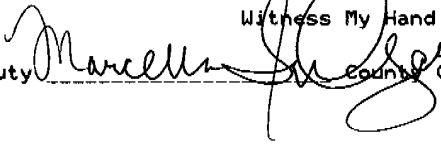
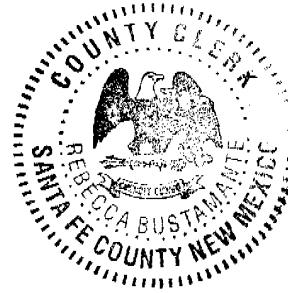


COUNTY OF SANTA FE )  
STATE OF NEW MEXICO ) ss

BCC MINUTES  
PAGES: 99

I Hereby Certify That This Instrument Was Filed for  
Record On The 19TH Day Of April, A.D., 2004 at 14:01  
And Was Duly Recorded as Instrument # **1923721**  
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Deputy  Witness My Hand And Seal Of Office  
County Clerk, Santa Fe, NM  
Rebecca Bustamante



**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**February 10, 2004**

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

SFC CLERK RECORDED 04/19/2004

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING  
(Public Hearing)  
February 10, 2004 - 3:00 pm

*Amended Agenda*

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
  - A. Amendments
  - B. Tabled or Withdrawn Items
- VI. Approval of Minutes
  - A. January 13, 2004 - *connections*
- VII. Matters of Public Concern -NON-ACTION ITEMS
- VIII. Matters from the Commission
  - A. Discussion of the Santa Fe County Transfer Stations' Hours of Operation
  - B. Discussion and Action on Proposed Amendment to the Joint Powers Agreement to Reduce the Membership of the RPA to Three Members per Governing Body
  - C. Discussion and Action on Commissioners' Participation in a Trip to Washington D.C. to Talk to the Federal Delegation Concerning the Buckman Diversion Project
  - D. Executive Session: Limited Personnel Issues - Consideration of the Renewal of the Santa Fe County Manager's Contract
  - E. Consideration and Action on the Renewal of the Santa Fe County Manager's Contract
- IX. Presentations
  - ✓ A. Presentation of the American Institute of Architects - Western Region 2003 Citation Award for the Santa Fe County Fairgrounds Master Plan
  - ✓ B. Presentation and Update on the Water Conservation Ordinance Implementation - Liza Vitale
  - C. Presentation of the State's Water Plan from Rhea Graham, Director of Planning and Communications Bureau for the Interstate Stream Commission
  - D. Presentation on the American Correctional Association Accreditation at the Santa Fe County Adult Detention Facility - Scott Marquardt, President of MTC

*Moved to Section approved*

*Hand with VITA X Pending with*

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**X. Committee Appointments/Reappointments/Resignations**

- Approved* A. Appointment of Tommy Spindle to the Santa Fe County Municipal/Developer/Utility Position on the Estancia Basin Water Planning Committee

**XI. Consent Calendar**

- Approved* A. Request Authorization to Enter into a Joint Powers Agreement Between the New Mexico State Land Office and the County of Santa Fe Concerning the Cleanup of the La Cienega and La Cieneguilla Areas (Commission Office)
- approved* B. Request Authorization and Acceptance of Amendment #1 to the Special Appropriation Project Grant with the New Mexico Department of Finance and Administration (Project & Facilities Management Department)
- approved* C. Resolution No. 2004 ~~16~~ A Resolution Requesting Operating Transfers from the Capital Outlay GRT Fund (213) to the EMS – Healthcare Fund (232)/Magistrate Court Building, to the State Special Appropriations' Fund (318)/Youth Shelter and Family Services, Eldorado Senior Center, and Stanley Fairgrounds, and to the Jail Operations Fund (518)/Youth Development Facility for Capital Expenditures in Fiscal Year 2004 (Project & Facilities Management Department)
- approved* D. Resolution No. 2004 ~~17~~ A Resolution Requesting an Increase to the State Special Appropriations Fund (318)/Coordinated Health Complex and River Trail Corridor Projects to Budget Special Appropriation Projects' (SAP) Grants Received from the NM 2003 Legislature for Expenditure in Fiscal Year 2004 (Project & Facilities Management Department)

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

**A. Community & Health Development Department**

- approved* 1. Resolution No. 2004<sup>12</sup> A Resolution Authorizing the Application for the Local DWI Distribution/Grant for FY 2005
- approved* 2. Resolution No. 2004<sup>13</sup> A Resolution Authorizing the Application for the Local DWI Detoxification Grant for FY 2005
- approved* 3. Request Approval of the Local DWI Distribution/Grant Application for FY 2005
- approved* 4. Request Approval of Local DWI Detoxification/Grant Application for FY 2005
- approved* 5. Approval of Amendment to Fiscal Year 2004 Memorandum of Agreement Between Santa Fe County and St. Vincent Hospital
- approved* 6. Approval of Fiscal Year 2005 Memorandum of Agreement Between Santa Fe County and St. Vincent Hospital
- approved* 7. Approval of St. Vincent Hospital Sole Community Provider Request for Fiscal Year 2005

**B. Project & Facilities Management Department**

- approved* 1. Request Authorization to Enter into a Professional Service Agreement with the Highest Rated Offeror in Response to RFP #24-01, Long Range Facilities Needs Assessment

**C. Public Works Department**

- approved* 1. Resolution No. 2004<sup>20</sup> A Resolution Confirming the Abandonment for County maintenance of a Portion of Calle Sinsonte within the Puesta Del Sol Subdivision

**D. Matters from the County Manager**

**E. Matters from the County Attorney**

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1. Executive Session

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

XIII. Public Hearings

A. Land Use Department

VIII (DE)

Passed

1. EZ Case #DL 03-4970 – J. Anthony Peperas, Sr. Family Transfer. J. Anthony Peperas, Sr., Applicant, Requests Plat Approval for a Family Transfer to Divide 5.13 Acres into Two (2) Tracts. The Tracts will be Known as Tract 2A-1A (2.56 Acres), and Tract 2A-1B (2.56 Acres). The Property is Located within the Pinon Hills Subdivision, at 97 Calle Francisca, within Section 25, Township 17 North, Range 8 East (Commission District 2). Jan Daniels

Tabled

2. EZ Case #APP 03-4969 – Eloy Gomez Land Division Appeal. West Santa Fe Association, David Noble Agent, Requests to Appeal the Extraterritorial Zoning Commission's Decision to Approve Plat Approval to Divide 10 Acres into Four Lots. The Lots Will be Known as Lot 1 (2.50 Acres), Lot 2 (2.50 Acres), Lot 3 (2.50 Acres), and Lot 4 (2.50 Acres). The Subject Property is Located Off of Penny Lane, within Section 25, Township 17 North, Range 8 East (Commission District 2). Dominic Gonzales

