONER DURAN: One last comment. I guess I'm just concerned that I feel that the judicial complex needs are probably greater than our needs at this point. And I think that if we look at a new facility for the judicial complex with the idea that then that would free up the space that they're in, and then we would not have to move County government elsewhere, that that might be part of our deliberation of how we think about this move.

MR. FLORES: Mr. Chair, Commissioner Duran, I agree and that is part of the potentially four options that we would have when this assessment is completed, is do we move everything? Do we move portions? How do we consolidate and make our departments more efficient? So all those things, we'll be taking a look at during this assessment.

COMMISSIONER DURAN: So do you think we could make a commitment to the judges that we get them involved in our process with our architect and the person that's doing our space analysis?

CHAIRMAN CAMPOS: I think that's going to be part of what's going on. Mr. Flores has been in contact with Judge Hall and the administrator. There's been a lot of discussion and there's an effort to work together.

COMMISSIONER DURAN: Okay. Good. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other comments?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Just regarding the potential facility as it comes up, Judge. Have you considered some of the advanced technological devices that are out there in terms of taking a look at things that would make it cost effective for the County as well. The thing that comes to mind immediately is video arraignments in terms of taking a look at that. That helps us on the cost with the jails in terms of the prisoner cost. Is that something that has been discussed among the judges?

JUDGE HALL: Mr. Chair, Commissioner Montoya, yes it has. And actually, we've made some progress along those lines. I'm not sure how much of a discussion you want me to get into on this. There are some issues that -- some problems that are presented with arraignment hearings done by video at the district court level. However, we met with the County Manager and others not too long ago and Judge Michael Vigil has agreed to conduct his pre-trial conferences and docket call hearings, which is the cause of a lot of the transports, we're going to try to do that by video. They're not technically arraignments but they are other types of hearings. We've been stalled slightly on this because the state judiciary is adopting some rules relating to that type of video conferencing and we're trying to work with them to get them to approve the process. But as far as I understand from County staff, we are -- as soon as we can get that equipment in, we're going to try that with Judge Vigil. We would be very interested in seeing what we could do along those lines in any type of a new building as well.

COMMISSIONER MONTOYA: Okay. And the reason I say that, Chief Judge is just because if we look at building a new facility, that's going to of course take some capital and then how can we offset some of the other costs, at least to make it more cost-effective for both parties.

JUDGE HALL: Mr. Chair, Commissioner Montoya, we recognize that the transports have been a burden in connection with the County and if there are things we can do to lighten that within the confines of the legal requirements, we'd be interested in looking into those things.

COMMISSIONER MONTOYA: Right. Thank you, Chief Judge.

CHAIRMAN CAMPOS: Thank you. Commissioner Sullivan, any comments?  
Commissioner Anaya?

COMMISSIONER ANAYA: Thank you, Mr. Chair. I do agree with Commissioner Duran that I think we should put this as a priority, but I don't agree with us continually spreading out the County staff. I'd like to see us come together in one building and not be scattered throughout Santa Fe County or the City of Santa Fe. So that's just how I feel about that. But I understand your concerns. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Judge, you stated that you had asked for two additional positions?

JUDGE HALL: Actually, it's a total of three.

CHAIRMAN CAMPOS: Three new judges?

JUDGE HALL: Oh, no, I'm sorry. Not judges at all. They're all support staff.

CHAIRMAN CAMPOS: Three FTEs. Okay, I was wondering where you were going to put all the judges and all that. What about your timetable? You're saying you're pretty full now and you cannot -- do you foresee in the next three to five years you're going to need another judge or two?

JUDGE HALL: Mr. Chair, that's difficult to predict. It wouldn't surprise me if we qualified for another -- there's a judicial study as to the needs for additional judges. We have need for some additional judge help but not to the extent of other districts. There's some districts that are down two, two and a half judges. So we're sort of far down on the list and we have not requested an additional judge. I don't know. The last two years or so, about two years ago our case loads were flat briefly, and then this past year they went up again. Is it going to be three years? Is it going to be five years? I can't answer that. I can almost guarantee certainly in the next ten years we're going to be looking at another judgeship.

CHAIRMAN CAMPOS: One of your biggest problems and concerns has been parking. I know you've been working with the City as far as the new convention center. Any new information on that issue?

JUDGE HALL: Mr. Chair, I don't have any new information. If a parking structure is built that close to our existing courthouse, it would make sense for us to try to take advantage of some of that parking. The parking -- well, you know this as well as anybody. It's an extraordinary problem for the users of our court. And I understood that at one point there were some discussions between the City and County about dedicating a part of the parking to the court but my understanding is since the City, they're the lead governmental entity on this, we just don't know whether they're going to go forward or not so I don't know if that's going to happen or not.

CHAIRMAN CAMPOS: Thank you, Judge. Any other questions. Thank you very much for your presentation. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just had a short one. Judge, my understanding is that you have one day, is it Monday, that's set for arraignments when the prisoners are brought in. Is that correct?

JUDGE HALL: Mr. Chair, Commissioner Sullivan, each of our criminal judges has a day that they do a lot of their criminal hearings. For Judge Michael Vigil it's Monday. For Judge Steve Pfeffer, it's Friday.

COMMISSIONER SULLIVAN: Okay. And then you try to do your jury selections on other days than those days, I assume.

JUDGE HALL: Mr. Chair, Commissioner Sullivan, it varies from division to division. I do my jury selections on Monday for civil cases, but the criminal, I think Judge Michael Vigil, tends to start his on Tuesday.



COMMISSIONER SULLIVAN: I just wondered in the interim, while we're working this problem out, which is an expensive problem and one that fortunately we're already starting on with this facility study, if there's some way of sequencing those jury selections that they don't all occur at the same time, because that seems to put the biggest strain on the facility and on the limited restrooms and on the snackbar and everything else. Or have you already done that and you're as far as you can go with that?

JUDGE HALL: Mr. Chair, Commissioner Sullivan, we have done that. At one point, every judge would do all of their selections on Monday. So it used to be three or four panels that would come in. We have rotated it so there's just one judge, typically, doing a jury selection. We haven't really looked at trying to move that away from Judge Michael Vigil's Monday docket. I haven't thought that through as to whether we'd be able to accomplish that. Monday tends to work better for juries, because we can select them and immediately go into a case on Tuesday. That's what I did yesterday. It's something we could certainly take a look at.

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

CHAIRMAN CAMPOS: Thank you, Judge. Appreciate it very much.

JUDGE HALL: Thank you very much for placing us early on your agenda. As I said, we're willing to do everything we can to work with the County on these issues. Thank you very much.

### **VIII. Matters from the Commission**

#### **A. Resolution No. 2004-3. A Resolution Supporting Release of Funds to Clean Up Waste Materials at Los Alamos National Laboratory**

CHAIRMAN CAMPOS: Let me just say this. We have public hearings starting at 6:00 and we have a lot of public hearings. I'd like to see how far we can get on our agenda between item VIII and VII, see if we can finish that up by 5:00 if that's possible. So if we could move quickly that would be great. Who's going to present?

COMMISSIONER MONTOYA: Mr. Chair, this is a concern that had been brought up by some constituents in my area that work up in Los Alamos and this is simply a resolution stating that Santa Fe County supports that the State of New Mexico, specifically, the New Mexico Environment Department and the Department of Energy come to some sort of an agreement regarding the clean-up of the nuclear waste from the laboratory. It does and it will, hopefully impact Santa Fe County in a positive way in terms of some of that. I believe it's about \$50 million that has been withheld. So this is simply encouraging the two organizations, New Mexico Environment Department and Department of Energy to come to a resolution, some sort of negotiated agreement between the two parties.

CHAIRMAN CAMPOS: Any comments from any of the Commissioners?

COMMISSIONER SULLIVAN: Move for approval, Mr. Chair.

COMMISSIONER DURAN: Second.

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

**The motion to approve Resolution 2004-3 passed by unanimous [5-0] voice vote.**

**VIII. B. Resolution No. 2004-4. A Resolution Addressing Concern for La Cienega and It's Need for Environmental Cleanup and Safety Measures**

CHAIRMAN CAMPOS: Who's taking the lead on that?

COMMISSIONER ANAYA: That's mine.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, thank you, Commissioners. I brought his forward I think last month. We were talking, the La Cienega people over there, the constituents, and their concern over there, Commissioner, is that the illegal dumping that's going on. And we're going to flash some pictures that we flashed before. For example, the household trash, refrigerators, washing machines, box springs, mattress, bags of trash, commercial material. Another thing that we discussed was ATV use destroying the terrain, cutting of fences, the noise, endangering the petroglyphs. We talked about shooting ranges, the noise that it creates, illegal weapons, such as automatic rifles out there, the safety, bullets coming dangerously close to the residents' homes, trash left behind from the empty shotgun shells, bottles, glass, targets, etc.

And I would like to read this resolution, Mr. Chair, if I could.

CHAIRMAN CAMPOS: Certainly, if we could outline the essence of it because we need to move rather quickly.

COMMISSIONER ANAYA: You bet. The resolution addressing concerns of the La Cienega and its need for the environmental clean-up and safety measures.

Whereas, an integral concern of the Board of County Commissioners is to provide a safe and clean environment for all Santa Fe County residents; and

Whereas, in order to educate the public regarding a safe, clean environment it is necessary to involve as many interested parties as possible; and

Whereas, in order to effectively represent all Santa Fe County residents it is imperative that constituent needs continue to be a priority and be addressed in a timely manner; and

Whereas, an issue of concern from Santa Fe County residents concerning the cleanliness and safety of a particular area known as La Cienega has been addressed; and

Whereas, the collaborative efforts along local, state and federal agencies, we will work with residents of La Cienega and the beautification process of their community; and

Whereas Santa Fe County, its employees and concerned citizens take pride in the well-being of their community,

Now, therefore, be it resolved that Santa Fe County supports entering into an internal government agreement with the City of Santa Fe, Bureau of Land Management, the New Mexico State Land Office and any other relevant parties in efforts to reinstate the environment and safety needs of La Cienega. And Mr. Chair, we have some people here that I'd like to

recognize. From the Bureau of Land Management, Sam Desgorges. Thank you, Sam for being here. Leonard Bird with the Bureau of Land Management. Leonard, could you stand up? He had to leave early. From the State Land Office, we have Cody Marl. Thank you, Cody. Santa Fe County, Sheriff Greg Solano, Major Ron Madrid. And these people that I'm naming are helping us in this task force. Jennifer Jaramillo, James Lujan, Oliver Garcia, Joe Martinez, Gino Portillo. From Caja del Rio, Jim Dennison. Constituents in the area, residents, José Varela López, Ed Siri, Jesusita Larrañaga, and Robert Casey. Is there anyone that I missed?

I appreciate you all being here and the bottom line of this whole thing is so that we can work together with the state agencies to resolve, for this resolution is to have all agencies involved work as one in creating a safe and clean community for our constituents in the La Cienega, La Cieneguilla and the surrounding areas. So with that, if there is anybody that would like to say anything with regards to --

CHAIRMAN CAMPOS: I think we need to move forward. We'd like to wrap up this section about 5:00. If they could be very brief.

COMMISSIONER ANAYA: Yes. Thank you, Mr. Chair. Is there anybody out there that would like to speak on behalf of this resolution? Thank you, Sam.

COMMISSIONER DURAN: Excuse me, Mr. Chair. I think it's important that we get as much time as we need to discuss the issues that we're concerned about. Thank you.

CHAIRMAN CAMPOS: Okay.

SAM DESGORGES: It's a pleasure being here and certainly, from the Bureau of Land Management, you have our wholehearted support. A significant majority of that refuse is on BLM land. We have clean-ups that we sponsor ourselves and at this point, without the Commission's help and without the rest of the community's help we just can't keep up with it. So we're here to provide that support and do whatever is necessary.

COMMISSIONER ANAYA: Thank you, Sam.

CHAIRMAN CAMPOS: Thank you.

CODY MARL: Thank you, Mr. Chair. On behalf of Commissioner Lyons from the New Mexico State Land Office, we also want to applaud Commissioner Anaya's initiative and take his approach, and we feel that if we all work together we can save money and maybe you could spread it around to different areas and clean up the county as well from that point. I just want to thank the Commissioners.

COMMISSIONER ANAYA: Thank you, Cody. Was there anybody else? Thank you, Mr. Chair, for the time.

CHAIRMAN CAMPOS: Commissioner Anaya, I assume you've been working with some people in County staff on this issue.

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: What are the fiscal implications as far as how much money or personnel we're going to commit to this effort.

COMMISSIONER ANAYA: Well, right now, we've just created a little task force and we will be talking about it. I know that the State Land Office, just hearing from Cody earlier, they have some funds that they are going to give to the County. We don't know what

we're going to use it for, but we can use it for fencing, we just haven't come to that point yet, but I think the main thing is is that our Code Enforcement, Joe Martinez, is now, we'll be able to go on their land and be able to cite people that are illegally dumping and that way we can clean this up. So there still is a lot of leg work to be done, but this is the start and we will clean that up and we will catch the people that are illegally dumping and you will be cleaning that mess up if we catch you. So this is the start of cleaning up Santa Fe County.

CHAIRMAN CAMPOS: Do you expect that we'll be getting financial assistance or contributions from BLM and the Land Office?

COMMISSIONER ANAYA: I believe so.

CHAIRMAN CAMPOS: Great. Any other comments?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Commissioner Anaya, I know we had talked about previously expanding this countywide. Is that the intent of this resolution as well?

COMMISSIONER ANAYA: Mr. Chair, and the reason that we didn't include other areas is that we were concentrating particularly on this area because we had community -- the people that live in that area, community help. So I, and I'm glad you brought that up because I met with another area of concerned people this morning and we are going to also do that with that area. So we're just taking it one step at a time and getting the groups of people that we need together to do this. And I know you mentioned it in your area and I think we need to get those groups of people, along with the State Land Office, if there's state land or BLM land.

COMMISSIONER MONTOYA: And BLM, yes.

COMMISSIONER ANAYA: But no. This is the beginning of what I think is going to be something good.

COMMISSIONER MONTOYA: So then, Mr. Chair, Commissioner, Gerald, would we need a resolution for each area then that we would like to have this sort of a clean-up effort?

MR. GONZALEZ: I believe it would be helpful in terms of providing an umbrella that we could enter into the agreements through. And it may be that we want to do just a general resolution of some kind to cover all the areas in the county the Commission designates. That would be one approach.

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

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Any discussion?

**The motion to approve Resolution 2004-4 passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: The resolution 2004-4 is adopted.

**VIII. C. Appointment to Regional Development Corporation Board of Directors  
- Reuben Montes**

COMMISSIONER MONTOYA: Mr. Chair, I'd like to bring forth the name of Reuben Montes to be appointed to the board or directors for the Regional Development Corporation. His cv, his curriculum vitae resume has been provided to you in your packet. I believe that he brings and will bring to Santa Fe County and to the Regional Development Corporation expertise that is needed on that board. He was instrumental in terms of when the RCD was formed working with the employees that have been laid off at the Los Alamos National Laboratory and that was the reason why this RDC was developed to begin with and I think, again, what he brings and will bring to the board and he will be the Santa Fe County representative on that board will be very valuable to that organization and to the County as well.

CHAIRMAN CAMPOS: Commissioner Montoya, the County has the authority to appoint someone to the RDC?

COMMISSIONER MONTOYA: Yes, Mr. Chair. It has to be a Commission appointment.

CHAIRMAN CAMPOS: Is that one for the County of Santa Fe or do we have other counties participating?

COMMISSIONER MONTOYA: We have representatives from Rio Arriba County, Los Alamos County and Santa Fe County that are appointed by each of those respective bodies.

CHAIRMAN CAMPOS: Now, was this position advertised to see might be interested in applying for the position?

COMMISSIONER MONTOYA: The RDC, through their subcommittee, their nominations committee, did advertise and did go through an interview process and this was a recommendation that is also coming from Lillian Montoya Rael, who is the executive director from the RDC.

CHAIRMAN CAMPOS: So RDC is basically saying, Reuben Montes is our choice. Please appoint him. Is that what's going on?

COMMISSIONER MONTOYA: That's who they're recommending. Yes.

CHAIRMAN CAMPOS: No other options. Just one.

COMMISSIONER MONTOYA: There were two that were interviewed and he was the one that was recommended.

CHAIRMAN CAMPOS: Any other comments?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay. Any discussion?

**The motion to appoint Reuben Montes to the Regional Development board of directors passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: The appointment is approved. Reuben Montes is the new appointee.

COMMISSIONER MONTOYA: Thank you, Reuben. Would you like to say something? Briefly.

REUBEN MONTES: Briefly. That's the operational word. Thank you, Commissioner Montoya, Mr. Chair, for the confidence you've expressed in appointing me to the RDC board. I look forward to bringing a natural resource perspective to this board, especially with regard to immediate concerns involving pinon bark beetle infestation trees and biomass/central heat proposals that are now in the works for downtown Santa Fe. I think I can bring that expertise to the board, and again, thank you for your approval.

CHAIRMAN CAMPOS: Thank you, Mr. Montes.

COMMISSIONER MONTOYA: Reuben, thanks.

COMMISSIONER SULLIVAN: I'd like to make one comment, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: That District 1 has selected an outstanding candidate who lives in District 5.

COMMISSIONER MONTOYA: We'll have to get him back to District 1.

**VIII. D. Approval of MOU with Rio Arriba County to Work Cooperatively to Secure Funding for Alcohol and Substance Abuse**

CHAIRMAN CAMPOS: Who takes the lead there?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER MONTOYA: I felt neglected the last couple meetings. I didn't have any issues. Mr. Chair, through the Community Health Development Planning Department and their efforts we have been able to procure, and we had discussed at one point that as part of the negotiating process through the governor's allocation for funding for treatment for black tar heroin that the programs that the CARE Connection would be the recipient of \$200,000, which we are going to be, thanks to the efforts of Robert Anaya and his staff.

This simply is a memorandum of agreement stating that we will work collaboratively with Rio Arriba County in lobbying for additional dollars for the facility, for both the CARE Connection and for the Velarde facility which they have as well. So that's what we're talking about here. I don't know, Robert, if you wanted to add anything else to it.

CHAIRMAN CAMPOS: Commissioner, can I ask you a question?

COMMISSIONER MONTOYA: Sure.

CHAIRMAN CAMPOS: You're asking for additional money out of this next legislative session?

COMMISSIONER MONTOYA: Yes, sir.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER MONTOYA: And we will be asking jointly between the two counties.

CHAIRMAN CAMPOS: Okay. Good. Mr. Anaya..

MR. ANAYA: Mr. Chair, I don't have anything to add. I would just stand for any questions that the Commission may have.

CHAIRMAN CAMPOS: Okay, any discussion from the Commission? Is there a motion?

COMMISSIONER DURAN: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: This would be a resolution? Oh, a memorandum of agreement. Okay, there's a second. Any discussion?

**The motion to approve the memorandum of agreement with Rio Arriba County passed by unanimous [5-0] voice vote.**

COMMISSIONER DURAN: Mr. Chair, if we're still on Matters from the Commission --

CHAIRMAN CAMPOS: Okay, you have additional matters?

COMMISSIONER DURAN: I have one, yes.

CHAIRMAN CAMPOS: Okay. Just one?

COMMISSIONER DURAN: Well, it's --

CHAIRMAN CAMPOS: We'll pin you down.

COMMISSIONER DURAN: Yes, it's one. Unless I think of something else but I don't think I will. I know that we're in a time crunch here, but I would like to read this letter. This has basically to do with the fire risk that our community is facing in an upcoming fire season with all the bark beetles and the dead trees. "So the purpose of this communication is to propose an alternate to the present form of forestry firefighting in New Mexico. We are presently faced with relying on United States Forest Service contract firefighting aircraft led and directed by United States Forest Service personnel. These aircraft are either heavy retardant delivery airtankers or helicopters delivering from 300 to 2,500 gallons per trip. The airtankers are based at Alamogordo, Silver City and Albuquerque, all requiring from one to several hours to respond. The helicopters are generally based out of the state and can require days to get to a large fire.

"There is a third way. The third way is to be more pro-active, use lighter equipment, get out from beneath some bureaucracy and fight the fires when they are very small. We need contracts to use two airtractor 802-F aircraft. These are single engine turbo-prop 800-gallon capacity modern aircraft built in only Texas. They cost approximately \$1,250,000. I in the packet that I gave you, have provided you photographs of the aircraft that I'm talking about.

"A new pro-active agenda needs to be implemented. Presently the United States Forest

Service runs patrol aircraft perhaps several times per week as spotters along with using permanent look-out towers in several locations. These methods worked well before World War II and would no doubt still be sufficient if there were not more people in the forest today. More homes and other buildings in or near the forest, and as of 2004, millions of dead pinon trees dried and ready to burn. It's now time for a new third approach. Two airtractor 802-Fs could be contracted on a standby basis, plus a three-hour per day airplane patrol for a 100-day fire season, for approximately a million dollars. This would be from May 1<sup>st</sup> through July 31<sup>st</sup>."

I bring this up today just to let you all know that I'm going to be working with Stan Holden and other staff here at the County to try to put together a presentation that we could make to our legislators to try and help us find some funding for this kind of aircraft. I'm not suggesting that we actually buy these aircraft. The gentleman that I spoke to about this program indicated that he could probably, he would have a company available that could provide this service for a million per season and I think that it would be a wonderful investment that our community could make. The last thing we want to do is have some humongous fire take place because of the bark beetle.

And I'm not suggesting that the County or the state just be the only -- that Santa Fe County and the state be the only ones that contribute to this effort. The aircraft would patrol San Miguel County, Rio Arriba County, from Santa Fe County all the way to the Colorado border. And if we get two planes up there that are patrolling on a three hour basis or so, that if they spot a fire they can put it out immediately rather than wait a couple hours that it would take for one of these planes that we have ready now to get there, which would actually result, I think in a much larger fire and perhaps one that definitely got out of hand.

So in closing, I just want to let you know that I'll be working with staff to try to put together some kind of proposal to the federal government and to the state and the other counties to see if there's any interest in participating in this program. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, Commissioner Duran. Any other matters from the Commission? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair and members of the Commission, I had one item that I wanted to get the Commission's thoughts on. Last week we had a very successful meeting with our legislative contingent. I want to thank the staff who put that together. It was very successful. The legislators had some ideas and suggestions which they brought forward. The meeting was congenial. The attendance was excellent from our legislators, more than we've had in the past, and the presentation was done very thoroughly.

One thing in that presentation and in our discussions that we really didn't emphasize was any initiatives regarding water. We talked about capital improvements and things that we had prioritized as a Commission, and we talked about some of the legislators' individual projects that they were planning to bring forward, but we really didn't address where we are or where we hope to go with regard to any type of regional water efforts. And I'm wondering what the Commission feels about if we had some legislative support for putting forward, in this session, if the governor would include it in his call, a proposal for a Regional Water Authority.

Now, that's a very complicated project. We don't have time to discuss all the details of



a Regional Water Authority but let me just summarize it by saying that I see from the seminars that we've had through the Regional Planning Authority and from other discussions that this thing would probably going one of two ways. Either we do a Regional Water Authority that would be patterned off of our Solid Waste Management Authority, which would include, say, a certain number of members from the City and a certain number from the County, jointly managing a regional water system that would acquire water rights, help to develop transmission lines, main water supplies, and perform those types of functions. The other alternative, and there hasn't been a whole lot of enthusiasm on the part of the City for that. I think they're more concerned with the issues they have within their own boundaries and water restrictions and trees dying and those issues, but the other alternative as a County, as a regional government, we could go to the legislature and ask for the necessary authorization to do Regional Water Authority functions as a County function.

