



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 125

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SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

February 8, 2005

Michael Anaya, Chairman
Harry Montoya, Vice Chair
Paul Campos
Jack Sullivan
Virginia Vigil

SFC CLERK RECORDED 04/14/2005

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

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**REGULAR MEETING
(Public Hearing)
February 8, 2005 - 2:30 pm**

Amended Agenda

- I. Call to Order**
- II. Roll Call**
- III. Pledge of Allegiance**
- IV. State Pledge**
- V. Invocation**
- VI. Approval of Agenda**
 - A. Amendments**
 - B. Tabled or Withdrawn Items**
 - C. Consent Calendar Withdrawals**
- VII. Approval of Minutes**
 - A. January 11, 2005**
 - B. January 19, 2005 – Special BCC (Judicial Courthouse)**
- VIII. Matters of Public Concern –NON-ACTION ITEMS**
- IX. Matters from the Commission**
 - A. Discussion on Completed and Upcoming Projects in District III and Throughout the County (Commissioner Anaya) TABLED**
 - B. Consideration of a Joint Powers Agreement between Santa Fe County and the Eldorado Area Water and Sanitation District (Commissioner Sullivan)**
 - C. Update on Film Initiative (Commissioner Vigil)**
- X. Appointments/Reappointments/Resignations**
 - A. Appointment to the Board of Registration (Clerk's Office)**
 - B. Appointment of Alternates for Extraterritorial Zoning Authority (EZA)**
 - C. Appointment of Alternates for the Solid Waste Management Authority (SWAMA)**
 - D. Appointment of Alternates for the Regional Planning Authority (RPA)**
 - E. Appointment to the North Central New Mexico Economic Development District Board of Directors**
 - F. Appointment to the Buckman Direct Diversion Board**
- XI. Consent Calendar**
 - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:**
 - 1. CDRC Case #DP/V 04 – 5330 – PNM Project Power (Approved)**
 - 2. CDRC Case #V 04 – 5460 – Juan Montoya (Approved)**
 - B. Resolution No. 2005 – A Resolution Requesting an Increase to the General Fund (101)/Various Departments to Budget Property Tax Revenue Related to the Mid-**

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Year Budget Reviews for Expenditure in Fiscal Year 2005/\$160,400 (Finance Department)

- C. Resolution No. 2005 – A Resolution Requesting an Increase to the Fire Impact Fees Fund (216)/Various Fire Districts to Budget Prior Fiscal Year 2004 Cash Balance for Expenditure in Fiscal Year 2005 (Fire Department)**

XII. Staff and Elected Officials' Items

A. Corrections Department

- 1. Request Authorization to Enter into an Intergovernmental Agreement with the Department of Justice, Federal Bureau of Prisons, and Santa Fe County to Provide Secure Custody, Housing, Safekeeping, and Subsistence for Federally Adjudicated Male and Female Juvenile Inmates**

B. Land Use Department

- 1. Request Authorization to Award a Professional Services Agreement Based on the Results of RFP #25-30 for the Drafting of a Zoning Ordinance for the US 285 South Highway Corridor**

C. Utilities Department

- 1. Request Authorization to Accept and Award a Construction Contract to the Lowest Responsive Bidder for IFB #25-38, for the Construction of a Sewer Line at Camino Polvoso within Santa Fe County/\$180,513.40**

D. Matters from the County Manager

- 1. Request Authorization to Enter into a Two Year Employment Agreement with the Santa Fe County Manager/\$106,000 (per year)**
2. Discussion and Request for Direction Concerning Options Related to the Recovery of Addictions Program (RAP)
3. Legislative Update

E. Matters from the County Attorney

- 1. Resolution No. 2005 – A Resolution Rescinding that Portion of Resolution 2004-238 Approving Entering into Ground Sublease Agreement #25-0057-PFMD between County of Santa Fe and Vista Studios, Inc. TABLED**
2. Ordinance No. 2005 – An Ordinance Repealing Ordinance 2004-5, an Ordinance Approving Vista Studios, Inc. for a Work Force Economic Development and Training Project with Santa Fe County (Deliberation and Repeal of Ordinance 2004-5) TABLED
3. Executive Session
a. Discussion of Pending or Threatened Litigation
b. Limited Personnel Issues
c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights

XIII. Public Hearings

A. Land Use Department

- 1. Ordinance No. 2005 – An Ordinance Amending Ordinance 1996 – 10, Article V, Section 8 (Subdivision Design Standards) of the Land Development Code to Require 30% of the Total Housing Approved within a Subdivision of 5 Lots or Greater to be Affordable Housing. Wayne Dalton FIRST PUBLIC HEARING TABLED**
2. CDRC Case #V 04-5630 – Phillips/Leith Variance. Deborah Clark Phillips and Robin Leith, Applicants, are Requesting a Variance of Section 3.4.1 (Lot Size Requirements) of Ordinance 2000-13 (Tesuque Community Zoning District) to Divide 1.5 Acres into Two Lots. The

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Property is Located at 7 & 11 Monte Luz in the Traditional Community of Tesuque, within Section 5, Township 18 North, Range 9 East (Commission District 1). Dominic Gonzales TABLED

3. **CDRC Case #V/Z 04-5490** – Alfonz Vizolay Variance and Master Plan. Alfonz Vizolay, Applicant, Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code for the Eligibility for Commercial Zoning Outside of a Commercial District. The Applicant is also Requesting Master Plan and Preliminary and Final Development Plan Approval for an 8,510 Sq. Ft. Warehouse and Office. The Property is Located within the Santa Fe Metro Highway Corridor in the Commercial Gateway at 4 Reata Road, within the Remuda Ridge Subdivision, within Section 24, Township 16 North, Range 8 East (Commission District 3). Vicente Archuleta TABLED
4. **CDRC Case #Z/DP 04-5190** – Beth Longanecker Master Plan/Development Plan. Jim Corbin, Agent for Beth Longanecker Requests Master Plan Zoning and Preliminary and Final Development Plan Approval for a Commercial Horse Business on 4.43 Acres. The Property is Located Off State Road 14 at 2 Ron's Road within Section 26, Township 15 North, Range 8 East (Commission District 5). Jan Daniels
5. **CDRC Case #V 04-5241** – David Burns Variance. David Burns, Applicant, Requests a Variance of Article III, Sections 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development code to Allow the Expansion of a Legal Non-Conforming Business which is Located Outside of an Eligible Commercial District on 2.5 Acres. The Property is Located at 14 Camino Charro in the Remuda Ridge Subdivision, within Section 24, Township 16 North, Range 8 East (Commission District 5). John M. Salazar
6. **EZ Case #DL 03-4320** – Frank O. and Pearl M. Valdez Family Transfer. Bernie Alarid and Associates. L.L.C., Agent, Frank O. and Pearl M. Valdez, Applicants, Request Plat Approval to Divide 6.8 Acres into Three Lots for the Purpose of a Family Transfer. The Lots Will Be Known As Lot 7-A (3.8 Acres), Lot 7-B (1.5 Acres) and Lot 7-C (1.5 Acres). The Property is Located within the Pinon Hills/Alameda Ranchettes Subdivision, at #3 Calle Estevan, within Section 25, Township 17 North, Range 8 East (Commission District 2). Vicente Archuleta
7. **AFDRC Case #Z 04-5710** – Casa Rufina Apartments. Casa Rufina Apartments (Santa Fe Properties Rufina Limited), Applicant, Anne McLaughlin, Agent, Request Master Plan/Preliminary and Final Development Plan Approval for an Affordable Senior Housing Development consisting of 120 Dwelling Units on 8.31 Acres. This Request Also Includes a Variance of Article III, Section 6.3.3 (Buffer and Setbacks) and Article III, Section 9 (Parking Requirements) of the Land Development Code. The Property is Located at the Northwest Corner of Rufina and Henry Lynch Road, in the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2). Dominic Gonzales
8. **CDRC Case #DP 04-5780** – Suerte Del Sur Plan. Suerte Del Sur LLC, Applicant, Scott Hoeft, Agent, Request Master Plan Approval for a 264

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Lot Residential Subdivision on 660 Acres. The Property is Located South of Las Campanas and North of Pinon Hills Subdivision, within Section 19, Township 17 North, Range 9 East and Section 24, Township 17, Range 8 East (Commission District 2). Dominic Gonzales

- 9. EZ Case #S 96-1212 – Las Campanas Estates VIII, Units 1, 2 & 3. Las Campanas Limited Partnership (Michael D. Baird), Applicant, is Requesting an Amendment of the Plat/Development Plan for 104 Residential Lots, to Permit Guest Houses. The Property is Located Off Las Campanas Drive within Section 11, Township 17 North, Range 8 East (Commission District 2). Joe Catanach TABLED**
- 10. EZ Case #S/V 04-4441 – Windmill Ridge Unit 4. Rancho Viejo de Santa Fe Inc. (Isaac Pino), Applicant Requests Final Plat and Development Plan Approval for a 278 Lot Residential Subdivision on 174.66 Acres in Accordance with the Previously Approved Master Plan for Windmill Ridge at Rancho Viejo – Units 3 and 4 and with the Previously Approved Preliminary Plat/Development Plan. This Request also Includes a Variance to Allow a No-Outlet Road to Exceed 300 Feet in Length. The Property is Located within the Community College District Off of Richard's Avenue within Sections 28 & 29, Township 16 North, Range 9 East (Commission District 5). Vicki Lucero**

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 at 986-6200 in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

February 8, 2005

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:35 p.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Mike Anaya, Chairman
Commissioner Harry Montoya, Vice Chairman
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner Virginia Vigil

Members Absent:

[None]

V. Invocation

An invocation was given by County Manager Gerald Gonzalez, commemorating the life of Chris Vigil who worked in Code Enforcement of the Land Use Department. Commissioner Anaya gave a brief biography of Mr. Vigil, followed by a moment of silence.

V. Approval of the Agenda

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

GERALD GONZALEZ (County Manager): Thank you, Mr. Chairman, members of the Commission. From staff we have the following recommended changes to the agenda. Under Section IX, Matters from the Commission, table item A, and item C, to be

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added, Update on film initiative. Then under Section XI, Consent Calendar, table item number C.

In Section XII, Staff and Elected Officials Items, under D, Matters from the County Manager, add items number 2, Discussion and request for direction concerning RAP program, and item 3, Legislative update. Then under E, Matters from the County Attorney, table items numbers 1 and 2. And then under Section XIII. Public Hearings, subsection A, Land Use Department, table items number 1, 2, 3, 9, and we've received a request to withdraw item number 5.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: What about item number 4 for public hearings?

COMMISSIONER CAMPOS: I think that's been tabled also.

COMMISSIONER SULLIVAN: It shows it being tabled in the book.

MR. GONZALEZ: That's correct.

CHAIRMAN ANAYA: So just to go back over on the tabling part, we're going to table X.C? Is that correct?

MR. GONZALEZ: IX. A is tabled and section C has been added. And then under Section XI, Consent Calendar, item C is tabled. And then Section XII, Staff and Elected Officials' Items, under D, Matters from the County Manager, items number 2 and 3 added. And then under E. Matters from the County Attorney, items 1 and 2 tabled. And then turning to Section XIII, Public Hearings, Land Use Department, tablings for items number 1, 2, 3, 4, and 9 and number 5 withdrawn.

CHAIRMAN ANAYA: Okay. Any other amendments? Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On the Consent Calendar, we just received some documents regarding item C. Haven't had a chance to look at those so I'd just like a quick discussion on item C on the Consent Calendar.

CHAIRMAN ANAYA: I think that one's tabled.

COMMISSIONER MONTOYA: XI. C, Mr. Chairman?

COMMISSIONER SULLIVAN: XI. C.

CHAIRMAN ANAYA: XI. C is tabled, correct?

MR. GONZALEZ: That's the request. Yes, sir.

COMMISSIONER SULLIVAN: Okay. So XI. C is tabled? That was just what they passed things out on? Okay. So the Consent Calendar is only A and B.

COMMISSIONER MONTOYA: We can read it for the next meeting.

COMMISSIONER SULLIVAN: I'm looking forward to that.

CHAIRMAN ANAYA: Any other comments? Is there a motion?

COMMISSIONER SULLIVAN: Move for approval of the agenda, Mr. Chairman, as amended.

COMMISSIONER VIGIL: Second.
CHAIRMAN ANAYA: Any more discussion?

The motion to approve the agenda as amended passed by unanimous [5-0] voice vote.

VII. Approval of Minutes: January 11, 2005

COMMISSIONER MONTOYA: Mr. Chairman, I have some corrections I'd like to enter.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd like to enter some corrections as well.

COMMISSIONER VIGIL: Mr. Chairman, I've also entered some but I've given them to the clerk.

CHAIRMAN ANAYA: Is there a motion to approve with corrections?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Any more discussion?

The motion to approve the January 11th meeting minutes as amended passed by unanimous [5-0] voice vote.

January 19, 2005 – Special BCC (Judicial Courthouse)

CHAIRMAN ANAYA: Any corrections?

COMMISSIONER MONTOYA: Yes, Mr. Chairman.

CHAIRMAN ANAYA: Any more? Is there a motion?

COMMISSIONER MONTOYA: So moved, with corrections.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There's a motion and a second with corrections of the January 19, 2005 minutes.

The motion to approve the January 19th minutes as amended passed by unanimous [5-0] voice vote.

VIII. Matters of Public Concern –NON-ACTION ITEMS

CHAIRMAN ANAYA: Anybody out there like to address the Commission?

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IX. Matters from the Commission

B. Consideration of a Joint Powers Agreement between Santa Fe County and the Eldorado Area Water and Sanitation District (Commissioner Sullivan)

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. I'll make this as brief as possible. As you know, for some time the staff and the Eldorado Water and Sanitation District have been working on a potential joint powers agreement. I can report to you that we're getting very close to something that I think the Commission can embrace. We're not quite there yet so as a result there is nothing indicated in your packets at this time for your review. But there was a request that the district be present at this meeting to introduce themselves and give, perhaps, their ideas of the goals and future for the water and sanitation district and their commitment to that district. All three are just recently elected. One has been re-elected the chairman, Mr. Ray Nichols. So if it's okay, Mr. Chairman, I'd like the three district members to come forward and perhaps each introduce themselves to you and give you some background on what they see the issues to be on this joint powers agreement. Thank you, Mr. Chairman.

RAY NICHOLS: That would be great, Mr. Chairman. Thank you very much for having us. I would like to introduce the other two board members. Mary Reynard and Jerry Williams. We're all working towards trying to work out a joint powers agreement with the County. We had a change last week as a matter of fact. It was determined that the loan arrangement that had been set forth in our first joint powers agreement would not pass legal muster. So it was rewritten and we met last Friday night to discuss the new joint powers agreement.

There are some things we'd like to negotiate with the County. We met on Sunday, the board did, to set up a negotiating team. Our representative on that negotiating team is Mary Reynard and I'd like for Mary to talk about it as we go forward.

CHAIRMAN ANAYA: Welcome.

MARY REYNARD: Thank you very much it's nice to meet all of you. The negotiating team is made up of myself as representative from the board of directors, Bill Robens who is a volunteer who's been helping us and who has a great deal of experience in water systems, and Frank Coppler who is an attorney. The three of us have met and we have contacted Steve Ross. I believe Bill contacted him yesterday. We're trying to sit down with members of your staff to work out a mutually beneficial joint powers agreement which we feel confident we can do.

There are certain things that we would like to see in that agreement as I'm sure there are certain things you'd like to see in it and I think that if we negotiate in good faith and openly and honestly we can certainly develop a good joint powers agreement. So we'd like you to direct your staff as appropriate to work with us so that we can work out the agreement. Our hope is to meet this week and finalize something by the early part of next week so that we can have a document for you to review at your next meeting.

CHAIRMAN ANAYA: Any questions? I've got a question. Mary, are you

- this was brought to my attention that the public wasn't being notified as of some meetings that you have held. Are your meetings private or have you been notifying the public on what is exactly going on out there?

MS. REYNARD: We've been posting notices for all of our open meetings and for our closed meetings. We did have one closed meeting when we met with our attorneys to come up to speed. Jerry and myself need to come up to speed on the status of some litigation. That was a closed meeting. But our other meetings have been open and we have posted them as required on the two bulletin board in Eldorado and also we've been putting the meeting times and dates on our website.

CHAIRMAN ANAYA: Okay. Thank you, Mary. Commissioner Campos.

COMMISSIONER CAMPOS: I would just simply say that you're asking for us to direct staff to do x, negotiate with you. I'm certainly willing for them to talk but I'm certainly not at this point saying we've seen any ideas. So it's going to be a wide-open discussion, starting anew as I see it and let's see what comes up. I'm not making any commitment to the old ideas. I'm willing to listen to some new ideas.

MS. REYNARD: Very good. That's fine. Understood. Thank you.

CHAIRMAN ANAYA: Thank you, Mary. Commissioner Montoya.

COMMISSIONER MONTROYA: I'll just reiterate what I've said all along regarding any involvement that Santa Fe County has with mutual domestics or any other water association and that's that any partnership that we enter into should be a partnership in which Santa Fe County is part owner. So just if there's any way to work that out when you're negotiating this. Certainly the County staff has that, at least from one Commissioner in terms of the direction that I think we need to be headed in, that that would be part of the thinking also from the Eldorado board as well.

MS. REYNARD: We understand that, and that was quite apparent in the joint powers agreement that we received last week. So that's what we're working with. Thank you.

COMMISSIONER MONTROYA: Thank you.

CHAIRMAN ANAYA: Thank you, Mary. Jerry, would you like to speak.

JERRY WILIAMS: Thank you very much. I would just like to say that the board is unanimous in its desire to reach an agreement. We feel like it is in our mutual interest and our negotiating team is ready to sit down with County staff and work towards an agreement that we can all be satisfied with. Thank you.

CHAIRMAN ANAYA: Thank you, Jerry. And I'm glad to see that all of you are here together and saying that you want to work on the issue and solve it. It's important that you are all here together today. So thank you for being here. Any other comments, Commissioners?

MS. REYNARD: Could I make a comment about that. I want to apologize. At our last meeting I was literally on my way out the door to come to this meeting, your last meeting, but I was called away by an urgent family medical emergency and I was not able to attend. That's why we weren't here.

CHAIRMAN ANAYA: Thank you. We understand. Commissioner Montoya.

COMMISSIONER MONTOYA: I'm sorry. I just need to put this on the table also and that's that the inchoate water rights that had been discussed I don't think will work. That's just out by a penny and a half. The inchoate water rights that are being offered as part of our being a partner in the water system to me are not acceptable in our partnership.

MR. NICHOLS: That does not appear in the current JPA and we really don't expect it to enter.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Ray and Mary and Jerry for being here and we look forward to working with you.

IX. C. Update on Film Initiative (Commissioner Vigil)

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I think we'll probably be seeing this item on the agenda from this point forward, at least during the legislative session. I know Tony and Barton Bond have been working on it and the last meeting we had they were given the direction to work with the County to come together with sort of a frame of reference for how we could move forward on this. In brief, this would be a partnership with Santa Fe Community College and Santa Fe County and it would work towards developing some acreage out at our business park to put in a scene shop. And I'd like to turn it over to Barton Bond and Tony just for them to give us their update on the work they've done, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Tony, Barton.

TONY FLORES (PFMD Director): At the last Board meeting the Board directed staff to work with the Community College to bring back a full presentation at the February 22nd Board meeting. Unfortunately, my schedule has limited the amount of time that I can actually meet with Barton but Ms. Lopez from my department has conducted a meeting with Barton and they have established a framework for this partnership and outlined many steps that have to take place and those were a preliminary outline in the memo that was faxed and e-mailed to everybody. The objective for the meeting is to develop this partnership through an MOA, a memorandum of understanding that the Community College and Santa Fe County would look at and review through our legal staff to ensure that we've complied with all the requirements of the location of the property.

We've had some preliminary discussions with the State Land Office and I know there was a meeting scheduled for last Wednesday. Unfortunately, due to the weather that meeting was cancelled. We were going to address certain things about the business park with the State Land Office.

One of the other points of discussion is the type of agreement that would be made including such things as a lease rate, the opportunities there, the priority of the users, allocation

of the rental payments for the state to basically pay off or repay the lease payment, a determination of what funding options are available and also a time and implementation schedule. I think that covers everything that has been discussed to date and we do plan on bringing back a full presentation to the Board at the February 22nd BCC meeting.

CHAIRMAN ANAYA: Glad to see you moving forward. It's important that we work together. That's who we get things taken care of is when we work together. If we want to do it alone it takes a lot more time and is difficult. Thank you all for being here. Barton, did you want to say a few words?

BARTON BOND: Mr. Chairman, members of the Commission, I just want to assure you that we're pressing ahead about as fast as we can and I'd like to thank you again for your at least conceptual support of this project and I'm very excited as well as Tony and Commissioner Vigil. I think we can do something that's going to be really good for the County and the people of the county too.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Flores, just briefly, the financial impact aspect.

MR. FLORES: Mr. Chairman, Commissioner Campos, as we have presented to the Board, the Community College currently has capital outlay dollars in place for the development of the shop, at least phase one of that. The other fiscal impacts that would be related to that would be infrastructure improvements for the development roadway improvements. So that's what we're going through right now. We've done a preliminary cost estimate, building site, etc. to find out what that number was. We presented that to the Board, I believe in January, very early on. I think it was the first meeting in January or the second meeting. Approximately \$565,000 in total impact, of which \$300,000 is banked right now through an appropriation through the governor's office.

So when we talk about funding options that's what I would be bringing forward is how we would get to that point.

COMMISSIONER CAMPOS: Is the how related to something we're going to try to get from the legislature or something we're going to get from our general fund?

MR. FLORES: Mr. Chairman, Commissioner Campos, the idea is that with the cooperation or collaboration with the New Mexico Film Office and the governor's office, that's where those additional funds would be secured.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

CHAIRMAN ANAYA: Anybody else?

COMMISSIONER VIGIL: I just wanted to thank Barton and tell you Barton is here ill today. He doesn't want to infect too many people. And Tony has been putting a lot of work into this despite the demand for him at the legislature. Thank you very much.

CHAIRMAN ANAYA: Thank you, Tony and Barton and go ahead and go get well for the next meeting. Okay, Matters from the Commission. Commissioner Vigil, would you like to address any other concerns, Commissioner?

COMMISSIONER VIGIL: That's the only item I had on the agenda.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, one brief item. I had a request from an Anthony Barela who lives in the South Fork area, Silverado Subdivision, to bring forward a portion of a private road dedication which is currently a County road and there's a piece at the end that's not yet in the County system. He has his petitions in place or will be getting them and I just wanted to pass on to the staff that his request, that it be put on the next agenda if possible. If you'd like to put it either, probably under Public Works would be the proper place. You can put it under Matters from the Commission if you want but I would think Public Works would be there if it's it ready.

CHAIRMAN ANAYA: So Commissioner, do you have some information to hand over to James?

COMMISSIONER SULLIVAN: I don't. Mr. Barela is working on it. James, has he gotten anything to you yet?

JAMES LUJAN (Public Works Director): Mr. Chairman, Commissioner Sullivan, this is the first time I hear about it. What was the name of the individual?

COMMISSIONER SULLIVAN: I'll give you his letter. Anthony A. Barela. It's about a half-mile section with about eight or nine residents that would like to be considered and we'd just like to get it going through the process. Of course we need to get a Public Works Department recommendation as well. I'm not prejudging that I'm just passing it on to you at his request.

MR. LUJAN: Mr. Chairman, Commissioner Sullivan, we'll look into it.

COMMISSIONER SULLIVAN: Thank you very much.

CHAIRMAN ANAYA: Thank you, James. Thank you, Commissioner.
Anything else?

COMMISSIONER SULLIVAN: No, sir.

COMMISSIONER CAMPOS: Mr. Chairman, question for Mr. Lujan.

CHAIRMAN ANAYA: We've got a question, James, from Commissioner Campos.

COMMISSIONER CAMPOS: Did we ever adopt the standards relative to adoption of additional roadways for the County? Or is that still pending or what's the status? I just don't remember.

MR. LUJAN: Mr. Chairman, Commissioner Campos, there are still items pending in those regulations.

COMMISSIONER CAMPOS: So we're still – are you thinking about it at staff level or are we holding it up here or what's going on?

MR. LUJAN: We have held it up at our level, not at Commission level. There are some items that we have still gone over, some items that I don't know that we'll ever come to a head on, but we'll present them to you if you like what we have in place right now.

COMMISSIONER CAMPOS: It's been a while. So I just was curious. Commissioner Sullivan is throwing something out. I was just curious how we were going to

judge that. Do we want it? How do we want it? How do we judge whether it should be a new County road?

MR. LUJAN: Mr. Chairman, Commissioner Campos, the item is that we always have the option of them having to do the repairs to the road prior to us taking it in, and I don't think we've taken in any roads without any money coming forward from legislative appropriations or the like, but we have not taken on any more roads that money has not been in place for. So that is the option that we always have as a Commission to take it in or not, and that's been for the last four years.

COMMISSIONER CAMPOS: I'd like to see something in place soon. We've been talking about this for three years now. Going back and forth. I'm not pointing the finger and anybody. It gets stuck here, goes back and then it comes here, gets stuck again and goes back. So I was just curious where it was. I think we need that criteria.

MR. LUJAN: I'll take responsibility. We do have that held up in Public Works. But again, it's always been the same issue that we come up that we still have the option, the Commission has the option to reject it or accept it but it's always been money for the project before they've taken them in.

COMMISSIONER CAMPOS: Okay. Thank you, James.

CHAIRMAN ANAYA: Commissioner Montoya, do you have any matters?

COMMISSIONER MONTOYA: Yes, Mr. Chairman, a couple of items. One is first of all I want to offer my condolences to the Vigil family on the loss of Chris. And the secondly, just to report quickly on the North Central Regional Transit District. We had our meeting this past Friday on February 4th and we're moving forward on looking at a number of different transit initiatives for this north central region. We're also at the point now where we'll hopefully be hiring an executive director within a month or so. We have a February 21st deadline for applicants to submit their resumes and letters of interest, etc. But that's going well. That board is moving along real well.

Then I'd like to just offer my congratulations to the County Clerk and her staff and office on a very good election for the school boards. I heard nothing but good things in Pojoaque and that's always good to hear. So thank you and congratulations. Then, I'm disappointed we're going to be losing a good employee from the Corrections Department, I believe our deputy director, Chris Sanchez has resigned. I just want to wish him well and hope that we continue moving forward as we have been with the Youth Development Facility. And then I'd like to, during the update for the legislation, know what water bills we're tracking, so I give you a little heads up here and time to figure out which ones we're going after. That's all I have, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Commissioner, thank you for keeping us updated on the North Central Transit District. And you said you only had a couple items and you mentioned four.

COMMISSIONER MONTOYA: Okay, I'll take back the last two.

COMMISSIONER CAMPOS: You've got to watch this guy. Thank you. Just one thing. In the paper there was a story a couple of days ago about the City extending water

lines into the county. I think it has certainly some very significant impacts on zoning. I think I would like to have staff – I started my discussion with Mr. Abeyta and I'd like to have some input from Land Use, Mr. Abeyta, our legal and from you, Mr. Gonzalez, in the next couple of weeks if that's possible. I think we need to understand what's going on. There should at least some consultation going on. It does impact us in a big way a lot of the time.

MR. GONZALEZ: Thank you, Mr. Chairman, Commissioner. There is a need for greater two-way communication, I agree, between the City and the County, especially on water issues.

CHAIRMAN ANAYA: Anything else, Commissioner? Okay, I have nothing today. I just send my condolences to the Vigil family.

X. Appointments/Reappointments/Resignations

A. Appointment to the Board of Registration (Clerk's Office)

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a couple of questions for our County Clerk. The Democrats, did they provide any names to you?

VALERIE ESPINOZA (County Clerk): Yes, we have them.

COMMISSIONER CAMPOS: Oh, we have some? Because I didn't see them in the packet. The Republicans had.

DENISE LAMB (Elections Director): Mr. Chairman, Commissioners, can I approach with a list that the Democrats submitted? It was submitted too late to include into your packet but we did receive it. *[Exhibit 1: List for Democratic Party]* I spoke with the County Chair of the Democratic Party and she noted that while she had not put them in an order of preference she had put an asterisk by her first choice.

CHAIRMAN ANAYA: Okay, so we need to elect one from each?

MS. LAMB: One from each political party. That's correct.

CHAIRMAN ANAYA: So we've got the Republicans here, Joseph, Dorothy and Eleanor? Those are the three from the Republican. And then we've got Terry Rivera, Cecilia, Edna, Douglass, Ernesto and Carrol.

MS. LAMB: That is correct.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: The way I read the rule is that we have to have at least one member – we have to have members from two parties, at least one from one party. So we can have two Democrats and a Republican or two Democrats and a Green.

MS. LAMB: That is correct.

CHAIRMAN ANAYA: Say that again, Commissioner.

COMMISSIONER CAMPOS: We have to have at least members from two different parties. So we have to have at least one Republican or one Green.

COMMISSIONER MONTOYA: Mr. Chairman, but we don't have any Greens.

COMMISSIONER CAMPOS: I understand no Greens were recommended.

MS. LAMB: Mr. Chairman, Commissioner Campos, the Greens failed to submit a list.

COMMISSIONER CAMPOS: In the future it would be interesting to know who these folks are. Maybe when you ask the chairpeople who they're nominating, maybe give us a brief summary of their history, what they do. A little resume would be helpful.

MS. LAMB: Mr. Chairman, Commissioner Campos, I'll be happy to do that.

CHAIRMAN ANAYA: Any other questions? Is there a motion for the Republican Party of Santa Fe County?

COMMISSIONER MONTOYA: Mr. Chairman, I'll nominate Eleanor "Ellie" Bickley.

COMMISSIONER VIGIL: Second.

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

The motion to name Eleanor Bickley to the Board of Registration passed by unanimous [5-0] voice vote.

COMMISSIONER VIGIL: For the Democrat, Mr. Chairman, may I nominate Edna Wyatt?

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: There's been a motion and a second for Edna Wyatt. Any discussion?

The motion to name Edna Wyatt to the Board of Registration passed by unanimous [5-0] voice vote.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I'd like to offer the name of Ernesto Baca as the third appointee.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: There's been a motion for Ernesto Baca. Are there any other motions for the second?

COMMISSIONER VIGIL: Mr. Chairman, a point of clarification.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: It says no more than two of the three appointees

may belong to the same political party and the alternates shall also belong to different political parties. Does that mean we actually need to appoint a Green? The memorandum says that no more than two of the three appointees may belong to the same political party and the alternates shall also belong to a different political party. Then we need to appoint a Green.

MS. LAMB: Well, the Green Party is not any longer – I believe it says “major political party.” We’ve received a notice from the Secretary of State’s office that based on the presidential results in the last election that the Greens are no longer a major political party in New Mexico. If you look at Section 1-4-34, shall be members of the same major political party.

COMMISSIONER VIGIL: And that makes sense to me, Denise, but I’m concerned about the statement in our memo that says no more than two of the three appointees may belong to the same political party. And if we appoint Ernest Baca he would belong to the same political party as Edna Wyatt.

MS. LAMB: That’s two.

COMMISSIONER VIGIL: So we can get two Democrats?

MS. LAMB: Two Democrats and one Republican, yes. And then the alternates would have to be balanced also by party affiliation.

COMMISSIONER VIGIL: And the Greens would not be represented.

MS. LAMB: No, they are no longer a major party in New Mexico.

CHAIRMAN ANAYA: So we’ve got a motion and a second for Ernesto Baca. Is there any more discussion? So we cleared it up? We can get two Democrats on there? I’d like to say before we vote on this that the people on here are – all of these people are all very well involved in the Democratic Party and I wish we could pick them all but we have to narrow it down to two, Terry Rivera, Cecelia Lopez, Douglass Schocke, Ernesto Baca and Carrol Young are all very involved in the Democratic Party. So there’s a motion and a second.

The motion to name Ernesto Baca to the Board of Registration passed by unanimous [5-0] voice vote.

COMMISSIONER CAMPOS: Mr. Chairman, do we need alternates? And if so, how many?