Tabled

3. EZ Case #APP 03-4973 – Gabino Carrillo Land Division Appeal. West Santa Fe Association, David Noble Agent, Requests to Appeal the Extraterritorial Zoning Commission's Decision to Approve Plat Approval to Divide 12.53 Acres into Four Lots. The Lots will be Known as Lot 1 (2.57 Acres), Lot 2 (3.36 Acres), Lot 3 (3.30 Acres), Lot 4 (3.30 Acres). The Subject Property is Located Off of Penny Lane, within Section 25, Township 17 North, Range 8 East (Commission District 2). Dominic Gonzales

appeal denied

4. EZ Case #A 03-4961 – Daniel Santos Appeal. Daniel Santos, Appellant (Christopher L. Graeser, Agent), is Appealing the Extraterritorial Zoning Commission's Decision to Deny a Request of Plat Approval to Divide 2.491 Acres into Two (2) Tracts for the Purpose of a Family Transfer. The Property is Located at 988A Chicoma Vista, within the Wolfe Subdivision, within Section 29, Township 17 North, Range 9 East (Commission District 2). Victoria Reyes

Passed

5. BCC Case #MIS 04-6000 – Avanti Business Park Master Plan Extension. Avanti Business Park (Albert Dietz), Applicant, Jennifer Jenkins, Agent, Request a Master Plan Extension to Two Years for the Avanti Business Park, on a 10.27 Acre Tract. The Property is Located at the Intersection of I-25 and RT 599, within Section 26, Township 16 North, Range 8 East (Commission District 5). Dominic Gonzales

Withdrawn

6. CCDRC Case #Z/DP 00-5302 – Sandia Vista Commercial Property. Sonny Otero, Applicant, Michael Bodelson, Agent, Request a Master Plan Amendment with Preliminary and Final Development Plan Approval for Six Additional Warehouse Buildings Ranging in Size From Approximately 8,000 Sq. Ft. for Commercial and Light Industrial Uses

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and Storage on 5.4 Acres. This Request Also Includes Multiple Variances Which Would Allow the Applicant to Utilize an On-site Well and Septic System Rather than a Public Water and Community Wastewater System; to Exceed 30% Lot Coverage; to Reduce the Amount of Open Space Below 50%; and to Reduce the Parking Below what is Required by County Code. The Property is Located Off of State Road 14, North of the Intersection of NM 499 and SR 14 within the Community College District, within Section 25, Township 16 North, Range 8 East (Commission District 5). Vicki Lucero

- Tabled*
7. **EZ Case #S 02-4321 – La Pradera Subdivision. Gardner Associates LLC. (Alexis Girard), Applicant, Design Enginuity, Agent, Request Final Plat and Development Plan Approval for a Mixed Use Subdivision Consisting of 69 Lots with 80 Dwelling Units and 32,667 Sq. Ft. of Commercial Area on 69.2 Acres. The Property is Located West of Richards Avenue Between I-25 and the Arroyo Hondo within the Community College District, within Section 17, Township 16 North, Range 9 East (Commission District 5). Vicki Lucero TABLED**
- Passed*
8. **EZC Case #S 02-4492 – Las Cordilleras Subdivision (Formerly Mountain Vista). Kaloko Land Corporation, (Lynn Fowler) Applicant, Jim Siebert, Agent, Request Final Development Plan and Plat Approval for Phase II of the Las Cordilleras Subdivision which, will consist of 18 Lots on 71.15 Acres. The Property is Located North of Camino La Tierra and West of Paseo de Aguila, within Section 4, Township 17 North, Range 9 East (Commission District 2). Wayne Dalton**
- Passed*
9. **CDRC Case #SP 03-5960 – Chupadero Water & Sewer Corp. Development Plan. Chupadero Water & Sewer Corp, Applicant, Jim Siebert, Agent, Request Development Plan Approval for an Overhead Electric Line to Serve a New Well that Has Been Constructed by the Chupadero Water & Sewer Corporation to Serve the Community Water System for the Village of Chupadero, this Request also Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to Allow Electric Line Poles to Exceed 24 Feet. The Property is Located Off County Road 78 in Chupadero, within Section 6 Township 18 North, Range 10 East (Commission District 1). Wayne Dalton**

#### **XIV. Adjournment**

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

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

February 10, 2004

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

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

**Members Present:**

Commissioner Paul Campos, Chairman  
Commissioner Mike Anaya  
Commissioner Jack Sullivan  
Commissioner Paul Duran [late arrival]  
Commissioner Harry Montoya

**Members Absent:**

[None]

**IV. Invocation**

An invocation was given by Dr. Sheila Gustafson.

**V. Approval of the Agenda**

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

CHAIRMAN CAMPOS: Mr. Gonzalez, any changes from staff?

GERALD GONZALEZ (County Manager): Mr. Chair, members of the Commission, we have under Matters from the Commission the addition of four items, B through E. The Commission may want to consider moving E to coincide with the executive session coming up later on. There's a request under Section X, Presentations, that item D be

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moved up on the agenda because that involves a presentation by the MTC personnel and they have an air flight that they need to catch, so there was a request to move that up on the agenda.

Then in addition, under Section XIII, Public Hearings, A. Land Use, item number 7 has been tabled. It's also my understanding that there will be a request to table item number 6, that someone will be here from the proponent to make that request. That would be a fourth tabling. Ordinarily, as I understand it under the rules of the BCC that they've applied in the past, that would constitute a withdrawal of that item but I think they're going to ask that the Commission at least consider tabling to a different time. And that's all that I have, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, sir. Commissioners, any changes, additions? Commissioner Anaya.

Cc: So where are we going to move IX. D? We're just going to move it right up to where A is?

CHAIRMAN CAMPOS: I would suggest we move it up to after VII, Matters of Public Concern, because the Matters from the Commission may take a while.

COMMISSIONER ANAYA: Right.

CHAIRMAN CAMPOS: As far as items D and E, executive session, consideration of renewal of the County Manager's Office, I would suggest we move that to executive session.

COMMISSIONER ANAYA: Sounds good.

CHAIRMAN CAMPOS: Any other changes?

COMMISSIONER ANAYA: Move, as amended.

CHAIRMAN CAMPOS: As amended. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN CAMPOS: Discussion?

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

#### **VI. Approval of Minutes: January 13, 2004**

CHAIRMAN CAMPOS: Any changes from staff?

MR. GONZALEZ: None at this time, Mr. Chair.

CHAIRMAN CAMPOS: From the Clerk? Okay, from the Commissioners?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I have one change on one page.

CHAIRMAN CAMPOS: Okay. What is it?

COMMISSIONER SULLIVAN: It's page 232.

COMMISSIONER MONTOYA: Mr. Chair, I have one on page 18 and one on

CHAIRMAN CAMPOS: Are these typographical changes?

COMMISSIONER MONTOYA: Yes, they are.

CHAIRMAN CAMPOS: Is there a motion to approve as amended with the three corrections noted by the Commissioners?

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Second.

**The motion to approve the January 13<sup>th</sup> minutes passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]**

**VII. Matters of Public Concern -NON-ACTION ITEMS**

CHAIRMAN CAMPOS: Is there anyone out there who has a concern? David Gold. About any public issue. Please state your name and address. Mr. Gold, how long do you anticipate your presentation will take?

DAVID GOLD: I think five minutes at the most.

CHAIRMAN CAMPOS: Great. Thank you, sir.

MR. GOLD: My name is David Gold and I'm the vice president of the West Santa Fe Association. And I'm here to express concerns with the well service agreement for Suerte del Sur. [Exhibit 1] And in doing so, I'm speaking on behalf of the following associations and perhaps even others. The West Santa Fe Association, Puesta del Sol, Sierra Azul, Arroyo Chamisos, several others off Caja del Rio Road that don't even have names, the Relief Route. There's about 300 well owners at least that are affected. There are some members here from these organizations. If they could just raise their hands momentarily.