And then the question would come up, Why not just do it as a County? Why set up a separate entity? And I think the reason for that is we tend -- we need an entity that would focus on regional water issues full-time. We have a turn-over in our water department directors, routine turn-over. We have funding issues, County bonds. We need an entity that would be separate, one that could acquire water rights separately, sell them to entities and would be countywide. It could be involved in the Aamodt negotiations, could sell water to Edgewood if Edgewood wanted to participate, and wouldn't impinge on the City of Santa Fe's own water conservation efforts and land use efforts that they're doing. That is to say, this entity could assist the City if the City wanted assistance. If the City did not want assistance, the City could move forward in its own way.

This entity could be the entity that manages the San Juan/Chama project or not. If the City and the County agree for it to do that, then it could. If it didn't, it couldn't. It wouldn't. I think we need some better emphasis on regional water planning and an authority that can carry out that function, that has the teeth and the scope of work, the objectives, the mission to do that. I think that's what we're missing, both in the County and in the City.

So those are two mechanisms. I think if we went to the legislature with a mechanism that included the City as a joint entity we'd have to determine what the boundaries would be. Would it be the Extraterritorial Zone? We would have to have some extensive discussions with the City so that it was a joint presentation. That might be pretty hard with elections going on now and with the wheeling agreement still, by the way, hasn't made any movement. We haven't had any discussions, at least at the Commission level further on the wheeling agreement.

So I feel that possibly this other alternative might be a better one to set up an authority which would be within the County's purview and essentially existing jurisdictions. But it would be countywide. It could go anywhere. It could respond anywhere but it would have the necessary legal and financial back-up that it needs to develop a plan, perhaps similar to the Metropolitan Flood Control Authority in Albuquerque, the difference being that in that particular case, the members are elected by the community at large.

I don't know the details of how we would work it out but we could draft something up

and bring it to the next Commission meeting for the Commissioners to look at, but before even going that far, I just wanted to see if the Commissioners felt that this was worthwhile to do. If not, our next opportunity is not until next year. But to get it started I just thought --

CHAIRMAN CAMPOS: Let's -- yes or no, Commissioner Duran?

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Yes.

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: So there is consensus that we would like to do this on this Commission. Mr. Gonzalez, what do you suggest we do next?

MR. GONZALEZ: Step one --

COMMISSIONER SULLIVAN: Get five more FTEs.

MR. GONZALEZ: Right. We probably need to flesh it out in some way. One option would be to raise this fairly quickly since we have the session coming soon, either during a study session or do at least a brief discussion at the next meeting coming up, and in the meantime I can explore with the County lobbying team what receptivity there might be on the part of the legislative delegation.

CHAIRMAN CAMPOS: It seems to me, Mr. Gonzalez, that right now we're going -- someone has said recently that we're in the worst drought in 50 years, approximately. We have the attention, we should have the attention of the governor and the legislature now to make this a priority. So I think Commissioner Sullivan is right. I think this is key to really organize this effort. Commissioner Montoya, you have a comment?

COMMISSIONER MONTOYA: Yes. Commissioner Sullivan, are you talking about just water or wastewater as well?

COMMISSIONER SULLIVAN: My intent was to start on water, and only because that is the issue that is impacting us the most. But I think certainly the legislation could be drafted to include wastewater.

COMMISSIONER MONTOYA: And the reason I ask that question is because we are, and I brought it before the Commission in terms of the request for funding for a wastewater study in the Pojoaque Valley and as part of those discussions, it has come up about some sort of a regional authority to oversee also the wastewater facility or projects or however that's going to be done. So I would just like to maybe have us consider that as well.

COMMISSIONER SULLIVAN: Consider that as well.

COMMISSIONER DURAN: What about the Sangre y Jemez?

COMMISSIONER MONTOYA: That's more water than wastewater. The Economic Development District, North Central, is doing kind of both, the water and the wastewater.

COMMISSIONER SULLIVAN: I think in terms of next steps, in terms of a sell to the legislature, in terms of getting us the necessary legislative appropriations to begin it, much like we did with the transit authority here just last year, we could focus on water and we could include wastewater and an additional option, but I think we have legislators who are

willing to assist us on this, willing to introduce legislation of this sort. I don't want it to cause friction with the City and that's why I suggest the County role and the regional role that the County plays in doing this without a resolution that has us buying the City's water system or doing anything like that.

We did have a resolution, as you recall, last year for the legislature asking us to investigate this general type of initiative. The Regional Planning Authority did do that. Commissioner Montoya was the chair when we went through a number of meetings where we discussed that. We had the presentation from Tampa Bay, also from Denver, on how regional authorities work in their areas. We got some background. We have some draft legislation we could use as a start and get the ball rolling. If it doesn't make it through this time at least we've got it started. If it does, then I'd be certainly glad to work on it to make it a fact. But I just began to think about this and looking at some of our interactions and where we are and if we wait another year, we've just simply lost the idea.

CHAIRMAN CAMPOS: Mr. Gonzalez, do you think you could get back to us at the next BCC meeting with at least some ideas you've developed talking to staff and maybe some of the key legislators?

MR. GONZALEZ: I'd be glad to do that, Mr. Chair.

CHAIRMAN CAMPOS: Because time is of the essence. We need to get rolling on this.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER ANAYA: If I could. We have some new people that joined Santa Fe County and I'd like to just read their names off. They're not here with us today. Sarah Griego, at the Assessor's Office, Veronica Clayton at the Assessor's Office, Bernadette Dunbar at the Assessor's Office, Terry Martinez, at the Clerk's Office, Julian Jaramillo at the Clerk's Office, Roy McQuarie at the Clerk's Office, Eloy Larrañaga at the Public Works Office, Joe Jimenez at the Sheriff, Victor Montoya, Chief Deputy at the Treasurer's, Adelina Reyes at the Utilities. Welcome aboard.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, we recently received, I guess it was an offer of some sort from the Bokum Burro Alley, LLC. And I'd like to ask staff to follow up on this and Tony, I'm not sure how this will fit in on where we're going. This is kind of an immediate offer that I think we all received and I don't know what your thoughts may be on this.

MR. FLORES: Mr. Chair, Commissioner Montoya, actually, I've been in contact with the firm that represents the Bokum properties to begin that dialogue that happened last week. As far as an immediate plan, we are still in the process of trying to complete the phase 1, space implementation plan that the Board approved last year, and actually we were meeting on that earlier today. So as far as immediate remedies with that offer, I'm not prepared to answer that at this time. We are working though that to find out if it is something they can assist us with.

COMMISSIONER MONTOYA: So this will probably be considered as part of that study then, similar to any others that may be --

MR. FLORES: Commissioner Montoya, in the long term, absolutely.

COMMISSIONER MONTOYA: Okay. That's it, Mr. Chair.

CHAIRMAN CAMPOS: One last item, Mr. Gonzalez. I think we need to -- every year we appoint people to the EZA, RPA and the SWAMA board. We should probably do that in January some time. I don't know how we scheduled last year but I kind of remember it being in January.

MR. GONZALEZ: We'll take a look at that, Mr. Chair, and see if we need to bring that forward to the last meeting in January.

**X. Committee Appointments/Reappointments**

**A. Appointment and Reappointment to the County Open Land and Trails Planning and Advisory Committee (COLTPAC)**

PAUL OLAFSON (Open Space Director): Mr. Chair, Commissioners, thank you. Today we're coming before you asking for two COLTPAC members. We have openings for the central region and the south region. The central region is roughly Tesuque south to Cerrillos, approximately. And then the south region is south of Cerrillos. That's just a general, rough breakdown of how COLTPAC's geography is broken down. And in your memo, we just set out how all the different areas are represented and to date we have approximately nine applications for the central region, and then two applicants for the south regions, and I'd like to point out that one of the applicants in the south, Chris Meuli from Edgewood, he's served one two-year term on COLTPAC and he's asking to be reappointed for a second term.

All the applicants from the central region have not served on COLTPAC and so it would be a new appointment.

CHAIRMAN CAMPOS: Okay. Thank you, Mr. Olafson. Any discussion from the Commission? Commissioner Sullivan.

MR. OLAFSON: Mr. Chair, if I might just briefly -- also I handed out just to note for the record, a final resume that I put on the front of your desk and that was from Tamara Baer and that just accidentally didn't get included in the packet.

CHAIRMAN CAMPOS: Tamara Baer?

MR. OLAFSON: Yes.

CHAIRMAN CAMPOS: Okay, discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I just wanted to say that in looking over these resumes, I want to compliment staff on getting such excellent, qualified candidates for COLTPAC. These are 11 really outstanding people and gosh, I'm hopeful that whoever's not appointed will be active in COLTPAC and perhaps fill in alternates and those kinds of positions because I was just really excited at what you've brought forward here. One that caught my eye, and I don't know any of these individuals personally, but just reading the

resumes, was a Bob Heuer. And what I liked about his resume, apparently he's had practical experience in designing and building greenway trail projects and master plan projects that involve both trail locations and open space acquisitions. So it sounded like this gentleman, who is I think also doing some additional educational work and the educational levels of these individuals, by the way, was also excellent. Seemed to have some practical, first-hand experience in actual trail planning and design and construction. And it seemed like that's a point where we are and where we need on some of our COLTPAC projects is that implementation phase. So I just wanted to point out that among others he seemed to be extremely well qualified.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: William Baxter, he's served one term already?

MR. OLAFSON: Mr. Chair, Commissioner Anaya, no, he has not served. He was involved in the original planning process for developing the open space program, and he's been very engaged in Cerrillos Hills Park Coalition. He works with that group and helped us develop an implementation plan for the Cerrillos Hills Park. And is still engaged in implementing that plan. He has not served. It's Chris Meuli from the south who has served one term and is asking for a second term.

COMMISSIONER ANAYA: Okay. Mr. Chair, if I could make a motion.

CHAIRMAN CAMPOS: Could we wait just one second, Commissioner? Any other comments?

COMMISSIONER MONTOYA: Mr. Chair, I guess I just need a little bit of clarification here. We're looking on this one page, central and city. You've got about nine applicants there, Paul, and then on the second one you have two for the south. So we're supposed to select one from each list.

MR. OLAFSON: That's correct. One is for the south, because there's a regional representation requirement there, and one is for the central/city.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner Duran, do you have a question?

COMMISSIONER DURAN: The north is already taken care of?

MR. OLAFSON: Mr. Chair, Commissioner Duran, we did announce, there is a another seat vacant in the north and we asked for applicants and we did not receive any applicants. We have another seat coming up for the north and we're going to reannounce that at that time and try to bring them both forward and that's just to economize the advertising process. We'll try and recruit someone as well.

COMMISSIONER DURAN: What's the southern boundary of the north?

MR. OLAFSON: Approximately Tesuque. Tesuque north.

COMMISSIONER DURAN: It includes Tesuque?

MR. OLAFSON: Tesuque would be in the central. So north of Tesuque would be the northern region.

COMMISSIONER DURAN: Okay, thank you. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya, would you like to nominate someone from the southern district?

COMMISSIONER ANAYA: Mr. Chair, yes. I'd like to nominate Chris Meuli from the Edgewood area. I'd like to keep him on for a second term.

CHAIRMAN CAMPOS: Any other nominations for that? Okay, no nominations, is there a second?

COMMISSIONER DURAN: I'll second that.

**The motion to reappoint Chris Meuli to represent the southern region for COLTPAC passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: Okay, Chris Meuli is not the member for the southern district. Okay, now, does anyone want to nominate anyone for the central region?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: As indicated before, I felt Bob Heuer had good qualifications and I would nominate him.

CHAIRMAN CAMPOS: Okay, any other nominations?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: I think I'd like to nominate William Baxter since he's been involved. Now, this gives him an opportunity to really get involved and be a part of the open trails. So if you ask for another nomination, I'll put that out there.

CHAIRMAN CAMPOS: Okay, any other nominations. Okay, we've got two names out there. Who votes for William Baxter?

COMMISSIONER DURAN: I vote for William Baxter.

CHAIRMAN CAMPOS: Commissioner Montoya?

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Commissioner Anaya.?

COMMISSIONER ANAYA: William.

CHAIRMAN CAMPOS: I'll vote for Mr. Baxter too. That's four votes. That makes Mr. Baxter --

COMMISSIONER SULLIVAN: I'll vote for Mr. Baxter too.

CHAIRMAN CAMPOS: Okay, unanimously, Mr. Baxter is appointed to the central --

COMMISSIONER SULLIVAN: But you owe me one.

**William Baxter was unanimously appointed to be the COLTPAC member for the central region.**

MR. OLAFSON: If I might just very briefly touch on Commissioner Sullivan's comment, we will in fact try and engage these folks and get them involved in whatever level we can because it was a tremendous pool and I don't know if that's so much a reflection on me as much as all of us and that the program is working and people are interested and we are quite lucky to have a tremendous applicant pool for a volunteer community.

CHAIRMAN CAMPOS: Thank you, Mr. Olafson.

**XI. Consent Calendar**

- A. Resolution No. 2004-5. A Resolution Requesting an Increase to the Clerk Filing Fees Fund (218) to Budget Prior Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Clerk's Office)**
- B. Resolution No. 2004-6. A Resolution Requesting an Increase to the General Fund (101)/Maternal Child Healthcare Program for a Contribution Received from the Los Alamos National Foundation for Expenditure in Fiscal Year 2004 (Community & Health Development Department)**
- C. Request Authorization to Accept and Award a Price Agreement to the Lowest Responsive Bidder for IFB #24-25 for Curbside Waste Collection and Disposal for the Santa Fe County Housing Division (Community, Health & Development Department)**
- D. Resolution No. 2004-7. A Resolution Requesting an Increase to the General Fund (101)/Land Use Department to Budget Special Appropriation Project (SAP) Grant for a Regional Water System Feasibility Study for Cuatro Villas Mutual Domestic Water Users Association Received from the New Mexico Environment Department for Expenditure in Fiscal Year 2004 (Commission District 1) Robert Griego (Land Use Department)**

CHAIRMAN CAMPOS: Is there any of these items that someone wants to withdraw from the Consent and place somewhere else for discussion?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay. Discussion?

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

**XII. Staff and Elected Officials' Items**

**A. Community Health and Development Department**

**3. Approval of Sole Community Provider Requests for Española, Holy Cross, and Los Alamos Medical Center for Fiscal Year 2005**

CHAIRMAN CAMPOS: For the record, there has been no material provided to us and this is something I don't favor, providing material at the last minute. It was distributed this afternoon, wasn't it?

STEVE SHEPHERD (Health Division Director): It was distributed this morning.

CHAIRMAN CAMPOS: This morning. I didn't get a copy. Commissioner Montoya didn't get a copy.

MR. SHEPHERD: I believe it was probably delivered to your office.

CHAIRMAN CAMPOS: It was not.

MR. ANAYA: Mr. Chair, I apologize for that delay. Staff was trying to negotiate with St. Vincent Hospital so we could bring one package to you. We are unable to achieve that and apologize for the delay on the packet material.

CHAIRMAN CAMPOS: Okay. Give us a brief outline of what you're proposing, Mr. Shepherd.

MR. SHEPHERD: Before you, you've got sole community provider requests for Española, Holy Cross and Los Alamos Hospitals. These requests show approximately a three percent -- we're allowing a three percent increase for these hospitals. Española and Los Alamos have regularly met their allocation. Taos has been an on-and-off thing but in the years that they have met it, they've exceeded it. We do have St. Vincent's sole community request in house but we were unable to come to a resolution prior to the packet deadline and did hold this. We're still working on that.

We basically propose to bring their proposal and the MOA in late January or early February prior to the extended deadline. They have applied for an extension of one month to the State Department of Human Services. At that I'd take any questions you might have.

CHAIRMAN CAMPOS: Mr. Shepherd, on page 2, staff recommendations, the numbers for Española Hospital, Holy Cross and Los Alamos are there, right? That's what you're recommending?

MR. SHEPHERD: That's what I'm recommending.

CHAIRMAN CAMPOS: Okay. Any discussion from the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Steve, could you explain what you mean by writing down?

MR. SHEPHERD: Essentially, and I'll just use Española Hospital as an example. They've requested \$566,000. That includes our match and the state's match as well. Traditionally, in the past year, they got \$378,000 and change. They won't receive \$566,000.



They'll get about a three percent increase from the state that's allowed, regardless of what we approve. It's my recommendation to go ahead and approve them with a three percent increase, but not approve an amount that's not going to get recognized by the state.

COMMISSIONER MONTOYA: So the three percent increase is incremental in terms of what would be allowed anyway?

MR. SHEPHERD: Correct.

COMMISSIONER MONTOYA: As opposed to the \$566,000 that they're requesting.

MR. SHEPHERD: Correct.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, if the index turns out to be something different than three percent, either more or less, then how do we deal with that?

MR. SHEPHERD: Well, if it turned out to be less, and they weren't eligible for, let's say the \$390,000 there, they'd receive what the state gave them. If it turned out to be more and they were eligible for say, \$400,000, they'd get what we approved. Your word is the final amount.'

COMMISSIONER SULLIVAN: That was kind of my concern. If they are eligible for more, it seems like we want to provide a mechanism to let them get that additional money.

MR. SHEPHERD: And that's true. We can do that. The Commission could approve a higher amount.

COMMISSIONER SULLIVAN: Could we approve the amount that staff recommends, or the state approved amount, whichever is higher, or whichever is applicable?

MR. SHEPHERD: I think you would have to -- because we have to submit the letters of approval to the state by the 15<sup>th</sup>, or the hospitals do, you'd probably have to pick a dollar amount.

COMMISSIONER SULLIVAN: Could that dollar amount then be amended later?

MR. SHEPHERD: I don't think so. Not that I know of.

COMMISSIONER SULLIVAN: When will know what the index is?

MR. SHEPHERD: We will know sometime around the spring to early summer. It doesn't come out. The timing is that we've got to approve an amount and then later on we're told what the percentage increase is and what our percentage share is. So we're just guessing.

COMMISSIONER SULLIVAN: So this applies also to the St. Vincent MOA, so that could be big bucks, if it's two percent or three percent or four percent.

MR. SHEPHERD: That's very true.

COMMISSIONER SULLIVAN: So you feel -- it sounds like we don't really have an alternative rather than to pick a number.

MR. SHEPHERD: That's correct.

COMMISSIONER SULLIVAN: So why don't we pick a higher number?

MR. SHEPHERD: Generally, we haven't done that, just because of budget constraints. It gives our Finance Department some comfort knowing what they might have to budget for.

COMMISSIONER SULLIVAN: I could see that that could backfire on us. Be careful what you ask for; you might get it.

MR. SHEPHERD: Correct.

COMMISSIONER SULLIVAN: Because we have to provide 25 percent of these amounts that you're showing here, correct?

MR. SHEPHERD: Correct. It varies between 25 and 27 percent. We'll know that percentage later in the year.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN CAMPOS: Commissioner Sullivan, would you like to make a motion on this?

COMMISSIONER SULLIVAN: Well, Mr. Chair, I would move that we accept the staff's recommendation with regard to the Española Hospital, Holy Cross Hospital and Los Alamos Medical Center as stated in the January 13<sup>th</sup> memorandum.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Any further discussion?

**The motion to approve the sole community provider requests as recommended by staff passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: Okay, the amounts suggested by staff for sole community have been approved.

## **XII. Fire Department**

### **1. Request Authorization to Accept and Award a Professional Services Agreement to the Highest Rated Offeror in Response to RFP #24-16 for the All Hazard Emergency Operations Plan for Santa Fe County**

JIM LEACH: Mr. Chair, Commissioners, James Leach from the Office of Emergency Management, and I need to make a small correction. This is the all hazard emergency operations plan, not the response plan.

CHAIRMAN CAMPOS: Not the response plan. The operations plan. Okay.

MR. LEACH: In about June of this year, the State Office of Emergency Management received some funding from FEMA to upgrade, rewrite, update, make better all the emergency operations plans around the state. We applied for a grant. We received a grant approval of \$47,000. We did the proposal. We advertised. We sent out to local contractors that we knew wrote plans. We received the results back. URS Corporation was unanimously

selected by the five people on the selection committee. This is a no match grant.

CHAIRMAN CAMPOS: There's no money coming in from the feds?

MR. LEACH: No.

CHAIRMAN CAMPOS: Okay, any questions or comments from the Commission?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay. Any further discussion?

**The motion to approve a professional services agreement for URS passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: The request for authorization is granted to URS Corporation. Thank you Mr. Leach.

**XII. C. Land Use Department**

- 1. CDRC CASE # A/V 03-5741 – Samuel Ortiz Appeal Variance. Samuel Ortiz, Applicant, is Appealing the County Development Review Committee's Decision to Uphold the Land Use Administrator's Decision to Deny the Placement of a Third Home on 2.01 Acres, Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 1 Paseo de Antonio in the Traditional Community of Cuyamungue within, Section 20, Township 19 North, Range 9 East (Commission District 1). (DELIBERATION AND DECISION)**

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: Just a point of order. Don't we have to wait till 5:00 to listen to land use cases?

CHAIRMAN CAMPOS: This has already had a public hearing, I believe.

COMMISSIONER DURAN: Pardon me.

CHAIRMAN CAMPOS: Mr. Dalton.

WAYNE DALTON (Review Specialist): Thank you, Mr. Chair. Samuel Ortiz, applicant, is appealing the County Development Review Committee's decision to uphold the Land Use Administrator's decision to deny the placement of a third home on 2.01 acres, which would result in a variance of Article III, Section 10 of the Land Development Code. The Board of County Commissioners heard this case on December 9,

2003. The decision of the Board was tied two votes to approve and two votes to deny.

Under Commission rules of order, the application is automatically tabled until the next meeting. This case is now coming before the Board for deliberation and vote only.

CHAIRMAN CAMPOS: Mr. Dalton, what was the vote split the last time?

COMMISSIONER SULLIVAN: You won't believe it.

CHAIRMAN CAMPOS: What was the vote split and how did the vote go?

MR. DALTON: Two to two.

CHAIRMAN CAMPOS: Who were the two and who were the other two?

MR. DALTON: I believe it was Commissioner Duran and Commissioner Sullivan denying and Commissioner Montoya and Commissioner Anaya approving.

CHAIRMAN CAMPOS: So I'm the only one that wasn't there.

COMMISSIONER DURAN: I'm changing my vote, Mr. Chair. I'm voting for the applicant.

CHAIRMAN CAMPOS: You're changing your vote.

COMMISSIONER DURAN: I'm voting to uphold the appeal.

CHAIRMAN CAMPOS: Upholding the appeal would deny the variance.

COMMISSIONER DURAN: Are you sure of that?

CHAIRMAN CAMPOS: No, no. There were two decisions. I guess Roman Abeyta made the decision against. CDRC made a decision against and now there is an appeal asking that those decisions be overturned.

COMMISSIONER DURAN: And I'm upholding, I'm voting for the appeal.

CHAIRMAN CAMPOS: You want to allow the variance.

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Okay. Any other discussion? Any other vote changes? Okay, I've read the reports, the records, the minutes and I vote no. I don't think there is a basis for granting this variance in any way. CDRC, on a 4-2 vote said no. Roman, who understands this Code very well said no. We have a gentleman who owns property on adjoining lots. He has two rentals on one and won't vacate any of them for his son, so this is really an oddball request and I think it should be denied. So I guess we're going to vote again. Does someone want to make the motion. Is that what we have to do? Make a motion? Okay. Who wants to make a motion?

COMMISSIONER MONTOYA: I move that the appeal be granted to the applicant.

CHAIRMAN CAMPOS: That the variance be granted?

COMMISSIONER MONTOYA: For the variance. Yes.

CHAIRMAN CAMPOS: Okay. Are there any findings that you want to make to that motion, Commissioner?