MS. LAMB: Two.

COMMISSIONER CAMPOS: Two, one of each party I would guess.

CHAIRMAN ANAYA: I’d like to nominate Terry Rivera for the Democratic.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Any discussion?

The motion to appoint Terry Rivera as an alternate to the Board of

Registration passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Okay, an alternate for the Republicans. Is there a motion?

COMMISSIONER VIGIL: Mr. Chairman, I'd like to nominate Dorothy Smoker.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Any discussion?

The motion to appoint Dorothy Smoker as an alternate to the Board of Registration passed by unanimous [5-0] voice vote.

X. B. Appointment of Alternates for Extraterritorial Zoning Authority (EZA)

COMMISSIONER CAMPOS: Mr. Chairman, are there any volunteers?

COMMISSIONER MONTOYA: I'd nominate Chairman Anaya.

CHAIRMAN ANAYA: That's fine.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Any discussion?

The motion to appoint Commissioner Anaya to the EZA passed by unanimous [5-0] voice vote.

X. C. Appointment of Alternates for the Solid Waste Management Authority (SWAMA)

CHAIRMAN ANAYA: Right now, Commissioner Campos, Commissioner Vigil and myself are on it. Who would like to be on it?

COMMISSIONER MONTOYA: Mr. Chairman, I nominate Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I nominate Commissioner Montoya.

CHAIRMAN ANAYA: Okay, we have a motion to nominate Commissioner Sullivan.

COMMISSIONER CAMPOS: You don't have to second them. They're nominations; they're not motions. Flip a coin?

CHAIRMAN ANAYA: Well, the chairman was just going to go ahead and appoint.

[The coin toss resulted in Commissioner Sullivan being named as alternate for the SWMA Board]

CHAIRMAN ANAYA: Is there a motion to appoint Commissioner Sullivan to the SWMA?

COMMISSIONER CAMPOS: So moved.

COMMISSIONER VIGIL: Second.

X. D. Appointment of Alternates for the Regional Planning Authority (RPA)

CHAIRMAN ANAYA: Appointment for alternate for the Regional Planning Authority. That's me. That's easy.

COMMISSIONER SULLIVAN: Move for approval of Chairman Anaya as the alternate for the Regional Planning Authority.

COMMISSIONER VIGIL: Second.

The motion to appoint Commissioner Anaya as the alternate for the RPA passed by unanimous [5-0] voice vote.

X. E. Appointment to the North Central New Mexico Economic Development District Board of Directors

COMMISSIONER MONTOYA: Mr. Chairman.

COMMISSIONER CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Roman, what did Barbara Deaux say when you spoke to her? Does that need to be a Commissioner or can it be a staff person like yourself?

ROMAN ABEYTA (Deputy County Manager): Mr. Chairman, I believe it could be a Commissioner but then you could have a staff member to participate on your behalf if you can't make it.

COMMISSIONER MONTOYA: Mr. Chairman, I'd be willing to serve.

CHAIRMAN ANAYA: Is there a motion to appoint Commissioner Montoya?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER CAMPOS: Second.

The motion to appoint Commissioner Montoya to the North Central New Mexico Economic Development District Board of Directors passed by unanimous [5-0]

voice vote.

CHAIRMAN ANAYA: I guess if you wanted you could appoint somebody to help you.

COMMISSIONER MONTOYA: Yes, if I can't make it. Like Jack Kolkmeier goes for me when I can't make it.

X. F. Appointment to the Buckman Direct Diversion Board

CHAIRMAN ANAYA: How many do we need? Two?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to appoint Commissioner Sullivan and Commissioner Montoya as the principles and myself as the alternate.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Any more discussion?

The motion to appoint Commissioner Sullivan and Commissioner Montoya to the Buckman Direct Diversion Board, with Commissioner Campos as alternate passed by unanimous [5-0] voice vote.

C. XI. Consent Calendar

A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

**1. CDRC Case #DP/V 04 - 5330 - PNM Project Power
(Approved)**

2. CDRC Case #V 04 - 5460 - Juan Montoya (Approved)

B. Resolution No. 2005-20 A Resolution Requesting an Increase to the General Fund (101)/Various Departments to Budget Property Tax Revenue Related to the Mid-Year Budget Reviews for Expenditure in Fiscal Year 2005/\$160,400 (Finance Department)

XII. Staff and Elected Officials' Items

A. Corrections Department

1. Request Authorization to Enter into an Intergovernmental Agreement with the Department of Justice, Federal Bureau of Prisons, and Santa Fe County to Provide Secure Custody, Housing, Safekeeping, and Subsistence for Federally Adjudicated

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Male and Female Juvenile Inmates

GREG PARRISH (Corrections Director): Mr. Chairman, this is a three-year agreement. The County currently has an agreement with the Bureau of Prisons to provide these services and we have been doing it for the past five years. The three-year contract that's currently in place is scheduled to expire and I apologize. The date was February 28th, it's actually March 8th but they have requested that we return the contract to them by February 18th, so that's one of the reasons we brought it forward on this agenda rather than the administrative. But this is just a continuation of that contract.

We have a statement of work. We've renegotiated the contract and as you can see it's a significant increase. We have a 36 percent increase in the per diem that the Bureau of Prisons is going to be paying us per juvenile that we house at the facility. They have also increased the number of juveniles from approximately 28, which they've been averaging. We're going to be now up to hopefully 36. And this new agreement is for three years, and with the 36 percent increase it will cover our expenses that we're currently addressing.

We've also built into this agreement – it's a cost-basis agreement so we had to do justification on what we are actually spending for medical, for salaries, for food service and other expenses that we've incurred. And one of the individuals that was very instrumental and I was hoping she would be here is Bertha Baca from the Corrections Department who did prepare this contract and proposed and negotiated it. She was very resourceful in doing this contract and identifying the cost basis which helped us justify this increase. So I wanted to commend her on a job well done and I hoped she'd been here. I'm sure she's on the way.

This is a contract we've had for several years and it's just a continuation of that contract and we'll continue to provide these services with the increase. And I'll stand for any questions.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Mr. Chairman, and Greg, thanks for your work on this. This may be a question for either you or Attorney Ross. The contract requires a set ceiling and a rate – it looks like a per-day rate. Yet there's a clause there for price redetermination. Do we do that? Do we need to do that? It seems protective to me but under what conditions would we have to redetermine or renegotiate this?

MR. PARRISH: Mr. Chairman, Commissioner Vigil, I really don't know. If there would be a significant increase for some reason I think we'd have an opportunity to go back and address that issue with them if for some reason our costs would increase, food service or something else, at least we have that option. During the past three years, historically, we have not used it in the previous contract.

COMMISSIONER VIGIL: I just was wondering if this was an anticipated negotiation or something of that nature.

MR. PARRISH: Mr. Chairman, Commissioner Vigil, we don't anticipate any increase but I think if something drastic happened we could demonstrate where our cost basis increased significantly, catastrophic roof damage or something we could go back to them and discuss it with them at least.

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COMMISSIONER VIGIL: Thank you, Greg. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Greg, if my memory serves me, we originally had a Bureau of Prisons contract that had a guaranteed minimum number of prisoners and then in the renegotiation of it they dropped that guaranteed minimum and I don't see a guaranteed minimum here either although the estimate is 36. Is this true that there is no guaranteed minimum?

MR. PARRISH: Mr. Chairman and Commissioner Sullivan, I think you may be thinking of the DOC contract with the adult facility where we had minimums built in to the number of inmates that they had to provide us.

COMMISSIONER SULLIVAN: Okay.

MR. PARRISH: On our previous contract, they go with their best estimate, which on the previous one was 28 and they averaged in the last year between 28 and 30 juveniles. But I think the one you're referring to is we had a baseline with the adult facility with the Department of Corrections. They had to have so many inmates. If it dropped below that they paid that. There is no minimum guarantee in this contract.

COMMISSIONER SULLIVAN: Okay, and there hasn't been in the past?

MR. PARRISH: Not in the one that was negotiated three years ago. I'm familiar with that one.

COMMISSIONER SULLIVAN: So which one was the one that had the minimum in it?

MR. PARRISH: We had a minimum population with our contract at the adult facility, with the Department of Corrections.

COMMISSIONER SULLIVAN: Okay, with the state, not the feds.

MR. PARRISH: Yes.

COMMISSIONER SULLIVAN: It was the state that withdrew that minimum.

MR. PARRISH: Yes.

COMMISSIONER SULLIVAN: And this doesn't have any minimum either, although they estimate 36 it could be zero.

MR. PARRISH: Absolutely. If their population went down we'd suffer.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? I'd like to comment on Bertha Baca and the outstanding job that she did and your staff in taking it from \$192 to \$264 per inmate. That's a substantial amount and that's a job well done. I wish she was here today but send it back to your staff that they're doing a great job.

MR. PARRISH: Thank you, Mr. Chairman and I think it is a reflection of the staff including Mr. Sanchez who is now departing the department. They've done an outstanding job. They have a very good reputation with the Bureau of Prisons and because of that we were able to negotiate a contract at this level. And Bertha takes a lot of credit for this of course.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, move for approval.

COMMISSIONER MONTTOYA: Second.

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

The motion to approve the agreement with the Bureau of Prisons passed by unanimous [5-0] voice vote.

XII. B. Land Use Department

1. Request Authorization to Award a Professional Services Agreement Based on the Results of RFP #25-30 for the Drafting of a Zoning Ordinance for the US 285 South Highway Corridor

SUSAN LUCERO (Finance Director): Mr. Chairman, members of the Board, the Santa Fe County Land Use Department is requesting to award a professional services agreement in response to the request for proposal #25-30 for the drafting of a zoning ordinance for the US 285 South Highway Corridor. The intent of the solicitation was to prepare a zoning ordinance which would implement zoning recommendations and design standards and guidelines of the US 285 South Highway corridor.

A total of seven solicitation proposals were sent out. We received two responses to the RFP, the first one from Robert Odland Consulting and the second from Four Corners Planning. Based up the criteria set forth in the request for proposals and the evaluation team's recommendation, Robert Odland Consulting was determined to be the highest rated offeror by about a five percent point margin.

We are therefore, in conjunction with the Land Use Department requesting authorization to award and enter into a professional services agreement #25-0107LU with Robert Odland Consulting in the amount of \$15,000 inclusive of gross receipts tax. I stand for any purchasing questions.

CHAIRMAN ANAYA: Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: I don't have any questions. I was ready to make a motion. So I will move for approval and hope there's a second and then we can have discussion.

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

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Second. Any discussion?

COMMISSIONER CAMPOS: Question.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: What's the time line on this contract, on having a product?

MS. LUCERO: I believe the time line is to expire at the end of June with the first deliverable anticipated in week one, an outline. And then after five weeks a draft. So a total of I believe a 90-day turnaround.

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CHAIRMAN ANAYA: Thank you. Any more discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Has this firm been involved or were they involved in the 285 Corridor planning effort? Do they have a familiarity with it?

MS. LUCERO: I'll defer to Judy McGowan.

JUDY MCGOWAN (Senior Planner): Mr. Chairman, Commissioner Sullivan, no. We advertised the RFP and actually sent the request out to a number of firms in New Mexico and elsewhere. The only person or firm that was directly involved was our former staff member Sarah Ijadi and she chose not to submit a proposal. Both firms that responded have done considerable work in both planning and drafting of zoning ordinances all over the country actually.

COMMISSIONER SULLIVAN: Okay. There's not a copy of the contract here in the packet, but is it a part of the contract then that they will research the minutes of the meetings that were conducted by yourself and other staff members and the hearings? Is that part of the contract's scope of work?

MS. MCGOWAN: That's correct. What we've asked the consultant to do is to look at the plan as adopted which is quite detailed on the standards and what would go into the ordinance, and also to consider the minutes from the Board of County Commissioners meetings and the public comments that were submitted because the Board gave direction at the final public hearing, I believe on including some of those comments and considering them for amendments in the ordinance.

COMMISSIONER SULLIVAN: Right. There were some last minute additions that actually got developed into the plan as I recall and as you say some others for consideration for the final ordinance. And then the ordinance will go through two public hearings, is that right?

MS. MCGOWAN: We're anticipating a forum in the community that the consultant will make a presentation when we have a draft and then taking written comments back from community members for any suggestions. And then working on that draft and bringing that forward to the CDRC. And then there's two public hearings with the Board. That's correct.

COMMISSIONER SULLIVAN: Tell me how that works in the forum then. Do the individuals in the 285 corridor feel that they have an opportunity to change the 285 corridor plan as a result of this or what are the guidelines here for this forum?

MS. MCGOWAN: Mr. Chairman, Commissioner Sullivan, the contract specifies that the ordinance shall conform to the 285 plan. So unless the Board should change the plan, that's what would come forward, would be an ordinance that conforms with that. And as you recall, when you did the second public hearing you adopted some amendments into the plan and the Board specified that some of those amendments would be back on the table when the ordinance came through. So there would be some discussion I imagine in those specific amendments as to whether they would be adopted as happened in the final public hearing or there'd be some changes.

COMMISSIONER SULLIVAN: So the public hearing or the forum would be focused not on a complete rewrite of the plan but on the specifics of adopting and developing an ordinance which complies with the plan and the proposed amendments.

MS. MCGOWAN: That's correct.

COMMISSIONER SULLIVAN: I think it's important that we make that distinction and clarification to the consultant as well as to the residents who may feel that there's some other purpose for this forum.

MS. MCGOWAN: We can make it as clear as we can. We can't guarantee that people will understand it the way we're trying to communicate it.

COMMISSIONER SULLIVAN: And this consultant chairs or runs that meeting and provides the necessary graphics and handouts and so forth?

MS. MCGOWAN: The way the contract is drafted the consultant will be the presenter at the meetings. The County will make the copies, do the mailings, do the advertising.

COMMISSIONER SULLIVAN: Okay. And that's scheduled to be approximately when?

MS. MCGOWAN: We don't have a schedule for when that meeting will be yet. We need to sit down with the consultant and work out a time line with him.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Commissioner Montoya.

COMMISSIONER MONTOYA: Just want to thank you, Judy, for the work that you've done in moving this along and it's always good to get local people whenever possible. It certainly helps with our gross receipts tax.

CHAIRMAN ANAYA: Thank you, Commissioner. Anything else? Was there a motion?

The motion to approve the professional services agreement passed by unanimous [5-0] voice vote.

XII. C. Utilities Department

- 1. Request Authorization to Accept and Award a Construction Contract to the Lowest Responsive Bidder for IFB #25-38, for the Construction of a Sewer Line at Camino Polvoso within Santa Fe County/\$180,513.40**

MS. LUCERO: Mr. Chairman, members of the Board, the Santa Fe County Utility Department in conjunction with the Project and Facilities Management Department are requesting accept and award of a construction agreement in response to IFB #25-38RB1 for the sewer line installation on Camino Polvoso. An invitation for bid was prepared and a second invitation needed to be sent out. The initial bid exceeded the project budget in excess of ten

percent of the budgeted amount and therefore a rebid was done. A total of 26 bid packets were distributed and a bid opening was conducted on January 7th.

The lowest bid is for S & S Joint Venture. I need to clarify the amount on the memo that you have, should be for S & S Joint Venture, \$177,993. We reviewed the bid tabulation and the Utility Department noted an error bringing down the lowest bid even lower. We are therefore asking for acceptance and approval of the low bidder and the award of this construction agreement #25-0097-PFMD in the amount of \$177,993 plus applicable GRT to S & S Joint Ventures. I stand for any purchasing questions.

CHAIRMAN ANAYA: Thank you, Susan. Any comments or questions for Susan?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Susan, just regarding the bids, even from the top two, there's a huge discrepancy in the amount. Was what's being delivered here still what the others were proposing to deliver as well in terms of the product?

MS. LUCERO: Any time when you review a bid it's very specific as to what the deliverable is. That is very easy to define. In this case across the board each company did propose to the same items that were required. Now the lowest bid for example, S & S Joint Venture, their low was \$177,000. The other extreme was the highest bid by Khani Company of \$375,000. So that's twice the amount. And those do seem to be two extremes. But the Purchasing Department in conjunction with Utilities did review to make sure that the items we were asking for they were bidding on and indicating that they could perform the work.

COMMISSIONER MONTOYA: And they were within budget, right?

MS. LUCERO: And they were within budget.

COMMISSIONER MONTOYA: Okay. Move for approval, Mr. Chairman.

CHAIRMAN ANAYA: There's been a motion. Is there a second?

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Second by Commissioner Vigil. Any discussion?

Commissioner Sullivan.

COMMISSIONER SULLIVAN: What was the staff estimate?

DOUGLAS SAYRE (Deputy Utility Director): Mr. Chairman, Commissioner Sullivan, the engineer's estimate was \$275,210. I'd like to comment concerning your questions on this because we had the same kind of I guess questionable concern whether he could perform the work. Therefore we asked him to resubmit a letter that said he could do the work and he had considered all the items in his bid so that we had that reconfirmation that he was knowledgeable about that and that he could do the work. We did do a due diligence regarding the Construction Industries Division. Also with the Department of Labor that he is a qualified contractor. We also looked into references on him that he has performed work like this before and it has been satisfactory. So we were certainly concerned about that. He basically indicated that he wants to do this in 60 days and that's one of the reasons why he thinks he can get the work done at a much lower price than the other contractors. We had allowed 90 days on this

contract and that was some of the reasoning that he said he was going to get in and do it as quick as possible as far as getting this project completed.

COMMISSIONER SULLIVAN: And he's provided of course a performance and payment bond?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, a payment and performance bond are required as well as a certificate of insurance before we go to preconception conference. But all those are required in the contract before we will go forward with that.

COMMISSIONER SULLIVAN: Where is this street?

MR. SAYRE: Camino Polvoso is in the western part of I guess the Santa Fe area, basically directly north of Home Depot between Agua Fria and Rufina Street. It's about 3,000 feet of area in that particular -

COMMISSIONER SULLIVAN: And it's the county.

MR. SAYRE: It's in Santa Fe County.

COMMISSIONER SULLIVAN: In the county. Is it part of the traditional historic Agua Fria Village?

MR. SAYRE: I don't believe it is. It's close to it.

COMMISSIONER SULLIVAN: But it's still in the county.

MR. SAYRE: It's still in the county.

COMMISSIONER SULLIVAN: And is this funded by state capital improvements grant? How is this funded?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, there's a \$163,000 legislative grant, actually two. One for \$100,000 and one for \$63,000, and then the remaining amount will come from the County GRT funds that were allocated a year or so ago to this project. But originally we thought we were going to have to allocate \$120,000. It looks like we're probably in the neighborhood of \$30,000 or \$40,000 at the present time.

COMMISSIONER SULLIVAN: And the collection of course goes to the Santa Fe treatment plant. Is that correct?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, that's correct. It goes into the Agua Fria main sewer and some of it goes into the Rufina sewer but it does proceed to the City of Santa Fe main wastewater plant.

COMMISSIONER SULLIVAN: And how many residents does it serve?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, presently I think there's 34 homes on that street. There's a possibility of probably about another eight to ten. So it could be up to 42. The City has indicated they're anxious to get additional wastewater into their system, since their plant flow is less than they anticipated at this point in time. So they are anxious to get additional users in the area. This is an area that's in need of community sewer system.

COMMISSIONER SULLIVAN: So is it the City's plan to charge us \$32 million for this service?

MR. SAYRE: Mr. Chairman, I don't know that that's a possibility. They have

been part of the approval of this entire project because they will take it over for operation and maintenance once it's completed.

COMMISSIONER SULLIVAN: Oh, the City will take it over as a part of the City sewer system.

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Because Santa Fe County doesn't have a sewer system. Is that right?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, it doesn't have a sewer system in that particular area, no. We do have a sewer system but it's out in the south county area, what I consider by the state pen.

COMMISSIONER SULLIVAN: Okay. So we're expediting this for the local residents who are of course Santa Fe County residents and putting in the balance of the funding to complete it.

MR. SAYRE: That's correct, Commissioner.

COMMISSIONER SULLIVAN: Thanks, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I'm really glad to see this item on the agenda. Since the time I was with Santa Fe County as an employee this item was brought to my attention from the state legislature so I believe we'll be receiving some kudos from some of the members of the legislature on getting this project done. I know working with the Agua Fria planning process many of the people have been working towards this end so I'm glad there's a resolution and I'm glad we're moving forward. We're helping out a community who has wanted this project for quite some time, at least a cluster of that part of the community. So thank you for bringing that forward to us. Do we have a motion, Mr. Chairman?

CHAIRMAN ANAYA: Is there a motion and second?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN ANAYA: Any more discussion?

COMMISSIONER MONTOYA: Mr. Chairman, I'll just say that Senator Nancy Rodriguez is going to be real happy.

CHAIRMAN ANAYA: Commissioner, I was going to say that and I'll say it again. She will be happy. I want to know from Tony, if you could come forward, I've got a real short question. How long - when was the funding in place for this project and how long has it taken to get this funding and how long have we had this funding?

MR. FLORES: Mr. Chairman, we've had funding for this project since the 2002 session and it came in at the latter part of 2002. So we've had this project on the books almost three years.

CHAIRMAN ANAYA: I'm happy to see this is going forward but I'm also kind of disappointed that it takes three years to get those projects completed. And I know that what we've got to do is we've got to sit down at the same table and Gerald, you need to help us out on this. Roman. These projects are taking too long to get to this point. I remember twice

Senator Rodriguez asking me where this project was in front of staff. I told her Don't worry about this project; we'll take care of it. Staff, right there, said Don't worry; we'll take care of it.

I thought this was taken care of two years ago. I'm not going to pass any blame to anybody but there's projects out there that need to get done. We have the funding and we need to move them forward and we need to figure it out. We need to sit at the same table and figure out how we are going to move these projects forward. Because it is embarrassing when the Senator time and time again approached myself and staff and asks for these projects and where are they. And they are funded and they should be in the process and getting done. Three years is just too long.

So I'm glad to see this come forward. I'm a little upset but, Gerald, Roman, we need to work on this process.

The motion to approve the construction agreement for Camino Polvoso passed by unanimous [5-0] voice vote.

COMMISSIONER SULLIVAN: After that, should I change my vote?

COMMISSIONER CAMPOS: Move to table.

CHAIRMAN ANAYA: No, don't table.

COMMISSIONER SULLIVAN: Move to table until Senator Rodriguez agrees to water supply plans.

XII. D. Matters from the County Manager

1. Request Authorization to Enter into a Two Year Employment Agreement with the Santa Fe County Manager/\$106,000 (per year)

MR. GONZALEZ: Mr. Chairman, members of the Commission, Steve Ross, I think can answer any questions. This is bringing forward the renewed contract for my employment. There have been some minor changes to it but it's basically the same contract that's been in existence since I first began as County Manager.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Ross, could you point out those changes?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Montoya, they are the base salary and the two-year duration of the contract.

COMMISSIONER MONTOYA: Okay. Mr. Chairman, Mr. Ross, regarding the termination clause, on that one, as I read it, we are liable for three months for the aggregate salary. Is that correct?

MR. ROSS: Yes, it's three month's severance pay, Commissioner Montoya.

COMMISSIONER MONTOYA: So would that exclude us for example, if

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something were to happen where a year from now, would we be liable for the full year or just those three months of salary?

MR. ROSS: I think you'd only be liable for the three month's salary, Commissioner Montoya. This is a termination clause. The term of the contract is a two-year contract and it terminates on its own terms in two years, so this termination clause has to pertain to termination early. So if you chose to terminate the contract early this provision would then take effect and you'd be liable for three months severance pay. They're not for the paying of the remainder of the contract. It's not like - you see that a lot in sports contracts.

COMMISSIONER MONTOYA: Yes, exactly. He's our quarterback.

CHAIRMAN ANAYA: Are you done, Commissioner?

COMMISSIONER MONTOYA: Yes, I'd move for approval, Mr. Chairman.

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

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Second. Discussion? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, could you explain on the first page, The County Manager will also be entitled to receive pay increases commensurate with cost of living pay increases afforded to all employees during any fiscal year. Is our practice - I know we give pay increases to employees, or rather they earn those pay increases, and we of course try to be sure that those increases at least keep up with the cost of living if not better. Does this say that that will be in addition to the salary or is this in the event of a specific COLA type increase given to the employees?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, this appears to me to be referring to a COLA. If you gave a COLA across the board type increase to all employees the Manager would also receive that benefit.

COMMISSIONER SULLIVAN: But saying that we're going to give employees, all employees a five percent increase next year doesn't apply. Even though it's based on obviously the cost of living it would have to be a specific situation where we felt the cost of living was suddenly rising for some reason rapidly and we would declare a COLA for all the employees. Is that what you have in mind here?

MR. ROSS: Well, once again, this contract has been in place. I didn't draft this so I don't know what the drafter of the contract had in mind but in terms of the practice I think has been that if there's an across the board increase given to employees that the manager also receives that. I'm not sure that for example, the increase that was given this year. I'm not sure that was denominated exclusively as a COLA because that would have to be based of course on the cost of living. But it was an across the board kind of increase, and I understand that's the practice, that this language applies to this kind of increases.

COMMISSIONER SULLIVAN: Once a year we review salaries as a part of the budget process and we look at the cost of living, obviously, as a part of that. And we make a determination as we did this year, depending on salary level, what the increase would be. And I think we had a tiered thing. Is any of that salary that's determined through that annual budgeting process, does that add on to this \$106,000 salary or not?

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, the way I understand this operates is because of the way the Commission adopted the increase just kicked into effect in January, that increase would have applied to me and it would raise my salary to roughly \$105,000. This document raises it approximately another thousand so I'm still within roughly the three percent that all the other employees received as a consequence.

COMMISSIONER SULLIVAN: Because you were in excess of the \$40,000 a year salary, you were at the three percent level. Is that correct?

MR. GONZALEZ: That's correct.

COMMISSIONER SULLIVAN: Okay, so your definition then is that annual salary review is a COLA.

MR. GONZALEZ: That's correct.

COMMISSIONER SULLIVAN: So that upon review of this agreement next year, at a minimum you would be entitled to whatever increase in your salary category we gave across the board to other employees.

MR. GONZALEZ: Unless the Commission made a contrary decision.

COMMISSIONER SULLIVAN: Unless we fired you. But as long as the agreement is still in force and no other termination provisions have been enacted, you would be entitled to that unless, as you say, the Commission decided that they wanted to offer you more for the second year. So is the Commission, everyone understands that? Is comfortable with that? I just wanted to clarify what this cost of living meant. Because it may not be the cost of living. The cost of living may be three percent and we may decide on five percent and I don't want to have to get into an argument as to what the cost of living is and who determines what the cost of living is, what index do you use? I think I understand the way, Gerald, you've described it. That differs a little from what Mr. Ross has said but if the Commission is comfortable with that I'm comfortable with it.

CHAIRMAN ANAYA: Any other comments? Is there a motion?

COMMISSIONER SULLIVAN: I think there was a motion.

The motion to approve the employment agreement with the County Manager passed by unanimous [5-0] voice vote.

XII. D. 2. Discussion and Request for Direction Concerning Options Related to the Recovery of Addictions Program (RAP)

MR. GONZALEZ: Mr. Chairman, members of the Commission, I requested that this item be placed on because as you know, we've had some ongoing discussions concerning the RAP program and what the County's role could be given the crisis that that program is currently facing. I'm going to ask Steve Shepherd and Jaime Estremera-Fitzgerald to fill you in on some details, but there is a potential role for the County there and we wanted to make sure that we kept you informed on what was going

on there and also hopefully get some direction about how to proceed in the future.

STEVE SHEPHERD (Health and Human Services Director): Mr. Chairman, Commissioners, recently we've talked with the RAP board about ways to keep their services open and available in the community. One thing we've talked to them about is assuming liabilities in exchange for the County assuming essentially their assets and running their program. At this point we're looking for some formal direction from the Commission to go ahead and explore that possibility at this point. We know that there are legal and financial and asset issues that will have to be looked into to see if this is something that we can do.

That's where we're at at this point and I'd stand for any questions that you might have.

MR. GONZALEZ: I just wanted to add that our legal counsel has also participated in some dialogue with both the Department of Health and some of the other parties as well.

COMMISSIONER MONTTOYA: Any questions?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Shepherd, you've said you want direction as to whether to move forward. Give us some parameters as far as time lines, money commitments, things like that.

MR. PINO: Well, at this point I'm going to rely on Steve a little bit on the time lines that could occur. We're willing to move as fast as we can, assuming that it's financially viable to do this. We know that state, through the Region II Behavioral Health Organization and the County are probably RAP's two biggest funders. We've had discussions with the state, with the secretary and I'd let Jaime Estremera-Fitzgerald fill you in on a little bit of those but we have got their commitment that they're willing to work with us as partners.

COMMISSIONER CAMPOS: Mr. Shepherd, just a quick question. This money from Region II, where does it come from? Is it federal money?

MR. SHEPHERD: It's state money.

COMMISSIONER CAMPOS: It's strictly state? It's not passed through?

MR. SHEPHERD: No. It's state behavioral health money.

COMMISSIONER MONTTOYA: Are you sure? Is it state general fund, or is it a combination of state and federal? I think it's part of the federal block grants that the state receives.

MR. SHEPHERD: That's possible.

COMMISSIONER MONTTOYA: I think it's a combination, Mr. Chairman, Commissioner Campos.

COMMISSIONER CAMPOS: That's what concerns me because the federal budget is being – the new Bush budget is tough. If we're looking at doing this program in the future are and we going to be relying partly on federal funds, we're going to be in

trouble.

MR. SHEPHERD: That's correct. We'd be relying on that and the state's also making a large change in the way it distributes behavioral health funding. I just came from a meeting about that today. We would be relying on that but what I would - I'll turn it over to Jaime here, but what I'd like to say, one of my goals in looking at this is to make sure that we're financially viable at start-up so that we don't get into a situation where we're looking at County general funds.

COMMISSIONER CAMPOS: Exactly. But if we're relying on federal money we've got to be really extra careful.

JAIME ESTREMERA-FITZGERALD: Mr. Chairman, Commissioners, to that particular point, Commissioner Montoya, you're right. There are some federal funds. However, the largest share of this contract is state funds. And under the state entity, which is the new way that behavioral services will be delivered in the state of New Mexico, the state entity will be up and running, it will be officially announced by the end of April but it will be up and running operational by July 1st, which means that all behavioral providers will have to be in contract negotiations with them before July 1st and that contract is expected to be around \$200+ million, probably the largest in the country.

And it will be a combination, but to answer Commissioner Campos, the money that is federal, whatever the department commits, because it's the department that does the contract, will be monies that are already committed, not money in the future. What would happen if there was a cut-back in federal dollars, the state entity would have to work with the state to then decide how much money will be put to behavioral services.

But I think what I wanted to convey - Steve Ross, our attorney here for the County can speak more. He's also been in conversations with the secretary, Michelle Grisham. I just spoke to her, Mr. Chairman, and unfortunately, she had planned to be here but she's in a committee at this very moment with some of our own delegation members, testifying to them on a large healthcare bill and she can't be here. She wanted me to convey to the Commission and to our management at the County that while she can't publicly say that she prefers one entity over any other entity, she believes that regional government stepping up to the plate, along with the state in terms of making sure that these critical services don't get lost is very, very important, and that whatever process the County decided to follow and whatever outcome would be the outcome of that process, the state would certainly support Santa Fe County and be willing also in the meantime offer technical assistance as well as any other kind of help to try to ensure that the main thing, the critical services that are in existence at RAP for Santa Fe County and the north would stay intact and wouldn't disappear.

That's the real major message she wanted me to convey to you, Chairman Anaya, Commissioners.

CHAIRMAN ANAYA: Any other comments? Commissioner Montoya.

COMMISSIONER MONTOKYA: Mr. Chairman, I think this is an opportunity really for Santa Fe County to take the lead in doing something that's going to

be good for the citizens of this county. These services are needed tremendously. I think sometimes we look at different models. This would certainly be a different model in terms of having the county take the lead on these types of services and we're already actually starting to do it with the CARE Connection. So I think this would fit well in terms of the bigger scheme and the overall picture of the direction that we could head in in terms of providing behavioral health services in Santa Fe County.