CHAIRMAN CAMPOS: Seven people out there?

MR. GOLD: Yes. I didn't want to bring the whole army just for Matters from the Public. In any case, the notification for this well service agreement was lacking. Normally, in any land use decision, there are very strong notification requirements. For example, a subdivision or a lot split, you have to notify everyone around you, even for a building or something like that. With the community plan, when something like that is enacted, every resident in the area is notified, multiple times. There are multiple hearings. In this case, however, for the most important thing of all, water, there is just a little item in the legals.

[Commissioner Duran arrived at this point.]

So I understand that this is a new process in dealing with these well service agreements and associating it with subdivisions, but nonetheless, it should be rectified. If the County is going to be getting into the water business, it's really important to have public outreach. The way this was done is sort of -- well, let's just say there was none. The way we found out was through the developer and we found out a month after the agreement had been made. In fact the developer has agreed to have a meeting. They suggested in fact a meeting with us tomorrow night. That would give us more information, which is a good thing, although like I say, it

would have been a better thing if it had happened prior to the submittal.

So anyway, there are several items in the draft agreement that have come to our attention that we're concerned with right now and I'm sure there are many others that could come up if somebody had time to look at it. These ones are that there's apparently no provision for monitoring wells or seeing how they'll be set up. There's no provision for hooking up for water users that could be affected by it. As part of the County water system I would think that one would want to have stubs or something left in there That's not discussed. In the draft agreement, no site was discussed at all and certainly, that's an area of critical importance, obviously to any adjacent property owner.

So what we're asking is that another hearing take place and if the agreement has been signed then we ask that it -- if it hasn't been signed at this point we would ask the Commission to request staff to hold it until that hearing can take place. Even if it has been signed, we would still ask that a hearing be held on it in any case, because it's meaningless until it's associated with a subdivision. It won't really hurt anything.

We're not necessarily opposing the well at this point, although obviously we're very concerned, but we are just trying to make sure that adequate safeguards exist in the agreement. In the past, the Commission has done an excellent job of promoting public participation and we would hope that this would be no exception and we're looking forward to participating.

CHAIRMAN CAMPOS: Any questions for Mr. Gold? I have a question for our legal staff. Mr. Ross, I understand that the contract has not been signed yet, that it is still either being circulated or at your office.

STEVE ROSS (County Attorney): It's not in my office but it's being circulated. It has not been signed.

CHAIRMAN CAMPOS: Okay. Now, if we wanted to reconsider this, what would we have to do? Or at least table the action until we have enough public input on the issue.

MR. ROSS: One of the Commissioners who voted in favor of the agreement would have to make a motion that the item be reconsidered. I don't have the minutes in front of me so I don't know who voted in favor.

COMMISSIONER SULLIVAN: I believe it was unanimous.

MR. ROSS: But that would be the procedure

CHAIRMAN CAMPOS: I think it was unanimous. So this would have to be -- we can't do that today, right? We'd have to ask that it be placed on the agenda for the next meeting?

MR. ROSS: Yes.

CHAIRMAN CAMPOS: Okay, does anyone want to ask that it be placed on the agenda for the next meeting?

COMMISSIONER DURAN: I have a question in relation to what you're just talking about.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER DURAN: What's the -- I thought that it had to be brought

up for reconsideration at the meeting just -- I thought it was a 30-day period. When did we approve the water contract?

MR. ROSS: It's been several meetings. At least a month.

COMMISSIONER DURAN: I'm not sure. I just know that if it's not brought up for reconsideration at the meeting following the meeting it was approved, that our procedures don't allow us to bring it back for reconsideration. That's not to say that we can't continue discussing the issues thought. Have some public comment on it.

CHAIRMAN CAMPOS: My inclination would be to ask for reconsideration. I did vote for it and I guess if there are any problems with reconsideration as you mentioned, Commissioner Duran, they could be dealt with at the next meeting. At least let's have it on the agenda as an action item. Is that okay with you? And we can have Mr. Ross advise us at that point.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think the issue, since this was really the first of the agreements that we had to deal with under our new ordinance which requires that developers have water availability demonstrated at the master plan stage, that we're still working our way through the procedures there and we have of course public input required at the master plan stage, but the most important aspect of almost any project in the county is water availability and water service so I think when we reconsider, that we should reconsider it on a broader level, not just that specific project, but rather do we want to perhaps have some public notification requirements for water service agreements that are a part of a master plan approval that come forward ahead of time so that we avoid problems like this in the past. I'm not exactly sure how that would work. Have to give that some more thought, but I'd like, when we do bring it back, I'd like to talk about it in that context.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I'm not sure that we really have the jurisdiction over this. I know that we approved the -- we have the ability to approve or disapprove water contracts but if the main concern is that this production well, which is 1000 feet, which is almost twice what the wells that the residents out there, twice the depth of their wells.

CHAIRMAN CAMPOS: About 1500 feet.

COMMISSIONER DURAN: I don't know what that impact is. I don't claim to be an expert, but my understanding is that if we use that well as a production well, that the State Engineer in his expertise and his staff is going to review whether or not that well will impact existing wells and extend to residents in the area. I don't think that we -- we can discuss it here, but I don't think that we have the staff or the expertise to have that determination.

CHAIRMAN CAMPOS: We're not going to make the determination that the Office of the State Engineer is going to make. They've got to make that independently. The question is should we have this for reconsideration at the next meeting and have public notice so that all these community associations have an opportunity to come and tell us what their concerns are about their wells.

COMMISSIONER DURAN: The concern is that they're going to be depleted.

CHAIRMAN CAMPOS: Absolutely. And that they should have an opportunity to do so. As Commissioner Sullivan has suggested, maybe Mr. Abeyta, we can start thinking about how best to present these things when they come up to the public. How much notice should we give. That could be part of the discussion. I would like to have that on the next agenda. And if you want to raise the issue that we have no authority, you can have Mr. Ross testify --

COMMISSIONER DURAN: It's not a matter of whether or not we have authority. My concern is, the issue is how is this well going to affect existing wells in the area. We can talk about this thing for six months and we're still not going to be able to make a determination whether or not that well has an impact or not because we don't have the expertise. We can talk about it all we want, but it's the State Engineer and his organization that's going to make that determination. I understand your concern, Mr. Gold, but the fact of the matter is we can talk about this thing for six months and you can convince us -- I don't know how you're going to be able to convince us that it's going to have an impact.

MR. GOLD: Commissioner Duran, I am obviously concerned about the depletion, but I'm also concerned that the well service agreement itself doesn't address how the County will address impacts should they occur and that's what I would like to see in the well service agreement. So my problem is specifically with the well service agreement, the draft that I saw. I am also, at this point I don't have an opinion because I am waiting until tomorrow night to meet with the County and find out, learn more about this. I've deliberately chosen to remain open to every possibility, but I do know that the well service agreement in itself I feel is missing things and I believe that if it's looked at carefully by other neighbors, they'll find other things. And that's really what we're asking to have readdressed.

COMMISSIONER DURAN: Mr. Chair, we have a bill in front of the legislature right now requesting for a water board to be formed because our long-range plan for managing this resource pretty much dictates that we find new points of diversion out in the county. So this is going to come up at every point of diversion that we think about incorporating into our water system. I don't mind bringing it up at another meeting, have the public involved but I think, in my opinion is that without the information from the State Engineer and without any quantified information or exact information on how it's going to impact those residents and those existing wells, I think, what's the purpose?