COMMISSIONER MONTOYA: Mr. Chair, it was unfortunate that you missed the last deliberation but I think the applicant brought forth an argument that was certainly one of the -- in terms of the family transfer that he wants to have take place regarding his son, was based also on, and it probably wasn't reflected so much in the

minutes but it was a financial hardship in terms of evicting any of the tenants that were or are currently residing in either one of those residences and I think that's probably one of the salient issues that isn't so much depicted in terms of what has been discussed and for that reason, as well as the reason, he's within less than a quarter of an acre in terms of what is currently allowed in the traditional community there in the Pojoaque Valley. So that's --

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay. Any discussion?

COMMISSIONER DURAN: Just one, Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: There was no one opposed to this at that meeting also. As well as no one today is opposed to it.

CHAIRMAN CAMPOS: What do you mean?

COMMISSIONER DURAN: None of his neighbors.

CHAIRMAN CAMPOS: Oh, okay. At the public hearing there were no opponents. All those in favor of allowing the variance, say "aye."

**The motion to allow the variance in CDRC Case #A/V 03-5741 passed by majority [3-2] voice vote, with Commissioners Sullivan and Campos voting against.**

**XII. D. Project and Facilities Management Department**

**1. Resolution No. 2004-8. A resolution supporting a grant application for 2005 National Scenic Byways Grant program and authorizing a local funds match for the El Camino Real Scenic Byway**

MR. OLAFSON: Mr. Chair, Commissioners, thank you. We are currently working on developing, or we'd like to apply for a Scenic Byways grant for the El Camino Real national historic, national scenic byway. And the plan is basically developing a facility in Agua Fria park, an interpretive facility as well as some signage along the roadways and some kind of monument signs identifying the sections of Agua Fria Road as parts of the Camino Real alignment.

The plan includes developing the interpretive plan, developing interpretive panels, two within the city and three within Agua Fria Park, developing a walkway, historic markers, and directional signs. We have gotten support for this project from the Agua Fria planning Commission, Agua Fria Village Association, the City of Santa Fe through the Mayor's office as well as the Community Services Department, the El Camino National Historic Trail group, which includes BLM and National Parks. We've also got a separate support from BLM from the Camino Real River Connection, the TPL, the RPA and the

MPO.

CHAIRMAN CAMPOS: Okay, Mr. Olafson, it seems from your report here that the County portion will be through in-kind donations to include staff time, things like that. Right?

MR. OLAFSON: As well as budgeted open space budget support materials, etc. As well as community time.

CHAIRMAN CAMPOS: Thank you, sir. Any discussion from the Commission?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay. Any discussion?

**The motion to support a grant application for Scenic Byways passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: The resolution supporting a grant, that would be 2004-8 is approved.

MR. OLAFSON: Thank you.

CHAIRMAN CAMPOS: Thank you, sir.

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

**1. Update on the transition of the Youth Development Facility**

CHAIRMAN CAMPOS: We've got a public hearing at 6:00. We're going to take a break pretty shortly. How much time, Mr. Gonzalez, do you think we're going to take here?

MR. GONZALEZ: Mr. Chair, members of the Commission, I think probably about 15 minutes at the most.

CHAIRMAN CAMPOS: At the most. Okay, let's try to keep it ten to fifteen minutes.

MS. QUINTANA: Mr. Chair, members of the Commission, on December 15, 2003 the Board of County Commissioners directed the jail team to provide an update regarding the progress of the transition of the Santa Fe County Youth Development Program to Santa Fe County operations effective January 29, 2004. Over the course of the last few weeks, the jail team members have been working diligently to accomplish the necessary tasks for the transition. Members of the jail team, including Sheriff Solano and the County Manager have participated in several meetings with Cornell to maintain an efficient and an open transition.

At this time I will briefly update you on the areas of concentration. Regarding the employee transition, it's been moving forward and very efficiently to date. We have

received all of the applications from 61 employees and conducted interviews for all those employees. We have conducted the background checks and we have made offers to 57 employees at this time. The process was accomplished as a result of a close coordination between the ASD staff, Cornell employees, and the hard work of the jail team.

The information technology system, the fixed asset inventory and capital needs are being addressed by Tony Flores, Agnes Lopez and the Project and Facilities Management team, as well as the Finance Department, to ensure a smooth transition between Cornell and Santa Fe County. Our County Attorney, Steve Ross, is currently reviewing a draft joint powers agreement with Bernalillo County. Bernalillo County has been playing a very active and significant role in assisting with the transition. They're helping to begin the review process for internal controls and effective operating processes.

Greg Parrish has maintained communication with the US Marshal and the Bureau of Prisons to continue our working relationship once the transition takes place. Greg is also working with Steve Ross and Evelyn Valencia to develop the food service agreement for the facility. Greg and the other jail team members will continue to review and establish subcontracts for medical services.

Steve Shepherd, Linda Dutcher and Greg Parrish are working with Bernalillo County and St. Vincent Hospital to ensure the smooth medical and behavioral health transition for the facility. Ms. Dutcher is also assisting with the agreement with the Santa Fe Public Schools for educational services. Susan Lucero and Joseph Gutierrez continue to follow the entire process to make sure that we're maintaining correct oversight and the evaluation concerning the entire financial operation of the facility.

During the next administrative meeting we will be providing a formal resolution to the Board that will formalize the operation of this facility. I would like to defer the organizational structure to Robert Anaya and our County Manager, Gerald. They can review with you what our proposal is for this structure.

MR. GONZALEZ: Mr. Chair, members of the Commission, by way of introduction I just wanted to indicate that we had explored initially the possibility of crossing those employees over, those BCJDC employees, but the response that we got from the folks at the Bernalillo County facility was that given the timing constraints that that wasn't something that would be practical that would proceed with. Assuming that as the base for looking at the staffing for the facility, we took a look at the current structure and basically are taking the position that we are translating the existing positions straight across to the County.

In addition to that we had to take a look at overall structure in order to ensure that the appropriate structure would reflect the needs of the County, given those fundamental beginning constraints. For that purpose, we sat down and looked at the functions internally as well as the other needs of the County. At this point we have three basic functions that are going to require oversight. One is obviously the juvenile facility itself. The second function, and we'll be addressing that shortly, is the issue of electronic monitoring. Staff has a recommendation to bring forward with respect to that, but in one way or another, the

County will be responsible for that function.

So from that standpoint, that's a second function that will need County oversight. And the third is the existing monitoring that's going on with respect to the adult facility which will have to continue, particularly given the nature of the ongoing negotiation with the Department of Justice and the need to ensure that the operations also comply with the State Department of Corrections.

As a consequence of that, it became clear to us that there needed to be overall direction with respect to those three functions and what we are recommending and what we are providing by way of illustration is a structure in which there would be a director at the County level who would be responsible for all three of those functions. I do have a recommendation to make with respect to who that person would be.

But we also then took a look at all the other attendant functions that had to do with the operation of the facility. And in looking at those, it seemed to be clear to us that those parse out or can be divided into two ways of approaching it or two avenues for supervision control coming down from the Board of County Commissioners. One would be directly through the County Manager, who then would provide some direction for whoever would be responsible for the three functions I earlier alluded to, the juvenile electronic monitoring and the adult.

And then on the other hand, it became clear to us that the Sheriff also has additional responsibilities with respect to the operation of the facility and we felt that those could be divided fairly readily so that what would occur is that out of the County Manager's office, policy management support functions would be directed through that office to include not only policy management itself, but financial control, program support, planning and coordination, personnel, facility support, risk management and then on the Sheriff's side, the logical functions would have to do with security, transportation, daily function back-up, because of the close connection to security issues, background checks and training again, because of the close connection to security functions.

So the overall structure that we are recommending from the staff level would have that direction being divided along those two lines with direction coming down from the Sheriff and also from the County Manager. In addition, to ensure that there was successful coordination between the County Manager and the Sheriff, the County Manager acting under the direct direction of the BCC, we also are proposing to bring forward at the next meeting a resolution which would solidify not only these functions but also would incorporate some day-to-day operational and coordination aspects of this direction, so that the Sheriff and the County Manager and the Director of these functions would all meet on a weekly basis, that there would be quarterly reports to the Board of County Commissioners from the Sheriff and from the County Manager, that the jail team would continue to meet on a weekly basis for the time being, through the transition period. Thereafter, there would continue to be monthly jail team meetings, and then for the first year, and then thereafter there would continue to be quarterly meetings. '

The jail team, as you may be aware, incorporates representatives from Projects and



Facilities Management, Administrative Services Department, the Financial Department, the Manager's office, the Sheriff's office, and I may be missing, and our CHDD Department, which obviously has a relationship to the programmatic aspects of the operation of the facility.

In addition, the jail team would serve as a contact agency for the existing Jail Advisory Committee, who also would continue to report to the Board of County Commissioners and with respect to the Juvenile Justice Board so that there would continue to be input from the jail team to, not only those two bodies and input from those bodies to the jail team, but also from the jail team directly to the County Manager and the Sheriff.

CHAIRMAN CAMPOS: Mr. Gonzalez, do you foresee the need for new FTEs, new jobs, new people hired to manage some of these positions?

MR. GONZALEZ: At this point I don't, other than the structure that we've outlined, which actually, I think we have enough leeway with respect to the positions that will be transitioning that can be accommodated with a number of FTEs that we had previously discussed with the Commission.

CHAIRMAN CAMPOS: Thank you. Okay, who's next? We've gone through about eight minutes. Is that it? And please identify yourself for the TV audience.

ROBERT ANAYA (CHDD Director): I've been working closely with the jail team. I just want to say that my late father used to say, Don't talk about it; do it first and then talk about it. And as far as this transition goes, the individuals sitting behind me and to the right of me have done that and they've done that and they've done a very effective and thorough job at turning over all the rocks that need to be turned over. We would request your specific direction and approval to move forward and would stand for any questions that you might have.

CHAIRMAN CAMPOS: Thank you, Mr. Anaya. Any questions or comments?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Regarding the Jail Advisory Committee and jail team, Juvenile Justice Board, can you just briefly -- what's the difference between all those three different --

MR. ANAYA: Mr. Chair, Commissioner Montoya, the Jail Advisory Committee is a body that was set up, and rather than myself answering this, I think I'm going to allow the expert, Mr. Parrish, who's been dealing with that advisory committee to answer that question.

COMMISSIONER MONTOYA: Okay.

GREG PARRISH (Corrections Coordinator): Mr. Chair, Commissioner Montoya, the Jail Advisory Committee was set up by resolution by the Board of County Commissioners. It consists of seven community members from different sectors of the community, the judicial --

COMMISSIONER MONTOYA: Okay. Okay.

MR. PARRISH: And they advise us.

COMMISSIONER MONTOYA: I'm with you now.

MR. PARRISH: The Juvenile Justice Board I know you're familiar with because you're one of the executive members, as is the Sheriff, and I work on a working level of that board.

COMMISSIONER MONTOYA: And then the jail team --

MR. PARRISH: The jail team is senior staff.

COMMISSIONER MONTOYA: Okay. I'm just kind of curious. Do we need that many advisory teams giving us advise or can we curtail it maybe so that it's a little bit more manageable, maybe less meeting time for some of these folks?

MR. ANAYA: Mr. Chair, Commissioner Montoya, that's a valid point. We see that the day-to-day functions of the facility would be primarily focused around the jail team aspects and jail advisory team. We put Juvenile Justice Board there because of their desire, because of the ancillary services that they could provide to the Youth Development Facility, not so much to be responsible for direction. The jail team we feel is more of an internal team to provide support to the Manager, the Sheriff and the department heads. So we could probably do some reconfiguring of the actual chart to depict that better, but we envision that that Jail Advisory is more of a recommending body to provide support from a community standpoint and that the jail team is internal and that we utilize the Juvenile Justice Board for ancillary services.

COMMISSIONER MONTOYA: Okay. And then something that's dear to my stomach. The food contract, is that contracted out or is that going to be done internally or how are we going to be doing that?

MR. ANAYA: Mr. Chair, Commissioner Montoya, that's an external contract. We're right now, Mr. Ross, is right now in the process of negotiating with that particular contractor as well as Ms. Valencia in the Finance Department. It's the same contractor that's currently providing the food service, and they're also the food contractor that provides the food service at the adult facility.

COMMISSIONER MONTOYA: Okay. That's all I had, Mr. Chair. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? Okay, Mr. Anaya, you're asking for -- you're just basically updating. What do you want from us?

MR. ANAYA: Correct, Mr. Chair, and allow us to proceed in the fashion that we've presented before you as far as the org chart goes.

CHAIRMAN CAMPOS: Okay, Commissioner Duran, direction for Mr. Anaya to proceed pursuant to this organizational chart.

COMMISSIONER DURAN: I say yes.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Yes, I'm in agreement.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Sounds fine.

CHAIRMAN CAMPOS: Sounds good. Thank you very much.

MR. ANAYA: Thank you, Mr. Chair.

COMMISSIONER MONTOYA: Thank you, team.

## **XII. E. 2. Discussion and action regarding electronic monitoring**

MR. GONZALEZ: And just by way of brief introduction, Mr. Chair, members of the Commission, Joseph Gutierrez from Finance will be addressing this and Susan Lucero is also present. But this also is an aspect of the current functioning of the Youth Development Program Facility that we were charged with taking a look at bringing forward recommendations to the BCC about.

CHAIRMAN CAMPOS: Gentlemen, one thing I'd like to recommend. I've read this packet; I'm familiar with what's going to be presented. Unless there's an objection, I would like for Mr. Gutierrez just to go to the conclusions. Or would you prefer that he go through the whole program?

COMMISSIONER DURAN: I'm in favor of that.

COMMISSIONER MONTOYA: Conclusion is fine. I've reviewed it.

CHAIRMAN CAMPOS: Is that fine? Mr. Gutierrez, take us to the conclusions.

JOSEPH GUTIERREZ (Deputy Finance Director): Okay. I'll forego the presentation. Anyway, Mr. Chair, members of the Commission, you have in front of you the budget overview, the financial picture for the electronic monitoring program. And basically, it was a comparison, looking at the current program and the financial operation and if the County were to take it over. Under the current operation, we're looking at -- if you go to the budget overview, which is basically the third page over. It says budget overview. You can see that Cornell runs the program. They're looking at projected revenues for the current year of \$582,000. They're looking at expenses at a total of \$435,952. That's going to net Cornell an approximate net profit of \$146,000.

If we go over to the slide that compares Cornell versus Santa Fe comparisons, it's the third slide from the end, there's a budget comparison there and you can see it has Cornell and it has Santa Fe County. If you look at salary and benefits, you're looking at an expense of \$230,000, versus the County of \$244,412. That is the expense of eight FTEs. There's currently eight FTEs in the program and we would transition those eight FTEs over. The increase in cost is the benefit package. They County benefit package is a little more expensive.

If we look at contracts at \$170,000 and bringing that expense over, that's the cost of renting the equipment, which is about \$138,000, and then there's a drug testing contract, which is about \$32,000. If you look at the other costs, which are pretty well fixed

of about \$35,000, if you factor the net profit in on the Cornell side, you can see that the overall budget for Cornell is \$582,000. The overall budget for Santa Fe County is almost \$450,000. You're looking at a net savings of Santa Fe County budget of about \$132,000 or a 23 percent increase.

On the previous two pages, I didn't go into that, but as this program grows, you can decrease that cost and increase -- decrease the cost of growth and increase the percent of savings, if you look on the two previous pages of that. That's if the population grows by increments of 20.

The next slide summarizes it. We received two quotes from private sector vendors and they quoted us a cost of, one was \$14.50 a day, which computes to an annual cost of \$564,000. The other one was a cost of \$15 a day, which was \$582,000. The current contractor charges us \$14.99 a day. You can look at if the County were to take it over, the cost of \$11.55 a day for electronic monitoring, versus \$65 a day at the jail. Because some of this population is not going to the jail so the County is saving money. If we were to take over the program we'd save an additional almost \$3.50 per client.

On the last page there, the jail team, based on the cost savings, unanimously recommends that the County take over the electronic monitoring program. One of the advantages of taking over the program is that we have direct oversight on the growth of the program, and we are in a better position to control costs, and it puts us in a better position to look at the financial situation over at the jail. And it ties the juvenile facility, the jail facility, and the EM program together. And again, this program has wide support throughout Santa Fe County with the judges and other committees.

CHAIRMAN CAMPOS: Thank you, Mr. Gutierrez. Questions from the Commission?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: I don't have a question, I just want to thank Gerald for his putting together this team. I think we could use this team on other things. They've done a great job with your guidance. Thank you very much for doing that. I would like to move for approval of this, but before I do that, I would like to wish my brother a very happy birthday today, Robert.

Mr. Chair, move for approval.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: Second.

COMMISSIONER MONTOYA: Just discussion, Mr. Chair. Could you tell me, Mr. Gutierrez, who's running this currently, out of what facility? The adult or juvenile?

MR. GUTIERREZ: It's run out of the juvenile facility by the current contractor, which is Cornell. And Cornell's contract expires on January 28, which is basically two weeks. The same time the juvenile contract expires. And there's currently eight employees employed by Cornell at this time.

COMMISSIONER MONTOYA: And who are the ones that are being monitored? The juveniles or adults?

MR. GUTIERREZ: There's a mixed population. I think Greg Parrish can probably better address that.

MR. PARRISH: Mr. Chair, Commissioner Montoya, both juvenile and adults are monitored on this program and some of them are pre-adjudicated and some of them are adjudicated. The judges a lot of times will put them on electronic monitoring awaiting trial or something like that or they'll be sentenced to electronic monitoring. But it's primarily adults with about 20 percent of our population being juveniles.

COMMISSIONER MONTOYA: Okay. Then regarding the expansion of the client base, how is that being proposed?

MR. PARRISH: The client base has been expanding because the judges are comfortable with the program and the services provided and Judge Pfeffer in particular has expressed an interest that as long as he is happy with this, rather than send them to jail, he'll put them on electronic monitoring while they're awaiting trial or something. So they keep utilizing the program more and more and that's why it's really taken off in the last few years.

COMMISSIONER MONTOYA: Okay. And then that will help cut down jail costs as well.

MR. PARRISH: Yes.

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

CHAIRMAN CAMPOS: Anyone else? Okay, there's a motion that the County take over the electron monitoring program.

**The motion to authorize the County taking over electronic monitoring passed by unanimous [5-0] voice vote.**

MR. GONZALEZ: Mr. Chair, members of the Commission, I want to thank you for your support as well and I agree with Commissioner Anaya that this committee has done an amazing job. I want to thank particularly the Sheriff and Robert Anaya for assuring the smooth functioning of the committee. I also wanted to announce that on February 6<sup>th</sup> at approximately 3:00 we will have a flag-raising ceremony at the juvenile facility. And at that time, we will have refreshments and the public will be invited to participate. We're going to try to make it a youth event since it's a youth facility.

I also want to thank the Sheriff for providing additional support during this transition. Major Ron Madrid has been made available as well to assure that we have had a smooth transition and his support has been invaluable. So thank you, Sheriff.

CHAIRMAN CAMPOS: Okay. Thank you, gentlemen.

**X. Matters from the County Attorney**

- 1. Executive session**
  - a. Discussion of pending or threatened litigation**
  - b. Limited personnel issues**
  - c. Discussion of possible purchase, acquisition or disposal of real property**
  - d. Discussion of possible purchase, acquisition or disposal of water rights**

Commissioner Duran moved to go into executive session pursuant to NMSA Section 10-15-1 (2,7 and 8) to discuss the matters delineated above. Commissioner Anaya seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Campos, Duran, Montoya and Sullivan all voting in the affirmative.

CHAIRMAN CAMPOS: Mr. Ross, how long do you think the discussion will take?

MR. ROSS: I don't expect an extended discussion. Maybe 15 minutes to a half an hour.

[The Commission recessed from 5:20 to 6:25.]

Commissioner Montoya moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Duran seconded. The motion passed by unanimous voice vote.

**XIII. Public Hearings:**

**A. Land Use Department**

- 1. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 1996-16, of the Santa Fe County Land Development Code (Ordinance No. 1996-10) to Revise the Village of Agua Fria Traditional Historic Community Boundary. (Commission District 2)**

ROBERT GRIEGO (Planner): Mr. Chair, Commissioners, the Agua Fria Planning Committee was established by the Board and authorized to initiate a community planning process for the Village of Agua Fria. One of the initial planning issues was the Agua Fria traditional historic community boundary. The Agua Fria Planning Committee established a boundary committee to review the issues regarding the traditional historic community boundary. The Village of Agua Fria Planning Committee is proposing to

amend the traditional historic community boundaries to include public land adjacent to traditional historic community to include properties previously added to the traditional historic community which were not reflected on the map. They are proposing to amend the map to avoid overlapping jurisdictions with the City of Santa Fe and are proposing to provide a written description of the THC boundary to establish the actual boundary in written form.

Staff recommends authorization to publish title and general summary of this ordinance.

CHAIRMAN CAMPOS: Mr. Griego, is staff in agreement that this is the right thing to do for the THC?

MR. GRIEGO: Mr. Chair, Commissioners, yes. Land Use staff is in agreement with making these changes to the traditional historic community. We've also met with other departments within the County.

CHAIRMAN CAMPOS: And there's agreement to do so?

MR. GRIEGO: There is agreement right now. We would still have to go through the public hearing process and we have to have a public meeting out in the community to propose the changes before we brought it back to the Board.

CHAIRMAN CAMPOS: Okay, your memo says this includes Agua Fria Park, San Ysidro River, and properties adjacent to the river owned by Santa Fe County. What implications are there for Santa Fe County.

MR. GRIEGO: Mr. Chair, Commissioners, as far as the implications for Santa Fe County, it would put it back into the jurisdiction of the County. Right now those properties are in the EZ and it would bring them back into the County jurisdiction. That's what the traditional historic community designation does.

CHAIRMAN CAMPOS: Okay. Any questions? Comments?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a quick one. Does this take any areas out of the traditional community or just simply add additional areas into?

MR. GRIEGO: We are proposing to amend it to clarify some of the map errors within that so we would adjust the boundaries to avoid overlapping jurisdictions with the City, so we would move the boundaries a little bit. So we wouldn't necessarily take property out but we would adjust the boundaries so we would have coincidental boundaries.

COMMISSIONER SULLIVAN: Okay. And this has nothing to do with the case on the senior citizen housing that was inside the traditional community. I've been asked that question. It doesn't affect that, does it?

MR. GRIEGO: Chairman Campos, Commissioner Sullivan, no, it does not.

COMMISSIONER SULLIVAN: You know which one I'm talking about.

MR. GRIEGO: Yes, and no, we are not proposing to take that out at this time.

CHAIRMAN CAMPOS: Any other questions? Commissioner Duran.

COMMISSIONER DURAN: You don't have a map tonight do you?

Showing the boundaries?

MR. GRIEGO: No, we're working on establishing that map and we plan on having that map ready for the January 26<sup>th</sup> public meeting.

COMMISSIONER DURAN: Thank you. Move for approval, Mr. Chair.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay, any discussion? This is a request for authorization to publish title and general summary.

**The motion to authorize publication of title and general summary of a revision of Agua Fria boundaries passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: The authorization is granted to publish title and general summary.

**XIII. A. 2. EZ CASE # 03-4422 – Rancho Viejo Reduced Water Usage Proposal. Rancho Viejo Inc., Applicant, Isaac Pino, Agent, Requests Approval to Reduce the Allocation of Water from 0.25 Acre Feet Per Year Per Lot to 0.17 Acre Feet Per Year Per Lot in Previously Approved Subdivisions. The Property is Located within the Community College District, Off Richards Avenue, within Sections 28 & 29, Township 16 North, Range 9 East (Commission District 5)**

LIZA VITALE (Review Specialist): Rancho Viejo, applicant Isaac Pino, agent, requests approval to reduce the allocation of water from 0.25 acre-feet per year per lot to 0.17 acre-feet per year per lot in previously approved subdivisions. The property is located within the Community College District, off Richards Avenue, within Sections 28 & 29, Township 16 North, Range 9 East, Commission District 5.