I think if we have that type of commitment and with the model, Jaime, that you explained that the state is moving toward, I think, unless I'm missing something completely that the County is actually in a pretty good position financially. We're not going to get zapped or strapped without it hitting from the top first. Naturally, if there's cut-backs and Commissioner Campos, you're right. Part of the cuts that Bush is proposing is within substance abuse prevention and treatment block grants. So those cuts are going to have to naturally transgress and go down the line.

But I think it's certainly something for us to look at in terms of the asset issues. What is it that we would assume in terms of some of the assets? I'm assuming that it would be the buildings, probably the property and that sort of thing, where eventually, we could have a great continuum of care within Santa Fe County. So I would encourage us, Mr. Chairman, to proceed in looking at what we can do as a County government in continuing and making sure that these services are continued within the county.

CHAIRMAN ANAYA: So clear direction would be for staff to continue looking at the options and working with the state, with Secretary Lujan Grisham?

COMMISSIONER MONTOYA: That would be my humble opinion.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. It's unfortunate that Recovery of Alcoholics Program actually came to this place. It was such a needed service in our community and I actually know that it is a continued needed service here. I think it's a good idea for us to move forward, to explore the options here. I want to make sure that Santa Fe County isn't exposed financially in a way we shouldn't be and I also believe that one of the ways that can happen is if we partner with the state.

These programs are so needed that they tend to be ignored because their need is so apparent and they continue to serve residents who - I don't know of any other program within the immediate vicinity that provides the in-house service that they do and there's a lot of families that have been positively impacted by the services that RAP has provided. If Santa Fe County can provide a leadership role here I'd like to see us do it, always keeping in mind that we don't want to expose our liability also. So I am in consensus with that, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think it's a great opportunity. I would just have one caveat and that is that I wouldn't want this to be an excuse for us not to move forward on completing what we've planned out at the Galisteo facility and the detox center. We've been dragging that project out for way too long as it is and I understand,

Steve, that we're close, but maybe you can tell me how close.

MR. SHEPHERD: I'm going to ask for some help from Tony on the construction, but we do have a floor plan. I don't know exactly when we'll go to construction but we're ready to move along as fast as we can.

MR. FLORES: Mr. Chairman, Commissioner Sullivan, we have currently met with the City of Santa Fe to go over the preliminary floor plan. We're in the process of hiring an architect under a small purchase for professional services. We estimate the time frame for development of that plan at three weeks, is our anticipation that we would be under construction April or May of this year. So two to three months from now.

COMMISSIONER SULLIVAN: So the opening would -

MR. FLORES: We're anticipating by June, the end of this fiscal year, we'd be open for business.

COMMISSIONER SULLIVAN: Okay, and is the County as the starter going to operate it, or is a contractor going to operate that? How would we do that?

MR. SHEPHERD: At this point the plan is to have the County operate the facility.

COMMISSIONER SULLIVAN: Okay. Because PMS is operating the CARE Connection, right?

MR. SHEPHERD: That's correct. And I would like Mr. Chairman, Commissioner Sullivan, state that Tony did hold a neighborhood meeting a week or so ago at our place and I thought it went pretty well.

COMMISSIONER SULLIVAN: People were generally supportive of the concept?

MR. SHEPHERD: There were a few negative concepts but as neighborhood meetings go, and Councilor Heldmeyer was there as well. I thought it went really well.

COMMISSIONER SULLIVAN: Excellent. So we're on track with that. And that would be my only caveat. Beyond that, I think what the facilities that RAP provides or has provided are needed. They're a different type of treatment and facility. They probably lack the capital to expand when and where they needed to expand and the County may be able to help in that regard.

MR. FLORES: Mr. Chairman, Commissioner Sullivan, real quickly. We do have an appropriation that was received in December 2004 for the RAP program. Senator Maes, before he left office, ensured a \$300,000 appropriation for RAP for modular structures. We are kind of at a standstill right now getting that solicited but we do have \$300,000 for modular structures that RAP was intending to convert into their transitional living as well as administrative spaces. They could increase the number of beds for their continuum of care inside their facility.

COMMISSIONER SULLIVAN: But we have legal issues to deal with. I assume that Steve has been working on these. I assume the discussion is about receivership and other legal issues. I'll just ask as a last question, Steve, do we have any time frame in how we deal with these financial obligations that RAP has if they're going into

receivership?

MR. ROSS: The timetable is now. There's things happening right now. There's at least two law suits pending, one of which is a petition by a former board member for receivership, that this company be placed in the receivership. The company is really insolvent at this point. They owe the Internal Revenue Service about \$96,000 in back withholding taxes. They owe Santa Fe County Indigent Fund \$130,000-some. They owe the state Region II \$160,000, and they're essentially shut down. They're only rendering limited services at this point. So there's - if you want to pursue some options, my suggestion would be, number one, don't limit your options. Let's see how things play out. I've already entered an appearance in both pending lawsuits. So we'll know when things are happening. We're talking to the state. They could easily institute their own receivership if they wanted. They have statutory authority to do that.

But I am in contact with the new attorney that RAP hired to try and help them through this difficult time and he's an expert at either winding down or fixing non-profits. And I'm in contact with the attorney for the fellow who's seeking to place the corporation into receivership. So there's a number of options on how the County could participate in either taking on the services themselves or facilitating somebody else taking on the services so the services continue. But it's pretty time-sensitive because there is, like I say, there are two pending lawsuits. There's a potential of a Department of Health receivership. I don't think they want to go there but there's certainly the potential. They have the right to do it. The company is teetering on the edge of what I would describe as bankruptcy.

So it's important if we're going to go in there and have a positive impact that we do it fairly quickly. So I would say the receivership could be in and out in 90 to 120 days if the court actually decides to appoint a receiver. So we have maybe that window of 90 to 120 days within which to figure out what's happening and make a pitch if the County wants to participate actively.

COMMISSIONER SULLIVAN: Mr. Chairman, I would support the direction that Commissioners Montoya and Vigil have put forward.

CHAIRMAN ANAYA: Okay. Commissioner Campos, do you agree?

COMMISSIONER CAMPOS: I agree. I think we need to move forward, look at it very carefully. I think it's an important thing. We have an obligation to the community to do that.

CHAIRMAN ANAYA: And I believe Commissioner Vigil, you agree too?

COMMISSIONER VIGIL: Of course.

CHAIRMAN ANAYA: I agree with the agreeers.

COMMISSIONER VIGIL: So we're all in agreement.

CHAIRMAN ANAYA: You've got clear direction? You know what -

MR. SHEPHERD: Yes, we do.

CHAIRMAN ANAYA: Good. Thank you.

XII. D. 3. Legislative Update

MR. GONZALEZ: Mr. Chairman, Commissioners, we wanted to make sure we keep you in the loop as we go through the session. As you know we've not quite yet hit the final deadline for introductions but we're almost there. I'll let Tony give you a more detailed briefing but among other things we're tracking something like 600 bills that could potentially affect the County, either positively or negatively. That's one of the challenges for our lobbying team is making sure that the ones that shouldn't get through don't get through as well as that the ones that should get through do.

In addition, we're also tracking and I think have an idea of what the shape of our capital outlay could look like. However, there are some significant issues that have arisen that could potential place us in a hazardous position with respect to being able to achieve the capital outlay goals that we've set. Some of those are external factors having to do with some of the issues related to discussions with the City. To some extent some of the discussions involving Eldorado and how to handle that issue and then at the same time, internal issues having to do with the expansion of the original request that we took to the legislature and their concern over the growth of our list. With that introduction I'll go ahead and turn it over to Tony and to Jaime to fill in some of the gaps.

MR. FLORES: Mr. Chairman, thank you. Briefly, as of this morning, there's 3100 bills that have been introduced. Only one, the feed bill, has been adopted into law. 1300 bills on the house side, 1700 on the senate side. As Mr. Gonzalez indicated, there's approximately 613 bills we're tracking as of this morning and that's not just printing out the bills, that's ensuring that an analysis is done on each of them, the appropriate staff members are assigned to the committee hearings and then issuing testimony as Gerald indicated either for or against a particular bill.

Those that are interesting to note, the one that you all should get a kick out of is House Bill 373, which allows you as elected officials and any other elected official in the County government the right of recourse if they feel the budgetary appropriations that are made by the Commission are not appropriate. You can cite the County in the courts and the district judge can then rule either for or against the elected official's request. In other words, if for instance we had an elected official that felt her budget was not satisfactory or appropriate to conduct her business, she could petition district court and sue you to be able to make sure that you make the appropriate appropriations for her budget. Interesting bill, coming up tomorrow morning for its first hearing at 8:00 in Government and Urban Affairs.

It's one we've heard numerous times over the past 7 ½ years that I've been with the County, there's always been discussions about elected official's budgets and their recourse. This is now a bill that's been introduced that would provide them that opportunity or you the opportunity if it's passed.

Other bills of significance, of course, our database bills are going through on somewhat of a parallel track. Water, Commissioner Montoya, we are currently tracking 33 bills both house and senate and joint memorials. That does not include – those 33 bills do not include

approximately 46 different funding bills through NMFA, either their loan fund or their grant fund, so we're tracking water and wastewater on two issues. One is a substantive issue dealing with the different bills, and we talked about this at last week's meeting. Everything from the joint memorial establishing an interim committee that we had spoken about that was actually brought up in the City of Albuquerque and Bernalillo County at the request of Representative Nunez to Senator Wilson Bedford's last introduction yesterday, which establishes an appropriation for \$50,000 to do water planning for the Estancia Basin.

So the gamut on water bills is everything from limiting the use of domestic wells to charging impact fees to providing a direct appeal to district court of an OSE decision. So there's no in between hearing process. If they deny an application or approve an application, that immediately goes to district court. There's also numerous emergency declarations totally \$100 million for water projects on an emergency basis. So the water bills themselves are lengthy. I could go through each one of them. That would take some time but there are over 30 bills of those.

Capital outlay, as of last night, 1400 house and senate capital outlay requests. The house is a little behind on their applications. The senate outnumbers the house right now two to one on capital outlay. We have conducted three hearings for capital outlay on the house side. Our total request right now, both external and internal and our strategy exceeds \$10.2 million. It has put us in a precarious situation. Over there our strategy only \$4.6 million as projects that we could complete and get off the books. With the internal and external requests, that number has grown to \$10.2 million and we are currently negotiating with different members of the delegation on how we can strategize and get the most out of our capital outlay efforts.

In addition, we're dealing with issues that are revolving around different water associations. Our bonding authority that was authorized in November and the influence that it has on capital outlay, specifically during capital outlay hearings it has been brought up on numerous occasions that the County floated \$72.5 million in road, water primarily bonds that we need to stay out of the legislature to ask for the dollars. Those are recurring themes right now and as we caution the board, when we talked about the bonds in June, July, through October, November, that was going to be something that would be coming up during the capital outlay hearings.

We've had various meetings with different delegation members. We had an interesting meeting last night with Senator Campos who chairs the Senate Capital Outlay Committee and got some insight from him. Those discussions will be ongoing. They are proposing to establish in the interim, a capital outlay interim committee that deals with state projects as well as other projects and one of the concerns that we raised that he's very receptive to is actually having a local person or entity or individual serve on those committees, possibly through the Association of Counties as an appointee.

We continue every morning. Usually the governor appears at 8:00. Right now we're supposed to be in Senate Finance. Right now. And those are Monday through Sunday. We've had some very good meetings with members of the delegation Sunday. Jaime and I had a very long discussion with our freshman delegation members that I thought went extremely well.

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Of course DWI is a huge issue this year. I think to date there's over 60 bills that have been introduced on DWI issue and it seems like every delegation member of the state has jumped on a different issue from mandatory DWI interlock for juveniles to mandatory DWI interlock for first offenders, making DWI a habitual offender offense, to funding, etc. so DWI is a huge issue.

Education, quite a few bills on education this year. No New Mexico Kids Left Behind is one of the latest ones that's going through. And of courses, at the direction of the Board we are following very closely the Medicaid/Medicare issues and the requests for full funding. There's still some movement of about \$20 million on what the full funding means. So the gamut is wide open right now on the session. And with that I would stand for any questions?

CHAIRMAN ANAYA: Any comments? Commissioner Vigil.

COMMISSIONER VIGIL: I need a clearer understanding of your report. You said that our request has increased since we submitted it? Are we submitting more requests than what this body acted on?

MR. FLORES: Mr. Chairman, Commissioner Vigil, the Board approved the strategy of how we would complete projects in December that has come through since the inception of the ICIP. Based upon that initial strategy there have been various requests both from the delegation members on projects that the County would accept as part of their priorities, as well as additional projects that have raised themselves up through the process without going through the ICIP process. Women's Health Services, for example, \$2 million, and there's really no give or take in that capital outlay. That has raised itself rather quickly to the top of the list. So we have received quite a few projects through that process that have taken a \$4.2 million strategy up to about \$10 million.

COMMISSIONER VIGIL: Women's Health Services, I remember at our last legislative meeting, at least we were informed about that. Are there other project that this body isn't fully informed about?

MR. FLORES: Mr. Chairman, Commissioner Vigil, various road projects have presented themselves, primarily from delegation requests that were not included as our top priorities.

COMMISSIONER MONTOYA: Mr. Chairman, on that point.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I have one, Commissioner Vigil and Commissioners that did come up and it's about for \$66,000 in El Valle del Arroyo Seco.

CHAIRMAN ANAYA: A road?

COMMISSIONER MONTOYA: A road, yes.

MR. FLORES: So with those we are working with the delegation member from that district, making sure that the capital outlay request is submitted, filled out, and then we'll be there to handle the testimony if necessary for the house capital site. For facilities, we've received numerous requests for City/County projects, non-profit organizations that have come through that have approached the delegation directly and that have been ultimately put forward.

Quite a few trail projects that have been brought up by other non-profit organizations

like Trust for Public Lands of the Camino Real River Corridor Committee. So, Mr. Chairman, Commissioner Vigil, they range from quite a few different projects than what was on our strategy.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. With regard to the Buckman Diversion, when we last met, one of the issues I brought up was creating a united front to our delegation. We have a specific request. The City has a specific request. Where are we with that?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, we've had one direct meeting that we set up with the City to discuss that. They agreed that we need to have a consistent number. We told them what our number was and that we were staying with our number. We have not heard back, although there was a commitment on the part of the City Manager and the other attendees at that meeting to try and firm that up. I know there have been some follow-up discussions with the City lobbyist but we still don't have an official response that I know of in terms of that number unless Tony has some more current information.

MR. FLORES: Mr. Chairman, Commissioner Vigil, that's correct. We don't have an official response from the City. However, we have, in this office last Thursday and with Mr. Estremera-Fitzgerald's work come up with a number that both lobbying teams are working towards. However, as the official number we have not received that from the City.

MR. GONZALEZ: Also, one of the difficulties, some of the projects that the Commission has endorsed between the time that we adopted the strategy that Tony referred to and this point have counted against the County with respect to our capital outlay. So that's expanded the field from that standpoint. Part of that is, a fortunate or unfortunate consequence that we'd be the fiscal agent for those projects. There's no place else to send them, so they end up counting against the County.

There has been some concern expressed by the delegation, not only with respect to those projects but also some concern expressed that if the County is in the business of loaning money to other water entities and the specific example that was pointed out was the Eldorado project, then the County has no business being at the legislature asking for capital outlay funding.

CHAIRMAN ANAYA: Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we probably would be well advised to ask the staff to get our delegation updated on the Eldorado thing because as you know and I hope they would know that the County can't loan money, and all along the state has suggested and insisted that we partner with entities, which is exactly what we're doing, in fact working towards an equity partnership with them, and that that will reduce the need for the Eldorado Water and Sanitation to come to the legislature separately for funds, which they certainly have the clout to do with 7,000 people out there and 3,500 voters. They have substantial clout even though Representative Max Coll is no longer there, I think we are better off and they're better off by channeling that clout through the County and cooperating and partnering with it rather than having it disjointed.

So I would hope that the staff would keep – and then Steve Ross is up to date on that

- would keep our legislators up to date on that. I understand from the information Gerald has given us that we are off into an interim committee on our water authority legislation as well as the annexation legislation at the direction of the Speaker of the House. The only thing that I would add to that myself, speaking not for the Commission obviously but for me, is if we're going to do that, I think in the spirit of cooperation from the City that the City would agree to a moratorium on its annexation discussions while we participate in that interim legislative activity, and likewise on any initiatives that they might take for regional water projects such as the Estancia Basin project, which I understand is now dead, but nonetheless created a lot of diversion - no pun intended - in the terms of our legislators from our goal to have a more efficient regional water supply and delivery.

I would ask also that the staff approach the City with that suggestion that if we're going to sit down at the table in accordance with House Joint Memorial 1 and arm-wrestle these issues out, which the Speaker asks that we do, that we not have the other activities going on by the City that undercut that effort.

MR. FLORES: Mr. Chairman, real quickly, on the House Joint Memorial 1, the issue that we're facing with Santa Fe County and the City of Santa Fe is a statewide issue. We have actually found out that although the primary focus was the City of Albuquerque and Bernalillo County and that's what brought this up as you recall, the past two session former Senator Aragon tried to clean up that same issue. But Chairman Stell of the Water and Natural Resources on the house side has actually been discussing trying to tackle the issue at a statewide perspective for almost six months now.

I think this provides us an avenue to get in there. I do believe though that there is some issues that we have to work through so that we can make sure that at the Commission's direction we are accomplishing what the Commission wants us to accomplish in the interim. I think with that, from my perspective, is that we would set some framework or groundwork on what we perceive the issues to be and how we can get through them during the interim process, and jump on that rather quickly as soon as the session is done. Those interim committees will start April and May for this next coming session. Although House Joint Memorial 1 has been submitted and it's reached, I believe from our discussions and Jaime's discussions with Chairman Stell, this is an issue they've been kicking around for almost five months to look at a statewide perspective and not just locally.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. Tony, regarding the water bills, House Bill 126 is one that I'm particularly interested in and I don't know if anyone can comment on it and that's the one creating the Indian Water Rights Settlement Fund.

MR. FLORES: Yes, Mr. Chairman, Commissioner Montoya.

COMMISSIONER MONTOYA: And then I guess my second question to that is Senate Bill 172, the companion bill for that.

MR. FLORES: Mr. Chairman, Commissioner Montoya, as you know, Representative Begaye on the house side and Senator Cisneros dropped identical bills -

COMMISSIONER MONTOYA: So they are identical.

MR. FLORES: They're identical bills.

COMMISSIONER MONTOYA: I didn't know that.

MR. FLORES: And as we discussed in our prep for the legislative session in November, the Office of the State Engineer, during an interim committee hearing proposed that the state establish a revolving fund to pay for the state's obligations of the four water rights settlements – Navajo, Gila, Taos, and Aamodt. This was proposed in November. A funding source at that time was indicated that it may come off of a capital outlay overall budget that they would set up a revolving fund that then could pay the state's share.

The bills themselves deal with a couple of triggers. If they get congressional funding to pay their portion then the State Engineer shall notify the legislature of the amount of the state's portion of the cost necessary to implement the settlement. Upon approval of the settlement the Interstate Stream Commission may expend money in any settlement fund to implement the terms of the approved settlement. And they're up for review prior to each November of each year. This has already gone and received to do-passes, both on the first two committees on the senate side, which was Conservation on the house side, which was House and Governmental Affairs, to move to the next level.

What hasn't been decided is the mechanism to provide the funding. As I indicated in November they had originally proposed that it is capital outlay. That has yet to be determined whether it's capital outlay or it's recurring general fund to fund this. And this again deals with the four Indian rights settlements that are currently active or being closed. I can tell you that at yesterday's State Engineer's hearing through Senate Finance that Mr. Garcia and myself attended, Mr. Sanders gave an update to the Senate Finance on how the settlements are progressing. Interestingly enough, Aamodt was not brought up. They talked about the Gila and they talked about the Navajo. The Taos and the Aamodt were not discussed. Because the State Engineer has been asking for quite a bit of increases to about \$1.6 million for other projects and they did not go into details about the one that affects us. So the bill basically establishes a fund.

COMMISSIONER MONTOYA: Okay.

MR. FLORES: No dollars are tied to it currently. There's also one, Mr. Chairman, Commissioner Montoya, House Joint Memorial 33, which is done by Representative Magdalena, which is a bill for the protection of senior water rights of Native Americans and that was introduced on Native American Day last week. That is a joint memorial recognizing their senior water rights, which could have an effect on all the other settlements that are currently going through litigation.

COMMISSIONER MONTOYA: Okay. And then Mr. Chairman, on Senate Bill 120, that's the one relating to water for active resource management, designation of critical management areas. What's the status on that one? I was made aware of this. This one will impact domestic wells and potentially the issuing of permits from OSE.

MR. FLORES: Mr. Chairman, as I indicated in last week's briefing, there are three bills that are on a parallel track that deal with domestic wells, resource management and critical areas. House Bill 285 that Representative Varela has proposed, House Bill 500, which Representative King has proposed, and Senate Bill 120, which has been introduced by Senator

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Cisneros.

COMMISSIONER MONTOYA: Is House Bill 285 a companion for Senate Bill 120?

MR. FLORES: Mr. Chairman, primarily yes. The exception, those two are companions. Representative King's reduces the amount of acre-feet allowable for domestic wells in critical management areas. The other two do not delimit per se or are as restrictive as Representative King's. Although Representative Varela's is similar, I wouldn't call them identical but they are companions. If that makes any sense.

COMMISSIONER MONTOYA: Okay. And where is that one?

MR. FLORES: Mr. Chairman, Senate Bill 120 I know has gone through Conservation. Representative King's was scheduled for House and Government Urban Affairs by I don't believe it has hit the floor yet.

COMMISSIONER MONTOYA: Which one was King's? I'm sorry.

MR. FLORES: House Bill 500. So those three, House Bill 285 and 500 on the house side and 120 on the senate side all deal with domestic wells in critical management areas.

COMMISSIONER MONTOYA: And then Jaime, with regard to the redistribution bill on the DWI, where's that?

MR. ESTREMER-FITZGERALD: Mr. Chairman, Commissioner Montoya, that bill was going to be dropped today but they hadn't quite finished it up in legislative council. It will be dropped tomorrow by Representative Campos and I will be taking a look at it probably in the morning.

COMMISSIONER MONTOYA: Okay.

MR. ESTREMER-FITZGERALD: And then I'm going to be getting you a copy as quickly as I can. But right now that stands pretty much with the agreement that we had at the Speaker's office.

COMMISSIONER MONTOYA: Okay. Then is Senator McSorley going to carry it?

MR. ESTREMER-FITZGERALD: The idea is that once Representative Campos drops it then he wanted to go across over to the senate and ask McSorley to do the same copy of that bill. Yes.

COMMISSIONER MONTOYA: Okay. And I just want to thank you for all the work that you've done on that and keeping it on track.

MR. ESTREMER-FITZGERALD: Thank you so much. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a question for Mr. Flores. The issue of annexation. We do have an interim, or at least a House Joint Memorial where we talk about regional water at the local level. What about annexation? The Speaker seemed to indicate that he wanted to deal with this in the interim. Do we need to have a memorial so that it does get

assigned to an interim committee for discussion about annexation in Class A Counties, etc.?

MR. FLORES: Mr. Chairman, Commissioner Campos, we have verified that the interim committee discussion points are at the call of the Speaker. We do not require a joint memorial or any type of other document to push anything to an interim process. We have confirmed that as of this morning to see in fact if we needed to drop a memorial. It is our goal that we would work with the Speaker's office to make sure that as soon as the session is over that he does assign those two issues to the interim process. But they do not require legislative action to do so.

COMMISSIONER CAMPOS: Do you think there's a commitment from the Speaker to include annexation as an interim discussion?

MR. FLORES: Yes, Mr. Chairman, Commissioner Campos, absolutely.

COMMISSIONER CAMPOS: Great. I have a couple of questions for our County Manager. I just spoke to you briefly about the issues raised by Albuquerque, Bernalillo County and Sunland, Dona Ana County. What is going on in those cases?

MR. GONZALEZ: I think the references to Nunez' memorial and some of the other -

MR. FLORES: Mr. Chairman, I can tell you from the City of Albuquerque/Bernalillo County, it's either two or three past sessions that they've gone through and tried to clean up how their authorities are working. Senator Aragon has proposed those at either two or three sessions. I know of two for sure that they've gone through and they try to take care of all the problems or concerns that both the municipality and the county had regarding their authority. Specifically, I couldn't tell you what the details are but I know that's what has gone on in the past, is that the City and the County have requested that the authority be relooked at and retooled now that they've been into it for years. And it was more of a clean-up rather than a dissolving of the authority. I can check into that and get you the specifics.

COMMISSIONER CAMPOS: One thing I would like, I know the Commissioners are concerned too, about having continued focus. Last year, a year ago, or longer than a year ago we talked about the regional water and wastewater. We even passed a resolution saying that we were going to go out and talk to all these folks and get it done and have a bill way in advance. We were going to sell it. We've got to pursue. We've got to be focused. We've got to have a case manager for all these things so that it doesn't get lost in different places.

COMMISSIONER MONTOYA: Mr. Chairman, on that point.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: That's why I suggested that at this point and right along those lines that we don't wait until even after the session ends before we start these negotiations with the City. We need to start these things yesterday. Because otherwise the session will end and summer will end and everything is going to end and we'll still be waiting to pursue what's been told through this joint memorial here that we need to work on. So I would suggest that we set those as soon as possible, even now before the session ends.

MR. GONZALEZ: Mr. Chairman, Commissioner Montoya, I hope that the

Commission will keep that in mind as we look at the budget for the next fiscal year as well as the interim period, because one of the issues that we're facing, we've grown considerably as a county. We're now a Class A County dealing with Class A County issues. We're no longer a Class B County and those issues have multiplied. I think at the staff level we've all felt the pressure. In fact the common comment that I get in the hallways from the staff at this point is they have never seen as much activity or work going on in the County as ever in the past. So I think that in part, one of the issues that we need to face clearly is that we are understaffed in terms of dealing with all of the Class A issues that are facing us.

In the past we've had budget constraints that we've had to deal with and that's caused us to have a level operating budget as a beginning and then do the building blocks on top of that. We'll continue to do that as a budgeting matter. But I'm glad you raised that issue, Commissioner Montoya, because it is from the staff's standpoint a huge issue. I don't think that we can continue to throw additional work on staff without starting to see either the departure of staff or other ill effects because we're understaffed to do all the work that we're being asked to do.

There's huge playing field just from the time that I came on board as assistant attorney over in the attorney's office to this point. I've seen the work of the County grow by leaps and bounds and I know that the analyses that have been done with respect to comparing us to other counties, the amount of work that we're doing in comparison to other counties with the number of personnel that we have on board indicates that we're certainly outperforming them. But if we don't do something to address the situation we're going to have our tongues hanging out and we won't be able to get to everything. So I appreciate the comments about focus and I appreciate the comments about moving forward but I hope that we keep that in mind as well as we take a look at the future.

CHAIRMAN ANAYA: Commissioner Campos,

COMMISSIONER CAMPOS: Mr. Chairman, Mr. Gonzalez, I understand what you're talking about. Do you have a proposal coming up in this budget discussion to deal with that?

MR. GONZALEZ: We are currently working on that proposal, Mr. Chairman, Commissioner Campos. We have various components of it that are under discussion. At the staff level we simply need to put the whole picture together and then we'll bring it forward to the Commission.

COMMISSIONER CAMPOS: When do you think we'll be able to look at some of your ideas?

MR. GONZALEZ: We had talked about a next round of budget discussions, I think in another month or two, as we move into full-scale multi-year budgeting process. The meeting we had, the study session that we had, I guess it was last week to discuss the multi-year budgeting process was your introduction to that. So that's the beginning. You will probably see the next round of that within a month and then probably a follow-up discussion even before we start to do the actual budget hearings internally within the County.

COMMISSIONER CAMPOS: Okay. I appreciate that, but the regional water

and wastewater was done by resolution and if there wasn't enough folks, enough people to keep the focus on that we should have been alerted earlier on and we could have addressed the issue six months ago. That's my only comment.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I think probably an overriding issue here, and at least the lesson I've learned and it wasn't difficult for me to learn, Mr. Chairman, because I've been at the legislature, is the issues that we bring about reflect substantive law changes within the statutes aren't issues that we can just take to the legislature after we've enacted a resolution, but in fact they are issues that needed to be worked on through interim committees throughout the year. So my proposal for consideration is that we look at lobbying efforts on an annual basis rather than on a contractual basis.

My feeling is that a lot of what we're experiencing could have been ironed out in the interim and that we went into the session and weren't fully prepared for what we've had to experience thus far. I think if we would have been better prepared if in fact we worked through the interim process at the state legislature and provided lobbying for the County throughout the year. My recommendation, Commissioner Campos, when you're considering a case manager, that's exactly what I'm looking at with regard to this, someone who can be a gatekeeper of these initiatives and really keep us educated, keep us on board and keep the legislature on board on this. Because remember, when this goes to the legislature, they not only have to pass it with our delegation but they have to pass it through the entire legislature.

So working on it just during the session does really no justice to substantive law changes. We really have to work hard throughout the year. So Gerald, as you're looking at your budget I'd like you to consider how we could identify a gatekeeper for these initiatives, a case manager or a lobbyist, whatever would be the most appropriate way to identify that.

CHAIRMAN ANAYA: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I'd like some direction from staff regarding a bill that Senator Grubescic has expressed support regarding revenue sharing of gaming profits. We've had this discussion before, Gerald, with Pojoaque Pueblo and Tesuque Pueblo specifically is what I'm referring to.

MR. FLORES: Mr. Chairman, Commissioner Montoya, as you know, this started last year and I think previous years to that. But Representative Salazar dropped the first bill last year which dealt with the City of Española. So what do we do? That's what I'm asking. What do we do? Do we drop it?

MR. FLORES: Mr. Chairman, as I indicated last week, Representative Hanosh has dropped the one that deals specifically with Cibola County. I don't see the ill effect if we drop it.

COMMISSIONER MONTOYA: What I'm saying is that Senator Grubescic will drop one for Santa Fe County specifically. Should we do it or not?

MR. FLORES: Mr. Chairman, Commissioner Montoya, I would say we drop it. We go ahead and put it into the hopper for consideration.

MR. GONZALEZ: Mr. Chairman, Commissioner Montoya, we do have some

support as you probably know from a number of our Pueblo neighbors. One of the issues that does come up is where does the money flow to if there is in fact that kind of revenue sharing and the legislature still has some difficulty in letting go of those purse strings. So the devil is in the details, as they say, but better to take a step now than no step at all.

CHAIRMAN ANAYA: Okay, do you all have clear direction on what's going on? They lost me. Steve, Gerald, do you have clear direction?

MR. GONZALEZ: My understanding is that we encourage Senator Grubestic to go ahead and introduce the bill and provide support for it.

CHAIRMAN ANAYA: And what about all the rest of the stuff we talked about, annexation and water?

MR. GONZALEZ: With respect to annexation and water, given the discussion that's occurred among the Commission, my sense is that we continue to not only support the interim process but see if we can't refine it a little bit to make sure it stays focused on our issues as well, not just focused on the issues involving Bernalillo County or Dona Ana County or some other counties.

CHAIRMAN ANAYA: Okay.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: We have a lot of capital outlay to protect and that should be a principal reason why we're there. If our legislative delegation is giving us messages that are telling us Santa Fe County has monies and why are you coming to us for capital outlay, we need to address those directly. So I think a constant update with regard to that and an update so that you can actually have the direction of which way to go. I think the issue of the Eldorado Water and Sanitation loan and what that means to our capital outlay is one that we need to iron out quite a bit. My position is that the legislators are telling you, I don't know that I can help you out because it looks like you have money for loans. As a lobbyist I would have to address that right on the spot and I don't know if you've been put on that spot. Have you, Tony?

MR. FLORES: Mr. Chairman, Commissioner Vigil, we have been put on that spot and our response has been that the County in November did authorize a bond, however, we are working at a process so that we can look at partnering, regionalization and that we would not be in the position to loan monies. This holds true for the entire county, north, central and southern part of the county that we've had discussions with different delegation members. So we have been addressing in that form that the intent, I don't believe has ever been to loan. It was more of a partnership, ownership and a regionalization of our systems. And that's why we went out in November. That's the way we've been addressing it today.