CHAIRMAN CAMPOS: You may be right but I'd like to have it on the agenda if there's no objection. Is that okay? We'll also talk about the terms of the contract, community objections, notice issues. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I tend to agree with Commissioner Duran. How can we make a decision unless we have the facts. We did turn it over to the State Engineers and they are the professional. So if they come back and tell us that this is going to have an impact on us, then we can look at it. But if they come back and say that it isn't, then I don't see the problem.

CHAIRMAN CAMPOS: I understand what you're saying.

COMMISSIONER ANAYA: But I say we call for a vote.

CHAIRMAN CAMPOS: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think there's two things to keep in mind.

One is I think it's useful to have the public informed. I think one of the issues here was simply apparently a lack of information to the neighborhood, although the developer was having meetings. This issue wasn't brought up. Now, I'm curious, Mr. Gold, why didn't you bring the issue up? I would think the first thing you would ask of the developer is where you're going to get the water.

MR. GOLD: They'd always told us that it was going to come from the County water system. That was it. We did ask. What was explained to us when it came up early was that it would just be hooked on to the Buckman diversion. Whatever. That question did come up and at that time, that was the answer we received. Believe me, we would have responded quite differently.

COMMISSIONER SULLIVAN: I think that it's useful to have some kind of community and public notification of that process where an important well agreement is coming up for action. I agree that we can't do much more than discuss the terms of the agreement and the general theory of what's going to happen, the ultimate decision being made by the State Engineer. But the other point was, I wanted to mention it, there is a point where we do have to make a decision on this before the State Engineer, because the process is that once the well is drilled and studies are done and the testing is done, it then comes back to the Commission for a decision as to whether we are going to go in with the applicant as a joint applicant to the State Engineer. So we're going to have to rely on our hydrologist to say, Yes, these results look good or no they don't and we're going to have to make a decision as a Commission to go in as a joint applicant to the State Engineer.

So there's one step before the State Engineer and that is do we think it's a viable project to go to the State Engineer. So my understanding is it will come back to us with the facts, with the data, with the hydrologic information, with a recommendation from our hydrologist, should we go further, before we go through that lengthy process with the State Engineer. So at that point in time, that's obviously a good point to have a public hearing, because then we have the facts. Then we have the hydrologic reports and that type of thing. So I would certainly encourage us to have a hearing at that point in time. At this point in time, I think what we need to do is have better public information, but I think we don't have a lot of information to debate or to make a decision, other than the one that's been made which is let's go the next step and see if this particular proposal is worthy of going to the State Engineer.

MR. GOLD: Commissioner Sullivan, like I say, the concern I have is specifically with the well service agreement and I just feel that there's not -- there's certain safeguards that could actually exist in this agreement that aren't there. I agree that the debate on the value of the well, the impact, all that should be done after there's more data, but the thing is that this locks the county into a specific agreement right now that I feel is actually somewhat unfavorable, should other residents be affected.

COMMISSIONER SULLIVAN: Okay. So in terms of the people that you



would bring forward are other residents, then hopefully, their comments and their discussion would be on the substance of the well agreement and not just general comments on We're short of water in Santa Fe.

MR. GOLD: That's what I would hope for.

COMMISSIONER SULLIVAN: We're pretty well aware of that.

MR. GOLD: I think that's somewhat well known.

COMMISSIONER SULLIVAN: Mr. Chair, I think we could handle that and if we keep that discussion, if you keep the discussion to those issues.

CHAIRMAN CAMPOS: I agree. Okay, Commissioner Anaya you suggested you want a vote. We can't vote but we can give direction.

COMMISSIONER ANAYA: Okay.

CHAIRMAN CAMPOS: What's your direction?

COMMISSIONER ANAYA: Just to keep going as we are.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think it's useful to bring it back and discuss it in that context that we laid out here, not letting it get into an overall free-for-all at the next meeting.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: I was waiting for what you're going to say.

CHAIRMAN CAMPOS: I would ask that we bring it back for reconsideration so we can discuss the terms of that agreement and make sure that they're neighborhood-friendly. Commissioner Montoya.

COMMISSIONER MONTOYA: I want to hear what Commissioner Duran is going to say.

COMMISSIONER DURAN: I think there's plenty of time for public input. I don't know if you know exactly what they're going to do with this well but it's not a production well right now. It's a -- even if they drilled the well they still have to transfer water rights to that well, which is still a public process. It goes to the State Engineer. He has to approve the transfer of that. And I think that our legal staff has been working on these service agreement for the last ten years, since this system has been in place. I understand you might have some input into that. I would suggest that if you do, go talk to legal staff and see what they say. But I'm going to go with what my legal staff advises me relative to the content of any agreement that we prepare and sign with the members of the community.

So I would say there's plenty of time to do this and I would move forward with the way the process is right now.

CHAIRMAN CAMPOS: We're just asking for the short answer, Commissioner.

COMMISSIONER DURAN: That was the short answer. I could go more.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, as I understand it, Steve, this has not been back for your review yet? Your final review?

MR. ROSS: Mr. Chair, Commissioner Montoya, what I recall occurring, and this has been several meetings ago, was that the agreement was approved by the Commission but there was a change made during the deliberations and you instructed my office to make those changes and get the agreement signed. Something -- as I recall the discussion occurring was subsequent to that the Utilities Department took over redrafting the agreement and had to wait for the minutes because it wasn't entirely clear what was intended. So it's still sitting over there waiting to be redrafted and then it's to come to my office and I'll review it and present it for signature. That's the way it stands right now. It's not fully signed but it was approved by the Board of County Commissioners.

COMMISSIONER MONTOYA: Based on the discussion that Commissioner Sullivan brought up, it seems to me like we may be getting ahead of ourselves in this process, in terms of the concern here and I'm one that totally supports and advocates that we need to get public involvement whenever possible, and if the process is we're having the contract reviewed now, we've had no public input I guess at this point is what I'm hearing. And there's still several steps to go before there's final approval from the State Engineer's Office. I would be probably inclined to revisit that agreement prior to us signing and going with anything final at this point.

CHAIRMAN CAMPOS: Okay, that's the direction on the agenda for the next meeting. Commissioners, we have a 6:00 public hearing We have a lot of cases. We have to get from item VII through XII. E so we're going to have to move briskly. I would ask for your cooperation. We're going to move --

MR. GOLD: I just want to say thank you very much.

CHAIRMAN CAMPOS: Thank you, David.

## **IX. Presentations**

### **D. Presentation on the American Correctional Association Accreditation at the Santa Fe County Adult Detention Facility - Scott Marquardt, President of MTC**

GREG PARRISH (Corrections Director): Mr. Chair, Commissioners, as you know, recently, the adult facility was inspected and audited by the American Correctional Association and at this time, the president of MTC would like a few moments to report on that process.

CHAIRMAN CAMPOS: Thank you, Mr. Parrish.

MR. PARRISH: Scott Marquardt, president of MTC.