The applicant is requesting approval of the water management plan in order to reduce the allocation of water from .25 acre-feet per year per residential lot to .17 acre feet for all previously approved subdivision. The staff report gives a brief description of Rancho Viejo's proposed water management plan.

History review: The water management plan is based upon water usage data from 2001 and 2002, according to actual reading of Santa Fe County utility meters in Rancho Viejo. 2001 was a year with normal precipitation and no water restrictions and the average water use was .19 acre-feet per year per unit. 2002 was a water shortage year with stage 3 water restrictions in place and the average water use was .1545 acre-feet per year per unit. An average of these two years is .17 acre-feet per year per unit.



Additional water conservation and water harvesting measures: Rancho Viejo proposes to supplement water savings with the use of cisterns for water harvesting and on-lot irrigation. Rancho Viejo made cisterns a standard feature for all homes constructed beginning in March 2003. Use of treated effluent for irrigation of common areas: currently, potable water is used for irrigating common areas. However, Rancho Viejo proposes to use treated effluent to irrigate all present and future landscaping of common areas. At the peak of water needs, the water requirement is proposed at 29.85 acre-feet, and after three years maturation, the water requirement is predicted to be 17.68 acre-feet. Rancho Viejo is currently in the application process to modify the NMED discharge permit to allow for the use of treated effluent, utilizing the Rancho Viejo well as back-up.

Rancho Viejo has developed an exploration and observation well for the purpose of determining groundwater development. According to geo-hydrologic studies conducted by Balleau Groundwater, Incorporated, the wells demonstrate the capacity to pump at least 340 acre-feet per year for 100 years. The well currently is not permitted for production use. However, Rancho Viejo would like to amend the initial customer contract for commitment of water service with Santa Fe County to account for well usage to provide back-up to the proposed water plan.

In addition to providing back-up, Rancho Viejo hopes to utilize the well in serving several hundred future additional utility customers. Rancho Viejo proposes an aquifer recharge program to offset the impact of pumping the wells. With Balleau Groundwater, they conducted a study that identified areas for direct injection recharge.

Staff recommendation: Staff does not support the 0.17 acre-foot per year per lot water restriction, because it is based on data from two incongruent years. However, staff can support a reduced allocation to .2 acre-feet per year per lot, provided that the following conditions are met:

1. Every new house must feature cisterns for water harvesting regardless of the unit's square footage.
2. As a back-up plan to ensure that proposed water use is not exceeded, Rancho Viejo shall provide banking of an additional 0.05 acre afy/lot for all approved development with an existing water restriction of .25 afy/lot, to be approved by the County's Utility Department. This amount of water shall be held by the County for a minimum of five years and subject to BCC review at this time.
3. Rancho Viejo shall submit documentation to all homeowners detailing the reduced water allocation, as well as how to reduce individual water usage in order to achieve this goal.
4. To ensure that Rancho Viejo customers are complying with the reduced water allocation, residential water meter readings broken down per unit and per household, and treated effluent readings for common area irrigation must be submitted every three months for the first two years, every six months the following third year, and annually thereafter.
5. The back-up well plan must be finalized, implemented by the County Utilities

- Department including applicable water rights transfer, and the water service agreement must be amended.
6. Windmill Ridge Unit III shall be restricted to 0.20 afy/unit of water use per year per lot. This shall be noted on the plat, covenants and disclosure statement.
  7. The treated effluent system for common area irrigation shall be bonded for in an amount approved by Santa Fe County prior to the recordation of Windmill Ridge Unit III.
  8. Four afy of water shall continue to be reserved for commercial use.
  9. The back-up well plan must be in place within a time frame as specified by the BCC.

CHAIRMAN CAMPOS: Thank you very much. Commissioners, any comments, questions? Commissioner Duran.

COMMISSIONER DURAN: I have a couple. Let's start with number 9. What does that mean? the back-up well plan must be in place within a time frame as specified by the Board of County Commissioners. Can you answer that for me?

MS. VITALE: Commissioner Duran, in order to provide Santa Fe County the amount of water that makes up for the reduced allocation, which is .05 afy/lot, they need to give us water rights and the back-up well plan and the water rights are sort of tied together. And because the Rancho Viejo well is currently not specified for production, they don't have anything concrete to show us and so we want some sort of back-up well plan, whether it be the Rancho Viejo well or another well where they can provide us the water rights. We need to that to be -- there's a time frame for that --

COMMISSIONER DURAN: That would be to protect the difference in the water right allocation?

MS. VITALE: Correct.

COMMISSIONER DURAN: Okay. I guess I'm fine. Thank you.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, on number 5, Liza, why was that last piece added. If you could maybe explain that as well, on the conditions.

MS. VITALE: Commissioner Montoya, we added this because the original water service agreement provides .25 acre-foot per year per lot. That needs to be amended because the Windmill Ridge Unit III is going to be .20. And I think when the Windmill Ridge Unit III it included the .25 in that water service agreement. You can find the water service agreement in the exhibit.

COMMISSIONER MONTOYA: Appendix B.

MS. VITALE: Yes.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Liza, the well that -- or the staff report indicates that the Rancho Viejo well doesn't meet state water quality requirements. Who

would be responsible for ensuring that it does meet state water quality requirements if in fact the Commission were to decide to require Rancho Viejo to use that well?

MS. VITALE: Commissioner Sullivan, I think the hydrologist could answer that question.

STEPHEN WUST (County Hydrologist): Mr. Chair, Commissioner Sullivan, we requested of Rancho Viejo that part of any amendment to the water service agreement would have to include some water treatment for the arsenic which will be above the Safe Drinking Water Act standards. So it would be the responsibility, our suggestion is that it would be the responsibility of Rancho Viejo to provide that prior to committing that well to the County.

COMMISSIONER SULLIVAN: Okay, so if -- I'm trying to separate water service, or a reduction in the per capita water service with the well, which is a physical thing. If Rancho Viejo's estimates are correct, and I understand from the report that one year is based on a reduced drought year and one year was based on a normal year, so we just have two years and staff feels that that's a little short in time to be basing something on. But if that's correct, then Rancho Viejo won't need any back-up water. Right?

MR. WUST: Mr. Chair, Commissioner Sullivan, that's correct. If their numbers turn out to be --

COMMISSIONER SULLIVAN: Whatever number is finally agreed on, if those numbers are within the parameters that they estimate, then no back-up water is needed. Now, there's additional language or wording in here that says they want to provide additional residents with the Rancho Viejo -- that seems to be a different issue. When we approved Windmill Ridge III we went through a process that indicated they would transfer water rights to the Buckman area and that type of thing. And I'm trying to separate that from this back-up capacity. So it would seem to me that if they want to make a change in the condition of the approval of a master plan for Windmill Ridge III that would be a different process, with public hearings and so forth to do that. If we're dealing with a water service factor and back-up and so forth, that's a different issue. Could you help clarify that for me?

MR. WUST: I'll try, Mr. Chair, Commissioner Sullivan. First to clarify a couple things that I think will lead into this. It is more than simply a commitment to upgrade the amount of water rights the utility owns. As Commissioner Duran had asked, there's also a water availability question, and it basically comes down to this: There's 168 acre-feet of water committed to Rancho Viejo, and at .25 acre-feet per unit, that will supply 600 and some odd units, or whatever they're up to now. What they're proposing is that if there's a reallocation of .20 acre-feet to all the units, there will be more units that could be built, hence Windmill Ridge III. The idea of the back-up is that there's water rights and physical water, such that if the 841? 800 and something lots get built with the assumption that it's .2 acre-feet of usage and they actually use more than that per lot, up to .25, the physical water and the water rights connected to that well would be the difference. So there wouldn't be a deliverability question. It's more than a water rights question; it's a

deliverability question.

Now, in the future, my understanding from meetings with Rancho Viejo and they're certainly here to discuss it if you'd like, is that that's the back-up part that would be transferred to that well initially, which would be 32 acre-feet, plus or minus. And from a practical standpoint, I'll go back to the arsenic. A mixing plant could actually take care of the arsenic, mixing it with the water coming from the City, for example. But if it goes beyond that, treatment would be required, because a mixing plant probably wouldn't work. They look at the future and say, well, if they can transfer more water rights in the future to that well and actually have that well deliver more water, up to what the Balleau report says, 350 acre-feet, and we had proposed our own test to see if that's a reasonable amount or not. That would support, in Rancho Viejo's eyes, future development, additional development.

But for the moment, the back-up plan is just the 32, 34 acre-feet to go to that well to make up this difference between .2 acre-feet at 840 units and .25 acre-feet of 840 units.

COMMISSIONER SULLIVAN: Okay, so actually the request is somewhat more complex. It's not just to provide, to squeeze out a few more homes out of the 168 acre-feet, it's to put this well on-line at some point in time in the future, and use it for the future Rancho Viejo housing.

MR. WUST: Mr. Chair, Commissioner Sullivan, I don't believe that's part of the request at the moment. At the moment, it's squeezing more homes out of the 168 acre-feet by changing the allotment.

COMMISSIONER SULLIVAN: The future housing is not a part of this request then, is what you're indicating.

MR. WUST: No.

COMMISSIONER SULLIVAN: Okay. So we're only dealing with how many ever houses we could squeeze out of the sponge, as it were, staying within 168 acre-feet. Is that your understanding?

MR. WUST: That's correct.

COMMISSIONER SULLIVAN: So then the .19 or the .2 that the staff is recommending here, my understanding also is that that doesn't include the 20 percent line losses that we normally, that the Utility Department would normally allocate to any water service agreement. And I see in your letter that you say, you recommend a .2, plus any agreed upon line losses or something of that sort.

MR. WUST: Commissioner Sullivan, that's correct. That's strictly from a water budget allocation approach, because the rest of it is a policy decision of the Utilities and the Commission.

COMMISSIONER SULLIVAN: Right. But when we're measuring .19 or .2, those measurements are at the meters of the Rancho Viejo residents. Is that correct?

MR. WUST: That is correct. That would be the level that I would be comfortable with, trying to predict the usage at each home.

COMMISSIONER SULLIVAN: Okay. In order to deliver that much water

to Rancho Viejo, there's always line losses that occur in flushing and fires for fire hydrants and repairs of lines, and water that's lost in that process. My understanding is that our standard water service agreement applies a 20 percent factor so that when we have a development that has .25 acre feet, that we approve as a water budget, then the Utility Department says fine. That's .25 acre-feet as a water budget, you need to provide us with the capability to deliver .31 acre-feet, or 20 percent more, in order to get that much water to you. And that's what the developers typically agree to. Is that the standard process?

MR. WUST: Mr. Chair, Commissioner Sullivan, that's correct, and you've actually made a very good point, because we call it line loss and in a new system such as Rancho Viejo, actual leakage type losses are not great at all, but there's what I call unaccounted for water, like you said, flushing of lines, exercising of the hydrants, use by builders who tend to fill up with water there. This unaccounted for water, that's where this 20 percent comes from.

COMMISSIONER SULLIVAN: Illegal taps sometimes and it's other issues. And I'm thinking if we were to change that 20 percent factor in a future water service agreement, would we not have all the other developers coming back and saying, If that's in fact your -- if your loss is different than 20 percent then you should amend our agreement. We shouldn't have to provide you with so many water rights.

MR. WUST: Commissioner Sullivan, that's possible unless there were conditions put on it to say in order to change the 20 percent you have to demonstrate a difference between the two meter reading less than x or the age of your system has to be less than a certain amount. Things like that.

COMMISSIONER SULLIVAN: Let me understand the staff recommendations. In the staff recommendations, you don't address, the staff doesn't address that. Is that correct?

MS. VITALE: That is correct.

COMMISSIONER SULLIVAN: So the staff recommendations are only dealing with the water budget. The resolution that the County has with regard to providing utility service would still be applicable to whatever the budget is that the County approved.

MS. VITALE: That is correct.

COMMISSIONER SULLIVAN: So if my arithmetic is correct, then if we were to say, okay, looks like a reasonable guess that maybe you can hit .2 acre-feet per unit, then they would sign an agreement with the County, in essence to provide enough water rights for .24, that would provide us with the ability to get them .2. Would that be correct?

MR. WUST: Mr. Chair, Commissioner Sullivan, if I understand your question you're basically saying adding 20 percent to the -- if we reasonably assume that .2 is a reasonable future prediction of the water use, 20 percent will get us .24, and then the back-up plan from the well would provide that extra amount. Am I correct in understanding what you're asking?

COMMISSIONER SULLIVAN: No, it wouldn't be the back-up. It would be the agreement that they would sign with the Utility Department just like any other

developer signs that says we have to provide you with enough water rights so that you can pump to us .24 acre-feet, so that when it gets to our front door it's .2.

MR. WUST: I understand. That would be the standard agreement.

COMMISSIONER SULLIVAN: The standard utility agreement is not proposed to be changed here. Is that your understanding?

MR. WUST: Commissioner Sullivan, Mr. Chair, I believe it is and it goes back to -- if you go to .24, they can't squeeze out 840 units. If they don't include the back-up well. Because it doesn't fall within the 168 feet that they're allotted.

COMMISSIONER SULLIVAN: Okay, but then the .25 that they were approved for before, they weren't required, as the other future developers have been, to provide this 20 percent excess capacity. Is that the situation?

MR. WUST: I would defer to Doug.

DOUG SAYRE (Water Director): Mr. Chair, Commissioner Sullivan, it's my recollection that that was not considered in the original one. It came later that we needed to consider that there were line losses or accounted water that needed to be put in there and that's why it went to the .31. And that came after these original agreements.

COMMISSIONER SULLIVAN: After the -- okay. So when they first came on board, they had a flat .25 and they divided that into 168 acre-feet and that determined how many units they were going to build.

MR. SAYRE: Right.

COMMISSIONER SULLIVAN: I've got another question for Liza then. What happens, Liza, then -- is this going to require that all Rancho Viejo residents in total, including those in Estates I and II and all of the prior units only use .2 acre-feet per year?

MS. VITALE: Commissioner Sullivan, the only residents which would have to legally use .2 acre-feet per year would be those in Windmill Ridge Unit III because they haven't recorded plats then. But because all the existing homeowners already have .25 on all of their documents, that is the amount of water they can have. That's why our condition number 3 asks that Rancho Viejo submits documentation to the homeowners explaining it, and that's going to be their line of communication. And it will be up to the homeowners if they want to use the .2 acre-feet. And because the past two years of data prove that they usually use that or below, we think that that might be all right but we have the five-year review. At the end of it we're going to review all of the homes and we're asking per unit per house, because there are different size lots, and we are going to determine if people are actually using .2. And if they're not, then we will use the back-up water that we've been granted by Rancho Viejo and if they have, if every single resident in the existing -- the existing homeowners and the ones that bought the houses at .2 acre-feet, if they all use .2 then we'll go from there.

COMMISSIONER SULLIVAN: Okay, so their calculation here, in figuring out how many more homes they can squeeze out of these 168 acre-feet, is assuming that everyone is going to go down to .2, including all the first phases and everything. And if they don't, then they have to implement the back-up plan. That's why we would like the

back-up plan to be in place.

COMMISSIONER SULLIVAN: I understand. I understand. I was just wondering, if I were a Rancho Viejo homeowner and I signed an agreement that said my water was .25 acre-feet, I might say why should I agree now that it be .20 acre-feet. If I want to use a little more water I can use it because that's what my agreement said. And you're saying if somebody -- if that happens then we have this back-up plan to take it over.

MS. VITALE: Yes.

COMMISSIONER SULLIVAN: Does the back-up plan and I guess this is for Mr. Wust again. Does the back-up plan, Stephen, have to come from the Rancho Viejo well or could that water come from another well that the County has drilled or made an agreement for?

MR. WUST: Mr. Chair, Commissioner Sullivan, it technically could come from anywhere we could get additional water. The question now is with the allocation by the utility of our current amount, we don't really have this extra water to be using as a back-up. So it could come from elsewhere but we would like to see that it be given to the County through Rancho Viejo. In other words, it doesn't have to be the Rancho Viejo well, but if it came from somewhere else, Rancho Viejo should be the one to transfer the water rights, and if it's a new well to be able to prove up that well for water deliverability.

One of the possibilities would be transferring the water rights to Buckman but then it goes back into the situation of how much water we then get through the City system and from the Buckman field, etc.

COMMISSIONER SULLIVAN: That's what I was getting at is at our meeting on November 25<sup>th</sup> we discussed that with Gary and what was the name of that development on the northwest side?

MR. WUST: The one for Gerald Peters? I don't remember the name of the development. Suerte del Sur.

COMMISSIONER SULLIVAN: And the indication from Gary was that we could actually, if that well proves out, we can actually by transference deliver water in the Community College District are without wheeling it through the water system. I'm not sure, Commissioner Duran, you were here for that discussion but do you recall that?

MR. WUST: Commissioner Sullivan, I do. Yes, that would be a possibility because I think it's reasonable to assume that if the County utility is interconnected that a productive source at any location in the county could contribute to other parts of the system. However, that's a well that hasn't even been drilled yet.

COMMISSIONER SULLIVAN: That well hasn't been drilled. Understand. But all these houses haven't been built yet either. Neither has Windmill Ridge III. And that had a name. That term had a name. I forget the name.

MR. SAYRE: Excuse me. We'd have to have an agreement with the City. That's another kind of agreement we'd have to work out with the City. It could be done. It's feasible. It's just one of those things --

COMMISSIONER SULLIVAN: I want to say "deliverance" but I don't

think that was the term. Not offset, but it --

MR. SAYRE: Exchange, I think. Exchange type thing.

COMMISSIONER SULLIVAN: Yes. But it's not -- we've been having trouble with the wheeling agreement, with the City not wanting to wheel additional water above the 500 acre-feet and this was a way to be able to get any production water in the northwest sector down to the Community College District without physically wheeling it through the City lines.

MR. SAYRE: Mr. Chair, Commissioner Sullivan, what we do is probably this well would be able to provide use in that area and then some of the other water being wheeled, we'd exchange that for water that could be wheeled onto Rancho Viejo. It lessens the amount that we'd overall use from the City compared to right now and that would be wheeled onto Rancho Viejo.

COMMISSIONER SULLIVAN: I guess my only concern is not so -- my personal concern being that this is my district is not so much with the .20 if that's proven to be the number, but it's with putting a well on line that hasn't gone through the State Engineer's process, that hasn't been approved. And I know it can't be put on until it's done that, but until we have an acknowledgement or an assurance that it meets the quality standards, and I understand there have been tests by Balleau as to it's 100-year production capability, but correct me if I'm wrong, those tests haven't shown what the impact is on the surrounding areas, surrounding wells, have they? They haven't showed how much the wells on Route 14 will drop as a result of pumping that 340 acre-feet a year.

MR. SAYRE: Mr. Chair and Commissioner Sullivan, perhaps we could defer to Balleau, but it's my recollection that the study did show that if this was pumped to that amount, what the effect would be to the different surrounding wells, how much draw-down would be effected.

COMMISSIONER SULLIVAN: Okay. We can ask about that. I remember reading -- and you may have some studies that we don't have here in the books but I remember reading the report that's in the packet here. It said that there were some observation wells but that because the well wasn't being pumped on a regular basis, those observation wells really weren't indicating anything. They weren't doing anything. So my understanding from that was that they did some observation wells. They pumped it, but it was only for a short period of time so there was no really change, or minimum change in those observation wells, but there wasn't a complete modeling done and an analysis showing what the effect on La Cienega would be and Route 14 and San Marcos and that area. Is that your understanding?

MR. SAYRE: I think we could defer to them if you want that question answered.

COMMISSIONER SULLIVAN: Okay, they can answer that. Thank you. That's my questions for now, Mr. Chair. Thanks.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: No questions.



CHAIRMAN CAMPOS: I have a couple of questions, Ms. Vitale. How does Rancho Viejo plan to enforce the limitations? Let's say we agree to .2 and somebody consistently uses .25 to .3. What are they -- how are they going to enforce those restrictions against people living in Rancho Viejo subdivisions?

MS. VITALE: Mr. Chair, Rancho Viejo has stated that they defer the enforcement onto Santa Fe County, the same way we currently enforce people.

CHAIRMAN CAMPOS: How do we currently enforce?

MS. VITALE: Which would be -- we're currently in a Stage 3 water restrictions and so every thousand gallons over 10,000 gallons per month, the customer is charged \$15. Then it's 1,000 gallons per 20 gallons per month.

CHAIRMAN CAMPOS: So it would be the surcharge.'

MS. VITALE: It would be the surcharge is from what I understand and we would enforce that. But because the existing homeowners have the right to .25 acre-feet, we aren't going to enforce anything below that because that is the amount of water that they were allotted.

CHAIRMAN CAMPOS: Now, condition 8, you say four acre-feet of water shall continue to be reserved for commercial use. To me, commercial use, if the Community College District is successful it's going to be because there is commercial use and GRT generated and other taxes generated. Now, is four acre-feet enough reservation for commercial use, and how did you arrive at the four acre-feet as adequate for that purpose?

MS. VITALE: Mr. Chair, I'd actually like to defer this question to Penny, because I'm not certain how this was arrived at.

CHAIRMAN CAMPOS: Thank you.

PENNY ELLIS-GREEN (Planner): Mr. Chair, Commissioners, that was a previous allotment from the existing subdivisions, I believe, in the Village of Rancho Viejo.

CHAIRMAN CAMPOS: Okay, so these four acre-feet, would they apply to all commercial development within the Rancho Viejo development?

MS. ELLIS-GREEN: The planned commercial at the moment, yes.

CHAIRMAN CAMPOS: Do you think that's enough?

MS. ELLIS-GREEN: That's what's being proposed and been approved so far.

CHAIRMAN CAMPOS: Okay. Thank you. The other issue is La Cienega. Any time there has been talk about pulling water from the Rancho Viejo well, La Cienega gets very politically involved. And they feel their wells are going to be affected. How do you address their concerns?

MS. VITALE: Well, when the Rancho Viejo well, when it goes through the office of the State Engineer, which will be part of the finalization of the back-up plan that we're requesting. From what I understand the State Engineer will look at the impact to all the surrounding areas and that's why, as part of the condition number nine that we added,

we would recommend something around a year or they'd have to have it in place before they have any additional development proposed or recorded.

CHAIRMAN CAMPOS: So I guess it's possible for the Office of the State Engineer to say, This well could be detrimental to the wells in La Cienega. If they did that that would create certainly a problem with the application and whole process.

MS. VITALE: Yes, it would.

MR. WUST: Mr. Chair, that, in fact they wouldn't get the water right transfer if that were the case. And most probable, just from a technical interpretation that if they start with the 32 acre-feet, which is a small amount compared to what the well supposedly can produce, that would have a much less probability of showing any impairment, but it's an additional protection down the line in case Rancho Viejo or the County wanted to come back and say, Now we would like to transfer another 200 acre-feet of water. We'd have to show again, a second time that that additional amount would not in itself show any impairment. So there's a protection up front that if even the 32 acre-feet showed an impairment, they wouldn't get the water rights and if down the line someone wanted to, either Rancho Viejo or the County wanted to increase that, you would have to demonstrate that same thing again and the State Engineer may deny it or approve it, but they would do the same test once again.

CHAIRMAN CAMPOS: Thank you.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: I have one last question. There's a letter that we received, I guess from Robert Garcia, chairman of the Community College District Development Review Committee, urging the Commissioners not to approve this, based on the lack of data and suggesting that perhaps we wait a number of years. [Exhibit 1] Has this been made part of the record? How do you respond to the Community College District Development Review Committee. They're very concerned about the lack of data and I noticed in your reports you were very concerned about insufficient data being two years, one being a drought year, one being a normal year, I guess.