CHAIRMAN ANAYA: Okay. Thank you, Tony.

MR. GONZALEZ: If I could just add to that extent, Commissioner Montoya's comments about continuing to repeat that refrain are helpful because I think it's the one that enables us to counter those arguments to some extent.

CHAIRMAN ANAYA: Thank you all for the update. Appreciate it, Jaime, Rudy, Tony. Okay, motion to go into executive session?

XII. E 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 or water rights**

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

[The Commission met in executive session from 4:55 to 6:10.]

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

CHAIRMAN ANAYA: I want to just kind of briefly go over the cases that were tabled. Under the Land Use Department item 1 was tabled, number 2 was tabled, 3 was tabled, 4 was tabled and 5 was withdrawn.

XIII. Public Hearings

- A. Land Use Department**
 - 6. EZ Case #DL 03-4320 – Frank O. and Pearl M. Valdez Family Transfer. Bernie Alarid and Associates. L.L.C., Agent, Frank O. and Pearl M. Valdez, Applicants, Request Plat Approval to Divide 6.8 Acres into Three Lots for the Purpose of a Family Transfer. The Lots Will Be Known As Lot 7-A (3.8 Acres), Lot 7-B (1.5 Acres) and Lot 7-C (1.5 Acres). The Property is Located within the Piñon Hills/Alameda Ranchettes Subdivision, at #3 Calle Estevan, within Section 25, Township 17 North, Range 8 East (Commission District 2)**

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chairman. On December 9, 2004 the EZC recommended approval subject to staff conditions. The applicants are requesting plat approval to allow a family transfer land division of 6.8 acres into three lots. The property is located at 3 Calle Estevan within the Basin Hydrologic Zone. Article III,

Section 10 of the Land Development Code states minimum lot size in this area is 10 acres. Lot size may be reduced to 2.5 acres with water restrictions and family transfers are allowed to be divided to 1.25 acres. There is currently one residence served by an onsite well which will serve all three lots. The applicants have owned the property since 1992. The applicants are requesting to divide the property into three lots for the purpose of transferring title to their two children.

The property is located within a subdivision that was approved by the BCC in 1964. This subdivision is legal non-conforming as it does not meet current subdivision standards for fire protection, roads, water and liquid waste. The application was reviewed for the following: access, water supply, liquid waste, solid waste, terrain management, fire protection, archeological review, environmental review.

Staff recommendation: All existing infrastructure such as fire protection and roads within the Piñon Hills/Alameda Ranchettes Subdivision have been constructed in accordance with the subdivision standards that were in place in 1964 at time of approval. Infrastructure requirements in 1964 were not as comprehensive as today's standards, thus the Piñon Hills/Alameda Ranchettes Subdivision is legal non-conforming. It is staff's position that the redivision of lots within the Piñon Hills/Alameda Ranchettes Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status.

Prior to allowing the creation of additional lots within Piñon Hills/Alameda Ranchettes, the subdivision should be upgraded to current subdivision standards with respect to the size and number of lots. A upgrade to Piñon Hills/Alameda Ranchettes would require, among other things, a fire protection plan and existing roads to be substantially improved. Therefore staff recommends denial of this request as proposed. The BCC has given favorable consideration for family transfers subject to a condition that the lots cannot be sold for a period of ten years. If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed. May I enter those into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. The private easement that extends off Calle Estevan must be developed meeting SFC Common Roadway Standards, prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineers' cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25-acre ft. per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the Land Use Administrator by January 31st of each year.
3. The applicant shall install a water meter for the existing residential unit prior to plat recordation.
4. The applicant must contact Rural Addressing for assignment of addresses for the

- proposed tracts. Addresses must be added to plat.
5. EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$172.04.
 6. A shared well agreement shall be approved by the county and recorded with the plat. The plat shall indicate shared well easements.
 7. The portion of road easement that extends through the platted area must be granted for public use. The applicant shall submit access permit as approved by Public Works Department.
 8. Provide easement for shared driveway access with Lot 7-A and 7-B.
 9. Easements for all natural drainage ways must be provided.
 10. Compliance with review comments from the Fire Dept, including off-site access and turn-around that is adequate for use by emergency vehicles.
 11. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan, and submit permits for existing dwelling unit.
 12. The applicant must submit Family Transfer Affidavits and Deeds of Transfer to be recorded simultaneously with the plat of survey.
 13. Terrain management improvements in accordance with Santa Fe County Regulations may be required for the existing residence.
 14. A retention pond in accordance with Santa Fe County Regulations will be required on Lots 7-B and 7-C at time of development.
 15. Address buildable area in conformance with slope standards.
 16. The applicant must address all minor corrections by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation. The redlines must be returned with the final Mylar.

CHAIRMAN ANAYA: Thank you, Vicente. Any questions of Vicente?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Vicente, regarding the bottom of page 2 on the staff report, required action." The property is located within a legal non-conforming subdivision, therefore the BCC must approve this division." Yet on the middle of the third page, you're talking about therefore staff recommends denial of this request as proposed. So could you clarify that for me please? I'm kind of at a loss because we've got two different recommendations here.

MR. ARCHULETA: Mr. Chairman, Commissioner Montoya, that is - it doesn't mean what it says. Basically what it means is the BCC has to consider this request, either to approve deny or table. We're not saying that the BCC has to approve this particular case. This is just a consideration that the BCC has to make with this proposal. Since it's in a pre-approved subdivision, that's the reason why it's coming to the BCC.

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COMMISSIONER VIGIL: So, Mr. Chairman, probably the appropriate language would be the BCC must consider this project. Is that what you're trying to say?

CHAIRMAN ANAYA: Any other questions of Vicente? Okay. Thank you, Vicente. Is the applicant here? Come forward, sir.

[Duly sworn, Frank Valdez testified as follows:]

FRANK VALDEZ: Frank Valdez, 03 Calle Esteban.

CHAIRMAN ANAYA: Frank, do you have anything to add to the testimony. I want to subdivide for my kids. I think I'm preaching to the choir here because Santa Fe has gotten very, very expensive. I have a son and a daughter and they're both starting their families off. We have grandchildren. I'd like to subdivide for them only because I'd hate to see them leave Santa Fe just to be able to make a living. It's the reason I'm subdividing it. It's for them. I'm not against the ten years. My whole purpose is not to sell. It's for the family.

CHAIRMAN ANAYA: So Mr. Valdez, did you get a chance to look at all the conditions that were listed?

MR. VALDEZ: Yes, I did.

CHAIRMAN ANAYA: And do you agree with all those conditions?

MR. VALDEZ: Yes, I did.

CHAIRMAN ANAYA: Is there anything else you'd like to add.

MR. VALDEZ: No.

CHAIRMAN ANAYA: Are there any questions or comments from the Commissioners to Frank Valdez? Public hearing. Mr. Valdez, we're going to have the public hearing now. Is there anybody who would like to speak in favor of this project or this division? Is anybody against this division? Come forward, sir.

[Duly sworn, Roy McKeag testified as follows:]

ROY MCKEAG: My name is Roy McKeag and I live at 21 Calle Enrique in the Piñon Hills Subdivision. Mr. Chairman, Commissioners, I'm here today in opposition to this requested lot split because I'm worried about my water supply. The Land Development Code allows smaller lots, as Mr. Vicente said, with restrictions. And Mr. Valdez has agreed to all those restrictions. I think it's real nice that the County is trying to protect the groundwater resource. At least since 1998 lot splitters in Piñon Hills have had to install water meters, and they've had to be able to report annual use only upon the County's request. I don't think the County has ever requested anybody to report but they were required to.

Since 2002, lot splitters in Piñon Hills/Alameda Ranchettes have been required to put in a water meter and to submit an annual report of water usage to the County staff. Unfortunately, the people who agreed when they were standing before you to comply with those requests, have not submitted annual water reports. It's unfortunate, but that's the case. Even more unfortunate is that the County has no system whatsoever to keep track of which lots have water restrictions placed upon them, let alone any kind of a monitoring system that would check to see whether or not the actual water usage complied with the requirements that the lot splitters agreed to when they stood before you.

So the practical matter is that these small lots that you're permitting to be split really do not have any restrictions on them whatsoever. And that bothers me because that means that the water table is going to go down faster than what the Land Development Code proposes, which is a 100-year water supply. And that's what all these lot restrictions and limitations on quarter acre usage per year is so that the water table doesn't get depleted faster than 100 years. But since there's no reporting and nobody knows what the actual rate is, the water depletion is going to be faster than 100 years, and that's what I'm worried about.

So although the County staff has had the intention of having a system. They've talked about it for years. They had good intentions but there is no system that exists today and lot splits keep on getting split. That's what bothers me so I request that you don't approve any more lot splits in the Piñon Hills/Alameda Ranchettes area until you get a system that actually sees that the requirements, the restrictions that these people agree to are adhered to. Thank you.

CHAIRMAN ANAYA: Thank you, Roy. Any questions of Roy?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Roy, regarding these lot splits you're referring to, are these lot splits or family transfers?

MR. MCKEAG: Well, the lots are split, often for the purpose of family transfer. As far as the groundwater is concerned it doesn't make any difference whether the lot is split into three pieces for a family transfer or two pieces for commercial sale to somebody else, and in fact, lots that have been split for family transfer do get sold commercially to other people. That's just a fact.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Vicente, do we have any knowledge as to whether or not this well is monitored?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, at this point we don't but one of our conditions is that they meter the well before plat recordation and they put meters on the new - when they come in for a permit they'll be required to bring proof of water meter.

COMMISSIONER VIGIL: Okay. And for the applicant, I have a few questions for you. Is this the only property you own?

MR. VALDEZ: Yes, it is.

COMMISSIONER VIGIL: You own no other property in Santa Fe?

MR. VALDEZ: No, I do not.

COMMISSIONER VIGIL: And you invested in this in 1992?

MR. VALDEZ: Yes, I did.

COMMISSIONER VIGIL: And how many children do you have?

MR. VALDEZ: I have two, a son and a daughter.

COMMISSIONER VIGIL: And this is intended to transfer this to the son and the daughter.

MR. VALDEZ: Yes it is.

COMMISSIONER VIGIL: Do you monitor your well?

MR. VALDEZ: No, I do not. Not right now I do not.

COMMISSIONER VIGIL: Okay. So you have no annual water reports.

MR. VALDEZ: No, I do not.

COMMISSIONER VIGIL: I think that's the only questions I have, Mr.

Chairman.

CHAIRMAN ANAYA: Thank you, Frank. Thank you, Commissioner. Any other comments? Is there anybody else that would like to speak? Come forward, sir.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Maybe the City can annex this part. I see Councilor Robertson-Lopez here.

[Duly sworn, Alvin Valdez testified as follows:]

ALVIN VALDEZ: Alvin Valdez. My father is Frank Valdez and he's attempting this family transfer for me and my sister. I can't really speak for the applicants before me or the people who split before us but I'm willing to monitor our wells. We're paying for our own well. I have two daughters and a wife and it's really hard to find a place to live in this town. I want to stay close to my father and my mother and we want to build our home. That's the way I grew up off of Montoya Circle where we lived for 25 years before we were basically pushed out. I just hope that you'll look kindly upon us because it's not about money or selling, it's about being close to your family.

CHAIRMAN ANAYA: Thank you, Alvin. Is that your family in the back with you? Okay, thanks. Anybody else out there that would like to speak either for or against this?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I saw somebody raise their hand in identifying the family. I think it's my predecessor, Commissioner Paul Duran. Just pointing out that he's in the audience as perhaps an interested party of these proceedings. Welcome, Paul.

CHAIRMAN ANAYA: Welcome, Commissioner and welcome, Councilor. Thanks for being here. With that then, the public hearing is closed. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a question of staff. There's two recommendations. One from Vicente, from our staff, and one from City review staff, both of which say essentially that continued redivision of the lots within Piñon Hills will diminish the performance of existing infrastructure by potentially doubling the density and intensifying the non-conforming status. So both recommend denial. One of the issues I recall, there have been a number of these Piñon Hills come forward and my recollection since I've been on, most of them have been denied. But one of the big issues was emergency service and the issue that there is only one access and egress from the subdivision that goes through an arroyo that can become impassible in inclement weather. Has anything changed in that regard? Has there been any secondary accesses developed for the subdivision?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, at this point there hasn't. Suerte del Sur, I think, is going to have an access at the northern part of Piñon Hills which would account for the secondary access, I believe. They have an easement in the northern part of the subdivision for a secondary access.

COMMISSIONER SULLIVAN: That's assuming that their master plan is approved, right?

MR. ARCHULETA: That's correct.

COMMISSIONER SULLIVAN: As of now they don't have an approved plan.

MR. ARCHULETA: That's correct.

COMMISSIONER SULLIVAN: So that condition still exists, that emergency condition.

MR. ARCHULETA: That's correct.

CHAIRMAN ANAYA: Thank you. Any other –

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Archuleta, I've been here for about four years and it seems to me since I was on here the staff has taken the position consistently that creating additional lots in the subdivision has a negative impact on the safety of people within and perhaps without the subdivision. Is that about right?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, that's correct.

COMMISSIONER CAMPOS: How many divisions of land has this Commission approved in the last four years.

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, I don't have an exact number but it's been approximately I'd say 15 to 20.

COMMISSIONER CAMPOS: It seems that every couple of months we have one, two or three coming up. Usually they come up in groups. I think staff has taken the position that we need to do some things before we continue dividing this subdivision. The Commission basically has taken the position that in the past, for Commissioner Vigil's perspective and context, this Commission has approved a lot of these divisions despite the negative recommendations from staff. So that's the history of it. The staff has been firm for about four years. There's been a lot of divisions out there. There's a lot of concerns for the people who live in there, and that's the history. That's where we're at right now. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments from the Commission? Hearing none, what's the pleasure of the Board?

COMMISSIONER MONTOYA: Mr. Chairman, I would recommend approval along with staff recommendations for the conditions being imposed.

CHAIRMAN ANAYA: There's been a motion. Is there a second?

COMMISSIONER VIGIL: Second.

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

COMMISSIONER CAMPOS: Question.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: For Commissioner Montoya. There's a ten-year provision that they recommend. The staff says that in the past family transfers have been subject to a 10-year holding period. That is no sale after they get the division. Is that part of your motion?

COMMISSIONER MONTOYA: It's not part of the –

COMMISSIONER CAMPOS: It's not a condition; it's a suggestion.

COMMISSIONER MONTOYA: I would add that as a condition.

COMMISSIONER VIGIL: I would second that.

CHAIRMAN ANAYA: There's been an amended motion with the condition to add ten years. Any other discussion?

The motion to approve EZ Case #DL 034320 passed by majority [3-2 voice vote with Commissioners Sullivan and Campos voting against.

- XIII. A. 7. **AFDRC Case #Z 04-5710 – Casa Rufina Apartments. Casa Rufina Apartments (Santa Fe Properties Rufina Limited), Applicant, Anne McLaughlin, Agent, Request Master Plan/Preliminary and Final Development Plan Approval for an Affordable Senior Housing Development consisting of 120 Dwelling Units on 8.31 Acres. This Request Also Includes a Variance of Article III, Section 6.3.3 (Buffer and Setbacks) and Article III, Section 9 (Parking Requirements) of the Land Development Code. The Property is Located at the Northwest Corner of Rufina and Henry Lynch Road, in the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2)[Exhibits 2 & 3: Petition and Letter of Support]**

JOE CATANACH (Review Specialist Director): Thank you, Mr. Chairman, Commissioners. On January 6, 2004, the Agua Fria Development Review Committee met and acted on this case and the decision of the AFDRC was to recommend master plan approval and preliminary development plan approval for a large-scale residential use for an affordable senior housing development consisting of 120 dwelling units on 8.3 acres, and with final development plan approval to be granted administratively. This request included a variance of the referenced articles of the County Code regarding buffer and setback and a variance of the parking requirements of the County Code.

On June 10, 2003 the BCC granted a variance for density and it allowed the 120 dwelling units on the eight acres subject to submitting a master plan and a development plan.

The applicant is now requesting the master plan and the preliminary and final development plan for the large-scale residential use, senior housing, 120 dwelling units total, 40 one-bedroom units, 80 two-bedroom units, 4,000 square foot clubhouse.

The request is to permit specifically as the site plan is proposing, nine buildings and that's a total of 108,440 square feet and eight garage buildings consisting of 13,025 square feet for a total of 121,465 square feet of building area, which is the apartment complex and the garage buildings.

Proposed development will be constructed in two phases. Phase 1 is on 6.9 acres, 100 dwelling units and phase 2 is on 1.4 acres and the remainder which would be the 20 apartment units. It is anticipated phase 1 and phase 2 will be constructed simultaneously. All infrastructure improvements will be built in phase 1. The staff report addresses existing development on the property – the property is vacant, and the request for variances. The request for a variance of buffer and setback of the Code. The Land Development Code requires a 50-foot setback for this type of development, for large-scale residential uses and not including the garage buildings. The proposed setback along the road frontages, Rufina and Henry Lynch Road range from 10 feet to 19 feet.

I was not involved when this was presented to the Agua Fria committee but I read through the minutes and it indicated that the Agua Fria committee did recommend approval of that variance having to do with buffer and setback.

COMMISSIONER VIGIL: Mr. Chairman, a question. That's the Agua Fria Development Review Committee. Do you know if this went before the Agua Fria Planning Committee or the Agua Fria Village Association?

MR. CATANACH: It went before the Agua Fria Development Review Committee, Commissioner Vigil.

COMMISSIONER VIGIL: Okay. Thank you.

MR. CATANACH: But certainly, through the process of the variance on density and this submittal there's been a lot of discussion that has occurred with those committees. I know because I've talked to Robert Griego who's the County staff that is staffing those planning committees and I know they've had discussion about this development.

The variance regarding parking, and the County Code would require two spaces per apartment unit. So we have 120 units, that requires 240 spaces. Now, the Agua Fria committee also recommended approval of this variance and it required 240 spaces and I believe the site plan is proposing 173 spaces.

The staff report addressed access and parking. We have a proposed driveway coming off Rufina Street and a proposed driveway coming off Henry Lynch Road. Those are City right-of-way subject to approval by the City for those proposed driveways and we have a condition regarding the City's review of those proposed driveways off Rufina and off Henry Lynch. I already mentioned the proposal for parking and the related variance. The staff report addresses terrain management and water harvesting. It addresses water, which the City has granted approval for City water and City sewer.

The staff report addresses fire protection, liquid and solid waste, landscaping,

archeology, signs, lighting, trails and open space.

Recommendation: On January 6, 2004 the Agua Fria Development Review Committee recommended approval for the master plan and the preliminary development plan for the proposed apartment complex with final approval to be granted administratively. That included the recommendation for variances, as I mentioned, for the buffer and setback and parking requirements. There might be some confusion exactly what the Agua Fria committee recommended regarding the setback and buffer variance. Bill Agnew, the architect on the project I think may be able to clarify that more. I didn't see too much on the minutes other than they recommended approval, from a required 50-foot setback to the setbacks that are on the site plan. However, I'm not real clear about condition 3, that if in fact they recommended approval of the variance from 50 feet to 25 feet, which is what condition 3 would indicate.

I think Mr. Agnew is going to need to clarify that and certainly we can try to clarify that as well. But as far as – and I think we need more clarification on that if in fact that was the Agua Fria committee's recommendation of 25 feet, that all proposed structures be set back 25 feet and again, I want to clarify, those are the apartment buildings, not the garage structures. In fact parking is allowed within five feet of the property line. So when I talked about a 50-foot setback, the County Code would allow parking within five feet. Generally, that's open parking. In this case they have a combination of open parking and garage parking. But looking at the site plan it would seem to be reasonable and appropriate that in fact there's no issue regarding the garage structures. It looks like they're about six feet from the property line.

As I say, it's kind of offset. You have open parking on one part of the property line, then you have garage parking so it's kind of offset like that. But I think that parking is reasonable and in accordance with the County Code that allows parking within five feet. I think we need clarification on condition 3 and we can try and get that. Anyway, as far as staff's recommendation on the parking, this is a senior housing apartment complex and I think again it's reasonable to believe that in this kind of development it's not like the two parents and the three high school kids, each one with a car and that sort of thing. I think it's reasonable to reduce the parking.

Staff is agreeing with the Agua Fria committee's recommendation on the parking. In fact, in the Extraterritorial Regulations – this property is within the Agua Fria Traditional Historic Community, therefore it's subject to the Santa Fe County Land Development Code, but in the Extraterritorial Regulations, for an apartment complex the calculation is 1.25 spaces per apartment unit. And I think if you multiply 1.25 times 120, you come out to like 150 parking spaces. So in fact their proposal for 173 parking spaces is actually in line with the standards of the Extraterritorial Regulations. Again, kind of using that as a guideline, that in fact the parking is not a problem.

Anyway, the staff is recommending approval for the proposal with final development plan to be granted administratively unless of course the County Commission would like to see the final development plan then that's certainly the County Commission's discretion, if they would like to see the final development plan. Staff is comfortable though that the final development plan can be done administratively. I would go ahead and state that the proposal,

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with the exception of clarification of the setback, condition 3, the list of conditions were recommended.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a. State Engineer's Office
 - b. Technical Review
 - c. State Historic Preservation Division
 - d. Public Works Department
 - e. County Hydrologist
 - f. State Environmental Department
 - g. County Fire Department
 - h. City Traffic Division (Access Permits)
2. The applicant shall submit a letter of commitment from the City of Santa Fe stating that the water and sewer service will be provided to the development, prior to final development plan.
3. All proposed structures shall be set back 25 feet from the property line.
4. The master plan will be recorded with the County Clerk's Office.
5. All staff redlines will be addressed. Original redlines will be returned with final plans.
6. The applicant shall comply with all Fire Marshal requirements.
8. The maximum height of all proposed structures shall not exceed 24 feet.
9. The applicant shall comply with the water harvesting requirements of Ordinance #2003-6. A water harvesting plan shall be submitted with the final development plan application.
10. A detailed lighting and signage plan must be submitted for review and approval prior to final development plan approval.
11. All trash dumpsters must be screened by a 6-foot solid wall or fence.

At this time, Mr. Chairman, I would like to make a couple of changes and actually, I talked of this one change, adding a condition, and I did talk to Bill Agnew, the architect, and he indicated agreement with adding this condition and the condition would be that they make an off-site road improvement, they construct a sidewalk for the length of their property along Henry Lynch Road. That would be within City right-of-way, so it would have to be construction of a sidewalk as approved by the City Traffic Division because that sidewalk would be built within City right-of-way. I believe that portion of Henry Lynch right-of-way is City right-of-way. They would construct a sidewalk along Henry Lynch Road for the length of their property within City right-of-way subject to approval by the City. So I did talk to the applicant about that. They indicated agreement and the only other change I would make, and I think it's a given but I want to include it anyway, condition 10, that not only include a detailed lighting and signage plan but include landscaping in there as well, a detailed landscaping, lighting and signage plan as part of condition 10.

I want some clarification from the applicant regarding condition 8. I noticed a tower as part of the building elevations. It seemed to be an architectural feature but it was a 29-foot tower. So I think condition 8 would not allow that tower to go up to 29 feet. In fact the County Code would actually allow a 25-foot high max so if actually – I want some clarification from the applicant but if they're proposing an architectural feature, which is that tower that goes up to 29 feet and our condition says that the maximum height shall not exceed – and I just changed that from 24 to 25, I think this applicant needs to clarify whether they're going to be able to bring that architectural feature down to 25 feet. Mr. Chairman, that would be it.

CHAIRMAN ANAYA: Thank you, Joe. Any questions of Joe? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, just a couple of technical questions. On the water, page 3 of your report refers to the fact that a water service agreement between the applicant and the City has been submitted. Refer to Exhibit B. I could not find a water service agreement in the packet. Exhibit B was something else. Exhibit B was a letter from Paul Kavanaugh to Dominic Gonzales regarding the drainage and erosion control. Is there – do we have a water service agreement?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, I believe that –

COMMISSIONER SULLIVAN: I think I saw a letter from somebody.

MR. CATANACH: Well, there is an Exhibit C which is dated – Santa Fe City Council minutes, October 27, 2004, but I know there was more recent action by the City regarding water service to this project, besides that Exhibit C which is dated October 27, 2004. I am being handed a letter dated January 31, 2005 and it references regards to City Council approval of water/sewer service, request for Casa Rufina senior apartments and it's addressed to Bill Agnew, the architect and it's confirming water and sewer service to the project.

COMMISSIONER SULLIVAN: You're making reference to Exhibit I, are you, in the packet? The letter makes reference to a vote of the City Council on October 27, 2004 by a vote of 4-2 pursuant to Resolution 2004-23, Section 6, stating that a copy of the meeting minutes are enclosed. So we don't have a water service agreement or do we? We have this letter from the City saying that the Council has approved it pursuant to this resolution.

MR. CATANACH: It would seem to me that the letter is just confirmation of the City's approval but it's not an actual agreement.

COMMISSIONER SULLIVAN: Okay. We have some minutes from the meeting of October 27th. One of the pages is missing so I can't read the whole minutes or I can't get the flavor of the whole minutes. We just have pages 6 and 8; we don't have page 7 from that City meeting. There was apparently a motion which was then defeated and another motion that was passed that had some conditions regarding the water usage for this subdivision coming as a credit from Santa Fe County's wheeling agreement or water service agreement with the City of Santa Fe. Again, I can't get the whole text of it but it did say that Councilor Coss proposed an amendment that this subject be brought up with the County in order to get their statement on it vis-à-vis the new water agreement. They were essentially asking, as I can read this, that this development, since it's in the county, is requesting come from some portion

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of the water that we have negotiated with the City of Santa Fe, which is the continuation of the water service agreement plus the addition of 375 acre-feet temporarily until the Buckman Direct Diversion goes on line.

I know that Councilor Carol Robertson Lopez is here and maybe she could add some information to that, Mr. Chairman, if that's all right to you.

CHAIRMAN ANAYA: Councilor.

COUNCILOR CAROL ROBERTSON LOPEZ: Thank you. And before I answer that question I just want to extend from the City and our governing body our greatest sympathy on the loss of your employee. What a bright young man to have lost man to have lost. I just want to share that.

CHAIRMAN ANAYA: Thank you.

COUNCILOR ROBERTSON LOPEZ: I actually came tonight because I knew it was such a rare thing to see the City approve water outside of the City in an area that cannot be annexed. During the discussion to extend water, that possibility was raised, but it was defeated, because we really don't have the mechanism to be able to charge water to your project. In what I consider a historical move, the Council did vote to extend water just given the public benefit from having the senior housing. We realized that this land can never be annexed into the city; it will always remain the traditional village of Agua Fria, but given the success of this particular project - they have built another project like this on Pacheco Street in the city, I was able to convince my colleagues as well as others that this project is indeed something that we desperately need in this community and we have an applicant with a track record where we can actually go and look at their housing and see how things are done. So it was a record kind of thing to have the City approve water, but it's not with any kind of - or in the future it's going to come across your - I think the City and the County both benefit by our seniors having housing. So does that answer your question, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Yes, and I appreciate your clarification, Councilor. What concerned me as regards to our relationship with the City, which of course are always superb but once in a while there's a bump in the road. There was an amendment as you indicate which was not accepted as being a friendly amendment. And then the minutes go on to say that "Councilor Coss said he preferred asking the County if, given that they approve this, and told the applicants to get their water from the City - which by the way, we did not - it was the County's intent that the 8.32 acre-feet come out of the water that the City just negotiated with them. This is after the amendment was defeated. He stated, 'If their answer is no, then that tells us a lot more about how to approach these issues in this area of the community in the future. But maybe that's what they meant when they asked us for 850 acre-feet of water to support growth.'

Councilor Coss proposed an amendment that this subject be brought up with the County in order to get their statement on it, vis-à-vis the new water agreement. The amendment was accepted as friendly," and then I assume the motion passed. So it sounds to me like the Council is somehow asking the County for something here. I'm unclear as to what that is.

COUNCILOR ROBERTSON LOPEZ: There was no official amendment

passed on the water. The water is free and clear like it would be for any other project. However, those issues were raised as part of the debate and as you're correctly noting, were in the discussion. But I believe that we've agreed that the RPA is the place that we're going to talk about those issues in the future as we explore it. I was very glad that the Council rejected that amendment and decided, You know, the City and County have so much talking to do to work this out over the next couple of years. It's not an overnight issue, as you're aware, but we didn't want to hold up this particular senior project.

COMMISSIONER SULLIVAN: Okay, but the amendment I just read was accepted as friendly.

COUNCILOR ROBERTSON LOPEZ: Right. It's just simply having accepted it that night, it was simply to engage in the discussion. It was not saying that it would be - it was saying - and I think we've talked about some preliminary kinds of negotiations is once we ever define our annexation plan, where we're going to annex and where we're not, and our water extension policy is going to be following that. So I think it's part of a much greater debate but I think what you'll find is the water usage agreement is free and clear. There are no attachments, other than saying we need to continue to talk about this, which is of course an obvious thing that we need to keep talking about.

COMMISSIONER SULLIVAN: Certainly, Mr. Chairman, we would accept the Mayor Pro Tem's interpretation of those Council actions.

COUNCILOR ROBERTSON LOPEZ: Honest.

CHAIRMAN ANAYA: Thank you, Councilor. Any other questions of Joe or the Councilor? Joe, you have a question for yourself?

MR. CATANACH: I have a clarification. I talked to the applicant and apparently the minutes from the Agua Fria Development Review Committee do reflect the action on the variance regarding the setback and so to clarify, condition 3 would state all proposed structures shall be set back 25 feet from the property line along Rufina Street. So the Agua Fria committee accepted the applicant's proposal and granted the variance for the other setbacks along the other property lines, but they have to maintain 25 feet along Rufina.

CHAIRMAN ANAYA: Okay. Thank you, Joe. Is the applicant here? Come forward, sir. If you could state your name and address and we could swear you in.

[Duly sworn, William Agnew testified as follows:]

WILLIAM AGNEW: My name is William Agnew, 307 Camino Alire. I'm the agent and the architect. I took over for Ann McLaughlin who went to work for the City. It was more appropriate for her not to be doing this. So we have two presenters here. I'm the architect and the agent and the owner is here. Should the owner get sworn in now?

[Duly sworn, Robert Gibson testified as follows:]

ROBERT GIBSON: Robert Gibson.

CHAIRMAN ANAYA: William, do you have any further testimony that you want to talk about and would you like to clear up some of the issues?

MR. AGNEW: I want to emphasis a couple of things. First of all that this process has been going on since 2002. There were meetings with both the Agua Fria AFDRC,

the Agua Fria review people, and the other folks who were involved in this. We had several meetings in 2002 and in 2003 and this project had a public hearing in front of this body in 2003 in June when the density variance was approved, and then it was officially approved, the master plan, by the AFDRC last month and we're here essentially to ask you to follow up on the official governing body approval of what the AFDRC did recommend.

It's been a long process. We do have a deadline. We have a document here from the New Mexico Mortgage Finance Authority which confirms that these tax credits that will build this project are good through the end of December 2005.

COMMISSIONER VIGIL: Mr. Chairman, is that part of the record? Is this new documentation or is it part of the previous record?

MR. AGNEW: It's actually a new document.

COMMISSIONER VIGIL: Mr. Chairman, may we receive it as part of the record? *Exhibit 4: Tax Credit Agreement*]

MR. AGNEW: I know you've all heard about the project and I know time is of the essence here. We were the architects on the project on Pacheco Street that won a national award. It won a local AIA award. We take a lot of pride in being able to design fairly high density housing that makes a comfortable place to live for the seniors in Santa Fe. We're very proud of that. Our clients wanted us to do the same kind of thing and we've been able to do that. I think it's probably more appropriate for me to answer questions on the technical part, the architectural part and Robert can answer parts on the financing and marketing and that kind of thing.

CHAIRMAN ANAYA: Okay. Do you agree with the conditions that the County has set forth?

MR. AGNEW: Yes, I do. I just want to make sure that the 25-foot setback on Rufina Street ought to be in there.