SCOTT MARQUARDT: Thank you. I appreciate the opportunity to take a few minutes and address the Commission. First of all, I just want to say thank you for the opportunity to work here in Santa Fe as the operator of the Santa Fe detention facility. We have been the operator since October of 2001. As all of you know, we've had a number of issues, but I'm happy to report on the progress that's being made and the outstanding work of the

warden and the staff at the facility.

I'd like to begin and just introduce the group that's here with me. First of all is Ron Russell, who's a senior vice president of corrections for MTC, Al Murphy is a vice president of corrections and has direct operational responsibility for the operation of this facility. Steve Hargate, who all of you probably know is the warden at the facility, and David Osuna is the deputy warden. And I'd also like to introduce Jean Brock who is the vice president of PNA, they are the medical subcontractor that MTC subcontracts with to operate the medical part of the facility.

MTC has two lines of business. We operate 23 job corps centers for the United States Department of Labor, and we operate 11 correctional facilities, housing 8,000 inmates in the United States, Canada and Australia. MTC's priorities in operating a correctional facility are first and foremost the safe and secure operation of the facility for the community, the staff that work in the facility, and the offenders that are living in the facility. Our second priority and the area that MTC really strives to distinguish ourselves as a company is in the programming area, to give offenders and inmates the opportunity while they're incarcerated to take advantage of learning opportunities to make a change in the life and turn their lives around.

We have had a lot of success in programming in all of our facilities and I'm proud to report that we've had a lot of progress and a lot of success here in Santa Fe. We have a number of different programmatic opportunities working in the Santa Fe detention facility. Studies have shown that the two ways that we can be most successful in turning inmates' lives around is with academic education and drug treatment. And both of those programs are doing very well in Santa Fe. We have a new partnership with RAP, who are doing a very good job in the jail with a drug treatment program. We've got a lot of academic classes that are happening. MTC, at our own expense -- it's not funded through the contract -- initially put in a computer lab that's been very popular with the offenders in the facility and since that time we now have two more for a total of three computer labs that are operating with waiting lists of offenders trying to get in there. So there's a lot of good things happening in the program area.

One of the ways that we can define what a good correctional facility is and what a good operation is is by defining our terms and standards that we're going to meet in operating the facility. The American Correctional Association has a very rigorous process of accreditation of correctional facilities. There are over 3600 jails in the United States and only 100, or less than three percent have received accreditation by ACA. And so through this process we have significantly brought the operational facility up to a new level which we are very proud of. It's been a lot of work over the past six, twelve months by the staff and the facility to get the policies and procedures in place, to get the staff training in place, to operate at the level that it's not operating at. This has been a very beneficial process.

I also want to particularly thank our partners in this process. The Sheriff, Greg Parrish, I can tell you, have given very high standards for our operation. They are tough to work for but we have a very good partnership. When they do have an issue or a concern with how things are being operated. They are very forthright coming to us, giving us an opportunity to make corrections and I think that we have established a really good partnership in the little over two

years that MTC has been here we have made enormous strides in the operation of that facility. We are thankful for the opportunity and hope that we can be here for a long time in the future in partnership with Santa Fe County in operating the facility.

At this time I'd like to turn a little bit of time over to Al Murphy who's going to talk a little bit more about the accreditation process. Thank you very much.

AL MURPHY: Thank you, Mr. Chair. I will be very brief. President Marquardt asked me to just briefly tell you what the accreditation process is, because there's a lot of people that really don't understand it. The American Correctional Association and the Commission on Accreditation, about 25 years ago decided to put some standards together. And the reasons for the standards were quite obvious at the time. There were riots running across the country. There were condition suits coming out of Section 1983 of the US Codes and everybody was coming under that.

The professionals in the business decided that what we need to do is pass some standards to put a hallmark on what you do in operations. When it started off 25 years ago, there were about 300 standards and 16 mandatories. When we went through accreditation audit a week ago, we went through 403 standards, 41 of them which are mandatories. If you flunk one of those standards you flunk the whole audit. We passed all 41. We passed with a 97.2 on the non-mandatory standards and all that does for us is puts a stamp of saying that we do things right, that we're forced to look at our operations to make sure that they're safe, that we're presenting ourselves to the citizens of this county in an appropriate way.

And the bottom line is people criticize, a lot of people criticize standards. Most of the criticism comes from people who've never been accredited. The reality is is that less than three percent of the jails in this country are accredited by the Commission. And if I were to make an analogy to other things, if you had your children and you were trying to decide what college or university they were to go to, you would have two choices. One was an accredited university and one wasn't. You'd probably opt for the accredited university. And the same goes for hospitals. If you had a choice between going to a JACO accredited hospital or a non-accredited hospital for treatment, your family normally would choose the accredited hospital. And that's all the accreditation process does, is that we meet the standards of the community, we meet the standards of our own profession itself.

It's a very rigorous audit. We did very well and we appreciate you having us here and that's it. Brief. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you. Anything else?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: I'd like to thank MTC for the accreditation. Also Warden Hargate for his great work. We really appreciate all the hard work you put into the effort. David Osuna, I know you helped a lot, we thank you too. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair, Commissioners. I got a chance to tour the facility again this morning and I was really impressed of the teamwork that you all did. What a big difference it was since 11 months ago when I toured the facility. The kitchens were cleaner, the hallways were nice. The walls were painted. So Mr. Chair,

Commissioners, it was a good tour and I just want to thank you again and hope to see you soon. Not that soon.

MR. MARQUARDT: Thank you very much.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had one question while the president is here. Of the two -- and I want to echo also the efforts, our appreciation for the efforts that you and your staff have put forward here. What I wanted to ask on behalf, I think of a lot of the community that has these similar questions is that there were two audits done, one by the feds and one by the state. My recollection is that the feds' audit focused very heavily on medical issues and the state one focused very heavily on security and those types of issues, fencing and roofing and that type of thing, as well as record-keeping.

On the medical one, what improvements or what changes -- what's the status of that now as opposed to what it was when that audit was done.

MR. MARQUARDT: If I could take a minute and maybe have Jean Brock come up who's directly responsible for that, but I might just generally say that on the state audits, they have done more than one and the most recent one, which was a couple of months ago was glowing in the report of the improvements being made and appreciation for all the work that's being done. Medical has been clearly a major focus for us. There are a lot of medical issues being dealt with at the facility and a high priority. To specifically to answer what's being done, let me turn it over to Jean Brock.

JEAN BROCK: First of all, I'd like to tell you that the medical department at the jail got 100 percent on its accreditation audit, which is the score that I believe we could have gotten a year ago. It's very difficult to operate a medical unit in a county jail that's so heavily used. One of the biggest problems that we had was we inherited a staff that wasn't up to our general standards and it took a long time to turn it around and recruit the kind of people that could make the medical unit run the way my company expects one to run. And we also had a large, unanticipated demand for our services. This is a community where the individuals who are arrested often have very complex medical problems. So those are the things we hadn't anticipated.

I would tell you that I would refute many of the statements in the DOJ audit and the Justice Department audit and we've provided documentation to them that does refute some of the observations that they had made. So I never felt that that was an adequate reflection of what occurred at the jail in the first place. We've increased the staff. We currently have about 20 full-time employees versus the 11 or 12 we had when we first started, with the cooperation of MTC, and they've been absolutely fantastic to us. We've been able to improve the conditions in the medical unit, such as cleanliness. We have new mattresses for the inmates. Everything in that regard has improved. We finally -- our physician passed away this year. We had a lot of stumbling blocks. But we have a solid administrator now. We have a director of nursing who came from a large correctional healthcare environment who's excellent.