MS. VITALE: Mr. Chair, Robert Garcia has a good point about this and that is why we've asked for the minimum of five years of looking at the water usage and why for the first two years, we want to see quarterly reports, because then we can determine whether or not it actually is going to work, and it will give us more time. They would like to continue building and we want to make sure that the correct amount of water is used, so we'll have the back-up plan, hopefully, in place and so if it is exceeded, it's okay. And we will have all this data to analyze and at the end of five years, we'll go back to the BCC for review to determine whether or not it was working and perhaps it wasn't an adequate amount of time, but no water should be lost in that event.

CHAIRMAN CAMPOS: So you think we're safe.

MS. VITALE: Well, I can't really make a --

CHAIRMAN CAMPOS: It's hard to say.

MS. VITALE: We'll be covered regardless. We're going to find out how

much water is used in a very specific manner and we'll have the water rights to account for --

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I would just like to say that we need to start thinking of ways of how to squeeze the last drop out of that sponge. The City is doing that with their retrofit program and I think this is one way that we might be able to provide the housing needs of our community and I think that what staff has come up with is a good proposal on how to move forward on this. If you recall, the applicant has for the last six months been working with our Utilities Department to transfer water rights for that development's needs based on our assurance at the RPA that the City was going to work with us on extending our wheeling agreement and work with us on transferring water rights to the Buckman wells and to the diversion project so that we could meet the needs of our community. And you know where that's gone. There's been no communication with the City.

And I really think it's important for the County to start thinking of developing our own water sources, our own points of diversion. And I do understand the concern of the La Cienega people relative to the impact that the Rancho Viejo well might have on their community, but I think that we need to let the State Engineer make that decision. I think that we have a concern and that concern is valid. But that's, I think, the experts at the State Engineer's Office need to guide us in that regard.

We talked about other points of diversion. We were going to develop a well over at the Public Works site and the State Engineer will not allow us to drill one there because they're planning to do a test well. Then we have the Hagerman well, and that probably has more of a major impact on the La Cienega area than the Rancho Viejo well. So I just think that as we move forward, in this particular application, we need to think about the big picture and that is we need some points of diversion. And 340 acre-feet -- it's proven 100 years supply. I think that that's nothing to sneeze at. I think that if we truly are going to deal with our community's needs relative to housing we need to have an open mind. Thank you very much.

CHAIRMAN CAMPOS: Thank you, sir. I guess we're ready for the developer. Mr. Pino, are you going to present? How long do you think it will take? Okay. Now are there members here that would like to comment? It's going to be a public hearing after Mr. Pino talks. Are there folks here that want to address? Okay. There'll be a few. Mr. Pino.

[Duly sworn, Ike Pino testified as follows:]

IKE PINO: Thank you, Mr. Chair, Commissioners. My name is Ike Pino. I'm general manager for Rancho Viejo, Inc. And, Mr. Chair, I wanted to approach this just a little bit differently than we typically do. First of all, to say that Rancho Viejo is in agreement with all of the staff conditions in the report. I do want to mention, because as you've noticed this evening and noted in the past, that discussing water can get quite complicated, and staff has spent a tremendous amount of time working with us as we have

gone through this proposal and the water plan. And so I just want to recognize that they have been available in working towards this, and we certainly have no argument with the conditions that they have proposed. We have a lot of understanding about what they mean exactly and how they're going to be applied and enforced.

I'd like to hand out two things for you that you can just follow along with that give you numbers that you can look at as I'm discussing a few points in the next few minutes. John Paul Romero's going to give you a little sheet that talks about acre-feet and the number of units that can be derived from them. And the other one's kind of voluminous, but that's the third year of data. We were able to obtain the meter readings for 2003 all the way up through November. And I'll discuss those for a second in a while, but I thought you might want to have them, because that was not available to us obviously up at the time that we made this proposal.

Mr. Chair, Commissioners, throughout this proposal there have been a lot of concerns expressed by our residents, by just members of the general public, and certainly by Staff. And I just want to highlight some of those and talk about what the actual issue is and what the response to that might be. Certainly you're going to have those discussed by the public in a minute.

First of all, for our residents -- and I met with the president of the homeowners association, and I told him that I would state this for the record. The concern of a lot of our residents was that we are entitled to 0.25 acre-feet, as we discussed a few minutes ago. In fact, I wanted to ensure them that their entitlement will remain, and that the difference between 0.20 and 0.25 constitutes what we've been calling the "back-up." That way, if what the Staff fears might happen, and it could, if everybody went crazy and just went back to 0.25, the back-up would be intended to provide that wet water that was allocated to us at the 0.20.

If you look at your blue form, the one with the blue header on it, you'll see that I have two scenarios. I have the 0.25 and 0.20. Both of them are dealing with 168 acre-feet that's currently being delivered. Both of them reserve four acre-feet for commercial. As you were told, that commercial is the commercial for the existing village and Windmill Ridge unit one and two. The remaining water, of course, is 164 acre-feet in both instances.

Under the current 0.25 allocation, that 164 acre-feet will serve 655 units. Under 0.20 it'll serve 820. The total number of approved units to date is 641, and the proposal of the 641 plus the 163 from Windmill Ridge Unit III would bring us up 804, which is 16 units short of that 820. So this proposal is for Windmill Ridge Unit III only. And I say that for the benefit of anyone who thinks that we're talking about Unit IV or Unit XX or whatever else might come down the line.

So the water needed for the approved units under the 0.25 right now is 160.25 acre-feet. Under the 0.20, it would be 160.8 acre-feet. So it's virtually the same by changing that allocation. And as you can see, there's just a little over three acre-feet of water left under both scenarios.

And on the bottom we have the water banking back-up. And that's the difference of

641 units at 0.25 and 641 units at 0.20. And that's where the 32 acre-feet that Mr. Wust was talking about comes from. That's the back-up. So that's the back-up that allows the 641 people who are entitled to 0.25 to go to that 0.25 if that's what they need to do, and we can still deliver that wet water.

We intend to transfer the proper amount of water rights to cover that to the well. And something that entered into the discussion tonight that hadn't previously was that it might be another well. And we certainly are open to discuss that. We have created our proposal as if it's the Rancho Viejo well, because we think that has some advantages to the County. One of the things to keep in mind is that if the back-up is in place, whether it's at the Rancho Viejo well or somewhere else, that the data, as you'll see, probably will never require the County to pump that water. But it's wet water back-up that's available.

Another issue that had been discussed was that two years of data was not enough. That is the reason, again, for the back-up. You see, the third year data, which included 468 residents for the entire year and 565 customers at the end of the year, and we're still finding ourselves at the meter as using 0.15 acre-feet. And we do acknowledge that it was a water restriction year and a drought year. But the trend has continued to stay fairly low at Rancho Viejo. If you just used that data and applied it to all the units that we're talking about, extrapolating the actual amount of water that would be used would be closer to 135 acre-feet. But we've agreed with staff that the number is 0.20. And that's why that sheet shows 160-plus acre-feet.

There's been discussion on the part of some people that have called about the condition on wells in the Community College District. Indeed, when the master plans were being considered a year and a half ago, there was a restriction on private wells in the Community College District. Rancho Viejo, Inc. is not interested in being in the water utility business. We think that the Santa Fe County Water Utility is the utility for the County, and it would be our intent to make sure that through the water service agreements and through other agreements that might be necessary that this well becomes of the Santa Fe County water system, and not something that Rancho Viejo has access to willy-nilly or just because it's ours. It's intended to be part of the Santa Fe County water system.

People have asked us what is included in the savings. Only the meter-readings. That 0.20 is based only on meter readings. We didn't factor in the amount of irrigation water that can be reduced when we go to reuse. We did not factor in the cisterns. And both of those alone are going to save in the neighborhood of 30 acre-feet, but that's not part of 0.20. You might consider that as gravy, if you will.

And we did not consider any of the modifications to the landscaping. Having been in the water restrictions last summer, we modified our entire landscaping planting plan at Rancho Viejo to plant only things that could grow on once-a-week watering, and that's not that many things. So if you were to drive through Rancho Viejo today and the village and then Windmill Ridge, you'd see two distinct-looking subdivisions because of the type of planting we've had to do on one. None of that -- and I add that in the for the benefit of the people that have asked -- none of that's factored into the 0.20. But it's all part of the

conservation package ultimately that helps us conserve water at Rancho Viejo.

People have asked -- the reuse. How does it work? In August of 2003, just a few months ago, the Environment Department adopted new regulations for reuse. And the effluent being produced at the Ranchland Treatment Plant meets the 1A classification, which means it can be used for the type of irrigation that we're proposing. The flow from the plant would be pumped back up into the system. Our flows exceed well in excess of what would need to be delivered for irrigation during the entire year already, and essentially frees up 27.1 acre-feet, which is what we used for irrigation last summer. Our irrigation meter said you used 27.1 acre-feet. We cut those off from potable water and put reuse water. That's 27.1 acre-feet that's no longer going to irrigation.

Our homeowner board -- I have had informal discussions with them, and they're certainly interested in availing themselves of that treated effluent. Because that's a lot cheaper than potable water is. The potable water bill for the homeowner association could reach \$70,000 in a given year. With treated effluent it could be down around \$12,000. So there's a big advantage there. But that still has to be negotiated with them.

The recycled pipes have already been installed in our last subdivision, Windmill Ridge Unit II. All the valve covers and sprinkler-heads and everything are coded purple, because that's what you use for treated effluent. And then we would have to paint the ones in the other subdivisions where there wasn't purple pipe.

Our construction is ready to begin. We have final engineering drawings from the engineer. And our discharge permit from the Environment Department will be modified. It's gone through the public notice process, and we're about a signature away from having the modification to allow us to have the reuse.

The question has been asked, Are water rights available? Rancho Viejo currently has 151 acre-feet in various stages ready to transfer so that we can easily cover the 32 acre-feet that would be required for the backup. And just an add-on to something that Commissioner Sullivan mentioned awhile ago and Commissioner Duran, our water service agreement for Windmill Ridge would have called for us to transfer those water rights to Buckman. And had there been a wheeling agreement, had the City followed through with that, then we would probably want to come in for conservation savings at some point. But that would be our source of delivery. Absent that, we're looking for the conservation credits at this point.

The well capacity, of course, the 100-year supply, is at 340 acre-feet per year. But the important thing here for people who are concerned about this is that our intent would be to transfer 32 acre-feet, and permit the well at 32 acre-feet with whatever the State Engineer would determine else needed to be done. Not to go in with 340 acre-feet worth of water rights or 150, such as we have, and say, We want all these in there. The intent here is purely the back-up.

The permit to be issued by the office of the State Engineer, as you know, that usually takes about a year. And the State Engineer is going to examine production models and impairments, and they're going to have all sorts of requirements about that. And we're

going to let that run its course, and we're prepared to deal with that 32 acre-foot transfer in the manner that the State Engineer determines is appropriate.

Other uses in the near future -- once again, I reiterate that this proposal is around Windmill Ridge Unit III, 163 units. The only other thing that I can tell you is on the horizon, and I can't tell you how certain this is. That is that the Santa Fe Public Schools want to build an elementary school on the Richards corridor, and they'd like to build it on Rancho Viejo property. Now, they have declined to accept school sites that we have provided in our subdivisions, but now they've come to us and asked us to designate a site for an elementary school, because apparently the south side elementary schools are overflowing. Piñon Elementary is past capacity. And they want to include that in their 2005 bond issue. So there is a use for water, potentially, down the road that's outside of anything that we've discussed. But the public schools know that they have to deal with that issue.

Insofar as line loss is concerned, that had not been discussed anywhere until this evening. And any issues around line loss certainly are available to be provided for in back-up as is the case with the difference between the 0.20 and the 0.25, whatever that number comes out to.

I was asked what's in it ultimately for the County. And as we examine this, the County has been progressive in dealing conservation, in dealing with affordable housing, and starting to develop their own sources of water and having to develop independent sources of water. So, if this winds up at the Rancho Viejo well, the development of a reliable groundwater system starts to take form in the ownership of the County, not in the ownership of Rancho Viejo. And those wells ultimately, whether it's a Rancho Viejo or the Peters well or whatever other wells you have, down the road can be used conjunctively with your surface diversion as back-up. So the wells in that scenario would not necessarily have to be pumped ad infinitum. They could be used as back-up in a manner similar to what Buckman does when the reservoir is low for the city.

So the conjunctive use is real important ultimately. Right now, that's not a reality, because there isn't a surface diversion. It puts the County, we believe, in control of the water destiny in the Community College District as owners of the well. It continues the growth of the Santa Fe County water utility. I've never heard any suggestion from any of the County Commissioners in any way that they're willing to abdicate to Santa Fe County Water Utility Company. It provides additional customers, that's a natural fact. And of course the capital costs for the infrastructure will all accrue to the developer, whether it's lines, pumps, treatments. Whatever it is, it's all going to accrue to the developer. That would include anything having to do with arsenic.

Ultimately, Commissioners, in conclusion, we know what the Rancho Viejo water usage for residential customers is to date. We have the data. We know what the water usage for irrigation is. We know what the well capacity is. We have other conservation methods in place, such as the cisterns and the reuse, etc., coming on-line that are not factored in, but we know they're there or available to us immediately. We know we have

water rights available to transfer. We know that the 0.25 entitlement can be backed up. We have the reuse plans ready to construct. And if the arsenic issues are treatable -- I mention all of those items because this isn't a proposal that was arrived at overnight. This has taken a lot of time and had these sorts of things in place and operating in order to present the County with a viable proposal.

We would like to move forward with the County on the development of their system and be a partner with them to the extent that we need to be. And just to continue with the economic development that has started to spring up out in the Community College District via the hundreds of jobs that have been provided and the increased property taxes and the gross receipts taxes, the 28 affordable homes that are now sold and being occupied in Windmill Ridge Unit II, another 32 coming on-line in Windmill Ridge Unit III. These are things that the County Commission has asked for and has had the vision to require in the Community College District, and we want to continue with that.

So with that, Mr. Chair, we respectfully request approval of this proposal, and are willing to stand for any questions that you might have.

CHAIRMAN CAMPOS: Commissioners, any question for Mr. Pino?

COMMISSIONER ANAYA: Mr. Chair?

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Ike, this subdivision would have to get approval -- or let's say we approve it tonight. In order for you to continue, we would have to get approval from the State Engineer to make sure that well is okay to pump and it won't affect the surrounding neighborhood?

MR. PINO: Mr. Chair, part of the proposal, yes, is that we would make application to transfer 32 acre-feet of water rights into the well. The State Engineer's process would determine whether that was allowed or feasible or any other condition that might go with it. And I think that part of our proposal is, and we're asking the County Commission to work with us on this, is to allow the permitting process to go forward in Windmill Ridge Unit III. It is an approved subdivision, but it's not a recorded plat yet. And for us to engage in that, I did talk with the County Hydrologist to ask him what his standard would be. And he said he would have to make sure, one, that we applied for the water rights transfer and two, that we've amended the water service agreement, and he would consider that to be the impetus to move forward with getting the permits for the homes at Windmill Ridge Unit III.

COMMISSIONER SULLIVAN: Thank you. Ike, then in that process with the State Engineer, you're also asking that the County be a joint applicant with you in that, right?

Mr. PINO: That's correct.

COMMISSIONER SULLIVAN: So that when the La Cienega residents complain, they're going to complain to us, I would assume. To me, and maybe to some others. But that's part of your proposal, is that the County go in with Rancho Viejo. And I had a question in that regard. This well has been in place for several years. Why haven't



you just gone to the State Engineer to get it permitted and approved? We've been speculating on this well for three years. Why didn't you just go get it permitted?

MR. PINO: Mr. Chair, Commissioner Sullivan, because of the condition on the Windmill Ridge master plan that said no private wells in the Community College District.

COMMISSIONER SULLIVAN: But that was only six months ago.

MR. PINO: But the well's only two years old now. We did it in November of 2002.

COMMISSIONER SULLIVAN: Yeah, but in two years you could have had it permitted. We could have had all of these questions answered, whether it had any effects on surrounding wells, impacts on the residential wells. Why not just go get it permitted?

MR. PINO: Mr. Chair, Commissioners, I can tell you why. It's because the units that were being approved still all fit within the hundred --

COMMISSIONER SULLIVAN: Within the hundred and twenty -- okay.

MR. PINO: And so maybe we had a little lack of vision in that respect.

COMMISSIONER SULLIVAN: Okay, well let me ask a specific question. On the condition nine, you talked a little bit about the water quality and the arsenic issue. On the condition nine, would you have any problem with it reading: "The back-up well plan must be approved by the BCC and must be in place within a time-frame as specified by the BCC, and the costs of all equipment and water quality treatment required shall be borne by the applicant"?

MR. PINO: Mr. Chair, Commissioner Sullivan, I think we can accept that condition.

COMMISSIONER SULLIVAN: Okay. Then the only other question that I had -- just before we get to the public hearing, any other questions, was that -- oh, the word that I was looking for that you said you'd just heard this evening about the other wells was "displacement." That's the term. I had to go back and look in our November minutes to find that, that Gary was talking about. But there is a mechanism, for example in the Peters well, which is in an area where we feel that we have a better chance of getting a sustainable water supply, that if we do that over and above the requirements for that subdivision, then there's a mechanism for serving the Community College District without physically pushing the water through the City's pipes, by displacement. And what Gary said was that we don't have an unlimited amount of water that we can do that with.

But there's a certain amount of water rights that can be displaced, and I think Doug Sayre brought up that that may require an agreement with the City. But I think that may be an easier agreement than the wheeling agreement. But I don't want the public to feel that the wheeling agreement is dead. We seem to be already putting it into its grave of -- we're just at the early stages of negotiating with the City, and every indication is that they're taking their position and we're taking ours. But if we don't have a wheeling agreement in 2005, then no one on the Santa Fe County water system will have water, including Rancho Viejo.

So I think one can make a fairly good assumption that we are going to negotiate a successful wheeling agreement. It might not be in the form that it's in right at this moment, but not to do so would mean that the 600 and some residents in Rancho Viejo, the 900 and some residents in the Community College District and those in northwest sector would have no water. And I just don't think that's going to happen realistically. So I think we will get a wheeling agreement.

I saw it in the proposed application or the proposed exhibit that you have in here, which I don't think we're dealing with now, but the costs for the application would be borne by Rancho Viejo, is that your understanding? The costs for the water rights transfer?

MR. PINO: That's correct, Mr. Chair.

COMMISSIONER SULLIVAN: I thought I recalled reading that. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair?

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Pino, regarding the affordable housing units that will be provided with Windmill Ridge Unit III, how many units are we looking at? About 32?

MR. PINO: yes, Mr. Chair and Commissioner Montoya, we have 32 units that will be built in the three ranges in Windmill Ridge Unit III.

COMMISSIONER MONTOYA: Okay. Regarding the well, there has been some discussion about doing some recharge. Where is that, in terms of the discussion? Is that in the water --

MR. PINO: The issue of recharge was visited pretty intensively by Rancho Viejo about two years ago. In fact, we have design plans for our wastewater treatment facility for micro-filtration and for electronic dialysis removal to treat the water to drinking water standards to reintroduce it into the aquifer. The problem then as is now is that while the State Engineer's Office was willing to recognize the amounts of water being drawn out and the amounts of water putting back in, the Environment Department still felt that there was a psychological issue about reused water being put back into the aquifer, which to date really hasn't changed, to our knowledge. We're hoping that as the state moves forward with their water plan that they recognize the value of injection and aquifer recharge. Because that would definitely be a potential out in the Community College District or anywhere in the county for that matter, given the right parameters. And we're certainly prepared to move forward with the construction of those sites, sorts of things if the Environment Department were willing to get on board to permit such things.

COMMISSIONER MONTOYA: Okay. And I guess the reason that I mention that is because I think that's something that we need to look at as a whole in terms of the water utilities company and what we were planning on doing. And I think we need to look at a lot of different pieces. I think the well at Rancho Viejo presents an opportunity for the County in terms of expanding our water utility, if you will. I think some of the

things that we've done in the past have done the same thing.

And we need to look at the wheeling agreement as a piece of our overall water utility. And that if it's there in whatever shape or form it is, it's not going to deter us from doing what we need to do in terms of providing water to people throughout the county. And I just want to remind us that the City of Santa Fe is a player, but so is the City of Española and so part of Rio Arriba County in terms of the area that I represent as well. And we just need to look at this as holistically as possible in terms of the water utility company and how we're going to provide services. And I see this as a piece and an opportunity for the County to do something like that.

Thank you Mr. Chair, that's all I have.

CHAIRMAN CAMPOS: Okay, thank you, Mr. Pino.

MR. PINO: Thank you, Mr. Chair. Mr. Chair, if it becomes necessary, can I reserve some time for some rebuttal? Thank you.

CHAIRMAN CAMPOS: Anybody from staff want to add anything to what Mr. Pino said? Any comments? Response? Any clarifications?

MS. VITALE: Mr. Chair, no, we don't have any.

CHAIRMAN CAMPOS: Thank you. Okay, this is a public hearing. Who wants to come up and testify? Come on up. Everybody who wants to testify.

[Duly sworn, Robert Garcia testified as follows:]

ROBERT GARCIA: Mr. Chair, Commissioners, my name is Robert Garcia. My address is 8 Spirit Run Place, Santa Fe. That is part of Rancho Viejo, and I am the chair of the Community Development District Development Review Committee.

First I want to ask -- I gather you all have received the letters? So if you've all had a chance to read it, I don't want to repeat it to you. These are the concerns, not just my concerns. I wrote the letter because I'm the chair, but the concerns are the entire committee. I would like to briefly add a few comments of my own, however.

As I said, I am a resident of Rancho Viejo. My wife and I chose to purchase a home there very purposefully because we're very supportive of the concept of Rancho Viejo. We're very supportive of the County's Community College District plan. We think it's a good plan, we think Rancho Viejo is a good development, and we'd like it to continue in that direction.

I don't have the benefit of having seen the staff's recommended conditions in writing. It sounded to me like they addressed a lot of the concerns in a very positive way, and I want to complement them for the preparation of those. I do want to observe that my concern and the concern of the committee I think does remain that this is a very short time period to have drawn very significant conclusions as to the water usage. I'm very pleased, and I can certainly support, the statement that the residents of Rancho Viejo have done their very best to conserve water. We're trying to be good citizens there, we're trying to join with everybody else in the county and our government to conserve water. And people have taken that very seriously. As you know, we've been on Stage three and we still are on Stage three, and the people out there are aware of that. So people are doing everything

they possibly can.

I would disagree a little bit with Ike's comment that if the Stage three is lifted, people may go crazy. It's not crazy to begin to water your landscaping more than once a week. People will do that. The water usage will go up if Stage three is lifted, even though people will remain committed to trying to conserve water.

I would urge you, if you approve this proposal with the staff recommendations, recommended conditions, to make sure that all of those conditions are fully met before the construction begins. In other words, if the State Engineer has approved the transfer of water rights, approved the opening of the well, that the study about the impact on private wells on Highway 14 and the La Cienega area has been completed, and that the County has assured that those will have no negative impacts on other property owners, that the water can be treated so that the arsenic is no danger to anybody -- all of those are in fact completed and finished to your satisfaction before construction begins. Once the houses are built, we know you're not going to cut off the water. That's not going to happen. So just please make sure that you're satisfied, on behalf of everybody in the county, that those conditions are all met. Like I said, I haven't seen the conditions in writing, but it seemed like it was a very reasonable attempt to satisfy concerns.

One last thing, it does seem like this is a good opportunity to include in your agreements with Rancho Viejo the, if I heard correctly, the 20 percent reserve for line loss. That seems only prudent to now get that included in there. Thank you very much. Do you have any questions?