CHAIRMAN ANAYA: Along Rufina Street. We'll add those words in. What about the maximum height of the all-purpose structure from the 25, and you propose 29. Could you clear that up?

MR. AGNEW: Yes, we could.

CHAIRMAN ANAYA: What is the story there? What's going on there?

MR. AGNEW: Well, we were trying to create an architectural feature that gave a little bit of vertical prominence to the building. Something you could point to and say I live there, and thought it was okay to go a little higher with that. It's not a habitable space. We'd like to have it but certainly with a project this big we will take it away.

CHAIRMAN ANAYA: So you're okay with the 25?

MR. AGNEW: Yes.

CHAIRMAN ANAYA: What about item number 10, a detailed lighting and landscaping, signage plan. We threw the word landscaping in.

MR. AGNEW: I believe that's all on file. We did submit that. It's in front of the staff. I'm a little surprised - I believe that might be a boilerplate condition because they do have the proper data. And if they want it again, we'll send it to them.

CHAIRMAN ANAYA: Okay. What about the new condition, condition number 12, construct sidewalk on Henry Lynch Road for the length of the property?

MR. AGNEW: Yes, we'd be glad to and we will put in the proper curb cuts for handicap access to the street and we'll blend it in with the existing sidewalk that's on Rufina already.

CHAIRMAN ANAYA: Rufina, okay. Is there any other questions for the applicant?

COMMISSIONER VIGIL: Mr. Chairman, I just have one point of clarification.

CHAIRMAN ANAYA: Sure.

COMMISSIONER VIGIL: The packet information, if I'm reading it correctly, says that 100 percent of this project is low-income affordable senior housing. Is that correct?

MR. AGNEW: Yes, it is.

COMMISSIONER VIGIL: Okay. And with regard to your housing tax credit carry-over agreement, this was probably issued, as I'm looking at it, in 2003, is that correct?

MR. AGNEW: Yes, although Robert knows the details of the money a little more than I do.

COMMISSIONER VIGIL: Okay. This represents that only 60 percent of the development will be low-income senior affordable housing. Is that just because that's the minimum requirement of the tax credit?

MR. GIBSON: Yes, the IRS requirement for low-income housing tax credit, which is the financing mechanism for this project. You, as an owner, can collect to have – the minimum is 20 percent of the units to qualify for tax credits, or at 20 percent you set aside at 50 percent of the median income, or you can elect 40 percent of the units at 60 percent of area median income. That's the minimum requirement for the IRS to allocate tax credits. However, in order to receive the credits from the MFA, as you see on that document that we handed you on page two, paragraph V, it specifies that 100 percent of the units will be restricted and occupied by individuals whose income is 50 percent or less of the area median income.

COMMISSIONER VIGIL: It says at least 100 of the residential rental units shall be both restricted and occupied by individual families whose income is 50 percent or less, but the way your proposal says, I'm reading it in the packet to say each one of those units will be 100 percent senior affordable housing.

MR. GIBSON: That clarification and it's where the confusion is, is that from what we received in 2003 was only for 100 units. The tax credits are competitive and the MFA only had enough resources to fund 100 units. The additional 20 units will be restricted under the same program of finance as the allocation that we have for 100. So that's why there's 100 versus 120.

COMMISSIONER VIGIL: Okay. I just needed that clarification, Mr. Chairman, and I guess I have one question for whoever would like to respond to it. One of my concerns, senior affordable housing is a very strong necessity in our community. My concern is how will this be allocated with regard to giving seniors who most need it in the community. Are you just going to go through the current list?

MR. GIBSON: Pacificap, the company that I represent – we're the owner, developer and property manager. We will be the long-term owner and will restrict the units for 45 years to be low-income, at a minimum. Since the project is financed with federal tax credits, we are subject to fair housing laws for marketing the project. Our company, we manage 6,000 apartment units, they're all affordable. What we typically do and what we will do with this project and the same was done at the Ventana de Vida project on Pacheco Street is we will have a local property manager who lives onsite and has an office onsite. We will, at the beginning of the project, while it's still under construction we will go to community centers and advertise locally. There will be a sign on the property with a local number with a local office where applicants can come in and talk to us about the requirements to live there, determine if they qualify, to see what the units will look like. So the first preference will be to those who drive by the property and who know about the property and who receive our mailings. We will mail flyers to everyone in the zip code and everyone who lives within a three-mile radius of the property and give them the first notice that we're going to start leasing apartments at this project.

We very typically, on senior projects, most of the people who move in come from a ten-mile radius. We don't see a lot of people that are 55 and older move from, say, Albuquerque or from out of state to move to an affordable housing complex. They wouldn't have a way to find out about it plus most people don't move that far. The typical profile of our resident would be a widow in her 70s and maybe living with a roommate or a family member. So it's not typical for them to come from out of state. Most of the marketing will be local.

We can't require that it be available to only people who live in a certain area but it's open to anyone who qualifies.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one thing. Following up on Commissioner Vigil's question about the income limitation requirements. It is your intention that all units be made available to persons whose incomes are 50 percent or less than the median income for the area. Is that right?

MR. GIBSON: That is our intent.

COMMISSIONER SULLIVAN: You would have no problem in clarifying that as a condition?

MR. GIBSON: Yes, that's fine. That is our intent.

COMMISSIONER SULLIVAN: Since there is this confusion about 100 and 120 but what we're being asked to approve is the 120. So if we added a condition 13 to say that all units would be made available to persons whose median incomes are 50 percent or less.

MR. GIBSON: Correct. That's fine.

COMMISSIONER SULLIVAN: That would be acceptable to the applicant?

MR. GIBSON: Yes.

COMMISSIONER SULLIVAN: That's the only question I had, Mr. Chairman.

CHAIRMAN ANAYA: Okay, any other questions of the applicant's. This is a public hearing. Is there anybody in the audience that would like to speak for or against this project. Ma'am, come forward.

[Duly sworn, Gloria Mendoza testified as follows:]

GLORIA MENDOZA: Gloria Mendoza, 2912 Pueblo Tsankawi, Santa Fe. Good evening, Commissioners. It's been a while. I'm here on behalf of a silent population, our senior citizens. The ranks of senior citizens are growing in great numbers and percentages according to the most recent census. We have senior citizens working part time jobs in order to afford medical care, prescriptions, property taxes, utilities, food and clothing. In Santa Fe you rarely hear of a senior citizen living with their children. A beautiful part of our culture is that our parents still have the pride of being independent and not having to depend on anyone else except ourselves. The other side of this is that many of our senior citizens cannot afford their own homes, much less the upkeep of their homes without the help of their children or government programs.

Housing for seniors is sparse. Specific housing that they do have available is in much needed repair and is very outdated. In the community we have truly forgotten and taken for granted the contributions that are senior citizens have made to make Santa Fe the most unique cultural, traditional city in New Mexico. In today's newspaper, a decent home, including mobile homes are beyond the budgets of senior citizens who are on fixed incomes. If retired, they're still struggling with their pensions.

I took it upon myself to interview native Santa Feans who are residents of La Ventana housing on Pacheco Street. The majority of them were Hispanics, owned homes in Santa Fe until they sold them, were widowed, divorced and/or married. All of them were now renting through Chapter 8 because of several reasons. Medical bills have caused one couple to sell their home they owned for many years in Santa Fe. Being widowed, unable to pay property tax and upkeep of their home was another reason. Many are disabled and unable to afford their bills was another reason. Wanting to sell their home in order to have money in the bank for their funeral was probably the saddest reason I was given.

These people did not ever expect to sell their homes but circumstances beyond their control forced them to find some other type of housing in order to continue to live in their hometown. They love their community on Pacheco Street and support more housing for senior citizens. The fact that this project is 100 percent affordable is reason enough to give it your blessing and when you have ended your tenure as a Commissioner, you will at least have a yes vote for senior housing in your profile as an elected official.

A no vote would be insensitive and unsympathetic to the struggle for senior citizens in our community. This Commission has a great opportunity to send a message to our senior citizens. We will not forget you. We appreciate your contribution as a resident of Santa Fe, and here's something back in return. If we as a community refuse housing for our senior citizens then it goes to show just how much Santa Fe has changed. [inaudible] New Mexico has documented over and over about how we have always cared for the elders of our communities.

I hope that this is a unanimous vote for the senior housing. I know that there has been

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some gossip that this senior housing will only bring in people from out of state to live here. I thought that those kinds of statements had gone out when Debbie Jaramillo left office.

Another issue at hand is whether there's a serious, serious need for affordable housing in the County of Santa Fe. Some might say there is. The County and City of Santa Fe have made affordable housing a priority in approving developments which is an honorable commitment by both bodies. To say no to a 100 percent affordable development is a message that we are not serious about affordable housing in Santa Fe. The City Council approved the project. The AFDRS from Agua Fria who speaks for the village, approved it unanimously. Time is of the essence. Let's get the program on the road so that our senior citizens can have something to look forward to by Christmas of 2005. Thank you.

CHAIRMAN ANAYA: Thank you very much, Mrs. Mendoza. You put that very well. Is there any other comments from the audience? Hearing none, the public hearing is closed and I'll go ahead and entertain a motion or any more discussion. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, move for approval with staff conditions.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: We have a motion and a second.

COMMISSIONER SULLIVAN: And condition 13, adding all units shall be made available to individuals earning 50 percent or less of median income.

CHAIRMAN ANAYA: Okay, there's been a motion and a second. We need to add number 12 and number 13. We're going to add landscape to number 10, and along Rufina Street on number 3.

COMMISSIONER SULLIVAN: On number 12, I don't think we actually had any language per se, but I wrote down something to the effect of construct a sidewalk along Henry Lynch Road as approved by the City Traffic Division. Does that work, Joe?

MR. CATANACH: Yes, it does, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a question on number 8. It says 24 feet height here and then in your testimony you mentioned 25 feet. Which is the Code, 24 or 25?

MR. CATANACH: Large-scale residential was specific for a 25-foot building height.

COMMISSIONER SULLIVAN: So you're recommending that condition 8 be changed from 24 to 25?

MR. CATANACH: That's correct.

COMMISSIONER SULLIVAN: Okay. Mr. Chairman, I would make my motion with those amendments to the staff conditions.

CHAIRMAN ANAYA: How about the seconder?

COMMISSIONER VIGIL: The seconder agrees.

CHAIRMAN ANAYA: Any more discussion?

The motion to approve AFDRS Case #Z 04-5710 passed by unanimous [5-0] voice vote.

XIII. A. 8. CDRC CASE # S 03-5780 Suerte Del Sur Master Plan. Suerte Del Sur LLC, (Gerald Peters) applicant, Scott Hoeft, agent, request Master Plan approval for a 264-lot residential subdivision on 660-acres. The property is located off Los Suenos Trail south of Las Campanas and north of Piñon Hills Subdivision, within Section 19, Township 17 North, Range 9 East, and Section 24, Township 17 North, Range 9 East (Commission District 2).

MR. CATANACH: Thank you, Mr. Chairman, Commissioners. On December 14, 2004 this was tabled to allow the applicant to time to address issues and concerns raised by the Board of County Commissioners. The issues are as follows: There was an issue and discussion regarding affordable housing and the Board requested that the applicant look into providing affordable housing with a recommendation of at least 15 percent affordable housing. The applicant is in agreement to work with Santa Fe Housing in regards to developing an affordable housing plan for the proposed project and the applicant has stated that this issue will be addressed at the time of preliminary development plan. However, there was a letter submitted today from the attorney for the applicant and that letter was submitted today and it was copied to the Board. So I'm assuming that the Board did receive that letter. Okay. So I believe the applicant would be able to pass those letters out or expand on how they address this issue of affordable housing.

The other issue was water availability assessment. And through a geohydrologic report submitted with this application which proved water availability for this project and also included a summary for impact for surrounding wells. A suggestion was made, since the applicant is requesting to use more than double the County allotment for residential lots that the applicant provide a more in-depth report in regards to the proposed development impact on regional water issues.

The applicant states that the requested information was submitted in the geohydrologic report and the effects on the aquifer were modeled at full build-out. The preliminary water budget for this project set out a .50 acre-foot per year per lot allocation. The applicant clarified that water use for public areas and public landscaping were included in this allocation and currently the applicant is stating that the residential allocation is set at .39 for residential lots and the applicant stated that they would like the opportunity to address the County Hydrologist's concerns and address the concerns of the Commission on .25 water allocation per lot. The applicant stated that a more detailed water budget would be provided at preliminary development approval.

CHAIRMAN ANAYA: Joe, so are they wanting to use .39 or .50 or .25?

MR. CATANACH: Mr. Chairman, at this point I would go ahead and direct you to Exhibit B. Exhibit B is going to be after the minutes of the December 14th Board of County Commission meeting. I don't have a paging on this but it's Exhibit B, right after

the December BCC minutes.

CHAIRMAN ANAYA: Santa Fe Planning Group?

MR. CATANACH: Santa Fe Planning Group and they have submitted this letter in response to the issue of water. And Mr. Chairman, to answer your question, this letter is indicating a proposal to connect to the County water system, not utilize the production well that was drilled on the property, but requesting that the Board of County Commissioners, making a proposal to utilize County water, in which case as part of that the applicant is stating that they would be in agreement to not exceeding an allocation of .25 per lot. That's partly what that letter outlines.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A general question on that same subject.

As I recall, the original application mentioned .49 acre-feet, which I thought was excessive, and now they're requesting .50 acre-feet. Does that give them then the right for each of these lots to come back and resubdivide those lots, each one getting .25 acre-feet?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, I think the .49 was probably rounded out to .50. As the letter from the County mentions, that .50 was not specific to a per-lot allocation. That included water that you would need for common area landscaping and for the community building and that sort of thing. So in fact the original proposal back in December was for .39 per lot. But again, to answer your question, the applicant has submitted the letter that's in Exhibit B and in that letter they are proposing to connect to the County water system as part of this master plan and with that proposal it would be a .25 allocation and that would allow a single residential unit on the property. And no, it would not allow any additional creation of any more building density, any more housing density or any more lot density with that minimum allocation.

CHAIRMAN ANAYA: Per lot.

MR. CATANACH: Per lot. Yes.

COMMISSIONER SULLIVAN: I was just going to comment because whether they were to connect to the County water system or not they still have to have a water budget and we would still want that water budget to be compatible with what we've required of other developments which is .25 and that includes landscaping which is usually native type landscaping and other facilities and is certainly plenty for a residential unit, which we've seen in other areas of the county is more like .15, .16 or .18. Gives plenty for other uses. So I think the water budget is of course still an issue.

MR. CATANACH: Yes, Commissioner Sullivan.

COMMISSIONER SULLIVAN: The question of going to .5 instead of .49 which was the original proposal still concerns me. If the Commission were to approve a half an acre-foot for this development per unit then does that allow the lots to be further subdivided either by family transfer, lot split or other means. Because in this area you could subdivide down below 2.5 acres under a family transfer.

MR. CATANACH: Mr. Chairman, again, Commissioner Sullivan, the .5 would reflect the public use for common area landscaping and for the community building. So if you break it down, their proposal per-lot is .39 and that would not be enough water to allow any more housing density or lot density.

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

CHAIRMAN ANAYA: Go ahead, Joe.

MR. CATANACH: So I pointed out the letter where the applicant is responding to the issues from December 14th and making a proposal regarding those issues. The applicant has stated interest for connecting to the County utility to serve the proposed project by transferring water rights and extending water lines. Originally, the applicant proposed to use the County utility and drill and transfer a production well to the County. Due to the County utility's inability to serve the project at the time of the initial request the applicant amended the master plan to propose utilization of an onsite well as a private community water system. The property is currently located in the Santa Fe County Utility Department's water service area and the proposed project is eligible to be served by the County water system. The applicant states that the submittal currently under consideration proposes the use of a well for water service. Like I say, they responded to the issue of December 14th with the letter in Exhibit B and that letter is indicating a proposal to connect the County water and with that the County certainly would have the authority to regulate or to restrict water use to no more than .25 per lot. And I believe the applicant has indicated that they understand that water restriction could be part of the County's consideration of connecting to the County water system.

The issue of affordable housing, the applicant's attorney did prepare a letter that was submitted to me today. I read it today. It did not get in the packet. It was copied to the Board of County Commissioners but they probably have a copy that they can hand out and they would be able to present how they are responding and addressing the affordable housing issue.

CHAIRMAN ANAYA: Thank you, Joe. Any other questions?

COMMISSIONER CAMPOS: Mr. Chairman, a question.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: When you talk about hooking up to the County water system and .25 per DU, is that .25 times the number of total units and that's the entire water budget? Or are they still asking for .25 for the DU plus off-site use?

MR. CATANACH: That .25 per lot, they would probably be asking for additional water for common area landscaping, the community building and line loss, those types of things that are standard for connection to the County water utility.

COMMISSIONER CAMPOS: Is that the way you've been handling the Rancho Viejo evaluations?

MR. CATANACH: Well, the Rancho Viejo evaluations are a little bit different because Rancho Viejo had come forward where the Board of County Commissioners approved a water management plan. As part of that water management plan

they allowed Rancho Viejo a lower allocation per lot. I think it was .20 or something like that. I'm not real positive. Maybe we can ask Doug if that .20 for Rancho Viejo includes the consideration that's standard for County utility for line loss and that sort of thing. I'm trying to remember if the Rancho Viejo .20 allocation includes the line loss as per the County utility regulations and I believe it does, Commissioner Campos.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN ANAYA: Any questions? Okay, is the applicant here? If you could come forward and state your name and address for the record.

ROSANNA VAZQUEZ: Good evening. My name is Rosanna Vazquez and I am one of the representatives of Suerte del Sur. I want to clarify a couple issues that were raised by staff and do a very, very short synopsis of how we got to the letter that was submitted as Exhibit B and then stand for questions if you have any.

There was a letter that's submitted as Exhibit B dated January 27, 2005. We were specially requested to address three issues. Affordable housing, water availability and water rights transferred. With respect to the questions that were raised, Commissioner Sullivan by you and Commissioner Campos by you, with regards to what we were willing to accept with regards to an allocation on a per dwelling unit. Our answer was we wanted to have time before preliminary before we set a water budget. And the reason for this is in my previous presentations, we have presented to you an option of being able to take a look at an onsite septic system that would treat the water and be able to turn around, repipe that water into the homes and possibly do some landscaping with it.

We wanted to be able to explore that option after we got master plan approval and we respectfully requested not a setting on that water budget until we were able to do that. The water budget, Commissioner Sullivan, was a .50. It was rounded up to a .50. The number was a .49. That .49 as Joe Catanach just stated to you sir, included all of the water that was to be used for all of the community areas. The actual per-dwelling residential water use was down to a .39. We'd like to work on that number. We'd like the ability to look at some engineering and see if there's a way to lower that number down as much as possible and we'd like that option to be able to go forward and present to you at preliminary development plan, a plan that can use less water.

Commissioner Campos, I believe you raised the issue of what we would agree to if we were put on the County utility system. Again, the same answer that I said applied, but I just want to point out that the line allocation policy that was approved by this Commission allows an allocation of up to a .31 and that .31 includes the fire flow and the line loss number. It's a .25 plus a percentage to protect the County for line losses.

The one issue that was raised by us in this letter was our desire to get on the County utility system. I want to briefly talk about where we came to that conclusion or why we arrived at that conclusion. If you remember a couple of years ago when we came forward with the water service agreement, the intent of this subdivision initially was to get on the County utility system. Back in December of last year the County did not have water to serve this development if it were not for the well that was requested of us, the production

well. So we came forward with the water service agreement, requesting to get on the utility system and to drill a well. That water service agreement was approved.

We went to the neighbors prior to that and said We're going to do a subdivision. We want to get on the County utility system and they were in favor of that proposal. They were in favor of the design layout. They worked with us on the layout. They wanted us on the County utility system back then. The issue that arose was the production well and that was where the relationship between the neighborhood and this development fell apart. They didn't want a production well in that area. This Commission made a decision and took into consideration what they neighbors wanted with that well and you said No. We're not going to go forward with the well, that we're going to take over. Come back to us. So we did.

We went back. We drilled a production well, which is allowable under the County Code right now. We tested it. We did a geo-hydro and provided you a water budget. And we amended our master plan, came forward to you again with that proposal. Again, the concern with the neighbors was the same and that concern is we don't want a well in our backyard. We don't want this well to deplete the aquifer. Get on the County's water system.

I probably did not say this or at least I've been told by people that I did not say this clearly enough in my prior presentations but we did at CDRC and before you at the BCC in December state that we would be interested in working with you to get on the County utility system. This decision is not ours to make and we are here at the request of Suerte del Sur Development and in conjunction with the neighbors who have come before you opposing this development requesting that we get County utility service.

With that in mind, we would like some time to work on our water budget. I'll point you to the opinion that was given by your County Hydrologist that said they did an okay water budget. It needs a little bit more detail. I'm assuming that because it's master plan it doesn't have that much detail, but when we come back to preliminary they'll give me a detailed water budget. Give us the time to do that and go forward with the water budget, work with your hydrologist, and then give us an allocation at that point.

The other issue, this proposal is going forward with the County utility system, but the other issues that was of concern and I believe, sir it was you, Commissioner Sullivan, who was concerned about the water rights transfers. Commissioner Montoya, you were concerned about the use of acequia water. We amended the publication and we're using private water for that acequia. We have postponed that notice of publication for the transfer or those water rights to see if we have the ability to work with all of you to get on the County utility system. We spoke to the neighbors about that. They said we hold off on that to see if we could go forward with the County on the utility system.

I want to turn you to the letter that was submitted on affordable housing. In December at the previous meeting where we were tabled, I did raise the issue that we wanted to provide affordable housing. We wanted to do something with regards to providing this community with a very important asset and need that it requires here. The question that we had from the beginning of this subdivision is how do you do it? How do

you put affordable housing in the county when you don't have an ordinance to guide you, when you don't have guidelines to tell you these are the size of the homes. This is how much we want. So what we did is we put a plan together and I've submitted for your review a proposal. And this plan that I put together was based on an ordinance that was put together in the Community College District. The urban growth area off Richards Avenue. That ordinance had three separate components of affordable housing. It had affordable housing that was required in the below 60 percent of the median income range. It had a second component of 60 to 80 percent of the median income range, and it had a third component that had to be sold between 80 and 100 percent income range.

What I did in this proposal is took a number and that number was \$70,000. That number was based on the zero to 60 percent range of homes. That is to say that when that home was resold, that amount of money, \$70,000 would come back to the County in soft seconds. I took the lowest number to be conservative. I could have done an average of the three, but I took the lowest number to be conservative. What I did with that is I timed it by 15 percent of the lots that were on this property and I came up with a number.

You might be asking yourselves Well, why not put affordable housing on the site? Why not just do it there? And we looked at that. In the planning process and in meeting with the neighbors we had three different proposals for affordable housing before we came up with the subdivision plat that you see before you. There were valid concerns. The neighbors wanted some affordable housing done. They did. But they were really concerned about density and they were very concerned about traffic. What I tried to do in this proposal, Commissioners, is try to keep in mind the concerns of the neighbors with respect to that and try to do our part with respect to providing affordable housing here. That's how I came up with the number.

I did put in there that one option that we would like to have is the ability to work with the County housing to see if there's land that we can purchase for the purpose of putting together another development that would have higher densities that would provide affordable housing on that property. And we'd like that option in lieu of a monetary contribution. I don't believe I have any other comments with regard to that and I stand for questions if you have any.

CHAIRMAN ANAYA: Any questions of the applicant? Commissioner Vigil.

COMMISSIONER VIGIL: Ms. Vazquez, thanks for the proposal on the affordable housing. I'm a huge advocate of it. One of the things I just would point out to you that while we have no actual ordinance or resolution that requires it we had at our last meeting adopted the Affordable Housing Task Force recommendation for affordable housing and their recommendation was actually 30 percent. That's a figure that's probably going to go back to the task force for discussion and perhaps re-recommendation. I don't know, but I know that the 30 percent figure has been a figure that's been thrown out there by several of the Commissioners. No ordinance, as I said, or resolution has been enacted but we do have a guideline at this point in time by having acted on the Affordable Housing

Task Force recommendations. That's it, Mr. Chairman.

CHAIRMAN ANAYA: Okay, any other comments, questions? Thank you, Rosanna. This is a public hearing. Are you done with your presentation?

MS. VAZQUEZ: I am, Mr. Chairman. I'd just ask if we could answer any questions with regard to anything that comes up from the public hearing.

CHAIRMAN ANAYA: You bet. This is a public hearing. All those that would want to speak in favor of this project, come forward. In favor. Okay. All those that want to speak against – let me see a show of hands. Two of them against. If you want to speak, you're not for or against, go ahead and come forward, Commissioner Duran.

[Duly sworn, Paul Duran testified as follows:]

PAUL DURAN: My name is Paul Duran. My mailing address is 231 Washington Avenue. Mr. Chairman, Commissioners, it's a pleasure to be here. It's way past my bedtime these days. I don't know how you guys deal with it. The reason I'm here, I'm actually here representing the Catholic Foundation. They own approximately 300+ acres just south of Suerte del Sur. In about 1995, the foundation subdivided about 360 acres into 40-acre parcels and at that time they worked with the Arterial Roads Task Force and actually deeded the property where Hager Road is located right now.

In planning what to do with their property they've kept track of what Suerte del Sur is proposing and would like to request that the Commission consider amending one of the requirements. If you look at requirement –

CHAIRMAN ANAYA: One of the conditions?

MR. DURAN: If you look at, in the recommendations for approval, if that's what you decide to do, number 15. The requirement is that the applicant shall extend Los Suenos Trail south to County Road 70 and New Mexico 599, and that's the Hager Road that I just mentioned, or extend La Vida Trail easterly through to Aldea with the first phase of the development. Because the Code at this point in time does not require that developers – the Code right now basically says that if you do something to your property that requires an improvement to the road that you pay for that. And subsequent developers or other property owners do not have to contribute to it.

So what the foundation is requesting is that you actually delete the second part of that which gives the Suerte del Sur developer the option of extending either Hager Road as a secondary access or La Vida, and it would direct him to actually improve Hager Road. By doing that it then allows the foundation to enter into a cost-sharing agreement with the developer so that when that road is improved, not only will the developer, Mr. Peters pay for that but the foundation would agree to participate on some basis. I'm authorized by the foundation to make that commitment tonight.

So depending on what you do, whether you table it, whether you move it forward, what we would like for you to do is at least to make that one change which kind of makes the cost of that road more equitable to both parties.

CHAIRMAN ANAYA: So Commissioner, your suggestion is on 15, The applicant shall extend Los Suenos Trail south of County Road 70 and New Mexico 599

Hager Road connection. Period?

MR. DURAN: Right. And that is a road that was approved by the Arterial Roads Task Force.

CHAIRMAN ANAYA: Okay. Any questions of the Commissioner? Thank you.

MR. DURAN: Thank you very much.

CHAIRMAN ANAYA: Anybody who would like to speak against this project come forward. I see two hands, so we'll give you a few minutes. Go ahead.

[Duly sworn, David Gold testified as follows:]

DAVID GOLD: David Gold, 70 Sloman Lane. While I'm standing in the opposed column, I'm not necessarily opposed. It just depends on the circumstance. So anyway, I just want to say that I served as the vice chairman of the Arterial Roads Task Force and I'm familiar with the issue that Commissioner Duran brought up. What he's doing would in fact be in compliance with what the task force did and also it increases the likelihood of that road every being built. That would form better traffic distribution in the whole area.

First of all, I'd like to - I always begin with thanks to people and I'd like to thank the people who have attended this meeting, even though last time many people ended up waiting four hours there's still some showing. I'd like to thank the people who distributed fliers, and I'd very much like to thank the Commission because I feel that you all have shown a great concern for our concerns and we're very pleased and very thankful to you.

First of all I'd like to just start as always with asking how many people are concerned about putting a well in this area. If you could just raise your hand. [Approximately 25 people raised hands.] So there's still a fair number here. Like I say we advertised at 7:30 tonight and we actually were early. So that's got a lot of people freaked out or something.

I want to start by pointing to several good faith efforts made by the developer. I want to start on a positive note because I feel that there has been a substantial shift and I'm very grateful to them. As Ms. Vazquez said, initially, our community was asked very closely by Scott Hoefl and Al Lilly what our concerns were and they did make a number of modifications in their plan in response to those concerns. I feel that we need to - I want to bring that forth again and state that. As Ms. Vazquez said, the issue came up with water. They've since in fact made a number of positive, good faith gestures. One is withholding advertising on the water rights transfer. The second is they have met with us and I'd say the communications have definitely improved a great deal. They have presented an affordable housing proposal and I would have to say I think it's definitely a step in the right direction that they are at least open to an affordable housing option of some type. Most important of all of course is that they're now asking to be connected to County water and making that their primary choice.

Before I speak about the project specifically, I just have to remind you all and you all are aware of this about the issues of groundwater and groundwater depletion.

Ultimately, right now Santa Fe City and County are depleting the groundwater. It will affect well owners, acequias and ultimately it will affect city residents if it goes unchecked. Ground water just needs to be dealt with. The fact that the well is still on the table, although not the preferred choice, forces me to make a few statements. We are obviously opposed to this transfer. We feel it would be very damaging to all those parties that I just named and ultimately would deplete the groundwater, impair wells, diminish aquifers. If they go ahead and to this, our community is basically - from the time they advertise we get three and a half weeks. We have to organize hundreds of people. There are hundreds of people that will be impaired by this well. Basically, we're facing \$20,000 to \$30,000 in legal expenses.

So to us, this whole situation has been like a year-long sit by a ticking time-bomb and we would like to see it go away.

CHAIRMAN ANAYA: David, could you explain why you're opposed to the transfer again?

MR. GOLD: The reason we're opposed to the transfer is because of the ongoing groundwater depletion. For one thing, specifically to our community, like I say, according to the hydrological estimates they did there's something like 160 people whose wells would be impacted or impaired. I happen to be one of them; I'm a mile away from it. And I have a deep well. It's a very real issue.

I feel like as I've gotten into this and I'm in an odd way grateful to the developer for this having ever come up as I've gotten into water, and hydrology and gone to the conferences, talked to hydrologists and I really feel like the transfer of water rights, the attempt to transfer water rights to a well is a very bad precedent. It would actually deplete all the groundwater sources and it would continue the ongoing - basically the destruction of the aquifer that's taking place. The State Engineer thinks in 100-year or 40-year time frames but I feel that it's important to start thinking in terms of sustainable time frames. Sucking the groundwater is just not the way to go.

Transferring surface water rights up to the diversion is a much better way to go. It's sustainable at least. Like I say, Commissioner Montoya was concerned about acequias. Well, groundwater depletion is sort of like this hidden thing and it will dry up the acequias as the groundwater goes down, down, down, they'll go. So there's a lot of concern. There's concerns for our specific community. There's concerns for the community at large. There's concerns for the cultural resources. We just feel that it's not the way to go. For that reason we would oppose it.

However, on the bright side, is that they also agree that they don't want to go that way either and in fact they've agreed to, in discussions with them and this is worth clarifying but our understanding is that they're willing to cap their well if they can get onto the County water system. Abandon their well. We would like to see that and in fact we would want that to be a condition of approval.

We recognize that there's a lot of conflicting demands for County water. We feel that it would make the most sense for the Commission to define a clear polity to determine

who should get the groundwater or under what circumstances. There's a number of issues like affordable housing, open space, traffic impact, phasing of the water. There's also the question of what are realistic hook-up fees. There's tremendous costs associated with all that. So it's very likely that if you were to give them water that those things would end up coming up anyway. So I'm just bringing it up front because I know it's there.

In closing, however, I want to commend the Suerte representatives for their efforts to find a path that works with us. I feel that they've made a real turn-around and I want to honor that. It's a really different feeling for them. We understand - we would appreciate the Commission considering putting this on groundwater. We understand there are complexities associated with that, but whatever happens we would urge the Commission, if they were to come up with a policy to proceed in a timely manner to give these folks a break. They've been waiting. It really would be a win-win situation for everyone. So with that, I thank you very much.

CHAIRMAN ANAYA: Thank you, David. Any questions of Dave? Okay, who had their hand up? Come on up.