So I think a lot of it was just getting the stabilization of the staff and getting used to the

demands that are made on the medical unit. But I would say that this is probably the best operating unit that we have and we have quite a few good ones.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you very much for coming and presenting.

COMMISSIONER ANAYA: Hope you make your plane.

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

#### **A. Discussion of the Santa Fe County Transfer Stations' Hours of Operation**

CHAIRMAN CAMPOS: Who raised this issue?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chair, Commissioners. I've had several calls in the past couple months about hours of operation and I think right now, the hours are from 7:00 in the morning to 3:30 in the afternoon. Robert, you can correct me on that. And I'd like to see this, the hours of operation easier for the public to dispose of their trash. And right now I don't think -- I think we could do better in that. I know up in the northern part there is a station that's open seven days a week and I'm wondering if maybe we can get a station down in maybe the Eldorado or the southern part open seven days a week to make it easier for the public.

Another thing that I'm working on and I will be going to a SWMA meeting, I think March 17<sup>th</sup> I believe, to see if the county residents can start disposing of their trash at Caja del Rio, which would make it easier. Because Caja del Rio is open seven days a week. We'd have one there, we'd have one in the north, and we'd have one in the south. So I just wanted to bring this up to see how the Commission would react to it and Robert, if you wanted to answer any questions.

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chair, Commissioner Anaya, the transfer stations and Eldorado and Jacona do close at 3:30. The other transfer stations close at 4:00.

COMMISSIONER ANAYA: So I guess my question is is there any way that we could extend it to 5:00 since those are the normal working hours? We don't have to say yea or nay now but we can just maybe talk about it. I'm thinking from 8:00 to 12:00 and then from 1:00 to 5:00 but I'm just wanting to talk about it with the Commissioners and see how they felt. And then the seven days a week, probably in the Eldorado area.

MR. MARTINEZ: Mr. Chair, Commissioner Anaya, if you are considering opening an additional transfer station seven days a week, I would agree that Eldorado would be the best one because that is the highest volume transfer station other than Jacona. Stanley, La Cienega and San Marcos are very small volume transfer stations.

COMMISSIONER ANAYA: And what about, do any of the other -- I want to make it as easy as possible for the people in Santa Fe County. Usually people go to the dump

on Saturday or Sunday, or to the transfer station on Saturday or Sunday. Are all of them open on Saturday and Sunday?

MR. MARTINEZ: Mr. Chair, Commissioner Anaya, all of the Santa Fe County transfer stations are open on Saturday and Sunday.

COMMISSIONER ANAYA: Okay. Good.

CHAIRMAN CAMPOS: Any comments from any Commissioners? What we could do is maybe have James Lujan address this issue. I'm sure it's going to involve some funding questions, don't you think, Mr. Martinez?

MR. MARTINEZ: Mr. Chair, what I suggest we can do for you is put together analyses of extending the hours of operation. Opening one or two transfer stations an additional two days and come back to the Board with what that impact would be on the County, as far as how many FTEs we would need to accommodate those changes.

CHAIRMAN CAMPOS: So you're looking at new FTEs. New money for equipment, a lot of things.

MR. MARTINEZ: Mr. Chair, it just depends how many transfer stations would be extended to seven days a week. Extending one transfer station to seven days a week, we're probably looking at one additional FTE.

CHAIRMAN CAMPOS: Well, Commissioner Anaya, is that fine with you? That staff meets and reports to us in the next -- how long to you need, Mr. Martinez?

MR. MARTINEZ: Mr. Chair, probably about two or three weeks.

CHAIRMAN CAMPOS: Okay. Thank you very much.

MR. MARTINEZ: Thank you.

**VIII. B. Discussion and Action on Proposed Amendment to the Joint Powers Agreement to Reduce the Membership of the RPA to Three Members per Governing Body**

CHAIRMAN CAMPOS: Commissioner Duran, I understand you're behind this one.

COMMISSIONER DURAN: Yes, and I actually have a request though. We have Rhea Graham from the State Engineer's Office here to make a presentation to us and if you look at the rest of the presentations, they're all in-house. We let the MTC representatives speak just a few minutes ago and I'm wondering if the Commission would allow Ms. Graham to come speak now and then we can deal with our Commission matters after that. That way she can get on with her --

CHAIRMAN CAMPOS: I have no problem with that. How long do you think the presentation will last?

COMMISSIONER DURAN: I have no idea. So I make a motion that we amend the agenda to allow item IX. C be discussed now.

COMMISSIONER MONTROYA: Second.

CHAIRMAN CAMPOS: How long do you think this will take?

RHEA GRAHAM: Mr. Chair, it should be a maximum five minutes. There's a power point presentation.

CHAIRMAN CAMPOS: There's a motion and a second to amend moving IX. to the present.

**The motion to hear IX. C immediately passed by unanimous [5-0] voice vote.**

**IX. C. Presentation of the State's Water Plan from Rhea Graham, Director of Planning and Communications Bureau for the Interstate Stream Commission**

MS. GRAHAM: Good afternoon, and thank you. It's a pleasure to be here and there are materials in your packet, both the presentation and summary highlights. What I want to do is just talk about the fact we have our first state water plan and I also want to thank Commissioner Montoya for inviting me to give the presentation. Should I just go ahead and give it?

COMMISSIONER MONTOYA: Yes. Basically the invitation was extended to Ms. Graham at the New Mexico Association of Counties meeting that we had where she gave us a presentation on the water plan as well, and I thought, being that it was hot off the press it would be good. Water issues are something that have been pretty prevalent on our minds and schedules.

MS. GRAHAM: Great. Well, let me just talk to you a little bit about the steps to plan adoption. An act was signed into law on April 4<sup>th</sup>, so not even a year ago, and starting in July, we had 29 listening sessions across the state for an 8-week period. We also had a townhall for almost 150 participants the end of September, which means that we compiled all of the comments from the listening sessions for background information for the townhall. And I might add that both the comments from the listening sessions and the townhall consensus report are available on our website.

We also concurrently had eight listening sessions with tribal nations and pueblos and then we put out our first draft in October. That was really a working draft and as you can see on the right, there is the cover of our state water plan. The final draft was issued December 10<sup>th</sup> after undergoing extensive public input via e-mail, fax and letter. And then in a meeting on December 17<sup>th</sup>, the Interstate Stream Commission adopted the state water plan. Now, the act requires that the office of the State Engineer, the Interstate Stream Commission and the Water Trust Board all jointly support the development of a state water plan and Governor Richardson is the one who put us on the track for finishing it in one year or by December 31<sup>st</sup>. It's a living policy document. There are policy statements for each provision of the act in Sections C, D, E, and F of the act. And in your second handout, we talk about them.