CHAIRMAN CAMPOS: Do you want to see a copy of it?

MR. GARCIA: Yes, thank you very much. Well, I don't want to take yours.

CHAIRMAN CAMPOS: Maybe somebody with staff. Okay, next speaker. Name and address please, for the record.

[Duly sworn, Robert Marshal testified as follows:]

ROBERT MARSHAL: My name is Robert Marshal. My address is 22 Cañada del Rancho in Rancho Viejo. I want to acknowledge Rancho Viejo's conscientious efforts to try to find ways to squeeze more water out of the sponge, if that's the term we've been using. Their plans, their actual installations of cisterns in houses now I think is commendable. Their plans to use the effluent from the sewage for our open space landscaping is very commendable. And I also commend your staff for spotting what might be some slightly incomplete information or questioning some of the information in this exhibit that Rancho Viejo has provided. I think there is a little a bit of optimism in the cistern usage calculations, but I think your staff is well aware of that.

In my own calculations, I concluded that if we include the water we have been using and currently use for our landscaping, a figure of 0.22 acre-feet per unit would be more correct. However, if we are assured that the treated effluent will be used for irrigating our common area landscaping, then I think the County's figure of 0.20 acre-feet per unit is credible. So I urge you all or recommend to you all that you accept your staff's

recommendations. I think they're credible.

And then I'd like to go on to say that I would hope that you all in addressing future developers or other developer's plans will also be proactive and require other developers, be they small or large, to also include conservation measures that are suitable for their scale of construction. Now, we know that not all developers, in fact few, will have a sewage treatment plant to draw from. But certainly things like cisterns -- as I've urged Rancho Viejo to look at graywater usage. I think the future for Santa Fe, and in the interest of our whole state, I would urge you all to play a role in requiring future developers to incorporate conservation means to the best of their ability for conservation of our precious resources. Thank you. Do you have any questions for me?

CHAIRMAN CAMPOS: Any questions for Mr. Marshal

COMMISSIONER DURAN: Good point.

CHAIRMAN CAMPOS: Thank you, sir.

MR. MARSHAL: Thank you.

CHAIRMAN CAMPOS: Okay, staff, any statements? Yes, sir.

MR. WUST: Mr. Chair, if I may make one comment. A lot of comments and questions have come up about the data and amount of data and are we comfortable with it. And I'd like to say this at least about Rancho Viejo. We have data. As you well know, every day staff and the Commission have to make decisions for development based on estimates, numbers derived from books, what the plumbers tell us, things like that. In fact, the development hasn't come before you yet, they're going to propose a much lower number based on estimates subtracting from Rancho Viejo data. And as a scientist, I appreciate the fact that at least we have some data to work with here. And that's also what I would say to Mr. Garcia, that whether it's enough or not we can talk about, or whether it's filled every niche we could talk about, but we have something to work with. And that's a real advantage here.

CHAIRMAN CAMPOS: Thank you, sir. Mr. Garcia, you had a comment?

MR. GARCIA: Yes, thank you for giving me the opportunity to read the conditions. I just have two suggestions. These may be implied, but these are legal documents. I think it's best to be as legally, as absolutely specific as possible. And my suggestion would be that condition two states that: "This amount of water shall be held by the County for a minimum of five years and subject to BCC review at the end of this time." It makes no statement as to what sort of conclusion by the BCC is necessary to either release the water or retain the water. It simply says that it has to be reviewed.

Condition five, and this I think speaks to why I was, what I mentioned earlier, states: "The back-up well plan must be finalized, implemented, and accepted by the County Utilities Department, including applicable water rights transfer and the water service agreement must be amended." But when? It doesn't say. Before development begins, before the application, before final approval is given? Before the 50<sup>th</sup> house is built? I would just suggest some very specific language as to when the agreements must be amended and accepted. That's just for your own protection. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Okay, Commissioners, any comments or motions?

COMMISSIONER SULLIVAN: Mr. Chair?

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just have a -- I wanted to put those revisions that I had talked about earlier to item nine back on the table so that the Commissioners could hear them and comment on them if they'd like. And I wanted to add the twenty percent to it, also. What I felt would be helpful is if it said: "The back-up well plan shall be approved by the BCC, and shall be in place within a time frame as specified by the BCC, and the costs of permitting, equipping, and any water-quality treatment required shall be borne by the applicant. The back-up plan shall include an additional twenty percent for line losses," which Mr. Pino said that they had no problem with. That would I think be a more comprehensive item nine.

CHAIRMAN CAMPOS: Okay, any comments on the suggestion by Commissioner Sullivan?

COMMISSIONER SULLIVAN: And one other -- then just following up on Mr. Garcia's point on item 5, the back-up well plan must be finalized, implemented and accepted. The water service agreement must be amended, I would say before final plat approval by the BCC.

CHAIRMAN CAMPOS: Any other suggestions, Commissioner?

COMMISSIONER SULLIVAN: No, that's all.

CHAIRMAN CAMPOS: Commissioner Montoya? You had a comment?

COMMISSIONER MONTOYA: Mr. Chair, a question for the applicant. Regarding the language on line losses, what's your take on that?

MR. PINO: Mr. Chair, Commissioner Montoya, we recognize that's the resolution of the waterline extension policy now and so that's why we've agreed to go ahead and comply with that. Yes.

COMMISSIONER MONTOYA: You're fine with that? Okay.

CHAIRMAN CAMPOS: Commissioner Duran?

COMMISSIONER DURAN: Do you have a problem with what Commissioner Sullivan was adding to number five?

MR. PINO: Mr. Chair, Commissioner Duran, for number five, I just wanted to indicate that there already is final plat approval for Windmill Ridge Unit III. So the language as proposed, it would not be applicable because that's already been done.

COMMISSIONER SULLIVAN: Maybe we better say before recordation then.

MR. PINO: Mr. Chair, Commissioner Duran, I just want to be real clear that clearly, 163 houses won't pop up over night. And it's clear that the water that's actually being delivered is far less than what might be anticipated if we were just using the formulaic approach. Mr. Chair, it's important for Rancho Viejo to be in a position to be able to apply for the transfer of the water rights and make that application and get the

water service agreement amended and then be allowed to proceed with Windmill Ridge Unit III as that's going through in process. Quite frankly the situation is that Windmill Ridge Unit II, our last subdivision, we're down to our last five or six starts in there and we'd like to continue to have our subcontractors onsite and continue on with construction.

And 163 units, even though my home-building manager tells me differently, won't all get built in the first year. And given some of the discussion that was proffered tonight in terms of perhaps putting those water rights in another well, all of that, I think portends for having a back-up in place. And Rancho Viejo, as you know, is a fairly long-term project so it would not be in our best interest to move forward with something and then not to comply with the conditions that you've asked for. So we respectfully request that within this approval that we be allowed to proceed with the building permits in Windmill Ridge Unit III in the final plat as we proceed through this process.

However, the hydrologist did indicate that he would want to make sure that that water rights transfer, wherever it winds up going, has to be applied for first and that the water service agreement has to be amended. And then he'd feel comfortable -- I know I'm speaking for him. He can speak for himself. But that would be enough to move forward on proceeding with this proposal. So I just wanted to be clear that that's what our intent is and what the necessity, frankly, for Rancho Viejo is at this point.

CHAIRMAN CAMPOS: Mr. Pino, if for example you start building 100 of these houses next year and the State Engineer hasn't finished the assessment or the evaluation of the well application, there has to be some connection, don't you think?

MR. PINO: Mr. Chair, I understand the concern about that and we can only speculate based on experience that the process is about one year with the State Engineer.

CHAIRMAN CAMPOS: But if it's longer --

MR. PINO: It could be longer, it could be less. It could hold us up. I'd certainly be willing to discuss how we'd deal with that.

CHAIRMAN CAMPOS: If this is going to be a long-term process and you guys go out and build all these houses -- how do you suggest we deal with that problem?

COMMISSIONER DURAN: Mr. Chair, could I help you with that?

CHAIRMAN CAMPOS: I asked Mr. Pino.

COMMISSIONER DURAN: I know, but I had the floor and you took it from me before I gave it up. I was asking him questions.

CHAIRMAN CAMPOS: I thought you had finished.

COMMISSIONER DURAN: No. I'm sorry. My feeling is that the water banking of 32 acre-feet is based on the capacity of the well that you have in place. And I think that if we -- I feel very comfortable that the production of that well and the hydrology report that's been performed on it should be sufficient for us to allow them to go forward with their proposed units. Worst case scenario is that they should at least be able to get the 32 acre-feet out of that well, which represents their banking plan that they're suggesting, that staff has suggested. Thank you. I don't know if that helps your case there but --

MR. PINO: Mr. Chair, Commissioner Duran, thank you. And I would add to that the 32 acre-feet represents, according to the geo-hydrologic report, represents less than 10 percent of the amount of water that could conceivably be pumped out of that well. Our geo-hydrologist has suggested that in a 40-year time that the draw-down, according to the model that he studied, would show probably a foot of draw-down in any of the wells in the area affected. All of this will be adjudicated by the State Engineer in some form.

If we were asking for 200 acre-feet or for the full 340, I think that that would be a leap of faith that would be way too large to ask you to take. And frankly, I guess a leap of faith is the best term that I can use. Mr. Chair, I'm not sure that I have a real good answer for you other than to say that the level of request that would be made to transfer the water rights to the Rancho Viejo well or to another well we believe is such that it could fit within that year time frame. And with the time table that we're looking at right now, demobilizing and remobilizing is a situation that we'd rather not have to deal with out at Rancho Viejo.

CHAIRMAN CAMPOS: What about commercial usage, Mr. Pino? Four acre-feet of reserve. It seems to me that that's not a lot of water for the commercial development that could occur out there.

MR. PINO: Yes, Mr. Chair, we sat down with the County staff two years ago and we reviewed the commercial area that's approved in the village and the commercial area that's approved in Windmill Ridge Unit I. And the amount of commercial space that could conceivably be built in there, and based on that and the types of uses that would logically go in there, this is not an area for big boxes or supermarkets, it's an area for very small shops or offices, we concluded that the amount of water that could service those particular areas that have been approved would be four acre-feet. And we agreed that we would reserve that and as we came in with commercial development that the water that was reserved in those four acre-feet would be drawn from that pool.

CHAIRMAN CAMPOS: Thank you. Any other comments. Commissioner Sullivan, let's wrap it up.

COMMISSIONER SULLIVAN: Yes, Mr. Chair, I just wanted to be sure that we have a lot of exhibits and so forth included with this application, but I just wanted to be sure that what the Commission is being requested to act on this evening is a request to reduce the per-dwelling water use requirement from .25 to .20 acre-foot per year per lot, with whatever conditions that they approve. But there's a lot of documents in here. There's draft agreements and things like that and I just want to be sure that we're not including those in this approval process, that we're focusing on the approval of this specific reduction request in the per-unit usage of the water budget, with whatever conditions the Commission agrees on. Is that you understanding, Mr. Pino?

MR. PINO: Yes, Mr. Chair, Commissioner Sullivan.

CHAIRMAN CAMPOS: Commissioner Sullivan, why don't you make a motion?

COMMISSIONER SULLIVAN: Why don't I make a motion? Okay, I'll make a motion. I'd move that the applicant's request for approval of a reduction in per-



dwelling unit water usage from previously approved .25 to the currently .20 acre-feet per residence per year be approved with the following conditions. Those would be the nine conditions distributed by staff, with condition nine amended as I previously stated, and what do we do with condition five? I'm just concerned that if the State Engineer process goes for two years, three years and all of the lots have been built out in Windmill Ridge III, then we have no back-up well. Now we've exceed 168 acre-feet and we're not going to cut off their water supply so it's going to come from either the County's allocation of that 500 acre-feet or somewhere else.

COMMISSIONER DURAN: Would two or three years be something you would agree to?

COMMISSIONER SULLIVAN: Let's just say two. Let's put a time. Something that puts an end point on this.

MS. VITALE: Commissioner Sullivan, if I may interject. With condition number nine, first of all we were hoping that the time frame that isn't really discussed in condition number five could be included in that and you would determine time frame for both, for the water service agreement and the back-up well plan. And we were suggesting or recommending that the back-up plan be in place by a year from now, or before any further approvals for any future development take place, or if you wanted to tie it to Windmill Ridge Unit III, we would suggest with condition number five, you could consider something along the lines of before 50 percent of build-out.

COMMISSIONER SULLIVAN: Okay, let me add an amendment then. Let me add -- number nine is turning into the Magna Carta. So let's make a ten here, to say that -- and delete my former additions to number five, and let's just make a ten that says, The back-up well plan and water service agreement shall be in place within one year or by the time 50 percent of the units are completed in Windmill Ridge III, whichever comes first.

COMMISSIONER DURAN: I like two years, and before a next phase is approved.

CHAIRMAN CAMPOS: Okay. Hold on. You've made your suggestion, right?

COMMISSIONER SULLIVAN: Yes, let's throw it out and get some discussion of it.

CHAIRMAN CAMPOS: Item 5.

COMMISSIONER DURAN: He said no change to item 5.

COMMISSIONER SULLIVAN: I threw that into ten.

CHAIRMAN CAMPOS: Okay. So the time limit for five would be controlled by ten.

COMMISSIONER SULLIVAN: Yes, I said ten would be the back-up well plan and the water service agreement. I put them both in there so the time periods were the same.

CHAIRMAN CAMPOS: Ms. Vitale, is that satisfactory to staff?

MS. VITALE: Yes, that is.

CHAIRMAN CAMPOS: Okay. We have a motion.

COMMISSIONER DURAN: Let's find out if it's satisfactory -- well, that's fine. I thought we were trying to do something here that works, but if you'd rather argue about it go ahead.

COMMISSIONER MONTOYA: Mr. Chair, for purposes of discussion I'll second that motion.

CHAIRMAN CAMPOS: Okay, let's have some discussion. Commissioner Duran.

COMMISSIONER DURAN: I'd like to have it -- I think that if we say one year, or 50 percent of the development that it kind of ties the hands of the developer out there when in fact we have safeguards in place. We have the water banking, the 32 acre-feet. And out of that well again, I think that worst case scenario we'd get 32 acre-feet out of it. I think that two years is a more realistic period of time, but then limit it that no other phasing can come forward for approval until the plan is in place.

CHAIRMAN CAMPOS: Mr. Pino do you have a problem with one year as stated by staff?

MR. PINO: Mr. Chair, our best guess is that one year might work. That might be a little problematic. Obviously, we can't predict it. The 50 percent is a problem because we'll probably find ourselves within about eight months back in the same situation of starting the last of those 50 percent of the units. But we certainly don't have a problem with the next future phases of development being withheld from application until everything's in place. As you know, our intent is to continue out there. We're going to do everything possible to allow us to put ourselves in a position to be able to make application when we're ready for the next unit. But if you have that restriction on us, I'm willing to accept that as a condition.

CHAIRMAN CAMPOS: Okay. Any other Commissioner have a comment? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I understand what Commissioner Duran is saying but I'm not understanding, Commissioner, how you feel that we would have the 32 acre-feet in place for the back-up. If they went ahead and built out 804 units, and if the State Engineer denied the application then we wouldn't have any back-up.

COMMISSIONER DURAN: Well, we wouldn't have any back-up from that particular well but I think that in the testimony I heard, the hydrology of that well is that it is productive, that in the worst case scenario you could draw 32 acre-feet out of that well.

COMMISSIONER SULLIVAN: I'm just saying if the State Engineer said you couldn't. That's why I was saying that if you got to some point there, if we went out and built out all the units and people used .25 acre-feet, then we don't have the 32 acre-feet. The well was not put into production and we're short 32 acre-feet, which we have to take from the 500.

COMMISSIONER DURAN: We have -- those 500 are not going to be used

in the next couple years. All the development that's committed to that 500 acre-feet, I think we have a little bit of a cushion there.

COMMISSIONER SULLIVAN: Sure. Sure.

COMMISSIONER DURAN: I'm sure it's -- I realize it's allocated out but there's a little bit of a cushion just based on what's going to come on line, the demand. If this doesn't turn into a point of diversion for us there are other points of diversion that we're working on that if the State Engineer says no on this one, we could ask that they transfer it to another point of diversion. Perhaps in that two years, the City will come around and realize that this is a high-demand growth area that they need to kind of factor in to the County's water needs.

CHAIRMAN CAMPOS: Okay, I think we need to move forward. Mr. Pino, do you have a brief comment?

MR. PINO: Mr. Chair, with respect to the time, we thought maybe a year and a half would be doable.

COMMISSIONER SULLIVAN: 14.6 months.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER MONTOYA: Mr. Chair, is that, the year and a half, Mr. Pino, with the 50 percent, or eliminating the 50 percent?

MR. PINO: Mr. Chair, Commissioner Montoya, that would be a year and half from the date of application to the State Engineer's Office, and accepting the condition that no further phases of development could be submitted until that was accomplished.

COMMISSIONER MONTOYA: So that would eliminate the 50 percent?

MR. PINO: Yes.

COMMISSIONER DURAN: So would you consider that a friendly amendment to yours?

COMMISSIONER SULLIVAN: Let me think about it. Ike, let me ask a question. Tell me the difference between the 820 units and the 804 units. Is there some reserve there?

MR. PINO: Yes, Mr. Chair, Commissioner Sullivan, the 820 units are simply the number that could be served if you multiply the .20 times 164. The 804 are the actual number of units that we would need to get to.

COMMISSIONER SULLIVAN: Okay, for completion of Windmill Ridge III.

MR. PINO: That's correct, Commissioner.

COMMISSIONER SULLIVAN: So we've got 15 units of slough there which would be another four acre-feet. Right? In other words you're building, you're a little short of the total build-out, if all your numbers were correct, by 16 units.

MR. PINO: That's correct, Commissioner.

COMMISSIONER SULLIVAN: So you've got a little bit of slough. So what you're suggesting, Commissioner Duran, is that we say, within a year and a half of the date of application to the State Engineer, and prior to the submittal of any future phases.

COMMISSIONER DURAN: Right.

COMMISSIONER SULLIVAN: Okay. I'm okay with that.

COMMISSIONER MONTOYA: I'm okay with that.

CHAIRMAN CAMPOS: Staff, any comments on that?

MR. WUST: If I may, Mr. Chair. I would have a comfort level with that and I'll explain really briefly why. First off, remember that Windmill Ridge III, 160 units will have roof catchment cistern systems already built in and the wastewater treatment recycling will come into place. And so it's not simply a case of whether or not that back-up water will be available. You would have to say the back-up water would not be available, plus everybody suddenly using .25 acre-feet for it to be a water deliverability issue for the utility. However, even the Windmill Ridge III system, they're going to be restricted to .2 anyway, no matter what. So that reduces that crisis amount, if you will. So that gives us some more of a comfort level that we will not even -- the probability that we'll get to and exceed is quite low.

CHAIRMAN CAMPOS: Okay. Thank you. Okay, let's vote on this.

**The motion to approve the reduced water requirement for Rancho Viejo passed by unanimous [5-0] voice vote.**

- XIII. A. 6. EZ CASE # S 01-4322 – Tessera Subdivision Phase I. North West Villages LLC (Michael Hurlocker) Applicant, Jim Siebert, Agent, is Requesting Final Plat and Development Plan Approval for Phase I of a Residential Development, which will Consist of 88 Lots on 75.01 Acres in Accordance with the Previously Approved Master Plan. The Request Includes a Variance to Allow Disturbance of 30 percent Slope for Road Construction and to Allow 3 percent Grade within 100 Feet of an Intersection. The Property is Located North of NM 599, within Sections 17 and 20, Township 17 North, Range 9 East (Commission District 2)**

CHAIRMAN CAMPOS: I'm going to ask Commissioner Anaya to chair this case.

JAN DANIELS (Review Specialist): In December 2001, the EZA granted master plan approval for a residential subdivision consisting of 166 lots on 146 acres. On December 12, 2002, the EZC granted preliminary plat/development plan approval. On its regularly scheduled on October 9, 2003, the EZC met and approved Northwest Village LLC's request for its final plat and development plan for Phase I. The applicant is now requesting final plat and development approval for Phase I of the proposed subdivision, which consists of 88 lots, 8 of which will be affordable units in conformance with the City

Housing Opportunity Program. The lots range in size from 0.12 acres to 0.60 acres, including 32.4 acres of common recreational open space. The proposed density transfer is in conformance with zoning for a portion of the property being within the urban area and a 120 percent density bonus based on a minimum of 60 percent open space for the remaining portion of the property.

The applicant is also requesting a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to allow the approach to an intersection to exceed 3 percent grade for 100 linear feet in one location, and a variance of Section 12.1.C.2 of the Extraterritorial Zoning Ordinance to allow for disturbance of slopes in excess of 30 percent in two locations for the purpose of road construction. The disturbances of slopes in excess of 30 percent are proposed in response to significant natural drainage courses in the two locations. The applicant has addressed the variance criteria set forth in the Extraterritorial Subdivision Regulations

The application was reviewed for the following: water, wastewater, roads/access, fire protection, terrain management, landscaping, archeology, and traffic. The proposed subdivision is in conformance of the with approved master plan and the Extraterritorial Subdivision Regulations. Staff recommends that the variance for the finished road grade not exceed five percent as a minimum variance and a variance for disturbance of slope over 30 percent is acceptable as a minimum variance.

The conditions imposed for preliminary have been addressed and staff recommends final approval. The EZC recommended approval subject to the following conditions. Mr. Chair, may I enter the conditions into the record?

COMMISSIONER ANAYA: You may.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. Sangre de Cristo Water Utility
  - b. City Wastewater Division
  - c. State Highway Department
  - d. County Technical Review
  - e. City/County Fire Department
  - f. Soil and Water Dist.
  - g. Santa Fe Public Schools District
  - h. State Historic Preservation Division
2. A service agreement from Sangre de Cristo Water Utility shall be submitted before plat recordation.
3. Final homeowner documents (covenants, by-laws, articles of incorporation, to the disclosure statement) subject to approval by staff shall include but not be limited to the following:
  - a. Water restrictions/conservation measures
  - b. Homeowners Association shall contract for disposal of solid waste
  - c. Maintenance agreement for roads and drainage facilities
4. Final plat should include but not be limited to the following:

- a. Specify lots that require on-site drainage ponds (lots that exceed 8,000 sq. ft. impervious surface).
  - b. Compliance with plat check list.
  - c. Dedication of roads and trails for public use.
  - d. A note that states permits for building construction will not be issued until required improvements for roads, drainage, and fire protection are completed as approved by staff.
  - e. Approval of rural addressing and street names.
  - f. Base flood elevation for limits of 100-year flood plain encroaching within subdivision.
5. Solid waste fee in accordance with subdivision regulations prior to final plat recordation.
  6. Submit cost estimate and financial surety for completion of required improvements as approved by staff.
  7. Development plan submittals shall include but not limited to the following:
    - a. Finished road grades shall not exceed 3% for 100' from intersection approach.
    - b. Horizontal road grades shall not be less than 1 percent.
    - c. Road section for collector road with curb and gutter and 50 foot right-of-way.
    - d. Width of roadway for local road shall be a minimum of 20 feet measured from edge of gutter pan.
    - e. 2 percent crown for paved road sections.
    - f. Cul-de-sac detail.
    - g. Asphalt pavement shall be 4 inches thick for collector road section.
    - h. Traffic control signs.
    - i. Fire review fees

MS. DANIELS: Thank you, Mr. Chair.

COMMISSIONER ANAYA: Thank you. Are there any questions of Jan? I'm hearing none. Is the applicant here?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. Just to clarify a couple of issues. This subdivision is served by City water and City sewer and we're in agreement with all conditions as listed by the County and City.