[Duly sworn, Michael Sugarman testified as follows:]

MICHAEL SUGARMAN: Michael Sugarman, 1080 Chicoma Vista. I didn't come here to speak for or against the development and that's really for you decide on. I want to thank you all for allowing me to speak here and forgive me, I stammer a little bit when I'm in front of all this stuff.

CHAIRMAN ANAYA: Don't worry about it.

MR. SUGARMAN: What I want to speak to though is the well. All over the county wells are going dry. Mostly, they're going dry in older homes because older homes tend to have shallower wells. On my street, Cathy Vargas had to redrill her well which was at the time 300 feet. What this really means is that if you're going to allow deep drilling to keep drawing down the water that it works as a tax on the older residents, people who have already been here a long time or people like myself who have only been here for 15 or 20 years. It works as a tax of \$15,000 or \$20,000 or \$25,000 when an individual has to drill a well to compensate for these other wells of newer developments, especially deeper wells. And what that works out to is a subsidy of newer developments. And that's just not correct.

More importantly, considering such a deep well of 1200 feet, 1500 feet, 2000 feet, that's like 1400 feet deeper than everyone else's. Which means that everyone else would have to go dry first and everyone else would have to pay the \$15,000, the \$20,000, the \$25,000. It's just ludicrous to consider these deep megawells, these superwells, and to consider allowing them is to put all of those expenses on the older residents. If you consider whether this is a good development or not you need to have the water from other sources. And I've heard about this issue of the transfer. The thing is what it seems to me like is that you're equating or sometimes some people are equating wet water, real water that you can pull out of the ground, say, and dry water, which is on a piece of paper which says it exists somewhere.

I think that it's wrong to equate these two types of water, because one is water and the other is paper. That's it. I urge you, I urge you very much not to permit this deep superwell. That's all.

CHAIRMAN ANAYA: Thank you, Mike. Any questions of Mike? Thanks. Anybody else who'd like to speak? Come on up, sir. You were already sworn.

MR. MCKEAG: This subdivision is 660 acres and under the – it's in the Basin Hydrologic Zone. I would just again ask you to restrict the water that they pull out. If you let them pull water out of the ground out of that deep well, I'd just ask you to restrict their water usage to 66 acre-feet per year, which is what everybody else has to live with and that's my comment. Thanks.

CHAIRMAN ANAYA: Thank you, Roy. Anybody else? Okay, this public hearing is closed. Would you like rebuttal on anything?

MS. VAZQUEZ: I'd like to propose some language on the condition that Commissioner Duran requested. By taking out that last line of condition 15, this was a County condition, they wanted us to work on both of those roads, and what I would propose instead would be this: A condition that states that a cost-sharing agreement shall be entered into between the Catholic Foundation and Suerte for the construction of Hager Road. That would be an additional condition. In addition to leaving condition 15 the same we would add that language too. Leaving 15 alone, I think that gets Commissioner Duran what he wants. He wanted a cost-sharing agreement with this development and we're willing to enter into a cost-sharing agreement for the construction of Hager Road.

CHAIRMAN ANAYA: I thought he just wanted you all to pay for it. That wasn't the case?

MS. VAZQUEZ: In my discussions with him it was not the case.

CHAIRMAN ANAYA: He wanted a cost-sharing agreement.

MS. VAZQUEZ: He wanted a cost-sharing agreement, yes. We've spoken about this before but we wanted to make sure that we came before you to see how Land Use reacted and whether or not if it's a condition of approval we would agree to it is what I had told him. So I wanted to add that language and the other language I wanted to add, the issue that was raised by David Gold with regard to the use of that well, I've got some proposed language on that because that has been an issue. And the proposed language I've got is that the subdivision shall be served by the County utility company for full build-out.

CHAIRMAN ANAYA: Where are you at? Is this 21? Okay.

MS. VAZQUEZ: It is in response to David Gold's concern about use of the well. And we would propose that the condition read as follows: This subdivision shall be served by the County utility company for full build-out.

COMMISSIONER MONTTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTTOYA: Regarding condition 2.a, you're talking now, Rosanna, about doing your own system, so why do we need that?

MS. VAZQUEZ: Mr. Chairman, Commissioner Montoya, the reason that is

in there is because if we didn't do an onsite system, we would need a letter from the Las Campanas sewer association to allow us to tie in. That was the reason for that condition. But since you asked the question, if I could ask you to look at condition number 12, we need a little bit of clarity on that condition. It should read, and this was approved by the CDRC, the entire subdivision shall connect to the Las Campanas sewer system, or provide an onsite waste treatment plant. No individual, onsite septic systems are allowed.

That would allow us the flexibility to take a look at doing an onsite treatment plant for this development. If I could just point you to another. There were two conditions that are basically the same in the proposal. It's condition number 10 and condition 19. Condition 10 says a water service agreement for phase 1, condition 19 says a water service agreement. I would request deletion of condition 10 and leaving in condition 19.

CHAIRMAN ANAYA: Okay, any questions of Rosanna?

COMMISSIONER SULLIVAN: Mr. Chairman, I would object to that. She's taken out the BCC's approval of the water service agreement.

MS. VAZQUEZ: Oh, I didn't mean that. All of them are approved by the Board of County Commissioners.

COMMISSIONER SULLIVAN: Water service agreements need to be approved by the Board of County Commissioners.

CHAIRMAN ANAYA: So we leave 10 in.

COMMISSIONER SULLIVAN: I don't care which one you leave in.

MS. VAZQUEZ: We could just put Applicant must obtain a water service agreement approved by the Board of County Commissioners. Just add approved by the Board of County Commissioners to condition 19.

CHAIRMAN ANAYA: These are just suggestions.

MS. VAZQUEZ: These are suggestions for clarity.

CHAIRMAN ANAYA: Okay. Anything else, Rosanna?

MS. VAZQUEZ: That's it, Commissioner. Thank you.

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

COMMISSIONER VIGIL: Mr. Chairman, I just have a couple of questions, Rosanna, that you might be able to clarify because my packet may not be up to date. There was a Public Works letter of October 10th that identified the impact on 599 of this project regarding offset requirements. Can you respond to that?

MS. VAZQUEZ: I'm going to allow Scott Hoeft to answer that question specifically.

[Previously sworn, Scott Hoeft testified as follows:]

MR. HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 North St. Francis, Santa Fe, New Mexico. Did you read the statement in full, Commissioner?

COMMISSIONER VIGIL: Yes, and I'd be happy to even read the letter. October 10, 2003, Dan Rydberg of our Traffic Engineering Division said Public Works has reviewed the above-mentioned case. I understand this is at master plan level but it should be pointed out that according to the applicant's traffic report New Mexico 599 plays

an important part of the traffic flow for this development. The traffic report recommends proposed improvements to NM 599 that may not be easily or financially feasible for a long time in the future. Public Works recommends the progress of the 599 improvements should be monitored at each phase of this proposed development to see what off-site improvements may be required by the developer.

MR. HOEFT: What he's referring to there is at-grade interchange or a pass at 599 and Caja del Rio. I believe our traffic impact statement indicated that there were going to be improvements needed at some time in the development at Caja del Rio and 599. The question, however, is how do you get an improvement at that interchange or at that point? It's an extremely difficult process that's mitigated by the State Highway Department. It's not easy to get an at-grade interchange onto 599 nor is it easy to get an overpass at a cost over 599. So the question is, Dan, I'm assuming is indicating that he wants to monitor the progress of the development to find out exactly what kind of improvement is going to be needed and at what time in the development and at this stage he probably didn't have enough information to be able to make that call.

With each phase that comes in a report will be submitted to Public Works to make a determination.

COMMISSIONER VIGIL: Okay. Mr. Chairman, Mr. Hoeft, I just had several meetings with the Department of Transportation, Cabinet Secretary, and with some of the people from La Tierra and the City with regard to some funding that may be going through the legislature to do a study or a plan for that 599 corridor. My sense is, at least my recommendation was that that not be limited to any particular site because that entire corridor needs a comprehensive review. I think the Department of Transportation has placed it on, not necessarily a priority list but an annual list of some kind, and it might be good, and you may already know this. I'm not sure. To connect with him with regard to that because that's a huge piece of this northwest quadrant.

MR. HOEFT: I absolutely concur. I believe in 2004 and if Commissioner Campos can chime in, I believe that there was an attempt to make an at-grade interchange at Caja del Rio and 599 if I'm not mistaken and I believe that was extremely controversial. So there is a bundle of issues that come with that. We are aware of that and we recognize that we're going to have to make some sort of improvement there. We just don't know at this stage what form it's going to take. Thank you for your input.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I've got a couple issues with this, many of which are the same as we addressed two months ago. Ms. Vazquez has testified that the Commission only directed the applicant to address three issues, which they wrote a letter about. However, the issues are more than three issues and in fact, the wording of the motion to table was "to give the applicant time to further explore the issues discussed here this evening." One of those many issues that were discussed by the Commission and by the public, in the case of myself, I indicated, "It doesn't conform at

all to the growth principles and the development principles that we've been talking about. It doesn't have adequate public open space. It doesn't have affordable housing. It's not at all what we want to use our scarce water resources on.

So there are other issues other than those three that the applicant has identified. I really don't see any difference in this submittal and I'm disappointed. We provided 60 days for the applicant to go back and work on the submittal. We have, I'm sure on the boards that Mr. Hoefl has there at the rostrum the exact same master plan that we have before. It's an uninspiring plan. We've been given a take it or leave it position with regard to the design of that plan. It's a square mile of sprawl, plus. I just can't see how we can give this kind of direction to other developers.

Water use is twice the normal household usage and three times that of cluster development. So what that means is that we're precluding between 130 and 170 other homes to be built somewhere in Santa Fe because we're going to allocate or considering allocating half an acre-foot to this development. I just don't see anything in our growth management policies that says that luxury home developments should be allocated more water than standard rank and file developments. I haven't seen that anywhere. I looked hard in our policies. And I can't see how this development would even use that much water with many of the homes probably being second homes and vacation homes.

So I just think that's totally out of character with what we've been trying to develop over the last several years. If we make a mistake with this development we've done some approval of more than a quarter acre-foot with developments 24 and less units, the Commission has since my tenure. If we make a mistake on this one, we've made an 11-fold mistake. This is 264 units. So we've made 11 of those subdivision mistakes all in one fell swoop. An 11-fold error.

This plan only has 30 percent open space. In other areas, in cluster developments we require 50 percent open space. And the issue comes up, well, it's okay. They've complied with what is currently the Code. But the Code is a minimum. If the Code says in order to have a development approved you must at a minimum meet these criteria. The Commission then has an obligation and a responsibility and a flexibility to say, Does this or does this not conform to our growth plans? We don't have a Community College District plan, although one actually was thought about in this area, but we do have, as Commissioner Vigil pointed out, an Affordable Housing Task Force report that's been adopted, and we do have a regional growth plan that the RPA worked for over two years on. That applies to this development.

Let me just read one sentence or two out of this regional growth plan. "The five principles - these are the principles that we all agreed to unanimously in this regional growth plan - are based on strong beliefs about the future. They address critical issues and concerns regarding, one, future water, two, affordable housing, three, economic diversification and employment opportunity, four, infrastructure and services, and five, regional character. Generally, patterns that promote clustered, compact development - and I'm still quoting - with a mixing of housing types and compatible land uses and that

provide for public open space areas, are considered encouraged future patterns. Developments that promote sprawl, encourage non-centralized utilities and infrastructure, and/or uniform housing types are considered discouraged patterns.”

A lot of the Extraterritorial Zone is currently categorized as rural residential. It's open for now but it's obviously the first client for development. The RPA plan addresses rural residential. What it says, among other things about rural residential is that “Although rural residential is considered the most predominant land use characteristic within the region of developable lands it generally performs lower when measured against policies and principles” That's the five that I just read to you. “Because of its predominance in the Extraterritorial Zone, it is a recognized future pattern. However, future developments should be encouraged to transition to other land use patterns that perform more efficiently in meeting regional goals.”

Now, I know you're familiar with this and the only reason I'm repeating is that I want to make a point that we have the responsibility and the obligation to be sure that subdivisions and applicant proposals meet these goals, particularly one that's as large as this one that occupies so much land area that once a decision is made it's irreversible.

The traffic impact analysis was brought up by Commissioner Vigil. There is not a resolution to that. It requires some major improvements to 599. That's not going to happen in the near future.

The affordable housing proposal that's brought to us at the last minute and given to us this evening is a buy-out. There is 660 acres of land here. There is plenty of room for affordable housing. We quite frankly, and it's an anathema for a governmental entity to say this, we don't need money for affordable housing. We need affordable housing. Now, why don't we need money for affordable housing? I can tell you, and again, I'm not giving you any new information in this regard, that we have for over three years had two million dollars in our County fund for affordable housing as a result of the sale of our HUD subsidized rental housing units in Santa Fe County. This money is available to be put towards the construction of affordable housing anywhere in Santa Fe County that we can find the land and put the project together. We've got over \$2 million that's earning interest and it's growing every day. We haven't been able to put a program together to take that money.

So with this proposal from the applicant, we'd now have \$4.7 million that we don't have anything to do with. Quite frankly, it is very difficult to find affordable housing, particularly single tracts of affordable housing. You need to combine them as a small part of each development in order to make it palatable and affordable housing is best done by builders and developers. It is least best done by the bureaucracies that unfortunately we must deal with in the county.

So I really don't recommend this affordable housing to you, this proposal to you. I guess then in summary, Mr. Chairman, I think we owe it to everyone the idea that we should get this project on to the County water system could well be possible in the future if water rights are transferred to the Buckman wells. That's entirely possible. I don't think

it's possible now within the 375 acre-feet we have of limited, temporary water allocation from the City which will disappear when we get to the operation of the Buckman Direct Diversion project. So in terms of priorities for this type of water I think we want to do priorities for those temporary water rights to developments that conform to our growth management plan.

So then to close, Mr. Chairman, I would just say that the applicant has been given an opportunity to revise the plan; they haven't done it. I think at this point we have promises to look at affordable housing. We have promises to look at the water budget. All of this should be done at the master plan level. We have promises to look at road issues and nothing has really changed other than we've got a lot of additional promises. My suggestion is that the master plan be rejected. The applicant can then resubmit the plan, revise the plan and we'll reconsider it in light of the growth management objectives that we've clearly delineated in our prior actions. Thank you, Mr. Chairman. I appreciate your indulgence.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Is there any other comment from the Commission? I've got a question for staff. Did they do everything that was supposed to be done to come forward for the master plan approval?

DOLORES VIGIL (Land Use Administrator: Mr. Chairman, Commissioners, we believe they have met all the conditions and requirements for master plan and that's why they are here before you. What staff had done is we had gone through the minutes and we had written a letter to the applicant to at least give them some direction as to what we felt that you would like them to address and that is the letter you see, Exhibit B, is a result of that and several meetings that we did have with the applicant.

CHAIRMAN ANAYA: So that the issues that Commissioner Sullivan has raised, the applicant will have to come back to address each one of those issues, correct?

MS. VIGIL: We feel that the applicant has addressed the issues based on the County Code. I think the issues that Commissioner Sullivan has raised are part of the RPA code. That is in RPA it's a plan. It's not - I think staff would probably use it as direction or some way of guiding the applicant into maybe addressing some issues based on the growth management vision of the Commission and the County. Otherwise, we feel they have met all the requirements for master plan at this time.

CHAIRMAN ANAYA: Thank you.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Staff, what was staff's recommendation on this project?

MS. VIGIL: Our recommendation was, based on the recommendation from the - as it says in the staff report, the CDRC acted on this case and our recommendation was based on their decision to approve the master plan at this time.

CHAIRMAN ANAYA: Okay, Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, my comments are very brief.

One, I don't think this is the best use of the scarce water that we have. We have 375 acre-feet of interim water that we can use better in other places and have housing that affords the community a better product and a more affordable product. They're asking for too much water, especially in times of extreme drought. As Commissioner Sullivan pointed out, there's major regional planning problems. They don't conform generally with what we think this community should look like.

Transportation on 599 is a major issue. Additionally, they have presented a considerable amount of new information tonight and I just don't think this project is what this community needs. I think this is - they were given 60 days to look at all these issues and I agree with Commissioner Sullivan. They didn't meet up. So I would say that we table or we reject.

CHAIRMAN ANAYA: So you know from what I see is they went back to the residents and spoke to them and there's not as many people that were speaking - actually, nobody spoke against it but they did say that they talked about a lot of issues that the residents had. I just look at that too. Are you done, Commissioner?

COMMISSIONER CAMPOS: Yes, I'm done.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I think maybe some of what - and I guess the applicant could probably protest about what's been said here this evening but I think in order to move this forward, I think if we base additional conditions, also based on what some of the testimony that we heard that weren't for and weren't against but kind of left it up to interpret what that meant, that we incorporate that as a part of this plan affordable housing be included. When they come back for preliminary and final plan approval that the acre-feet for the subdivision be limited to 66 acre-feet which would address each house being proposed at .25 acre-feet. I heard that the well should be capped, that that would be agreed to, and in terms of the growth and development principles that are at least in the Community College District, that 50 percent be open space, and I think what the RPA has developed in terms of the regional growth plan should be adhered to as well. I would recommend adding those as conditions.

CHAIRMAN ANAYA: Rosanna or Scott would you like to comment?

COMMISSIONER MONTOYA: And also the water rights transfer I think that was referred to, that that needed to take place.

CHAIRMAN ANAYA: Rosanna, do you want to comment on any of those issues?

MS. VAZQUEZ: I would, and I'll start with the ones that we would be willing to agree with. The water rights transfer, Commissioner Montoya, I'm sorry that I didn't explain that to you. We would agree to go on the County utility system. We would enter into a water service agreement. It would be in the context of that water service agreement that the conditions for the water rights transfers would be done. So we would be willing -- we want to sit down with staff, figure out where they want us to transfer it to, when they want us to transfer, all of that. But that would be in the context of the water

service agreement. So, sir, that would be addressed.

With regards to the well being capped, I do believe I gave you some language with regards to that that this subdivision would only be served by the County utility system for full build-out. So we do agree with the well being capped.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: With regard to that particular issue, Ms.

Vazquez, I know there's a member of the Suerte that would like to address that that perhaps maybe able to get some language hammered out that would - David Gold. May we yield to him, Mr. Chairman?

CHAIRMAN ANAYA: Let's finish with the other ones and then we'll move to David. I hate to open this back up to the public again. I just want to keep it between us but if the Commission feels that it's okay to hear from David or if we want to let her work with him later on with some language that would be fine.

MS. VAZQUEZ: I'd be more than willing to sit down with David and work out some language on that.

CHAIRMAN ANAYA: Go ahead.

MS. VAZQUEZ: With respect to the other conditions, Commissioner, the issues that you raised, Commissioner Montoya, we've proposed an affordable housing plan in this development because we felt like we should do something. We didn't know what to do and the reason that we went forward with the plan that we've presented to you is because in the discussions that we had with neighbors there was an issue with regards to density. In short, we're caught between a rock and a hard place here. We really want to try to conform with the development that works into the chemistry of the entire area, at the same time try to provide affordable housing.

I think that the proposal that we've presented to you is fair. I think it goes a long way. It doubles, Commissioner Sullivan, the amount of money that you've got to provide some affordable housing. We also put in the proposal a specific request to allow us the time to work with the County to see if we could find land to do an affordable housing project. We want that option. I don't think that that proposal should be taken lightly. I think the proposal is real clear. That money can be used for you purchasing water rights for specific projects on affordable housing. It could be used to perhaps purchase individual tracts of land in the south and in the northern sections of this county. It gives this Commission a lot of flexibility.

There is no plan right now. You guys are in the process of putting something together. This, we felt was a step to help you do that. And that was why we came up with this. At this time this is the proposal we'd like to work with. We'd love to sit down with staff, expand it if we need to and work with the affordable housing group that has been put together, Commissioner Vigil, by you to see if we can come up with something for preliminary development plan. But we feel like we put something together that was fair, in light of the fact we don't have an ordinance.

With regards to the growth development principles and the 50 percent open space. Commissioner Montoya, you're absolutely right; the Community College District requires 50 percent open space. Along side of that 50 percent open space there is a minimum requirement of density. That minimum is a 3.5 per acre. Here you've got a density of one house per 2.5 acres. So the density – you can't just apply an open space principle when you have different densities. So what we've tried to do in working with the neighbors is provide some trail systems, some open space, that would give conformity to the surrounding area.

With regards to the 66 acre-feet, Mr. Chairman, Commissioners, I understand your concern with regards to the water budget and we've tried to – by the way, it isn't double to the amount given to everybody else. It's a .39 versus a .31, which is allocated by the County on many subdivisions. We would like to go down below that. The condition that is placed on this development by staff is submit a water budget before preliminary development plan to address the concerns. We want to do that. We want to submit a plan. We want to see what we can do with respect to developing a lower water budget.

Commissioner Sullivan raised the issue that there was a subdivision approved that went down to .15. I'm very proud to say that that was a subdivision I worked on.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Just to clarify, the 66 acre-feet is not something that you can accept?

MS. VAZQUEZ: Mr. Chairman, Commissioner, it is at your discretion. It is not something I would like to accept for this subdivision because I would like the opportunity to try to engineer some graywater use on that project.

COMMISSIONER MONTOYA: Okay.

MS. VAZQUEZ: Of course, if you want to impose that condition it's at your discretion. I think we've got one comment by Scott.

CHAIRMAN ANAYA: One more comment and that's it.

MR. HOEFT: Just to talk about the open space really quick because you raised the 50 percent open space requirement. The 30 percent that's shown the plan is the minimum requirement by County Code and if you think about this project, you've got 660 acres on this thing. That doesn't mean that the remainder of that 70 percent is going to be built upon. Another way to look at it is if you've got half an acre development on each one of those lots, and then if you consider the roads in the equation, that comes up with a developable area of about 200 acres on this site, that leaves about 460 acres undeveloped on this project which is more a figure of 70 percent open space. Thirty percent demonstrates the minimum requirements. Now, granted, there's homes on that. You're going to have trails, roads, but 70 percent open space is the more accurate figure that describes this project.

CHAIRMAN ANAYA: Thank you, Scott. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would move to reject this plan and instruct the applicant to consider a resubmittal in accordance with the comments this evening and in accordance with the Regional Planning Authority principles and plans adopted by Santa Fe County.

COMMISSIONER CAMPOS: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman, just let me add one other thing on the discussion? What I have to look at in reviewing this is going beyond the Code, which the staff is required to ensure that it meets the Code, and they do that. But we're set now with the responsibility to take the public interest into consideration and to make that type of decision which goes beyond the Code. I just have to answer to myself, here's a square mile and if this is the kind of subdivision that we can say is the precedent - if another developer comes into my office and says, What kind of example should I follow? You say, This [inaudible] subdivision. That's what we want to see in the EZ. That's the growth, that's the future of Santa Fe. You follow this development plan. It meets the County requirements, it meets the Code, and it gives us \$2 million to add to our affordable housing account. And I can't in good conscious say that this is what I've been working on for four years on the County Commission is to have this type of subdivision as an example to set, not only for the other applicants and developers but in working with the City. The City is saying What is the County doing to help conserve water, to help the growth issues that impact us as City Councilors and city residents.

I'd be embarrassed to hold this out as the example of what my four years of work has resulted in on the RPA and dealing with the Affordable Housing Task Force, and with all the Code rewrite that we've been doing. I'd be embarrassed to say, Here's what resulted from that. That's the way I see it, Mr. Chairman. Thank you.

CHAIRMAN ANAYA: Commissioner Sullivan, what would you want them to do? Real brief.

COMMISSIONER SULLIVAN: Okay. And I appreciate your request for that. I would suggest that they go back and redefine this plan. This is the same plan we saw with frills two months ago. I would suggest that they go back and redefine this plan. Some of the things that they've talked about here make a lot of sense. The plan doesn't. I think they could go into the RPA plan and say Let's look at these future growth patterns that the County wants. How can we accommodate our plan to that? Because if we can, the County is going to be more receptive to serving that with County water which is what the residents want. What I want is a better plan. That's my request that the Board instruct this applicant to do.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: There are some points I agree and disagree with

some of those messages that have been given here. I do believe the applicant has come back with some significant changes, in particular in the area of water. I particularly want to comment all the parties for working on this. I wasn't a part of the initial hearings but it's really good to be up here and know that both parties are looking at the good and the bad of each other, which tells me they're working together. I for one would like to see that continue. The Well Users Association of the Suerte del Sur area have some very talented people and not only can their talent be tapped into for the water issues but they can also be tapped into with regard to affordable housing, which is a huge piece. I really particularly appreciate that the applicant has come forth with a proposal but it's a starting place. I think we're probably going to need to work this affordable housing piece a lot more and I'm very glad that you're willing to. Based on that particular issue I'm also going to vote to delay this until we've got that particular piece, at least from my perspective worked out and I know this is going to delay, probably, you're process a little bit more but I'd like to see some accelerated work on the affordable housing piece. I'd like to be able to know how this could fit with what you proposed as an applicant. I'm a little concerned that what we're actually getting is money whereby other avenues haven't been explored. I think we actually do need to look at other proposals besides that. It seems to be a model that we initially brought to the Commission from Las Campanas who allocated some funding for affordable housing. I don't know if that's the message we want to give to our community with regard to affordable housing. I would like to see the affordable housing component worked out a little better.

The motion to deny CDRC Case #DP 04-5780 passed by unanimous [4-0] voice vote with Commissioner Montoya abstaining.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Go ahead.

COMMISSIONER MONTOYA: I just want to clarify for the record my vote was an abstention, the reason being I thought the applicant was willing to meet half way and I think that was part of the reason why I abstained.

CHAIRMAN ANAYA: Thank you, Commissioner.

- XIII. A. 10. EZ CASE # S 04-4441 Rancho Viejo-Windmill Ridge Unit 4
Rancho Viejo de Santa Fe Inc. (Isaac Pino), applicant requests final plat and development plan approval for a 278-lot residential subdivision on 174.66 acres in accordance with the previously approved Master Plan for Windmill Ridge at Rancho Viejo-Units 3 and 4 and with the previously approved preliminary plat/development plan. This request also includes a variance to allow two cul-de-sac roads to exceed 300 feet in length. The**

property is located within the Community College District off of Richard's Avenue, within Sections 28 & 29, Township 16 North, Range 9 East (Commission District 5).

MR. CATANACH: Thank you, Chairman Anaya, County Commissioners. On September 15, 2004, the EZC granted preliminary development plan approval for Windmill Ridge Unit 4 and on January 13, 2005, the EZC recommended final development plan. In 1989, the BCC granted master plan approval for Rancho Viejo, a mixed-use development, and this was the original master plan consisting of 655 residential units with commercial/community uses on over 2,000 acres. Development plans for the Village at Rancho Viejo and Windmill Ridge 1 and 2 have been approved and constructed in accordance with that 1989 master plan.

In December of 2000, the Community College District Ordinance was adopted which encompasses the proposed development. A new master plan was submitted for Windmill Ridge Development, Units 3 and 4 in conformance with the Community College District Ordinance. On August 13, 2002, the BCC granted master plan approval for the Windmill Ridge developments, Windmill Ridge Unit 3 has been granted approval and is building out and that master plan that the Board approved in August 13, 2002, mixed-use development in the designated village and fringe zones and the master plan consisted of a maximum of 461 residential units and an average of 18,000 square feet of commercial space on 304 acres.

Like I mentioned, from that August 2002 master plan the Board of County Commissioners have granted plat approval for Windmill Ridge Unit 3 and that subdivision is building out and this applicant is now - that subdivision was approved by the Board October 14, 2003 for Windmill Ridge Unit 3. That was 163 residential lots and two community center tracts. As far as the status of approvals, I already mentioned that the EZC has recommended preliminary and final plat development plan approval for the requested Windmill Ridge Unit 4, consisting of 278 residential lots on 174 acres.

The plat development plan proposes the following: There be 253 residential lots within the village zone and these lots range in size from .041 acre to 0.48 acre with a variety of housing types which includes 42 affordable units, and that's 15 percent of the total number of units in Windmill Ridge Unit 4. The proposal also includes 11 residential lots within the fringe zone, ranging in size from .281 acre to 1.9 acre.

The community center, which was actually approved as part of Windmill Ridge Unit 1, and that would be basically the commercial center with mixed-use residential in that community center, 16 residential lots.

Permanent open space, parks, plazas, consist of a total of 103 acres. The proposed subdivision phase is an extension of the village zone for Windmill Ridge Units 1 and 2, which like I mentioned included part of a mixed-use community center for commercial and residential.

Water and sewer, Santa Fe County Water Utility provides water according to the

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water service agreement for 120 acre-feet and that water agreement is part of your packet, Exhibit D. The proposed development will utilize 55.6 acre-feet from that water service agreement, and that's based on 278 units times .20 acre-feet.

Rancho Viejo has constructed a wastewater treatment plan and they would connect to that wastewater treatment plant and that's in accordance with a discharge permit from the New Mexico Environment Department.

Roads and access, Richards Avenue is the primary access. It's been realigned as part of Windmill Ridge Units 1 and 2 in accordance with the Community College District road plan, connects to the access road for IAIA campus, and that's A-Van-Nu-Po Road. Subdivision road will be paved with curb and gutter, sidewalks, on-street parking is required by the Community College District Ordinance. Two of the internal cul-de-sac roads have a proposed length of approximately 700 to 750 feet. The Community College District Ordinance limits the length of a cul-de-sac to 300 feet. The applicant has requested a variance regarding the length of those two cul-de-sacs.

The staff report addresses terrain, open space, landscaping, archeology. Staff report addresses the homeowner association with covenants.

Recommendation: The applicant is requesting a variance of the Community College District Ordinance regarding two cul-de-sac roads exceeding 300 feet. They're proposing two cul-de-sacs approximately 700 and 750 feet in length. I can say that we have communicated - generally, the staff's review of lengths of cul-de-sacs is based on fire review. And we have communicated with the Fire Department. They do not have a problem with the length of these two cul-de-sacs exceeding 300 feet. The length of cul-de-sacs in the Community College District is more restrictive than general, than other requirements in the county. Other requirements in the County allow cul-de-sacs to go from 500 to 1000 feet. So I just wanted to clarify that in fact the length of cul-de-sacs in the Community College District is more restrictive.

The proposed subdivision is in accordance with the approved master plan and preliminary plat and development plan and conforms with the applicable requirements for the Community College District and the Extraterritorial Subdivision Regulations.

The decision of the EZC was to recommend approval of the variance, and final subdivision plat and development plan approval subject to the following conditions. If I could list those conditions into the record, Mr. Chairman.

1. Compliance with the applicable review comments from the following:
 - a) Santa Fe County Water Utility
 - b) State Environment Department
 - c) Santa Fe County Public Works
 - d) Soil & Water District
 - e) Santa Fe County Technical Review
 - f) Santa Fe County Fire Department
 - g) Santa Fe Public Schools District
 - h) State Highway Department

- i) State Engineer's Office
- j) State Historic Preservation Division
- 2. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not be limited to the following:
 - a) Water restriction of 0.20 acre feet per lot and conservation measures
 - b) Solid Waste disposal
 - c) Maintenance plan for roads and drainage facilities
 - d) Exterior lights shall be shielded
 - e) Archaeological sites within protective easements
 - f) Prohibit fencing of private open space.
 - g) Address water storage from roof drainage
- 3. Final Development Plan shall include but not be limited to the following:
 - a) Specify four inches of basecourse, two inches of asphalt for typical trail section.
 - b) Project/monument sign shall be located within the boundaries of the subdivision and specify details for sign area, height and setback
 - c) Specify landscaping in Park and Plaza areas
 - d) Include shrub planting for common area landscaping
 - e) Drip/sprinkler irrigation for common area landscaping
 - f) Street lights at appropriate locations (maintain rural character)
- 4. Final Plat shall include but not be limited to the following:
 - a) Compliance with the plat checklist
 - b) Permits for building construction will not be issued until improvements for roads, drainage and fire protection are complete as required by Land Use & Fire Department staff.
- 5. Submit development agreement to establish terms and conditions as applicable for the following:
 - a) Affordable housing
- 6. Submit solid waste fees.
- 7. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with Community College District Ordinance.
- 8. District trail shall be developed as part of this phase.
- 9. Submit Cost estimate and financial surety for completion of required improvements as approved by staff.
- 10. The plat for Windmill Ridge Unit 4 may not be recorded or lots sold until the provision of the actual water service to the subdivision is agreed to and verified by the Santa Fe County Utilities Department and the Land Use Department.