If you turn to the second page of your handout that says Highlights. On C. 1, the

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common goals and priorities, this distills all these public inputs. I also might add that the governor's blue ribbon task force attended the townhall as did many other people from agencies. I'll just briefly summarize what these are. We had 11 priorities and what I want to make everybody aware of is some of the priorities and common goals, they have balance within them, but all eleven have balance among them. And they are ensuring that water is available for the continued and future economic vitality of this state, ensuring a safe and adequate drinking water supply for all New Mexicans, developing water resources to expand the available supply, promoting conservation and the efficient use of water, and I understand you're going to get updates on that here about Santa Fe County, promoting drought planning, protecting, maintaining and enhancing the quality of the state's waters, providing for fish and wildlife habitat preservation and maintenance, and for river restoration. Protecting senior water rights, maintaining and enforcing interstate stream compact compliance, preserving state administrative authority over the state's waters, and completing water rights adjudications, which is probably the most important underpinning for the state's administrative authority over its waters.

Now, when you go to Sections C. 2 through C. 14, those all have policy statements and then there's Sections D.1 through D.4 and then Section E and Section F. And what I'd like to do is just highlight a couple of the sections and you can read the entire document, which is also on our website, which is [www.ose.state.nm.us](http://www.ose.state.nm.us). And Section C. 3 in particular we talk about integrating data from different agencies and building upon information, because most people feel our water resources are managed better if we have better information. In C.4 we talk about building upon efforts by regional water planners and most of you are aware that the Jemez y Sangre regional water plan, the Estancia Basin regional water plan have been completed and accepted by the Interstate Stream Commission and they cover parts of Santa Fe County.

Then in Section C.5 is to promote conservation and efficient use of water in all water use sectors and then, jumping to Section C.7, because it relates to the mission of the Commission, it says the state shall seek to ensure that land use decisions are consistent with available water supplies and ensure that land use decisions do not adversely impact the state's water resources and efficient use of water and protection of water quality in all new developments and the state shall continue to respect, preserve and support existing local zoning, planning and subdivision authority. And of course with authority comes responsibility as we all know.

And then in Section C. 9, we talk about protection of the customs, culture, environment, economic health and stability of communities. In Section C. 10, we talk about all levels of government having an open door policy for pueblos and tribes and working for mutually beneficial solution and outcomes, and we also talk about coordinating with associations representing local water management entities, and in Section E. 11, the Interstate Stream Commission convenes an ad hoc committee of regional water planners and they came up with quite a bit of guidance and a lot of what they said was that if it could be decided at the regional level let's do it that way, and if it needs to have a statewide decision, then defer to the state for policy leadership.

And in Section D.1, D.2, D.3 and D.4, if you go to our report in the appendix, or our

plan in the appendices, our work plans, and we've already moved forward with the deadlines that are so subscribed.

We have, of these policies so far, 99 implementation strategies, that's a lot to keep track of. Not all of them can be done by us alone. Many of them will be supported by different entities such as state agencies. We have acequias, irrigation districts, as well as one thing that came through from all of our listening sessions, everyone has an individual responsibility of stewardship for water. And so I wanted to just sort of put out my suggestions of roles for the Santa Fe County Commission and you don't have to, obviously, accept these because you're the ones that are the elected officials, but these are what I see as being ways to implement the state water plan.

First of all, it has overarching policies, not specific tasks. And you have, for instance, the Jemez y Sangre regional water plan, which gives you a blueprint. It talks about local values and I know you had a meeting recently on one of the suggestions for increasing water supply for cloud seeding. The other thing is we give guidance on priority for water infrastructure. Many of you are aware the Water Trust Board requires that projects being funded be in completed regional water plans, and we also try to support making the tough calls, such as land use decisions that reflect the true availability of water resources and the photo on the left is from about 85 years ago, of Santa Fe County that I found in some archives.

And then finally, we want to provide incentives for regional solutions that address the concerns from multiple jurisdictions within the same watershed, and we also recognize the inextricable link between water quality and water quantity. I can just summarize by saying we're one family depending on a scarce resource. That the drought conditions of course make it even scarcer, and everyone has a role in sharing funding as well as sharing responsibility and that if we delay and fail to embrace the technical tools, we will not create more water, just more expense. That's my own personal feeling.

I'd also like to convey greetings from Estevan Lopez, who was your former Santa Fe County Manager who's now deputy State Engineer and director of the Interstate Stream Commission. Due to the legislative session, he's unable to be here but he sends his warmest regards. Thank you very much. And I would stand for any questions.

CHAIRMAN CAMPOS: Any questions? Commissioner.

COMMISSIONER DURAN: Rhea, if you could go back two slides -- it was -- I'll try and remember. It said something to the effect that the state water plan is going to address how we deal with this resource on a regional level.

MS. GRAHAM: Right here.

COMMISSIONER DURAN: Regional solutions address concerns for many jurisdictions within that same watershed.

MS. GRAHAM: It provides incentives for that.

COMMISSIONER DURAN: What kind of incentives?

MS. GRAHAM: Well, primarily through the tie with the Water Trust Board and the funding of water projects. We're trying to get away from having so many small projects and if it's possible that several people, particularly in a watershed with endangered species,

concerns and other issues, they can work together and make everything be compatible and balanced then that makes it a much better investment for the state portion of the funds, as well as makes it easier to track federal funding.

COMMISSIONER DURAN: Okay. Thank you.

MS. GRAHAM: You're welcome.

CHAIRMAN CAMPOS: Any other questions? Ms. Graham, thank you very much.

MS. GRAHAM: Thank you. And also, I'd just like to say if you have further questions, one of the things we did through this process is we tried to make ourselves available so feel free to call and staff are more than willing to come meet with you to talk about issues or anything that you have a question about. Thank you very much.

CHAIRMAN CAMPOS: Thank you.

**VIII. B. Discussion and Action on Proposed Amendment to the Joint Powers Agreement to Reduce the Membership of the RPA to Three Members per Governing Body**

COMMISSIONER DURAN: In a nutshell, and I don't want to go into great detail, I've spoken to a few other Commissioners and it seems that the number of meetings we have to attend keeps on piling on to our busy schedules. And I think that it would be advantageous to those of us that participate, if we could be -- if this body could be reduced to three. So I'm suggesting that we have three.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: What's the EPA now? Is it three?

CHAIRMAN CAMPOS: The RPA is four.

COMMISSIONER MONTOYA: The EZA?

CHAIRMAN CAMPOS: The EZA is three Commissioners and two Councilors.

COMMISSIONER MONTOYA: We should have the RPA the same.

COMMISSIONER DURAN: The City won't agree to that though.

COMMISSIONER MONTOYA: I don't see any problem with it only being three. It's kind of been that way for about six months.

CHAIRMAN CAMPOS: Do you want to be more specific, Commissioner.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN CAMPOS: Move for approval of what?

COMMISSIONER ANAYA: Changing it from four to three.

CHAIRMAN CAMPOS: This is just --

COMMISSIONER DURAN: It's an action item.

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CHAIRMAN CAMPOS: Oh, it is action? Okay. I'd like to have more discussion. Commissioner Sullivan.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: There's a motion. Could we get a second?

COMMISSIONER DURAN: I second it.

COMMISSIONER SULLIVAN: Mr. Chair, no one has talked to me about this, but in looking at Commissioner Duran's e-mail on this that I received yesterday, my only concern is that -- we all have meetings and of course the City Councilors have even more because they have just a plethora of committees that they all go to as well as the Council meetings themselves. This is the only entity that we have that we communicate with the City on issues and of course it's only the issues pertaining to the Extraterritorial Zone but those are extremely important, obviously, because that's where the growth is occurring.