COMMISSIONER ANAYA: Thank you, Jim. Are there any questions of the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, there was an issue originally, the staff recommended the road grades be reduced. Originally you had 3.5 or 4 percent or something. In addition to that, I saw language to that. Does that ring a bell?

MR. SIEBERT: We had originally asked for a variance from three percent to seven percent and staff had requested that we bring that down to five percent, which we agree

to and will modify that one point where there's a grade within 100 feet of the intersection.

COMMISSIONER SULLIVAN: So the five percent relates to what?

MR. SIEBERT: There's a variance in your packet from within 100 feet of the intersection to go from a maximum three percent grade to a five percent. We had originally requested to go from three percent to seven percent and staff said that was not acceptable, and we agreed to reduce it to five percent.

COMMISSIONER SULLIVAN: But staff conditions say finish road grade shall not exceed three percent for 100 feet from intersection approach.

MR. SIEBERT: And we agreed to all intersections with the exception of the one we've requested a variance from. And staff has stated that that variance would be from three percent to five percent.

COMMISSIONER SULLIVAN: Okay, so the staff recommendation is that the variance says for finished road grade, not to exceed five percent, and you're saying that's for one intersection. Which intersection is that? Does it have a name?

MR. SIEBERT: It would be Via Quinta.

COMMISSIONER SULLIVAN: Via Quinta and what?

MR. SIEBERT: Via Quinta and Via Bella. In this case it's Latin, not Spanish.

COMMISSIONER SULLIVAN: Latin, not Spanish. So all the other road grades and intersections shall not exceed three percent. Is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: And only that one will not exceed five percent within 100 feet from the intersection. Is that correct?

MR. SIEBERT: Correct.

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

COMMISSIONER ANAYA: Any other questions? Commissioner Duran.

COMMISSIONER DURAN: Yes, Jim. What's the original number that was approved in College Hills? Number of dwelling units?

MR. SIEBERT: For the original College Hills, by the College itself?

COMMISSIONER DURAN: Right.

MR. SIEBERT: It was 80 units.

COMMISSIONER DURAN: And then it was increased because --

MR. SIEBERT: 88 units.

COMMISSIONER DURAN: And how did the developer get the increase in the number of units?

MR. SIEBERT: Originally they came in with a standard 2.5-acre lot subdivision, and it was on both sides of the road. What was done on a subsequent application by Hurlocker Properties is they utilized the density bonus that's provided by providing an open space, and by being within the urban area. The College of Santa Fe just did a standard subdivision. So that's the reason for the increase.

COMMISSIONER DURAN: So there are some development rights that are being reserved for future use, but only if they can get a water service agreement or if it meets

existing Code?

MR. SIEBERT: That's correct. Actually, it's water service. Because the City has agreed to provide water service only for this phase and there's two reasons for that. One is obviously the water supply. The second is there is a limitation on the design on the water system for that particular district and that would need an additional tank to support additional --

COMMISSIONER DURAN: Just trying to refresh my memory. Okay. Thank you. Thank you, Mr. Chair.

COMMISSIONER ANAYA: Any other? Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Mr. Siebert, are you in agreement with the conditions that have been set by staff?

MR. SIEBERT: Yes, we are.

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

COMMISSIONER ANAYA: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had one question for staff. There was an issue about the transfer of water rights and when this application went to the EZ it was passed only by a 3-2 majority. Was that because of the water rights transfer or what were the issues that were concerning the other two members of the EZ?

MS. DANIELS: I'll have to defer that question to Mr. Catanach.

COMMISSIONER SULLIVAN: Joe, do you remember?

MR. CATANACH: Mr. Chair, Commissioner Sullivan, trying to recall without reviewing the minutes.

COMMISSIONER SULLIVAN: I was looking at the minutes and one mentioned Commissioner Follingstad asking about the transfer or water rights and Mr. Siebert responded no. And that the property had originally belonged to the College of Santa Fe and it was approved for a water service boundary extension by ordinance. And then there was additional questions about a Fire Marshal's report. Was there something negative in the Fire Marshal's report about the application?

MR. CATANACH: This is a subdivision that will be served by City water, which will have fire hydrants. There'll be an alternative access through the connection with the Aldea Subdivision. Certainly there may have been some things that needed to be finalized as part of the Fire Department's review but I don't recall that it was anything major or anything recommending denial.

COMMISSIONER SULLIVAN: So there must have been some other issues there that you can't recall at this time.

MR. CATANACH: I do not recall.

COMMISSIONER SULLIVAN: Okay. Thank you. Mr. Siebert, you can recall?

MR. SIEBERT: Commissioner Sullivan, what I recall --

COMMISSIONER SULLIVAN: I didn't want to put you on the spot.

MR. SIEBERT: I recall Commissioner Follingstad's concern had to do with -- she's part of the state agency, the Interstate Stream Commission, and I think she had a broader



concern relative to water for the City of Santa Fe and she was questioning whether the City of Santa Fe had an adequate water supply. That was my recollection on that.

COMMISSIONER SULLIVAN: This is not a situation -- we had a problem that caused us some severe political repercussions with the City a couple of months ago where a developer came in and said that they had water supply to their development so that was a condition of approval. And then took the project to the City and indicated to the City that they had to get City approval for the water supply because that was a condition of the County's approval. And I want to be sure that that misunderstanding doesn't occur again. Is this water service agreement in place?

MR. SIEBERT: Yes, this is significantly different. After master plan review, we went back to City Council and there it was even a broader issue. The determination was can the College of Santa Fe transfer their water service agreement to another party, a third party. And this is when we went through the whole issue of how many units can be served. The City Council, and this was via both a Public Works Committee action and a City Council action, approved water service, limiting it to only Phase I, which is the same number as for the College of Santa Fe, with the understanding that any further service they would have to approve based on water availability.

COMMISSIONER SULLIVAN: And Phase I is 88 units.

MR. SIEBERT: Correct. And that's what we're requesting now. And they also approved, they also said, Yes, you can transfer it to another entity other than the College of Santa Fe.

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

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

COMMISSIONER DURAN: Move for approval, Mr. Chair, with all staff conditions.

COMMISSIONER ANAYA: There's been a motion. Is there a second? I second. There's a motion and a second. Any further discussion?

**The motion to approve EZ Case #S 01-4322 passed by unanimous [5-0] voice vote.**

**XIII. A. 7. CDRC CASE # V 03-5770 – Marquez Variance. Bernie Alarid, Agent, Guillermina Marquez, Cruz Marquez, and Guadalupe Dominguez, Applicants, Request a Variance of Article II, Section 4 (Family Proper) of the Land Development Code to Allow a Family Transfer Land Division of 2.82 Acres into Two Lots; One Consisting of 1.26 Acres and one Lot Consisting of 1.55 Acres. The Property is Located at 25 Corral Blanco Way, within Section 4, Township 15 North, Range 8 East (Commission District 5).  
Jan Daniels**

MS. DANIELS: At its regularly scheduled meeting of October 30, 2003, the CDRC met and approved this request for a variance for a family transfer. Guillermina Marquez, Cruz Marquez, and Guadalupe Dominguez, applicants, request a variance to create two tracts for the purpose of a family transfer from sister to sister. The described property lies within the borders of the Basin Hydrologic Zone. This area allows for the creation of 1.25-acre lots for family transfer. The applicants have owned the property since 1998 and are proposing to divide it as follows: Tract C-1 is 1.261-acres more or less. It is vacant, and is to be transferred to Guillermina Marquez, sister of Cruz Marquez who is married to Guadalupe Dominguez. Tract C-2 is 1.559 acres more or less. It has a dwelling with a well shared by two other lots in addition to the subject property and will be retained by Cruz Marquez and her husband Guadalupe Dominguez. The applicants state that the request to divide the property is so that Guillermina Diaz Marquez can build her own home and live on the proposed new lot.

The requested variance is to permit a family transfer from sister to sisters. The Land Development Code specifies that consideration of a variance is based on demonstration that strict compliance with the requirements of the Code would result in extraordinary hardship because of unusual topography or other non-self-inflicted conditions, and demonstration that compliance with the code will result in exact hardship. Consideration of a variance will not be adverse or detrimental to the welfare of the general public. The issue of family transfers between siblings or between aunts, uncles and nephews and nieces has occurred more often. The family transfer issues should be evaluated as part of the County Code revisions. There, staff recommends denial of the requested variance. The CDRC recommended approval subject to the following condition: Submit family transfer plat for review and approval by the EZC.

COMMISSIONER ANAYA: Thank you, Jan. Are there any questions of Jan? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jan, did you say that the CDRC approved it unanimously?

MS. DANIELS: Yes, they did.

COMMISSIONER SULLIVAN: The minutes indicate it was 3-2. Am I reading the wrong minutes?

MR. CATANACH: No, you're right.

COMMISSIONER SULLIVAN: With Members Varela López and Gonzales voting against. Am I on the right case here tonight? It wouldn't be the first time.

MS. DANIELS: It was three to two.

COMMISSIONER SULLIVAN: Okay. Because Commissioner Varela López is from that area and a former Commissioner and obviously felt that denial was appropriate. I wonder if you recall -- did you attend that meeting, Jan?

MS. DANIELS: I did.

COMMISSIONER SULLIVAN: Do you recall what his concerns were?

MS. DANIELS: No. Mr. Catanach, do you?

MR. CATANACH: Mr. Chair, Commissioner Sullivan, Mr. Varela López has been consistent in not supporting variances. I would think that that's where he was coming from. He was looking at this more in line with let the Code rewrite address this and then we'll deal with it.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER ANAYA: Any other questions? Commissioner Campos.

CHAIRMAN CAMPOS: When you do a family transfer like this, is there a holding period? Does the recipient have to hold the property for x-number of years?

MS. DANIELS: No, they have to own the property for five years and on occasion it has been a requirement that the property cannot be sold. But it has been capricious. It is not in the Code.

CHAIRMAN CAMPOS: It's not expressly stated in the Code.

MS. DANIELS: Okay. Thank you.

COMMISSIONER ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Ms. Daniels, regarding the staff recommendation for denial, it's basically on the issue that we should wait until the County Code is revised, in terms of family transfers.

MS. DANIELS: Right now the Code states that it has to be a lineal relationship, grandfather, father, child, like that. And they do not have a sister to sister or sibling to sibling, aunt to uncle right now. And we have to deny it because that's the way the Code is, but it should be changed in the Code rewrite. Sibling to sibling has been granted on occasion. Uncle to nieces has been granted on occasion. So it hasn't been consistent.

COMMISSIONER MONTOYA: Mr. Chair, Mr. Catanach, do you know if that's going to be part of the rewrite on the Code?

MR. CATANACH: Mr. Chair, Commissioner Montoya, yes. The Code rewrite will address this issue of transfers between siblings and we have been given direction. We've had this discussion before and we have been given direction to look into that. We've talked to Steve Ross as it relates to state law, so yes, it very much -- this issue will be addressed as part of the Code rewrite.

COMMISSIONER MONTOYA: What's our time line on that again?

MR. CATANACH: I believe that the time line is set out for -- I'm going to say towards the middle part of this year is what we're looking at. I would think though, the way things usually go, it's probably going to go longer than that.

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

COMMISSIONER ANAYA: I would say that I'm glad that we're looking at it, because if your bother or your sister isn't family, I don't know who is. Any other questions? Hearing none, this is a public hearing. Is the applicant here?

[Duly sworn, Bernie Alarid testified as follows:]

BERNIE ALARID: My name is Bernie Alarid. I'm on 1223 South St. Francis Drive.

COMMISSIONER ANAYA: Bernie, do you have anything to add?

MR. ALARID: Not really. The only thing is that it would certainly be a financial problem for the people if they couldn't get their approval done at this time, having to wait several months would be financially difficult.

COMMISSIONER ANAYA: Is that all you'd like to add?

MR. ALARID: That's it.

COMMISSIONER ANAYA: Any questions of the applicant? Commissioner Duran. Then Montoya.

COMMISSIONER DURAN: Bernie, did the applicants receive the property from their parents, or do you know how they acquired the property?

MR. ALARID: I'm not sure. I don't think they got it from their parents. They purchased it from an individual.

MR. CATANACH: I don't believe they got it from the parents, Commissioner Duran. I can tell you right now, they own the 2.5 acres jointly, actually, the sister and her husband, the two sisters and the one husband to one of the sisters. They all own, they're all joint owners of this 2.5 acres at this time.

COMMISSIONER DURAN: Tenants in common?

MR. ALARID: Yes. That's correct.

COMMISSIONER DURAN: No other questions.

COMMISSIONER ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Mr. Alarid, is there any intent after this transfer's completed for either one to sell?

MR. ALARID: No. No intent. Not at all.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

COMMISSIONER ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Bernie, are the two sisters, is one or the other financially dependent on the other? And when we look at -- at least when I look at family transfers, I look at in some cases economic hardship is an issue that you hear, although in my understanding that's not a technical reason for a variance. But are there other parents and brothers and sisters or are these two sisters each other's sole support?

MR. ALARID: It's essentially a sister and a brother. The sister that's the one

that will be the recipient of the lot. And the brother is married to the other lady and therefore the sister's the one that's going to be moving into the other lot if approved.

COMMISSIONER SULLIVAN: Okay, so it's a brother --

MR. ALARID: A brother and sister.

COMMISSIONER SULLIVAN: It's a brother and a sister, not a sister and a sister as it states in this. And so the brother and the sister own the property jointly.

MR. ALARID: Along with the wife.

COMMISSIONER SULLIVAN: Along with the brother's wife.

MR. ALARID: With the brother's wife.

COMMISSIONER SULLIVAN: Okay. So they're wanting to split it up so that they can give a parcel, so that the sister can have a separate parcel. Are there homes? One homes? Two homes on the parcel now?

MR. ALARID: There's only one home at the present time.

COMMISSIONER SULLIVAN: Okay, and the sister, where does the unmarried sister live?

MR. ALARID: She lives with the husband and wife.

COMMISSIONER SULLIVAN: With the husband and wife. I see. And so her intent is to build a home.

MR. ALARID: Build a home there.

COMMISSIONER SULLIVAN: On that other parcel.

MR. ALARID: On the other lot.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER DURAN: She wants to get out of the house.

COMMISSIONER SULLIVAN: She wants to get out of the house. I see.

COMMISSIONER ANAYA: Commissioner Campos?

CHAIRMAN CAMPOS: I don't have any questions.

COMMISSIONER ANAYA: Nothing. Any other questions? Okay, this is a public hearing. Thank you, sir. Is there anybody in the audience that would like to speak for or against this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER ANAYA: There's been a motion for approval. Is there a second? I'll second for discussion. Any discussion?

COMMISSIONER MONTOYA: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: That's with the conditions, right?

COMMISSIONER DURAN: Yes.

COMMISSIONER MONTOYA: Okay, Commissioner Duran. This has not been to the EZC yet?

MR. CATANACH: The issue of the variance had to be heard first.

COMMISSIONER MONTOYA: Okay. That's all I have.

COMMISSIONER ANAYA: Any other discussion?

The motion to approve CDRC Case #V 03-5770 passed by unanimous [5-0] voice vote.

- XIII. A. 8. CDRC CASE # MIS 03-3765 – San Lazarus Mine. Paul Parker, Applicant, Jim Siebert, Agent, Request an Amendment to a Condition Previously Imposed by the County Development Review Committee and the Board of County Commissioners Pursuant to a Court Decree, and Approval for a Change in the Method of Operation as Stipulated by the Condition, for an Existing Sand and Gravel Mining Operation on 5 Acres Located on BLM Land, to Permit Stockpiles of Sand and Gravel Material for a Temporary Time Period and a Weigh Station to be Located on Property Adjacent to the Existing Sand and Gravel Mine Consisting of 320 Acres. The Property is Located off State Road 344 in the San Pedro Contemporary Zoning District, within Section 27, Township 12 North, and Range 7 East (Commissioner District 3)**

DOMINIC GONZALES (Review Specialist): On October 30, 2003, the CDRC recommended approval for an amendment and a change in method of operation. The CDRC also recommended approval to a condition previously imposed by the CDRC/BCC to allow stockpiles of sand and gravel material for a temporary time period and a weigh station to be located on property adjacent to existing sand and gravel mine, consisting of 320 acres.

On June 15, 1999, the Board of County Commissioners imposed conditions for a sand and gravel mining operation on five acres, which is currently on a lease from the Bureau of Land Management. Though the BCC does not have the authority to approve or deny mining operations on BLM properties, the CDRC and BCC have direct discretion with regard to permit conditions and regulation of off-site impacts.

The applicant is requesting an amendment and a change in the method of operation pursuant to the following condition previously imposed by the CDRC/BCC. Any change to the location, method of operation or uses shall be submitted to the CDRC for review and approval. Evidence of mineral extraction will trigger County enforcement of the mineral extraction provisions of the County Code. The condition indicates that the sand and gravel activity shall only occur on the five-acre BLM site. The requested amendment and change in the method of operation is to permit stockpiles of sand and gravel material for a temporary time period, four months, and weigh station to be located on the property adjacent to the existing sand and gravel mine consisting of 320 acres that is owned by the applicant. The stockpiles and weigh station (office and scale) have already been placed on the property. The applicant also wishes to work with Santa Fe County and has met with the

San Pedro Neighborhood Association to move all materials that are currently stockpiled on site.

The applicant states that no new material has been added to the stockpiles since June and will make every effort to have the piles removed within a 120-day period. The applicant has also indicated that based on discussion with the San Pedro Neighborhood Association, use of the scale will terminate and the scale will be removed if the property were sold to another party or if the sand and gravel mining was not being operated by the Parker family.

Recommendation: The San Pedro Contemporary Community Ordinance (Ordinance 2002-2) does not specify criteria for mining operations other than prohibiting extraction of mining materials. Since this ordinance, 2002-2, is silent on operations other than extraction of products, and since this request is for off-site operations rather than extraction of sand and gravel products, it is staff's position that this request would be in accordance with the Land Development Code. Staff recommends that a two-year temporary use permit be granted subject to the following conditions. Mr. Chair, may I enter then into the record?

[The conditions are as follows:]

1. A temporary permit shall be granted for a two-year period. The applicant may request a two-year extension from the CDRC prior to the expiration of the temporary permit.
2. This approval is for the weigh station only; no extraction of sand and gravel material shall be conducted on this site. Any other change of operation, or use, shall be submitted to the CDRC for review and approval. Evidence of mineral extraction will trigger County enforcement and the temporary use permit shall be void.
3. All stockpiled material must be removed within a 120-day period; no new materials shall be added or stored onsite.

COMMISSIONER ANAYA: Thank you. Any questions of Dominic? Hearing none, is the applicant here? Could you state your name and address for the record, Jim.

MR. SIEBERT: My name is Jim Siebert. My address is 915 Mercer. I was previously sworn. Just to tell you how this came about, my client, Paul Park purchased property when he purchased the lease where the sand and gravel mining is and was not aware -- was not provided by the seller the conditions, the stipulated conditions of the court adjudication. And the BCC conditions. He figured that as a mining operation it would be logical to have a weigh scale and installed that and it was at that time that he actually got a notice from the County that he was in violation of the court adjudicated agreement.

We have met with the San Pedro Neighborhood Association to resolve issues and I think we're in agreement. And we agree to all conditions as stated by staff.

COMMISSIONER ANAYA: Thank you, Jim. Any questions of Jim? Hearing none, is there anybody -- this is a public hearing. Is there anybody in the audience that would like to speak for or against? Come forward. State your name and address for the record.

[Duly sworn, Bob Clancy testified as follows:]

BOB CLANCY: Bob Clancy, 11-B Blue Crow in San Pedro. Mr. Chair, Commissioners, I'm a member of the San Pedro Neighborhood Association, former vice president, and they've asked me to speak for the association tonight.

We do agree with allowing this and I'd just like to explain why briefly. The operation, as you know, was started by Mr. Eddie Mauzy and it was he that illegally piled stockpiles and put in the scale. Mr. Parker, when he bought it was confronted with this and he's agreed to sell off the stockpiles and not put any more material there. And he did want to keep the scale there because it's about a quarter mile from the pit itself and near a power line. We think there's no bad impacts on our community in letting him do this so we agree to that. We were a bit concerned with setting a precedent, or if Mr. Parker would sell the operation to somebody that wouldn't basically abide by the rules. And he took care of that by suggesting the agreement where if he sold it, the scale would be removed.

I'd like to thank Mr. Parker and Mr. Siebert for dealing with the neighborhood association in a very honest and straightforward way and we're enjoying working with them.

COMMISSIONER ANAYA: Thank you, Bob. Any questions of Bob? Anybody else want to speak, for or against? I personally want to thank Jim for going down there and working with the San Pedro Community Association. It makes our job easier and thanks, Bob, for coming down and expressing and telling us why you're in favor of it. Hearing none, what's the pleasure of the Board.

CHAIRMAN CAMPOS: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Campos.

CHAIRMAN CAMPOS: I would move to approve with staff conditions.

COMMISSIONER MONTOYA: Second.

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

COMMISSIONER SULLIVAN: Mr. Chair.

COMMISSIONER ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just want a clarification. San Pedro is no longer in District 5. It's in your district.

COMMISSIONER ANAYA: Right. District 3. We'll make a note of that. There's a motion and a second.

**The motion to approve CDRC Case #MIS 03-3765 passed by unanimous [5-0] voice vote.**



**XIII. A. 9. EZ CASE # S 03-4880 – Santos Subdivision. Andrew Leyba, Applicant, is Requesting Final Plat and Development Plan Approval for a Residential Subdivision to Subdivide 12.5 Acres into Five Lots. The Property is Located at Camino Del Rey, off of Caja Del Rio Road, within Section 23, Township 17 North, Range 8 East (Commission District 2)**

MR. GONZALES: Thank you, Mr. Chair, Commissioners. On November 23, 2003 the Extraterritorial Zoning Commission recommended approval for preliminary and final plat development plan approval for a residential subdivision to subdivide 12.5 acres into five 2.5-acre lots. On June 13, 2000, the Board of County Commissioners granted plat approval for the Santos Subdivision, consisting of five, 2.5-acre lots, and one 12.17-acre lot. The applicant now wishes to subdivide the 12.17-acre lot into five, 2.5-acre lots. This is will be the final phase of the Santos Subdivision, which would consist of 10 residential lots on 24.6 acres.

Due to financial matters the applicant was unable to develop the entire subdivision, and retained the 12.17-acre tract, with intentions to subdivide at a later time. This request will also include lot line adjustments, which would require final plat approval.

This application was reviewed for the following: Access, water, fire protection, liquid and solid waste, terrain management, traffic, archeologic review.

Recommendation: It is staff's opinion that this application is in accordance with the Extraterritorial Subdivision Regulations. It is staff's recommendation is to grant preliminary and final plat approval for phases 2, consisting of a 5-lot residential subdivision on 12.5 acres subject to the following conditions. Mr. Chair, may I enter them into the record?

[The conditions are as follows:]

1. Development plan & plat with appropriate signatures must be recorded with the County Clerk's office.
2. All redline comments must be addressed.
3. Shared well agreements must be submitted with the Plat for review and approval by Santa Fe County. The plat must indicate shared well easements.
4. Water usage restricted to 0.25 acre-feet annually.
5. Road names and addresses must be approved by Rural Addressing.
6. All utilities must be underground.
7. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Department
  - c) Soil & Water District
  - d) State Highway Department
  - e) County Hydrologist
  - f) Development Review Director

- g) County Fire Marshal
  - h) County Public Works
  - i) State Historic Preservation Office
  - j) County Technical Review Division
8. Each residence shall have a water meter and meter readings shall be submitted to the County Hydrologist by September 30<sup>th</sup> of each year.
  9. Development Plan Submittals shall include the following:
    - a. Provide access easement to lots 3&4 meeting minimum standards.
    - b. Address finished road grade, road section, and drainage culverts.
    - c. Address location of detention ponds for road drainage.
    - d. Address location of cluster well as it relates to a minimum 100-foot setback from septic system leach fields.
  10. Submit updated disclosure statement and covenants as required by staff (water restrictions/conservation measures and road maintenance).
  11. Submit solid waste fees and fire review/inspections fees as required by staff.
  12. Final Plat shall include the following:
    - a) Compliance with Plat Checklist
    - b) Signature lines for utilities, committees and staff
    - c) Installation of automatic fire protection sprinkler systems
    - d) Jurisdiction statement for City/County
    - e) Permits for construction of residential units will not be issued until required improvement for road and drainage facilities are completed as approved by staff.
    - f) Cross reference for covenants and disclosure statement.
  13. Submit cost estimate and financial surety for completion of required improvements or option for completing required improvements prior to recording plat.