COMMISSIONER MONTTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTTOYA: What's staff's recommendation?

MR. CATANACH: Staff's recommendation to the EZC, Commissioner Montoya, was that the proposed plat development plan was in accordance with the Community College District Ordinance, with the conditions, conditional approval, and the applicable Extraterritorial Subdivision Regulations and I mentioned that Fire does not have a problem with the length of the cul-de-sac so staff would support the variance as well.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN ANAYA: Thank you, Joe. Any questions of Joe? Is the applicant here? State your name and address for the record and swear you in.

[Duly sworn, Ike Pino testified as follows:]

IKE PINO: Mr. Chairman, my name is Ike Pino and my address is 1590-B Pacheco in Santa Fe. Mr. Chairman and Commissioners, I want to thank you for the opportunity to give you a brief presentation this evening around some of the fast facts on Rancho Viejo and Windmill Ridge 4 in particular. Windmill Ridge unit 4, as staff has indicated, is going to consist of 278 lots, and on the variance, we now have staff recommendation for approval on that variance. That had been in question because the Fire Marshal had not weighed in until recently. I would also just add to the criteria behind the variance suggests that if substantial damage is going to be done to open space or drainages in order to connect the road, that that's a basis for a variance request and that was the original basis for our variance request. I would add that there are fire hydrants on the paved cul-de-sacs and there are hydrants located in the bulbs of the cul-de-sac as well, so I think we've got the variance issue covered in so far as staff is concerned now.

I would like to discuss the water supply issue and some of the points around the issue. As the Commission knows a water service agreement was approved in 2002. Rancho Viejo came to the County essentially asking what can we do to get water for our future phases of development? And what the County said was, first of all go out and get some water rights, water rights that would be transferable and usable by the County in the future. So we did. We went out and we spent about half a million dollars on water rights. The cost of doing business, not a problem. But the County asked us to do that - we did that.

The County asked us to be willing to include the County as co-applicants in our water rights transfers and that was done. If you've had the opportunity to see the water rights transfer application you'll see that the County's name is on there as a co-applicant signed off at the time by the County Attorney Steve Kopelman and by Estevan Lopez. The County asked us to take care of any protests, and there were two and they were settled out so there are no longer any lingering protests on those water rights transfers. We were asked to hold on until there was a water supply agreement because I think you'd all agree that there were fits and starts on the wheeling agreement between 2002 and when things actually happened last October. So we did wait on that.

We were asked primarily to focus on moving those water rights into Buckman and that's what the application was done for, to put them into the Buckman wellfield and they were reviewed by the State Engineer's Office and they've actually been sitting on the desk

of one of the City Attorney's for about a year and a half because it was viewed, I think at the time that there was not an opportunity for the County to deliver any water. So the water rights application was left there. And I want to add at this point that we have met with the City Attorney, Kyle Harwood, and I'm not putting words in his mouth, I'm just going to give you my interpretation of what he told us and that was that now you have the water resources agreement consummated with the City, and because you have your parking agreement and other agreements, he's ready to make the final call to the State Engineer's Office to say the transfer can be final now.

We were also asked to wait until there was a water supply. We believe that by virtue of the agreements you've recently entered into with the City that there is a water supply, and even though it's interim until it gets all transferred ultimately to the Rio Grande Diversion, the water rights that are being transferred are the type of water rights that the State Engineer's Office has said can be transferred from the Buckman wellfield where they'll be parked, temporarily, on a one to one basis. So the 102 acre-feet that will be parked now will be 102 acre-feet when they go to the surface diversion as well. So there will be no loss there.

In the water service agreement, which Mr. Catanach, I believe, said was your Exhibit D, we've been careful to go through all of the tenets of the water service agreement. We believe that we're in compliance with all of them. I would just like to call your attention to paragraph C on page 5, and it's a brief paragraph but I think it's probably one of the most salient paragraphs in the agreement. It says, "The County's agreement to provide water service is contingent upon a sufficient and adequate source of water supply, including but not limited to execution of a wheeling agreement with the City of Santa Fe to increase its wheeling capacity, and/or a completion of the Buckman Diversion project. I think that this says - these are my words, obviously - this boils it down to We, the County will provide you the water if you get the water rights transferred.

On that water rights transfer, we're down to the absolute last step with the Office of the State Engineer. I think County Attorney Steve Ross has had an opportunity to once again review the package as has the County Manager and the Utility Director and others. So the water rights transfer can occur now. In anticipation of the fact, and realizing that the County has to hedge any approval that they do to make sure that everything is in place, you see that you have on your staff report, condition number 10. Condition number 10 essentially says that we would be prohibited from recording a plat or making any lot sales until the Utility Department verifies that water is flowing, essentially.

That's an entitlement question I think that's very important, because without a recorded plat there can be no sales and we're here seeking approval understanding that that still has to happen, that that letter or that statement has to be made by the utility company. And that could be made once the State Engineer calls and says the City has given us clearance to go ahead and just finally approve this application.

Now, within the context of the water supply, the 102 acre-feet would be dedicated to Windmill Ridge Unit 4 in the amount of 55.6 acre-feet. We owe the County, by virtue

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of an agreement, to bank water rights in compliance with the water management plan that was approved a year ago, to bank 38.4 acre-feet. Within that agreement the County was to designate an area in which that bank should be placed. Our feeling is that since there is the opportunity now to bank it in the Buckman by virtue of the parking agreement that we would go ahead and do that, and that 38.4 would remain in suspense for five years until it's determined once and for all by the County that the .20 water budget that was approved in the water management plan is indeed being carried out.

Now, 3.6 acre-feet would go to cover the 16 units that were not covered with water in the village center. That was that small plat that we brought forward in October that consisted of 34 lots. We've had enough water for part of the subdivision but not for all of it. Within that 102 acre-feet then there would only remain 4.34 acre-feet that's uncommitted for anything, although we are looking at live-work units within the village to try to follow through on a commitment on those for some time in the next year and those could easily be served by that 4.34 but no application has been made for that at this point.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: You have 55.6, is that correct?

MR. PINO: 55.6 for Windmill Ridge 4.

COMMISSIONER MONTOYA: 55.6 for Windmill Ridge 4, and then 34.8 to bank.

MR. PINO: 38.4 for the bank.

COMMISSIONER MONTOYA: 38.4. Okay, that's where my - thank you.

CHAIRMAN ANAYA: Go ahead.

MR. PINO: And then separating the banking of the water rights and the transfer from the actual delivery, we were asked by Doug Sayre to make an estimate of how that 55.6 acre-feet of water for Windmill Ridge Unit 4 might be delivered over the next several years. The schedule we gave him was that in 2005 we would probably use 10.4 acre-feet of that. In 2006, we would use 36.8 acre-feet, and then we would use the final 12 acre-feet in 2007. And that is based on a sales, start and closing for all of the units in Windmill Ridge Unit 4.

Another area, Mr. Chairman and Commissioners, that I think we need to touch on just because these are commitments made and I think it's incumbent on us to give you the status of these things because whenever we've made agreements I want the Commission to know that we are crying out the tenets of that agreement. Under the water conservation plan we were asked to provide data on an annual basis to show what the actual consumption rate in Rancho Viejo is. In January we obtained the data for all of 2004 and we reduced it and maybe this is the reason it's snowing outside but all of our data reduction actually agrees with Doug Sayre's data reduction. In fact, we're continuing to show an actual an actual use in Rancho Viejo of customers who have been on the system for a year of .16 acre-feet. So we continue to be under the .20, which of course was our goal all along.

About 30 acre-feet, additional, have been used for irrigation. However, we agreed last year that we would build an effluent return system from our wastewater treatment facility to water parks, common areas and streetscapes. All of those lines in the last year have been constructed. The pumps will be installed at the end of this month, beginning of next month, and we will be testing the system throughout March and when we begin our irrigation season in April we will begin the use of the treated effluent in those areas. So for next year's irrigation, which begins in two months, potable water will no longer be used at Rancho Viejo for any of that type of watering.

One of the things that came up in the data reduction and review was that the lowest amount of water being used was by a residence in Windmill Ridge Unit 2, which coincidentally we started putting all the cisterns in. And as we indicated last year, we're going to continue putting cisterns on every single house as Rancho Viejo goes forward. So it would appear, I think one could conclude, maybe not scientifically, but could conclude that those units that have cisterns and the ability to use those for watering their own yards are coincidentally the same units that are using .12 acre-foot per year.

So in terms of the reuse, I should also add that we did go out and obtain a bond, a quarter million dollar bond for the County, until we got the system hot. We did get a permit modification from the Environment Department that was approved in July to allow us to reuse that treated effluent at a 1-A level for irrigation. We completed the expansion of the Rancho Viejo plant to 120,000 gallons per day, and as I mentioned, all of the infrastructure is in place to go ahead and start using that water. So that was a commitment made and we believe a commitment kept because the County showed good faith in accepting our word that we would go ahead and put that in last year and it's in and ready to go.

Another area that I wanted to touch on briefly was affordable housing. You heard that there will be 42 affordable homes in this subdivision. That, combined with 125 houses, all the way through Windmill Ridge Unit 3 will give us 167 affordable homes in Rancho Viejo. All of these homes, as you might well expect, have been extremely easy to sell because there is a large demand for affordable housing and we're very proud to have them integrated into all of our communities and as we agreed to do, the homes are integrated throughout the subdivision and they are market-rate homes that we like to say are built as market-rate homes but affordably financed, not affordably or cheaply built.

One last item that I will touch on just because this comes up during discussions about our project and because it does tie into master plan issues, and that is the development of the commercial area. We committed to the County two years ago or three years ago to update, regularly, a commercial market analysis of the market area for the Community College District. We recently received our update. It's been provided to the staff. The update suggests that at this time, the market area in the Community College District area and Rancho Viejo in particular will support 13,100 square feet of commercial development.

Our first commercial center, we'll be having our grand opening for it in April. And

that consists of 12,000 square feet. So clearly we're 1,100 square feet of what the study says. I will tell you though that the market area is still very small. It's very difficult to attract anybody - despite all the rosy predictions you heard on other issues, it's very difficult to attract commercial entities out to that area still because the market area is so small.

But we're going ahead and going to open that commercial center. We have a commercial broker who's looking for tenants. We have some good bites on it and we hope to have that building filled up by May if at all possible, and then move on to our next phase of building commercial right there within the village, and continue with the commercial development as we'd agreed three years ago to be in line with what the market area would support, the idea being not to just build buildings for the sake of having them and have them there vacant.

If you look at the real estate market in Santa Fe right now there's a tremendous glut of office space and commercial space. The office space glut is because the state built that big building over there where the National Guard used to be and all of that office space used to be in private buildings around Santa Fe. It's all in that building now and it left a lot. And at the corner of St. Francis and Cerrillos, for instance, a commercial space can be internal and a building can be leased for \$8 a foot. So the competition right now is pretty fierce. But we're going to continue marketing our building and trying to get it leased up and going into our next building.

Mr. Chairman and Commissioners, these are the areas that address things that have been of concern in the past or what we had agreements for in the past, and at this point I will conclude by saying that we agree with all the conditions in the staff report and the conditions by the EZC and at this point we would stand for any of your questions.

CHAIRMAN ANAYA: Any questions of Mr. Pino?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Ike, how many water rights did you purchase? Just those 102?

MR. PINO: Yes, it's 102 acre-feet of water rights, 60 are called the Tierra del Sol water rights and 42 acre-feet were called the Ameron water rights. Middle Rio Grande rights.

COMMISSIONER MONTOYA: Okay. All of those are the ones that will be transferred.

MR. PINO: Mr. Chairman, Commissioner Montoya, that's correct.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a couple of questions on the water. The agreement that you referred to, Ike, calls for 120. So are you going to get an additional 14 acre-feet?

MR. PINO: Mr. Chairman, Commissioner Sullivan, as a matter of fact, we have additional water rights. Frankly, at the time that we made the application, it was for

120 but the State Engineer reduced to 102 in consumptive. So we do have water rights available to take it up to the 120. Why we haven't made application on those is because, for the foreseeable future, as I mentioned earlier, for the next 2 ½ years, it wouldn't be necessary to have those. Now, we can certainly put those in a bank but we wouldn't need delivery of those in the immediate future.

COMMISSIONER SULLIVAN: So are you going to provide that extra 14?

MR. PINO: Mr. Chairman, Commissioner Sullivan, we certainly can do that.

COMMISSIONER SULLIVAN: Okay. I just wanted to point out another thing on the agreement you brought up on page 3. One of the things that was a part of that water service agreement says The applicant understands that the County does not have the right to supply water from the Buckman wellfield in excess of the current 500 acre-feet maximum diversion and provided that the applicant reserves the right to attempt to acquire an entitlement within the 500 acre-feet quantity that other parties consistent with the right of the County. So you could go out and purchase. What I'm still a little concerned about is that we've gone through a great deal of discussion through one particular applicant about our requirement for a demonstration of water rights at the master plan phase, saying, well, we're going to take care of that in the preliminary/final phase.

Now, as I read where you are in this point in time, you're moving forward in accordance with this water service agreement, but we're now asked to approve the final development plan and you still haven't gotten the State Engineer's approval of your water right transfer. I understand that. And I think, by the way, that the County had done a great deal to expedite that. We've executed an agreement that allows the parking, which was a problem you had before when they were rejecting your application, although they had approved a previous one that we didn't think that they would, and we've now negotiated a temporary, interim 375 acre-feet.

So now you're coming before us with final development plan and we still don't have the water rights approved. We don't have that parking approved at Buckman yet. You make reference to condition 10, which says that the staff will do it. So my concern is that we get pushed away from approval at master plan, and say, Oh, we'll take care of that. And I'm not saying you, specifically, Rancho Viejo, because that wasn't a condition of your approval. It's other issues. We get pushed away from master plan, Oh, we'll do that in final development plan. Now we come to final development plan and we don't have them approved in final development plan. We say, Oh, we'll make that a condition, 10.

So the net effect is that the County Commission has had no jurisdiction whatsoever over the water issue, which is one of the most important issues that we're dealing with in this basin. So I'm curious as to why you're coming for master plan approval now if you're as close as you say to getting the State Engineer's write-off on this parking.

MR. PINO: That's a good question, Mr. Chairman, Commissioner Sullivan, and I'll tell you why. Once your water resource was signed. I think the last signature on that was Mayor Delgado's on January 15th, less than a month ago. We made a real hard

push to try to get everything, including sitting down with Kyle Harwood. My hope had been to be able to come here tonight and tell you he'd made the call the OSE and the OSE had said it's a done deal. And that's the last final step that still needs to happen.

Why I asked for that condition boils down to this: I have 240 guys that rely on continued employment out there and we have a mechanism within the County today that we've used many, many times in the past and that is the ability to get an at-risk grading permit so that we can do some preliminary grading, clearing and grubbing. And we can do that with your approval. We did that last year with Windmill Ridge Unit 3. You approved that in October. We were grading in November, December but we didn't really get the addendum to the water service finalized until February. And it's an at-risk thing that we do and we wanted to have the ability to do that so I can keep our guys working out there during that period. Hopefully, it's not going to take all of two months. It probably would take all of two minutes for somebody at the City just to make that call, but to get that done and in the meantime, have the ability to get that much work started and keep things continuous without having a break. That's the reason why, Commissioner Sullivan. It's not any fancy smoke and mirrors about water or anything, it's just trying to keep all of our crews out there on a continuous basis.

COMMISSIONER SULLIVAN: It seems, Mr. Chairman and Ike, that we're going to need an amendment to this water service agreement anyway. Mr. Chairman, if I can ask Mr. Wust just a comment for a second. Steve, you have a review in the packet that indicates that Windmill Ridge 4 is not supplied within the existing water service agreement between Rancho Viejo and Santa Fe County. This is dated December 28, 2004. Could you give us a little background on what your review here is telling us?

STEPHEN WUST (County Hydrologist): Mr. Chairman, Commissioner Sullivan, that was current as of that evaluation. That is the original water service agreement was not expansive enough to include all the way through Windmill Ridge 4. My understanding from talking with Doug Sayre, and he's here tonight is that that's been updated and there's sufficient water. The arrangement is sufficient now for Windmill Ridge 4, but it wasn't in the original, whatever was signed originally for a water service agreement was not inclusive of Windmill Ridge 4 at that time. Therefore that's the outcome of my evaluation. But my understanding is it's been updated since that time.

COMMISSIONER SULLIVAN: Okay. Now, when you're talking about the original water service agreement, are you talking about the one dated 2002 in our packets?

DR. WUST: Mr. Chairman, I'll defer to Doug Sayre on that. All this came from my conversation with him and finding what was included in the water service agreement and what was not. I think I'll defer to him on the details.

COMMISSIONER SULLIVAN: This is the one dated October 29, 2002. Is that the water service agreement that Mr. Wust is talking about, Doug?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, no. The water service agreement that he's talking about is the initial water service agreement with Rancho Viejo that was done in 1994 which allocated the original 168 acre-feet to this development.

COMMISSIONER SULLIVAN: Okay. So that answers my question then. We're now at the point where the original 168 acre-feet that Rancho Viejo participated in has been used up through Windmill Ridge 3. Is that correct?

MR. SAYRE: Well, Commissioner Sullivan, to a certain extent -

COMMISSIONER SULLIVAN: Has been allocated. Hasn't been totally used.

MR. SAYRE: It's been allocated but it has not been totally used because if you look at the current usage factor, they are at about - as of the end of 2004 they had used 135 acre-feet approximately, of which 31 acre-feet is for landscaping. So they're really at a little over 106 acre-feet I believe. I can give you those exact figures.

COMMISSIONER SULLIVAN: We require a small reserve for that .31 so we never expect they're going to use the whole 168 because then they wouldn't have that reserve for line losses and fire and so forth.

MR. SAYRE: Correct.

COMMISSIONER SULLIVAN: So what I didn't understand initially and I think I understand now after my conversations with you are that we're not only being asked here for master plan approval, we're being asked to allocate some amount of water from this 375 temporary acre-feet of groundwater that we obtained through our negotiations with the City. And I just want to be sure that the Commission understands that the intent here, is it not, as soon as the water rights are parked, that Rancho Viejo will come back and ask for some amount of water to be allocated to them through that temporary mechanism. Is that the next step after that?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, that's my understanding. They have a letter in front of us for the 59.2 acre feet which would have to come from the 375 acre-feet that we currently have been additionally allocated from the City and that's where that would come, for a bridging from now until 2008 or 2009, when the Buckman Direct Diversion comes on line and then they can use the 102/120 acre-feet that they are transferring to that Buckman Direct Diversion.

COMMISSIONER SULLIVAN: Are we talking about the 55.6 that Ike was talking about for the first phase, plus our six percent addition?

MR. SAYRE: Commissioner Sullivan, I believe we are. What I'm quoting to you is from the letter Rancho Viejo wrote to me and that's why I'm quoting the 59.2 and I think Ike gave you some figures. Perhaps they're not quite the same. I think there's 3.2 acre-feet probably from a previous agreement that he probably should have added into the 56.

COMMISSIONER SULLIVAN: I'm just trying to get the procedure straight here, because my concern, as I said before is that bypassing each step. We're bypassing the County Commission on these decisions with regard to how the water gets allocated and where it gets allocated. We fought like bears to get that extra 375 acre-foot temporary allocation and we want to have some say-so as to where it goes and we want to have some priorities as to where it goes. And I think Rancho Viejo is a logical applicant for that. I'm

not saying that we are guaranteeing it tonight but I certainly think they're a logical applicant. They do have affordable housing. They are in a growth priority area so they're certainly a logical applicant for that water.

Now, is this what's going to happen? If so, we can move this thing forward. If Rancho Viejo wants to get a head start on their grading, number one, I think they need to do that at their own risk. I think that needs to be clear. That nothing is final until a plat is platted. We need to make that perfectly clear. Secondly, the water service agreement clearly needs to be amended because Rancho Viejo is now parking water rights, which is fine, and is apparently going to be asking us for some amount of water rights to be taken from that 375 acre-feet, whether it's 59 or 55 or whatever you all come up with. The Commission has to decide if that's an appropriate thing to do, and the Commission has to decide what the terms of that are going to be, i.e., is it going to be a lease? We've spent a lot of time on this, we being the County staff, a lot of effort, a lot of money following this thing through.

So is it going to be a lease? Is it going to be a one-time lump sum payment? What's going to be the situation? So I think if we have a commitment that that amended water service agreement comes back to the County prior to the plat recordation, and after State Engineer's approval of the parking so that we know that we have that, and that any final development plan approval, any permits that Rancho Viejo pulls are at their own risk subject to that final water service agreement commitment, then at least we have an opportunity to say what the priority is going to be for those 375 acre-feet. That has to last us on all the requests for about four years.

We already have requests from Oshara. We had a request tonight from Suerte del Sur. We have lots of applicants knocking on the door who want those temporary water rights. Is that a workable plan that the staff feels comfortable with?

MR. SAYRE: Mr. Chairman, Commissioner Sullivan, I believe it is. I don't want to speak for Land Use, as far as the Utility Department. I wanted to explain about the 59.2 acre-feet commitment. I think all of us knew that it was basically going to be a Commission requirement that they be presented with this for actual scheduling or allocation and that's why that number 10 caveat was put in the way it was because we knew that a lot of that had to take place before we could allow the approval or agreement by Land Use and the Utilities Department to go forward. That was our understanding of what had to be done. We knew that also the water rights transfer had to be effected and agreed to by the State Engineer and those things were considered in how we phrased that.

Whether Rancho Viejo wants to consider that I'll let Ike speak to that, but I'll let Joe speak to these other things and Steve, if that's workable. But it seems to me that would be workable.

COMMISSIONER SULLIVAN: I would just add – and I appreciate that's what you did on condition 10, was to say we still have another step here. The only problem and concern I have with that step is it's a staff-only step and I think this is an important enough issue that it should be a Commission/public policy decision. I think one

way to fix that would simply be to put a comma at the end of 10 and add, "and a water service amendment is approved by the BCC."

So my question would be then, Ike, does that track with your thinking on this?

MR. PINO: Mr. Chairman, Commissioner Sullivan, I think we're headed in the right direction. Mr. Chairman, if I could, I'd like to defer just for a minute to our water counsel, Chuck Dumars, who I think can get us there.

CHAIRMAN ANAYA: Go ahead, Chuck.

CHUCK DUMARS: I'm legal counsel for Rancho Viejo. I just wanted to - I think we're moving in the right direction, and I understand the concerns of allocation and the importance of policy that's indicated by the allocation process. I certainly compliment the County on their ability to negotiate for this interim bulk water contract for 375 acre-feet to get to the surface diversion which is of course the ultimate goal of everyone in the region. But I think it's important to draw some distinctions between agreements and discretion of counties.

I do a lot of legal work and draft a lot of water service agreements and I helped draft this one with Mr. Kopelman. There were general policies which you have developed, which I think Rancho Viejo is meeting all of them with respect to water supply. There were codes, code-set standards for development and as pointed out by one of the Commissioners, you want to encourage people to go above minimums and Rancho Viejo has done that. Those are issues of discretion and policy flexibility which are vital. There is, however, a third thing, and that is a contract. In a contract - a water service agreement signed by the parties is a contract. In those contracts there's no discretion to comply with or not comply with a contract. Contracts typically with counties and cities have conditions precedent, and all those conditions precedent, things you have to do before it becomes binding on you - you can't simply say I may do them. You have to do them.

In the case of the 2002 agreement, the contract was pretty straightforward. The water service agreement contract says that Rancho Viejo is obligated to do a lot of things before it can get a water supply as a customer. They're obligated to get the water rights, which they have done. They're obligated to put them in Buckman which they are prepared to do and will have done very soon. They're obligated to let the County be the co-applicant to promote County policy which they have done, and they're obligated to actually make those County rights which are the basis for the future diversion out of the Buckman surface supply. They're obligated to provide Rio Grande rights so that they can go on a one to one basis.

They've met every single requirement of the 2002 water service agreement. Now, in exchange for that the water service agreement says that either water through the wheeling agreement, as then envisioned, or through the surface diversion, or from some other source when there is a water supply, then the County will serve this development. There is no water supply. There's 375 acre-foot bulk water contract that the City supplies, and that's a great thing. But that requirement now has been met. So all of the requirements are met and I think what Commissioner Sullivan is telling us is even if that is true, it's a

very complicated policy issue as to how you go through and complete the contract and it needs to be negotiated among the parties. And that's what I believe Mr. Pino is simply saying.

I want to make it very clear on the record our view, at least my view and I think Rancho Viejo's view of the current water service agreement. Now, as the process moves forward, that certainly may need to be amended. All kinds of policy considerations will be there. But as of right now, all the conditions precedent have been met. We have a valid water service agreement and we're simply here saying since it's now finished, since all the prerequisites are there and since you are now in that process, it's important to sit down together and figure out how to implement that particular agreement in a way that's fair to everyone.

COMMISSIONER SULLIVAN: Mr. Dumars, let me just - of course you haven't met all the conditions. You haven't met the 120 acre-feet and you haven't parked the water rights yet. So you haven't met your terms of agreement yet but you're certainly well on the way to doing it.

MR. DUMARS: Yes.

COMMISSIONER SULLIVAN: How do you read the agreement? Do you read the agreement that because of the October 2002 agreement you have a priority right for 120 acre-feet of the 375, is that what you're saying? Or 59.2 acre-feet? I'm not understanding what you're saying here. Are you saying because of that agreement you have a priority call, as it were, on the 375 acre-feet, and if so, how much do you feel of that is due to you?

MR. DUMARS: That's a good question. Well, the first part of the question is, does the water service agreement of October 29, 2002 on its face, does it guarantee water delivered from the County once there is a valid water supply in place? And I think the answer to that is yes, it does do that. It is true that the State Engineer has not signed off on these water rights but basically, it's a done deal. We've agreed that they are part of the County package. There's a parking agreement, thank you very much to the Commission for obtaining that. That's great for everyone and moves the surface diversion closer. But the simple fact is it is a binding contract that entitles Rancho Viejo to basically it's part of the bargain. It's carried out all the prerequisites.

Now, that being the case, it doesn't necessarily follow that given the way things have changed and given the quantities of water that are now available, that Rancho Viejo would insist on the full amount or indeed not be willing to amend it. But as it currently stands, it's a valid, binding contract, but it must be viewed in a social context and the social context is that you've got other competitors. Everybody's trying to be fair to one another and that is basically, I believe what Mr. Pino is suggesting is that he'd like to get condition 10 in there and sit down and work it out.

But one thing that should not happen is that based upon this agreement it would not be fair to Rancho Viejo or to anybody in a contract circumstance, to transfer the water rights into Buckman and then be told we've changed our mind and our decision is that you

don't get an allocation of water, notwithstanding the language of your contract. Nobody anticipate that, but that would not be a fair result. So Rancho Viejo is here saying we're prepared to carry out our last part of the bargain, and when we do, we want to get fair consideration and are willing to negotiate to get the quantities of water we're entitled to and if it's necessary to amend the agreement, of course it would be amended based upon negotiations and discussion with staff.

COMMISSIONER SULLIVAN: I don't think there's any thought that we would require Rancho Viejo to transfer to the Buckman Diversion without previously made a commitment. I assumed that once you completed the parking agreement, that you would then come through with the final development plan and that's my question to Ike. It seems like we've got the cart before the horse here. And then we would amend the water service agreement because you would obviously be asking for some portion of that 120 acre-feet to be allocated to you so that you could transfer and so that you would know ahead of time that you had that commitment from the County. And I personally would be willing to make that commitment for whatever the appropriate amount is, at that stage. Does that sound reasonable? Workable?

MR. DUMARS: That would be up to Mr. Pino, I'm just a lawyer here. But as a lawyer, it is always a good idea if you have a contractual commitment and you have a good will policy relationship with the County that you sit down with them and you agree to amend an agreement to get a quantity of water that's fair to everyone, which is what I hear you suggesting, is a very good idea. So yes.

MR. PINO: Mr. Chairman, Commissioner Sullivan, I agree with that too. I think there are a number of matters that can be negotiated in the framework of an amended water service agreement and we would commence that process immediately with your approval.

COMMISSIONER SULLIVAN: And you wouldn't take the position during that negotiation that you had the contractual right to 120 acre-feet of that 375? Or would you?

MR. PINO: I think, Mr. Chairman and Commissioner Sullivan, that would probably be a starting point in the discussion, but if we go back and look at the water budget that I detailed, within the scope of 102 acre-feet, 38.4 of that is just banked for five years, so presumably, five years from now we could come back and say, can those be released for whatever purpose. The lion's share of those go to Windmill Ridge Unit 4 and the previously approved Village Center. I might start this discussion with the County by saying, all right, we have 102 sitting there at the City. Let's go ahead and park those and let's focus on the actual water use that we'll need for Windmill Ridge 4 and for the Village Center, which is a total of about 59 acre-feet, because that will meet our needs for development for the next 2 1/2 years.

And then we would realize that beyond that 120 or that 102 that we've got to get in line just like everybody else. Get water rights. Come in with master plan approvals. Come in and get water service agreements in addition to the ones that we have and see if we

cannot convince the County to provide us additional water out of that 375 if it's still available, or any other source that might be available at the time.

COMMISSIONER SULLIVAN: That sounds reasonable to me.

CHAIRMAN ANAYA: Commissioner Sullivan, I allowed you 35 minutes and there are some more Commissioners that would like to ask questions.

COMMISSIONER SULLIVAN: Let me just finish by saying, are you okay with a revision to number ten that puts the comma in there and says, "and a water service agreement amendment is approved by the BCC"?

MR. PINO: Mr. Chairman, Commissioner Sullivan, yes.

COMMISSIONER SULLIVAN: Okay. Good.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. I forgot what I was going to ask.

COMMISSIONER SULLIVAN: You see; it works.

CHAIRMAN ANAYA: I apologize. I won't let that happen again.

COMMISSIONER MONTOYA: Mr. Chairman, Ike, regarding the 59.2 out of the 375 that's being discussed, is that 59.2 coming out of the 102, and then being put back into the 102? All of the math and schematics have been -

MR. PINO: Mr. Chairman, Commissioner Montoya, the 59 acre-feet would come out of the 102 that's being transferred. And then we would negotiate to get that 59 acre-feet out of the 375 that you have to deliver. And then that would be on an annual basis. I think that we want to work with the County. We don't need 59 acre-feet in the first year. I'm not going to ask for 59 in the first year. I'd ask for a commitment for that over three years.

COMMISSIONER MONTOYA: Yes. Okay. Then I guess the answer to my second question, my second question was on number 10, do you need that additional amendment in terms of to be approved by the BCC.

MR. PINO: Mr. Chairman, Commissioner Montoya, I agree with the notion that there should be final approval by the County Commission for an amended water service agreement. I don't have a problem with that.

COMMISSIONER MONTOYA: That's all I had, Mr. Chairman. I donate the rest of my time to Commissioner Sullivan.

CHAIRMAN ANAYA: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman, and I just have a question with regard to the agreement, which I'm sure you'll be working with. Under the agreement to transfer water rights, and perhaps this is for Mr. Dumars, there is a section C that says "If the Office of the State Engineer denies or substantially denies the application to transfer the water rights the applicant shall have no duty to appeal the final decision of the OSE. The County, however, shall have the right, at its own expense to pursue or defend such appeal if it deems appropriate." Could you interpret that for me?