COMMISSIONER ANAYA: Any questions of Dominic? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Dominic, I'm confused and I have a concern about the water conditions. As I understand, this was approved back in 2000 by the Board and for five 2.5-acre lots, and I don't have the conditions here but I assume they had shared well provisions in them because that's what the BCC was requiring and the staff was requiring then. And I see one of your conditions was a shared well agreement must be submitted with the plat on this also.

But in looking in the recorded covenants, which are near the back of the packet on page 1785938, the covenants indicate that the owners may drill their own wells. And not be responsible for the shared well. So I guess my question is two-fold. One is, is that what happened on the prior part of the subdivision, and number two, is that what's going to happen on this part of the subdivision? Did you find where I'm talking about? It's number 17 under the covenants.

COMMISSIONER MONTOYA: Mr. Chair, Commissioner, could you restate that again?

COMMISSIONER SULLIVAN: Sure. I'm looking in the packet, there's covenants. And number 17 of the covenants, which I assume are for the prior subdivision that was done in 2000, because they're already recorded. They already have deed recordations on them. It says the owner may drill their own well at their own expense and not be responsible for the shared well.

COMMISSIONER MONTOYA: That's contradictory to the first sentence, isn't it?

COMMISSIONER SULLIVAN: Precisely. Can you give us some help on that, Dominic, or anybody? Well, maybe I guess if the applicant, we'll wait until the applicant comes up.

COMMISSIONER ANAYA: Any other questions of Dominic? Okay, is the applicant here? Come forward. State your name and address.

[Duly sworn, Andrew Leyba testified as follows:]

ANDREW LEYBA: My name is Andrew Leyba. My address is #7 Camino de Rey Circle in Santa Fe.

COMMISSIONER ANAYA: Go ahead and just state whatever you want to add and then we'll ask you some questions.

MR. LEYBA: I don't really want to add anything.

COMMISSIONER ANAYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: If you could respond to that question, I'd appreciate it.

MR. LEYBA: Yes, Commissioner. What happened was originally, we subdivided this property into five lots and four of the lots were on the shared well and one of the houses drilled its own well. So currently, four of the lots are on a shared well and one of the lots has its own well and the big tract, the 12.5-acre tract also has another well, and that will be the well that these next four lots share. Because one of the lots from the original subdivision will remain on the shared well of these five lots.

COMMISSIONER SULLIVAN: Okay, you lost me. The original subdivision was how many lots?

MR. LEYBA: The original subdivision was five lots.

COMMISSIONER SULLIVAN: Five lots. And now you're asking for five more.

MR. LEYBA: Yes, sir.

COMMISSIONER SULLIVAN: Okay. So the original had four units on a shared well and one that drilled their own well.

MR. LEYBA: Yes, sir.

COMMISSIONER SULLIVAN: Now we have five more coming in on the 12.5-acre tract, which also has a well on it.

MR. LEYBA: Yes, sir.

COMMISSIONER SULLIVAN: And tell me now what's going to happen with those five units.

MR. LEYBA: Four of the units will use this well, the 12.5-acre has and one of the old lots will remain on the old shared well.

COMMISSIONER SULLIVAN: So the shared well will become five homes on the shared well.

MR. LEYBA: Just four.

COMMISSIONER SULLIVAN: Okay, now you really lost me.

COMMISSIONER MONTOYA: On that point, but they're all still on shared wells?

MR. LEYBA: Yes, sir. Except one house. The 12.5, and that will become the new shared well for four of these. Not all five of them. The fifth unit will remain on the old shared well.

COMMISSIONER MONTOYA: On the old shared well.

COMMISSIONER SULLIVAN: That only makes nine -- I'm still confused. Run it through me one more time. You've got the original five that you subdivided, include an individual well and four homes that are on shared wells. Is that correct?

MR. LEYBA: Yes, sir.

COMMISSIONER SULLIVAN: Okay. Now you have 12.5 acres that you're going to divide up into five more lots.

MR. LEYBA: Yes.

COMMISSIONER SULLIVAN: And that site already has a well on it. So you're saying four of the homes will use that well.

MR. LEYBA: Yes, sir.

COMMISSIONER SULLIVAN: And then where will the fifth home get its water?

MR. LEYBA: From the old shared well.

COMMISSIONER SULLIVAN: From the old shared well from the previous site.

MR. LEYBA: From the original.

COMMISSIONER SULLIVAN: But that already has four units on it.

MR. LEYBA: One of those units has a private well.

COMMISSIONER SULLIVAN: In addition to the lot that has a private well?

MR. LEYBA: Yes, sir. Do you have the original plat, by chance?

COMMISSIONER SULLIVAN: There's a lot missing somewhere. We're getting a lot of wells here. I've got the plat that's shown as Exhibit B. Is that -- I'll show you what it looks like.

MR. LEYBA: Okay, what happened here, is this lot here, this lot here's on a shared well with four other people here. That was part of the original subdivision. These two lots are on the original shared well as well as this lot, and this house here has its own private well. So there'll be -- so this lot is on a shared well with these guys. This guy agreed to come

over here and share a well with these folks.

COMMISSIONER SULLIVAN: Oh, this is not a part of your subdivision?

MR. LEYBA: Well, it's a part of the original subdivision. That was a part of the original five lots. One, two, three, four, five. Okay? And so they're on a shared well over here. Now, this house drilled its own well, private well and the original shared well was drilled here, which these four lots share. So this one's over here and these four lots share a well and this has its private well.

Now the new tract which kind of comes like this is also on this shared well and it has its own private well. So the five lots that the 12.5 acre-lot creates will be, four of them will be on the well that's existing here, and one of the tracts, this tract, will remain on the shared well.

COMMISSIONER SULLIVAN: Is that the original one?

MR. LEYBA: Yes, sir. Because the lot line changed. This is the original plat. We did a lot line adjustment.

COMMISSIONER SULLIVAN: Okay, maybe, Commissioner Duran, what I'm not understanding, is you said there were five lots created initially. One of those five lots was the 12.5-acre lot. Is that correct? That's why we lost a lot. That's -- so how many wells do we have now, in these two phases?

MR. LEYBA: Two wells.

COMMISSIONER SULLIVAN: No, I mean after it's all finished.

MR. LEYBA: Total of two wells.

COMMISSIONER SULLIVAN: Got to have more than that.

MR. LEYBA: Well, the third well wasn't our well but we bought into it from some other folks. So three wells. Three shared wells.

COMMISSIONER SULLIVAN: That would be three shared -- one person has an individual well, right. And there'd be three shared wells.

MR. LEYBA: Yes, sir. Well, there would be one private and two shared. Yes, sir.

COMMISSIONER ANAYA: Are we square?

COMMISSIONER SULLIVAN: I think so, except what's the total number of lots, including the existing ones. The four, plus you're doing five. So you have nine lots total. Is that correct?

MR. LEYBA: I have ten lots, sir, and one of the ten went on another well that my neighbor drilled.

COMMISSIONER SULLIVAN: Oh. So that one's already --

MR. LEYBA: Yes, sir.

COMMISSIONER SULLIVAN: Already has a house on it.

MR. LEYBA: Yes.

COMMISSIONER SULLIVAN: So it's not a part of this approval tonight.

MR. LEYBA: No, sir. But you had asked how many share total wells.

COMMISSIONER SULLIVAN: I guess what I'm getting here is that I want to be sure -- I don't feel that we should have this provision where owners have the option to drill

individual wells. I don't think that's been -- our practice has been to require shared wells.

COMMISSIONER MONTOYA: Mr. Chair, on that point.

COMMISSIONER ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Steve, would the conditions imposed by staff supercede what's in the covenants?

MR. ROSS: That's not actually a covenant, Commissioner Montoya. That is a disclosure statement that was filed with the original split back in 2000. So you can treat this new request however you choose. If you don't want that particular provision to be in the disclosure statement or even on the covenants as the case may be you may get a condition that - it's possible that condition one would cover it because it requires further review by staff of the various documents. Or you could add a special condition if you're concerned about that.

COMMISSIONER MONTOYA: Would three cover it? Between one and three?

MR. CATANACH: Mr. Chair, I'm not really clear that in 2000 the County required shared wells for the subdivision. I think in that time period it was still -- you weren't required to do a community water system. The developer had the option of shared wells or individual wells. So I don't know if the County was really requiring shared wells in that time period. So I would want to clarify that. To answer your question though, this approval does require shared wells and we will enforce it as such. We have a condition, number 10, having to do with staff review of disclosure statement and covenants, in which case the specific notation, disclosure or covenant of shared wells will be required.

COMMISSIONER MONTOYA: Okay. Thank you.

COMMISSIONER ANAYA: Thank you, Commissioner. Joe, thank you. Any other questions of the applicant? This is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER DURAN: Move for approval, Mr. Chair, with staff conditions.

COMMISSIONER MONTOYA: Second.

COMMISSIONER ANAYA: There's a motion and a second with conditions.  
Any discussion?

**The motion to approve EZ Case #S 03-4880 passed by unanimous [5-0] voice vote.**

**XIII. A. 10. EZ CASE # S 03-4830 – Valle Serena Subdivision. Zena Boylan, Applicant, Jim Siebert, Agent, is Requesting Final Plat and Development Plat and Development Plan Approval for Phase I Consisting of 6 Lots of the Valle Serena Subdivision, a 20 Lot Subdivision on 50.019 Acres. The Property is Located Approximately One Mile East of NM 14 on Vista Del Monte, within Section 25, Township 16 North, Range 8 East and Section 30 (Commission District 3)**

VICENTE ARCHULETA (Review Specialist): On November 13, 2003, the EZC granted preliminary plat approval for 20 lots and recommended final plat and development plan approval for Phase One, subject to staff conditions. On November 12, 1997, the BCC granted Master Plan approval for a 20-lot subdivision on 50 acres. On January 12, 1999 the BCC granted final plat/development plan approval for Phase One consisting of 6 lots. The previous approval expired and the applicant is now requesting final development plan and plat approval for Phase One. Phase One of the plat/development plan will consist of six lots and be served by County water and an onsite septic tanks. The additional 14 lots will be built in the final phase, which is dependent on the future availability of County water. Lot sizes range from .81 acres to 1.81 acres with 29.82 acres of open space.

The application was reviewed for roads/access, water/wastewater, open space, archeology, landscaping, terrain management, fire protection and phasing and homeowners association.

Recommendation: The proposed subdivision phase is in conformance with the approved master plan and the Extraterritorial Subdivision Regulations and the County Land Development Code. Staff recommends approval of the request for preliminary and final plat and development plan for Phase One subject to the following conditions. May I enter the conditions?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a) State Engineer.
  - b) State Environment Dept.
  - c) State Highway Dept.(Access Permit)
  - d) Soil and Water District.
  - e) Santa Fe County Water Co.
  - f) County Hydrologist.
  - g) County Development Review Director/Technical Review.
  - h) County Fire Marshal.
  - i) County Public Works Dept.
2. Final plat to include but not be limited to the following:
  - a) Compliance with plat checklist.
  - b) Approval of rural address and street names.

3. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
  - a) Water Restrictions shall be .25 acre-feet per lot
  - b) Water conservation measures shall include water storage from roof drainage.
4. Development Plan shall include the following:
  - a) Signage plan
  - b) Detail for turn-around.
  - c) Off-site road section shall have a minimum 22-foot roadway.
  - d) Define limits of the 100-year flood plain and provide base flood elevations.
5. Submit solid waste fee in accordance with subdivision regulations and submit fire review/inspection fees in accordance with Resolution No. 2003-47.
6. A liquid waste disposal plan to utilize a community sewer system must be utilized. This system will be subject to a NMED discharge permit. The permit must be obtained prior to final plat approval or lot sizes shall not be less than 1 acre. Existing on-site utility lines shall be placed underground.
7. Valle Serena shall participate with Browncastle Ranch, Sunterra, and Thornburg Development in paving Vista del Monte Road. Valle Serena will be credited a pro-rata share for Phase One road improvements.
8. Submit Engineers cost estimate and acceptable financial surety for completion of required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.

CHAIRMAN CAMPOS: Any questions of Mr. Archuleta? Commissioner Duran.

COMMISSIONER DURAN: Mr. Archuleta, what was the water requirement imposed on the developer of the applicant by the Code? What kind of water did they have to prove and what method did they use? Is this on the County water system?

MR. ARCHULETA? It's on the County water.

COMMISSIONER DURAN: Okay. Never mind.

CHAIRMAN CAMPOS: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a question for the hydrologist, Mr. Chair. Mr. Wust. Mr. Wust, you indicate that this development, in your report of October 6<sup>th</sup> could hook into the County wastewater facility at the state pen or in Valle Vista. And you also say in paragraph 4 that the County Code requires provisions for water conservation and reuse and there was nothing included in the report addressing these, therefore the application is deficient. Although we hear there that the application meets Code requirements. Can you give me some help with that?

MR. WUST: Mr. Chair, Commissioner Sullivan, I'd probably have to defer back to Land Use. Those were my comments to Land Use.



COMMISSIONER SULLIVAN: It seems we have a 20-unit subdivision here ultimately, not a six-unit subdivision, but your investigation indicates that, well, number one that they have I guess six hook-ups that they owned originally or they purchased from somebody. Is that correct?

MR. WUST: Commissioner Sullivan, I don't know the history of it but I do know and I did check with Doug before he had to go that that is all they have an agreement for with the County Utilities, for the six lots, not for the 20.

COMMISSIONER SULLIVAN: Okay, so that's six from the 500 acre-feet, Six hook-ups from the 500 acre-feet that we have with the City under the wheeling agreement. In your investigation, what was the problem with them hooking into the sewer system if it's there?

MR. WUST: Mr. Chair, Commissioner Sullivan, I went by the Code in terms of the size of lots and the size of the proposed subdivision and what the Code suggests and I'm trying to recall now. But it's feasible to hook in to, well, to look into the issue of hooking into one of the wastewater treatment facilities. And I suggested that would be a viable alternative to investigate.

COMMISSIONER SULLIVAN: And is it required?

MR. WUST: If I could check my notes.

COMMISSIONER SULLIVAN: Sure. And while he's looking for that, Mr. Chair, the reason I'm asking is because in Mr. Wust's memorandum he recommends three additional conditions, a, b, and c, that were not included in the conditions that the staff just addressed. So I think we need to discuss whether one, two or all of those conditions should be a part of the approval process.

CHAIRMAN CAMPOS: I think that's appropriate.

MR. WUST: Mr. Chair, Commissioner Sullivan, it's what I referenced here. The way I had read the Article VII, Table 7.1 and I quoted there, Subdivisions containing five or more parcels, any one of which is less than one acre has a required for a liquid waste disposal system, and in addition, if there is a plan for the future to build out, that that waste disposal system should be able to accommodate the future plans. And that is where my reference went.

COMMISSIONER SULLIVAN: Okay, from what I see here, at least one of the lots is less than one acre.

MR. WUST: The way I read it also, I saw at least one lot less than one acre and that' what kicked them into that category.

COMMISSIONER SULLIVAN: In fact I see most of them are less than one acre. If I can read the real fine print here. But we can have Mr. Siebert address that to be sure. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Mr. Catanach.

MR. CATANACH: Mr. Chair, staff did address that issue and I would point out condition 6. I believe condition 6 is consistent with the recommendation by Steve Wust that they need to acquire, they need to have a community sewer system subject to a discharge permit, or they need to adjust their lot sizes greater than one acre. This applicant has some

flexibility to make an adjustment on lot size in order not to be required to meet the higher standards for a community sewer system. The property is in the Community College District, however, it's within the designated existing neighborhood, which is not subject to requirements for -- not subject to the specific requirement of County water and community sewer and those things.

So again, I would point out that that condition is consistent with what Steve Wust just mentioned to you in that this applicant would have an option to either do a community sewer system or adjust the lot sizes to one acre.

COMMISSIONER SULLIVAN: Mr. Chair, Joe, in the traditional neighborhoods of the Community College District, doesn't that require a minimum 2.5-acre lot?

MR. CATANACH: This is a density transfer. I think the gross density is still at 2.5. I haven't seen the numbers but I think the gross density, the number of units divided into acres is going to give you your gross density.

COMMISSIONER SULLIVAN: Okay. So because it's in the existing neighborhoods, then there's no 50 percent open space requirement.

MR. CATANACH: No. The Community College District Ordinance does require us to look at roads and trails and things like that. In fact, to look at roads and trails, the alignment of roads and trails going through the property, in fact they are complying with that. I think their open space is 50 percent. I think the report states what the open space is.

COMMISSIONER SULLIVAN: So the only component of the Code it's not in compliance is providing a liquid waste disposal system for a subdivision who has any lots less than one acre.

MR. CATANACH: That's correct and that the intent of condition six.

COMMISSIONER SULLIVAN: Okay, fine. I missed that in condition six. Thank you for bringing that up.

CHAIRMAN CAMPOS: Any other questions? Mr. Siebert?

MR. SIEBERT: Mr. Chair, my name's Jim Siebert. My address is 915 Mercer. I've been previously sworn. Two things: On the water, Zena Boylan was actually one of the original participants in the very first, in the establishment of the County water system, and that's where the six taps come from. She's always owned them and continues to pay a standby charge on them. In terms of the sewer issue, this came about originally, we had submitted approximately, I think it was three or four years ago, we had a common collection system for the six lots that went down into a series of septic tanks and then into a leach field. And I think the analysis was that under the current NMED standards that that wouldn't qualify as a community wastewater system.

So what staff is saying, you have two choices. You can either put in an advanced treatment system and then it becomes, at the front end or the back end of the septic tanks, depending, and it becomes a community sewer system, or you can increase the lot size to one acres and satisfy the County Code. We have actually even before, when we'd submitted this originally, the Community College District wasn't even in the planning phase and even at that

time the owner provided approximately 50 percent open space, and we feel like we've complied -- we were forward looking enough to even comply with current standards.

We're in agreement with the conditions. I'll answer any questions you may have.

CHAIRMAN CAMPOS: Any questions. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, so you're not -- my problem is we're at final plat approval here, and what I'm hearing here is you're not telling us whether the plat we've been asked to approve is not approvable, because it has lots less than one acre, and they're not to be served by a community sewer system. So you're saying you have that option to do either, but we're at the end of the line here. You have to make up their mind. Which are they going to do?

MR. SIEBERT: The minimum lot size will be one-acre or larger.

COMMISSIONER SULLIVAN: Why don't you just put a grinder pump in and protect the environment and tie into the sewer system that's already there, right on the highway?

MR. SIEBERT: Well, because the sewer system to tie into it is a considerable distance. My guess is you're looking at a minimum of 3/4 of a mile to tie into the sewer system. This subdivision is at the far -- it's not part of the Valle Vista; it's in fact on the eastern edge of the Valle Vista Subdivision. So the closest sewer line is -- and that would be -- no, that's not correct. Because the closest sewer line, actually, is down where the County park is, the County industrial park. That would be the closest subdivision line that you could tie in to.

COMMISSIONER SULLIVAN: Well, my concern as I mentioned earlier is that what we're really planning here is a 20 unit subdivision and now we're going to have six lots on septic tanks. Then we're going to come back for 14 more eventually and we're going to be faced with the same problem.

MR. SIEBERT: The understanding is on the subsequent lots that either there would be a community sewer system or they would connect to whatever sewer system might be available in the area. This property is also adjacent to the Briar Phillip Register property that has master plan approval for a village concept. If they do proceed forward then there's the possibility of tying into that wastewater system.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: What about the six that we approve tonight? Would they also tie in to a community water system in the future if you come in for the additional 14?

MR. SIEBERT: Well, no. If we increase the lot size to a minimum one acre then they would be on individual septic tanks. I guess we could double-plumb it in such a way that you would have two lines. You could simply cut one line off and abandon the septic tank and that could connect into a central sewer system. So that's a possibility. We can include that in the requirements to builders of the lot.

CHAIRMAN CAMPOS: So you would agree to include that?

MR. SIEBERT: Yes. We would accept that as a condition that they be provided with a dual plumbing system that would provide for a connection to a centralized system in the future.

CHAIRMAN CAMPOS: Those are for the six, right?

COMMISSIONER SULLIVAN: But Mr. Chair, that doesn't really, that doesn't still address the problem because even though it's plumbed that way, once the lot is developed and the septic system in, who's going to pay to develop the connection, the collection system into wherever their sewer is. There's no financial mechanism to do that. So you have the extra plumbing but it's never going to be connected and the individual owners are never going to connect in once they have a septic system in place, unless the septic system fails. So I don't think that helps the situation.

CHAIRMAN CAMPOS: Any other ideas, Mr. Siebert?

MR. SIEBERT: All I can say is we're in compliance with Code and what Commissioner Sullivan is requesting is above and beyond the Code. I think with regard to subsequent -- should Zena Boylan ever decide to proceed forward, and that's dependent upon availability of County water, that she would agree to have a community system or a system, or if a County system is available, to tie into that.

CHAIRMAN CAMPOS: Any other questions? Commissioner Duran?

COMMISSIONER DURAN: No.

CHAIRMAN CAMPOS: Okay. Public hearing, anybody here to speak? Nobody here to speak. Any motions or comments by the Commission?

COMMISSIONER ANAYA: Mr. Chair. Move for approval with conditions.

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Okay. That's with the understanding that the minimum lot size will be at least one acre?

COMMISSIONER ANAYA: Yes.

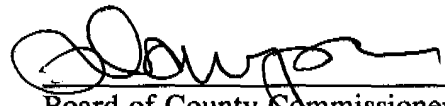
CHAIRMAN CAMPOS: Okay. Any discussion?

**The motion to approve EZ Case #S 03-4830 passed by majority [4-1] voice vote with Commissioner Sullivan casting the nay vote.**

**ADJOURNMENT**

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

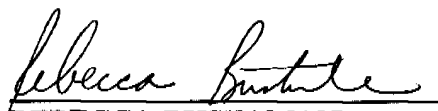
Approved by:

  
Board of County Commissioners  
Paul Campos, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK

January 8, 2004

Board of County Commissioners  
Santa Fe County  
via FAX: (505) 986-6389

RE: EZ CASE # 03-4422, Rancho Viejo Reduced Water Usage Proposal

Honorable County Commissioners:

The Community College District Development Review Committee, of which I am chair, wishes to express concern regarding the above application by Rancho Viejo. While we recognize that our committee has no formal review role to play in this application, we have, none the less, discussed the proposal, and unanimously express the following concern.

While we are all pleased that the residents of Rancho Viejo have exceeded expectation regarding water conservation, it seems premature to reallocate the savings. For the past two years, as you know, the residents have lived with Stage 3 Water Conservation requirements. It is way too soon to conclude that the last few years represent the normal usage of water for residents of Rancho Viejo.

While a reallocation may be appropriate at some time in the future, perhaps after ten years of experience, at this time, the CCDRC urges you to deny application EZ # 03-4422.

Thank you for your consideration.

  
Robert Garcia, Chair  
CCDRC