MR. DUMARS: I'll try, Mr. Chairman, Commissioner Vigil. That

anticipates, sometimes when they have these water rights transfers they are highly protested, and then the State Engineer will deny the application in its entirety and then you can appeal to the district court de novo and start all over again. That has no application here. The State Engineer has reviewed all of these water rights. Interestingly enough, these are both well rights that had complete beneficial use, but one of them the amount was slightly higher than we anticipated we would get so the State Engineer has reviewed them, concluded the 102 acre-feet is valid. They are not from retiring surface rights. One of them comes from a golf course and the other one comes from a factory. So simply put, if there had been a denial and if there were, and then if the County wanted to appeal without Rancho Viejo they could have appealed, but it's not going to have application here because they've been approved. It's just a question of a signature by the City. If that makes sense. Maybe I didn't explain it any better. But simply put, had there been a denial, and the County wanted to appeal, they could appeal them and try to protect the rights, irrespective of what Rancho Viejo wanted to do.

COMMISSIONER VIGIL: That explains it succinctly. Thank you.

CHAIRMAN ANAYA: Okay, if there's not any more questions for the applicant, this is a public hearing. Is there anybody in the audience that would like to speak in favor of this project? Anybody like to speak against this project? Okay, hearing none, the public hearing is closed and I would entertain a motion from the Commission or any more discussion. Commissioner Montoya.

COMMISSIONER MONTOYA: I move for approval of this Windmill Ridge Unit 4 with staff conditions, and the amendment as submitted by Commissioner Sullivan on number 10.

CHAIRMAN ANAYA: There's been a motion.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: And a second, with the amendments and the conditions. Any more discussion?

COMMISSIONER VIGIL: Mr. Chairman, I have a question.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Pino, through your testimony, and this is just a point for clarification, I thought I heard at some point in time that you weren't sure that you were in agreement with the substance of item 10 on the recommendations. Is that correct?

MR. PINO: With condition number 10?

COMMISSIONER VIGIL: Condition number 10.

MR. PINO: Mr. Chairman, Commissioner Vigil, I'm in agreement with it as proposed.

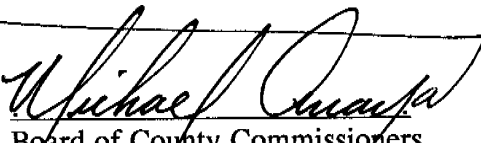
COMMISSIONER VIGIL: Thank you.

The motion to approve EZ Case #S/V 04-4441 passed by unanimous [5-0] voice vote.

XIV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at approximately 9:45 p.m.


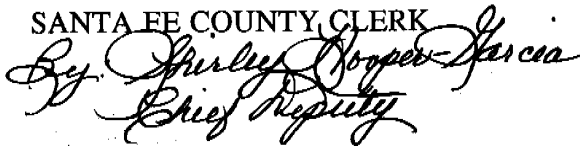
Approved by:


Board of County Commissioners
Mike Anaya, Chairman

Respectfully submitted:

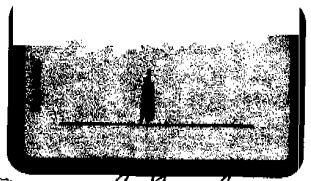

Karen Farrell, Commission Reporter

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Shirley Dwyer-Garcia
Chief Deputy



SFC CLERK RECORDED 04/14/2005



Subject: Democratic Party of Santa Fe County: Election Board Nominees

From: Robert Adams <cd3demfield2004@yahoo.com>

Date: Tue, 1 Feb 2005 07:27:42 -0800 (PST)

To: vespinoza@santafecounty.org

Date: Tue, 1 Feb 2005 07:24:44 -0800 (PST)

From: Robert Adams

Subject: Democratic Party of Santa Fe County: Election Board Nominees

To: vespinoza@county.santafe.nm.us

Valerie -

The following are the folks that Minnie nominated to serve on the SF County election board:

Terry Rivera 83 Two Trails Road, Santa Fe, 87505 988-1216

Cecilia Lopez 3323 Camino Prado Vista, Santa Fe, 87507 474-9150

Edna Wyatt (will forward info to you)

Douglass Schocke 210 La Cruz Road, Santa Fe, 87501 988-4299

Ernesto Baca 250 Casados Street, Santa Fe, 87501 660-9161

Carrol Young 2359 Placita la Condesa, Santa Fe, 87505 473-5421

Thanks,

Robert Adams

Vice-Chair

Democratic Party of Santa Fe County

231.2569

Do you Yahoo!?

Yahoo! Search presents - Jib Jab's 'Second Term'

Do you Yahoo!?

Yahoo! Mail - Helps protect you from nasty viruses.

SFC CLERK RECORDED 04/14/2005

February 7, 2005

Santa Fe Board of County Commissioners
Santa Fe County Complex
102 Grant Avenue
Santa Fe, NM 87504

RE: Casa Rufina Senior Affordable Village

Dear Commissioners:

By way of a brief background, I had the honor of working in press/public relations for the majority leadership in the NM State Senate under Senator Edward Lopez and Senator Manny Aragon. Senator Lopez was most proud of creating the NM Mortgage Finance Authority which is what sparked my interest in helping this project. I took it upon myself to visit the Senior Citizen Centers in and around Santa Fe in order to hear from the seniors' themselves about their needs for affordable housing. I found that they were touched to be heard because unfortunately they believe that nobody cares about them and that they are forgotten. I also discovered that there was a growing waiting list of well over 200 senior citizens at the Ventana de Vida senior affordable village on Pacheco Street. These elderly citizens, a majority of whom are women whose husbands have passed, do not have the luxury of waiting for decent affordable housing to be made available.

The Casa Rufina Senior Affordable Village will provide an additional 120 homes for our senior citizens. The final step in the process is the preliminary and final development plan approval with a parking variance which provides the same parking as Ventana de Vida which has worked well there and a setback variance which is consistent with the setback that exist on adjacent properties. The parking variance provides more green space for the seniors and doesn't mandate unnecessary asphalt groundcover and the setback variance acts as a traffic calming device for the area. *The Casa Rufina community will be identical in architectural design and general layout to Ventana de Vida which won a national award for senior housing and is without question the highest quality community of its kind in the region.*

The Santa Fe Board of County Commissioners *approved* the rezoning of the property to accommodate 120 senior affordable apartment units in late 2003 but conditioned the approval upon the city providing water for the project. *This condition has been satisfied.* The City *approved* providing water to the project several months ago. The Agua Fria Development Review Committee ("AFDRC") unanimously *approved* the rezoning of the property for 120 senior affordable units in the fall of 2003.

SFC CLERK RECORDED 04/14/2005

The final step in the approval process is the County approval of the development plan which is modeled after the national award winning project on Pacheco. The Casa Rufina site plan has 2.3 more acres of open space than Ventana de Vida. The AFDRC has approved the preliminary and final development plan and variances by a 6-0 vote just one month ago with one abstention. AFDRC is the recognized representative body of the Agua Fria Traditional Historical Community by both the City and County.

Casa Rufina will provide a beautiful place for the elderly of the Agua Fria area to live and be near their families, bus stops and shopping. ***This is a project for the elderly residents of Santa Fe.*** One of the seniors suggested that a petition be started to show their strong support for this project. ***Over 200 signatures are their voice in support of Casa Rufina and more senior affordable housing in Santa Fe.*** The AARP of New Mexico also gave Casa Rufina a rare written endorsement.

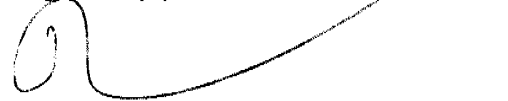
The development plan has had the participation and suggestions of the residents of the Agua Fria area over a period of ***nearly two years*** and their input has been incorporated into the plan. ***The two approvals by the AFDRC, without a single no vote, speaks to their strong support for this project.*** There was a question about annexation and it was determined by city counsel and outside legal experts that this could not be done without the majority of the Agua Fria Traditional Historic Community residents approving it.

Approval of the development plan will pave the way for this long delayed project to be completed in time for the elderly of our community to begin moving into their new homes by Christmas of **2005**.

The one to one contact and visitation with our senior citizens was one of the most gratifying experiences I have encountered in Santa Fe. Their remembrances of Santa Fe and their support of this project were overwhelming.

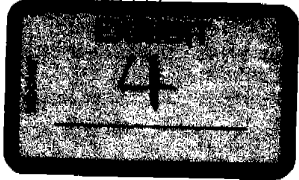
These elderly citizens on fixed incomes desperately need and deserve our collective cooperation. Voting "yes" for this development plan will keep this project moving forward and assure our senior citizens that they have not been forgotten.

Respectfully yours,



Debra Lyons

SFC CLERK RECORDED 04/14/2005



**2003 HOUSING TAX CREDIT
CARRYOVER ALLOCATION AGREEMENT**

ALLOCATION OF CREDITS TO THIS PROJECT IS BASED ON THE FOLLOWING:

- Credits from Set-Aside for Projects involving Qualified Non-Profit Organizations
- Points Given for Participation by Qualified Non-Profit Organization
- Special Tenant Population Set-asides [Section 3]
- Additional Low-Income Targeting [Section 2(a)]
- Extended term of Occupancy Restriction [Section 2(b)]

THIS AGREEMENT, dated as of **December 18, 2003**, is by and between Casa Rufina Limited Partnership, a Limited Partnership, and its successors and assigns (the "Owner"), and the New Mexico Mortgage Finance Authority, a body politic and corporate constituting a governmental instrumentality of the State of New Mexico ("MFA").

WITNESSETH:

WHEREAS, the Owner is the owner of a **One Hundred (100)** unit rental housing development located at Rufina St. & Henry Lynch Road in the City of **Santa Fe**, County of **Santa Fe**, State of New Mexico, more particularly described in Exhibit A hereto, known as **Stone Creek** (the "Project"); and

WHEREAS, MFA has been designated by the Governor of the State of New Mexico (the "State") as the Housing Credit Agency for the State for the allocation of low-income housing tax credits under Section 42 of the Internal Revenue Code of 1986, as amended, and the Treasury Regulations thereunder (the "Code"); and

WHEREAS, the Owner has applied to MFA for a Carryover Allocation of low-income housing tax credits to the Project and has made certain representations to MFA in its Rental Project Application (as the same may have been amended by any progress reports (the "Progress Reports") provided to MFA pursuant to Section 9 hereof and the Carryover Allocation Application; collectively, the "Application"), concerning, among other things, the number of Low-Income Units (as hereinafter defined) and the term of occupancy restrictions; and

WHEREAS, based upon such representations, MFA is willing to make a Carryover Allocation of low-income housing tax credits to the Project provided that the Owner, by entering into this Agreement, agrees to comply with the covenants, terms and conditions of this Agreement as a condition precedent to the Final Allocation of tax credits by MFA.

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, and of other valuable consideration, the Owner and MFA agree as follows:

1. **Carryover Allocation.** Contemporaneously herewith MFA has issued a **2003 Housing Tax Credit Carryover Allocation** (the "Carryover Allocation") to the Owner in the amount of **\$1,034,620.00 (One Million Thirty Four Thousand Six Hundred Twenty Dollars and Zero Cents)**. The Carryover Allocation is subject to all of the terms and conditions set forth in this Agreement.
2. **Occupancy Restrictions.** The Owner covenants and agrees that:

Minimum Federal Set-Aside Election:

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Project Name: Stone Creek
 2003 Housing Tax Credit
 Carryover Allocation Agreement
 Page 2

(a) For the purpose of Section 42(g)(1) of the Code, the Owner elects that at least **forty percent (40%)** of the residential rental units in the Project shall be both rent-restricted (as hereinafter defined) and occupied by individuals or families whose income is **sixty percent (60%)** or less of area median gross income.

Total Set-Aside:

(b) Notwithstanding the election described in subsection (a) above, the Owner covenants and agrees that at least **one hundred (100)** of the residential rental units shall be both rent-restricted and occupied by individuals or families whose income is **fifty percent (50%)** or less of area median gross income. All of the foregoing residential rental units are collectively referred to herein as the "Low-Income Units", and, with respect to all of such Low-Income Units, "area median gross income" shall be determined in accordance with the Code. The Owner further agrees that additional units in the Project shall be both rent-restricted and occupied by low-income individuals or families whose incomes meet the requirements of subsection (a) to the extent necessary to maintain the "applicable fraction," as defined in Section 42(c)(1)(B) of the Code, at not less than **One Hundred percent (100%)** for each taxable year of the extended use period as defined in Section 42(h)(6)(D) of the Code (the "Extended Use Period"). A unit is "rent-restricted" if the gross rent with respect to such unit does not exceed thirty percent (30%) of the imputed income limitation applicable to such unit [based upon the income limitations set forth in this subsection (a)], all as determined in accordance with Section 42(g) of the Code.

(c) The foregoing occupancy restrictions shall be in effect for each building which is part of the Project for a period of **forty five (45)** taxable years beginning with the taxable year in which each such building is placed in service or, at the election of the taxpayer, the succeeding taxable year.

3. Additional Owner Agreements. The Owner further covenants and agrees that not later than the last day of the first year of the Credit Period, as defined in Section 42(f) of the Code:

(a) At least **Zero (0)** of the residential rental units in the Project shall be constructed, equipped, set aside and made available for occupancy on a priority basis to eligible **N/A** tenants at all times during the term of the Land Use Restriction Agreement hereinafter defined, and the Owner shall provide evidence to **MFA** of all licenses, permits or other governmental approvals required for such occupancy. Any deviation, whether temporary or permanent must be requested in writing by Owner to the **MFA**. Written **MFA** permission must be obtained in advance of any deviation.

(b) Of the residential rental units which are to be subject to the restrictions of Section 2 hereof, at least **thirty (30)** shall be **one-bedroom units** and at least **seventy (70) two-bedroom units**.

4. Representations, Covenants and Warranties of the Owner. The Owner covenants, represents and warrants as follows:

(a) The Owner is duly organized under the laws of the State of **New Mexico**, and is qualified to transact business under the laws of the State.

(b) The Owner and all parties comprising the Owner are in compliance with all requirements of Section 42 for all other properties subject to Section 42 owned by any of them.

(c) The Owner has good and marketable title to the premises constituting the Project.

(d) Each building which is the subject of **MFA's** Carryover Allocation is, or by **March 15, 2004** will be, a "qualified building" as defined in Section 42(h)(1)(E)(ii) of the Code, and the Project will constitute a "qualified low-income housing project" as defined in Section 42(g) of the Code.

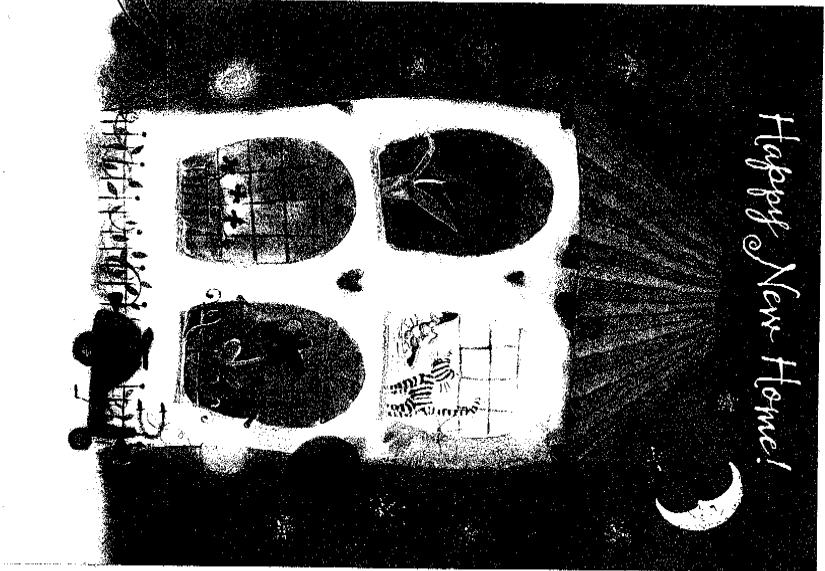
(e) Each building which is the subject of the Carryover Allocation will be placed in service by **December 31, 2005**, and the Owner will make timely application to **MFA** for a Final Allocation of credit so as to permit **MFA** to issue Internal Revenue Service Form 8609 with respect to the Project.

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3

NEESISTAMOS CASAS PARA LOS ANCIANOS DE SANTA FE, NEW MEXICO

2004



over 200 signatures

8th October 2004
We are Seniors of Santa Fe -
We support affordable Senior
quality housing throughout Santa
Fe County. So therefore endorse
the proposed Casa Rufina affordable
village project which will add to
our Agua Fria Community.

- 1) MARTHA FERNANDEZ
3078 Agua Fria ST We need Housing
- 2) Daniel Davila
- 3) Robert P. Robinson - callie we need
2009 Camino Real - callie we need
South of N. 1st St - callie we need
4) 471-5819 you that is good. we need it.
- 5) Rose mar Garcia - yes
- 6) Mary Dajon

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Support Seniors.
Support RU Fria project.



- 7) Joseph Romero (BUFT)
508 A L I C I A
yes I support senior Housing
- 8)
- 9) Helen Romero - 1120 Doby St. yes I support senior housing
- 10) For seniors yes I support Housing
- 11) Louis C. Longale - I support affordable housing for seniors. It is something that is extremely important.
- 12) Still however I support affordable housing for seniors. We need it.
- 13) I would like to support this program
- 14) Robert J. Dink. yes it is important for affordable housing it is in my neighborhood. I approve of Regina
- 15) Please help seniors with affordable housing. Charles Dequiere
- 16) Richard F Ackley
2800 Elk Ct/mo S.F.
- 17) Charles Wheeler

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- WE SUPPORT OF ROSABE NAUSING.
- WE Support Rufina.

18) Fund Herrera 10 26 calls de Suora
471-5379

19) VALENTIN MEDRANO 1700 CALLE JON ZUMITA
THIS PROJECT IS NEEDED OF, N.M. 87501

20) Leonardo Merdinez. 607 DUTCH ST. Se

21) Gordon 314 W. BERRY

22) Ralph Suits Quintana 2679 Calle Primavera

23) I believe in Rufina
LUCY HICKABET 231 1/2 Delgado

24) Lucy Hakebec Surby He who hears the cry
of the poor and does
nothing will find his
own fire burning.

25) Donald Lybe 1449 W. KATEY RD SE
1250

26) Rosamaria J. King 1015 E. Margarita St. Se

27) Donald J. Dyer call to Sister.
Call Suora

28) Glenn Grace I support Susan officers
in Rosalina.

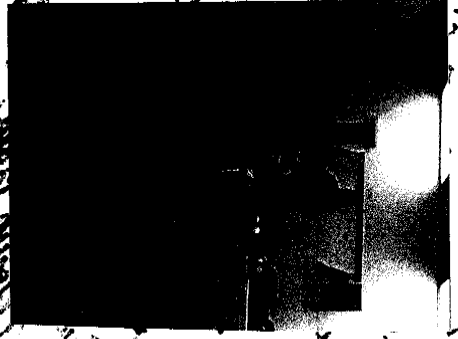
29) Carol's CAROL in Support Susan, housing

30) Robert Castellano Paul Castellano
1550017

31) Donald Mark Dyer (Frank Markner)
1250017



32) Louis Bacc - I support this project.



- 33) BERNADETTE SANDOVAL - We need RICHARD
- 34) DENISVA LOPEZ " " " "
- 35) DANA VIGIL - We need more Housing for Seniors
- 36) PAULI ELLI - We need more Housing for Seniors
- 37) DENISELY SUAREZ " " " "
- 38) BRAD RICHLEY - you require need more
- 39) The National Home Santeke need more housing, so please help us Tommy Moore
- 40) JACQUEE LUCKIE - yes
- 41) MARIE H. ORSIVAL - Seniors need housing!
- 42) ROSITA W. CHERRY - yes
- 43) MARIE M. COLE
- 44) ROSITA MARY
- 45) I support the Rosita prog of home
- 46) GEORGE WILKINS YES.....
- 47) DULCE MORALES YES
- 48) CLAUDINE MONTANA
- 49) JUANITA ROSA
- 50) GREG + JUDY OPERATING VIA RFL'S

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04/14/2005, c2 AS 2202



1990
1991

- 52 - *Carrie Peltz*
- 53 - *Gene Peltz*
- 54) *Great Theatre To Live at The Tuna*
from Peltz
- 55) *Bob Cohen to @ Vermont de Vida*
- 56) *John Sprague @ "*
- 57) *John Sprague Vermont de Vida*
- 58) *Virginia Beecher Vermont de Vida*
- 59) *Mary D. Whitson Vermont de Vida*
- 60) *Rebekah Bond Vermont de Vida*
- 61) *Melanie & Dwight (yes to Regina)*
- 62) *William & Bob (11/21)*
- 63) *Marilyn Thompson (yes)*
- 64) *Dan & Mary (yes)*
- 65) *Lucy B. Martin (yes to Regina)*
- 66) *Robert A. Macdonald (yes to Regina)*
- 67) *Stanley R. Parkes*
- 68) *Ann Marie Ormsby (yes to Regina)*
- 69) *W. Keith Kunkle (yes to Regina)*
- 70) *Bill McHenry (yes to Regina)*
- 71) *Kevin DeGeorge (yes to Regina)*
- 72) *Eric DeGeorge (yes to Regina)*
- 73) *Clara Bair Vermont de Vida*

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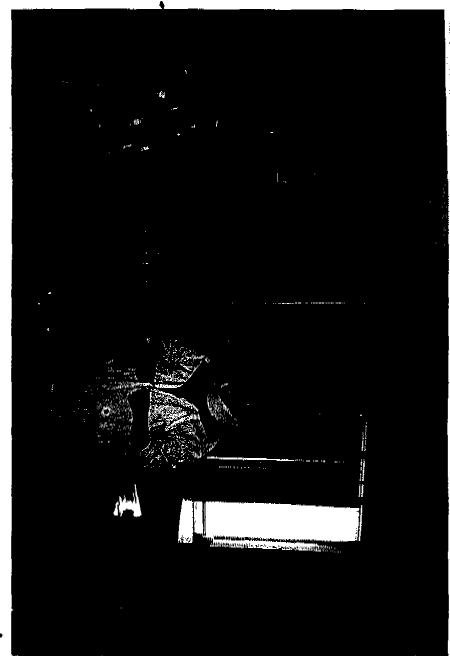
- 74) Shirley Reynolds - yes for Regina
- 75) Patricia Bury - yes for Regina
- 76) Aimee Mastig - yes for Regina
- 77) Josephine Pardo - Regina
- 78) Bernice Morales - Regina
- 79) Nancy Amador - Regina
- 80) Judith T. Chase - Regina
- 81) Sandra Valencia - Regina
- 82) Emily Stewart - "
- 83) Robert J. Sanchez - "
- 84) Thomas Stewart - "
- 85) Thomas Treviño - "
- 86) East Garcia Treviño - "
- 87) Gloria Thompson - 1500 Pineda St #15 - PNH
- 88) Ricardo Obregon 1500 Pineda St #1503



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- 89) R. Blum Ruffin,!
- 90) William O'Casey - Senior they definitely needed in S.F.
- 91) Puerto Tapia (you to Ruffin)
- 92) Pete Talia - -
- 93) Sammie Ormish you to Ruffin
- 94) Frances Buehly you to Ruffin
- 95) Lee Romero yes to Ruffin
- 96) Pete Develos you to Ruffin
- 97) Thomas Neal you
- 98) Richard you
- 99) Ed White you
- 100) Rose Williams
- 101) Marie Marshall

Support Senior affordable housing. We support Ruthie



with them dining

- 102) *Spencer King*
- 103) *David Paul - Rufina*
- 104) *Daoy Guindam - Rufina*
- 105) *Melie Brown*
- 106) **MARIE MARTINEZ**
- 107) *Anna Mendez - to give back to our seniors*
- 108) *Rita Galmedin*
- 109) *Helean Tr. Galmedin*
- 110) *Belbin York*
- 111) *Trillo Fander*
- 112) *Jedice Sebastian*
- 113) *Quorra Beale*
- 114) *one in Johns*

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HOUSING - SENIOR APPEARANCE



SENIT 9 DM 3 PM 3 PM



APR 12, 2005
APR 12, 2005

115) Travis Carl - Refine

116) Ken Moore

117) Arthur & Angela

118) Matt M. Schell

119) Mary M. Cannon

120) Doreen Jones

121) Bonnie Mettini

122) Jane Smith

123) Terry McHenry

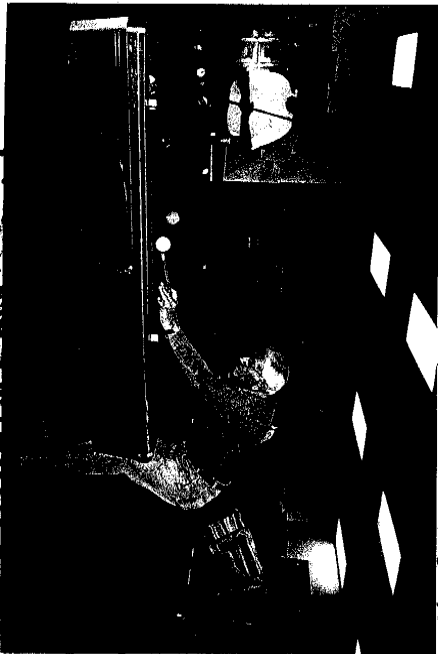
124) Nequeneva Barbera

125) Joe L. Smith

126) Thomas Stue

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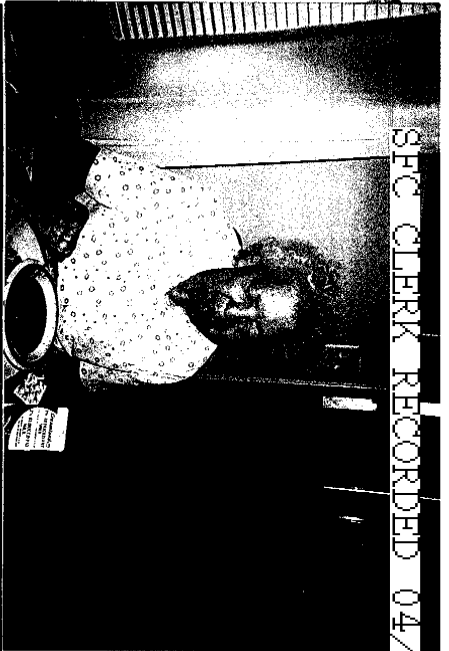
VIVE EUTNA
Support a Affordable housing.



- 127) Jane Farquhar
- 128) Daniel Lee
- 129) Colin R. Medina
- 130) Susan Lopez
- 131) Mel Bartlett Sr. Que Viva La
Sociedad en R.F.I.A. !!!
- 132) Robert B. ... yes to R.F.I.A.
- 133) Jani J. ... yes to R.F.I.A.
- 134) Selene Khoshdel
- 135) Clark D.L. Property Manager
of Ventura de Vida
Waiting list from 6 months to 14+ 1/2
years
- 136) ...
- 137) Cloty Roos.
- 138) Raphael Ventura
- 139) Mary Lopez
- 140) Jane Davis

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Support senior housing at Eufrata.



- 41) M. W. Kelly
- 42) Harry Andrews has
- 43) Anne Grant
- 44) Augustine Valdes
- 45) Paul G. Sullivan
- 46) Rose Ortega
- 47) Joe & Angie
- 48) Joe DeLeon
- 49) Pauline Davis
- 50) John B. Barty
- 51) John & Charred
- 52) Maria Mayers
- 53) Patricia Lee
- 54) M. A. Klein
- 55) Mrs. Paul T. Mastig - 318 apt Rd
471-6191 apt. 154

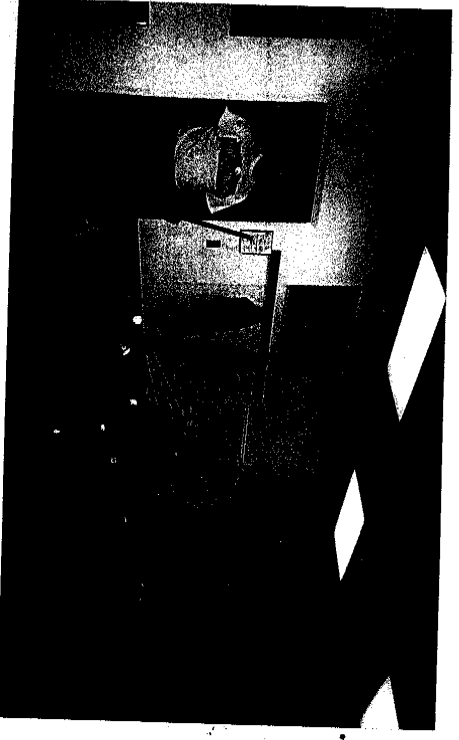
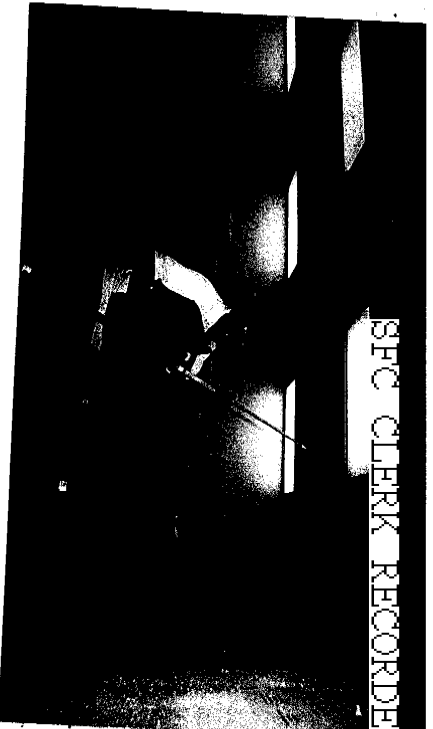
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we are serious in date. we are serious in date. we are serious in date.

support reform - affordable quality housing for seniors.

- 156) - Edge of Seattle
- 157) - ~~George Stewart~~ 1375 Alms RD SE
- 158) Jan W. yes to Ruse
- 159) - ~~SM 500~~
- 160) ~~Phyllis Talone~~
- 161) Lydia Durgada
- 162) Candice Franco
- 163) Snacks Barner 110 Mason St.
- 164) Dorothy Lear 23819 1/2 Liberty Rd #513
- 165) Elvira Martinez - 8099 Placita de Valer
- 166) Mercedes Brown 1514 Sunnyside Ave N
- 167) M. S. Gill 246 Road
- 168) Frank Barath 86 Granada San Antonio
- 169) Florence Overath " " "



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WE SUPPORT AFFORDABLE
SENIOR HOUSING



170) Mathilde Carduin Bird

171) Amy Beld

172) Penelope Briggs

173) ~~Walter J. Davis~~ - 453 Camino Du Mar
Santa Fe, N.M. 87505

174) Pat Moeller

175) A. Martin

176) Virginia Adkins

177) Gene M. Thomas

178) Joe Starn

179) Mary M. Smith

180) Ernest Spok

181) ~~Alfred J. Bailey~~



Miss O. ...

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WE SUPPORT SENIOR MEMBERS
NYK RUMBA!

183) Dr. Howard H. Stark

183) Maligna Turner

184) po Anne Beckham

185) Ann ^{Christina} ~~York~~ ^{William}

186) SHARON MERLIE

187) Helen W. Dignel

188) Ann ^{Anna} ~~Anna~~ ^{Rosalia} ~~Rosalia~~

189) ~~Simon~~ ^{Simon} ~~man~~ ^{man} ~~change~~

190) ~~John~~ ^{John} ~~Stewart~~ ^{Stewart}

191) ~~Robert~~ ^{Robert} ~~of~~ ^{of} ~~London~~ ^{London} (983-4450)

192) ~~Henry~~ ^{Henry} ~~of~~ ^{of} ~~London~~ ^{London}

193) ~~Francoise~~ ^{Francoise} ~~of~~ ^{of} ~~London~~ ^{London}

194) ~~Elizabeth~~ ^{Elizabeth} ~~of~~ ^{of} ~~London~~ ^{London}

195) ~~Elizabeth~~ ^{Elizabeth} ~~of~~ ^{of} ~~London~~ ^{London}



Handwritten initials or marks next to the photo.

Additional handwritten notes and scribbles at the bottom of the page.

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- We. Sport Senior

Housing + R.Fine

196) Quarantine Foreign you & Ryan

197) Edgar John 3

198) Karla Dege

199) Young Ann Secretary

200) Elis Ann

201) Carrie Ann

202) Thomas F. W. Spencer