The City, initially the RPA attendance was very poor and it wasn't seen as a body that was really doing something worthwhile. I think that has dramatically changed, and now as we're getting close to the end of the process, where we're dealing with this water-based, this resource based land use plan, I would certainly like to see all the Commissioners that have been involved in that see that through to completion. So I don't -- the meetings are only either once or twice a month. They've been twice a month up until recently. I think it's a good opportunity. We have used some of those meetings to discuss the regional wide water issues and we set up the regional presentations from Tampa Bay and Denver. We've used it to discuss the wheeling agreement, at least to have a forum for that. I think that's been useful.

I don't know how the City feels on that. Commissioner Duran, have you talked with any of the City Councilors as to what their thoughts might be as to reducing the number?

COMMISSIONER DURAN: I've been on the RPA for -- I was one of the founding members of the RPA. And I just feel that with the position the City has been taking with our community's, with the County's water plan, that --

CHAIRMAN CAMPOS: Is that the water service agreement discussion?

COMMISSIONER DURAN: Right. That with the position they've taken on how to deal with the County's water needs in the last year or so, the charge of the RPA, which was to develop a land use map is not getting anywhere. You've been in all those discussions. We talked about the people from Tampa to advise us on how we might do a regional water plan, water authority. The City's opposed to it. We thought that we came up with a reasonable solution to the wheeling agreement and the City was opposed to that.

I might be a little frustrated with the whole process and maybe that's why I'm asking to bring it down to three, because I haven't been attending for the last several months. And the reason for that is I see no movement towards working with us on our needs and I think maybe three of you should deal with it.

COMMISSIONER SULLIVAN: I just feel that while, in many respects I share the Commissioner's frustrations on those particular issues and hope that we can work them out, the mission of the Regional Planning Authority is to set up a land use plan in the EZA and an

annexation plan. And we have used the RPA for these other purposes and I think that's been worthwhile but I think we're pretty close to that land use plan. At the last meeting we went through several scenarios that were fairly detailed and we are very close to starting the public hearing process. So I don't know that at this point in time it's a good time to take a vote of no confidence, as it were by saying let's diminish its responsibility by diminishing its membership. I think we need to see through this land use plan and it's particularly important to have those there who were there from the beginning who can keep that continuity and that thread, notwithstanding some other disappointments that we've had with the City. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: My comment is just simple. We have improved our communication with the City tremendously from a situation where the County was deeply distrusted. Now I think we have conversations about very important issues. We have a forum, and if we have four County Commissioners present we have better contact and communication. The last thing I would say is that we can't do so unilaterally. All we can do here is suggest to staff to begin negotiations with the City to see if the City would be willing to change the JPA from four to three. That's all we can do today. We can't unilaterally change that. Commissioner, you have a brief comment?

COMMISSIONER DURAN: Real brief. I appreciate your support, Commissioner Anaya, of this thing. I am going to withdraw my second and I will commit to the next ten months of my term to work on the RPA. I agree with you that we have made some pretty big strides with them and in the next several months the water issue is probably going to come to a head and we'll probably be able to work something out with them. When that's done, then we can go back to the land use map at the RPA and I look forward to doing that. So I would take my second away and withdraw the item from the agenda.

CHAIRMAN CAMPOS: Commissioner Anaya, is that okay with you?

COMMISSIONER ANAYA: That's fine. One of the reasons I wanted to support his is because it seems like -- and I'm not on the committee but it seems like what I hear is that things aren't getting done and I kind of get frustrated myself that you all are there, the City's there and nothing's getting done and I thought that that maybe if we brought it down to three then things would start getting done. So that was my point.

CHAIRMAN CAMPOS: My impression for the last year, we've started to move on some very important issues. We have a new director and the director has made a tremendous difference, so I think we've been rolling along. Not as fast as we would like to and certainly, Commissioner Duran, we need you there. You've been there from the beginning and we need you for the rest of this year. Really, we're at a critical stage.

COMMISSIONER DURAN: Thank you. I'll be there.

COMMISSIONER ANAYA: Mr. Chair, than that's good to hear that we're getting along.

CHAIRMAN CAMPOS: I think we are.

COMMISSIONER SULLIVAN: I wouldn't say that. Well, we're moving forward.

CHAIRMAN CAMPOS: Moving forward.

COMMISSIONER ANAYA: From last week, I thought we were head to head again.

CHAIRMAN CAMPOS: Every once in a while we go head to head. But I think this legislation is moving through. The City has been apparently supporting it.

COMMISSIONER ANAYA: Okay. Then I'll withdraw my motion.

**VIII. C. Discussion and Action on Commissioners' Participation in a Trip to Washington D.C. to Talk to the Federal Delegation Concerning the Buckman Diversion Project**

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

MR. ROSS: Mr. Chair, I believe Mr. Gonzalez was going to discuss that but I know a little bit about it. At a meeting with the City last week, the City personnel were discussing a trip, a possible trip to Washington to discuss the Buckman diversion project and other joint projects. And Mr. Gonzalez prepared a schedule, I don't know if you have that in front of you, for the trip, and I think the idea was to discuss who amongst you was going to go. I think the discussion last week was we needed two or three Commissioners as well as two or three Councilman and staff to go along with them.

CHAIRMAN CAMPOS: My concern, I raised with our County Manager was not just going, but what are we going to ask for on behalf of the County. Every time we go it seems that the City asks for x, y, and z but we just tag along to say we're cooperating. And I think we need to change that. And that was what I was concerned about. We know we talked about the 22<sup>nd</sup> through the 24<sup>th</sup>, but what are we going to ask for? That's what my question is.

MR. GONZALEZ: Mr. Chair, members of the Commission, it's my recollection that last year, when the trip was made that we did ask for support, and I know Commissioner Anaya and Commissioner Montoya were part of that trip, that we asked for support for developing a country wellfield. And county water infrastructure, apart from the Buckman diversion project. I think that we probably ought to go back to that and underscore the requests that were made last year with respect to those projects.

CHAIRMAN CAMPOS: Anything else that you're concerned about? Is there any other project that we want to talk about with our delegation, with some of the federal agencies about water?

MR. GONZALEZ: There has been discussion about how to broach the Aamodt settlement issues, whether that needs to be part of the same trip or a separate trip. I know I've had discussions with County legal counsel on the water side about that. Their suggestion was that perhaps that ought to be a separate trip but I suppose we could roll it into one in terms of trying to get more things accomplished in the same trip. The difficulty is the County has totally separate interests with respect to the Aamodt settlement than they do with respect to the Buckman project, but I guess the same thing could be said about also the development of a

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county wellfield and County water infrastructure apart from the Buckman diversion project.

CHAIRMAN CAMPOS: What about the Rio Grande diversion project? It seems to me that the City's going to the Finance Authority asking for money so that it can finance \$100 million. What are they asking for for the diversion project?

MR. GONZALEZ: Well, the present request that's on the table before the New Mexico Finance Authority was in the neighborhood of \$7 million. That, however, is a joint request made with the County and the emphasis of the Finance Authority, when I made a joint appearance with the mayor approximately three weeks ago, two and a half weeks ago was that there has to be cooperation between both the City and the County and that they're looking for a regional approach in terms of water solutions.

CHAIRMAN CAMPOS: I think Mr. Flance has made that very clear.

MR. GONZALEZ: That's correct.

DOUG SAYRE (Acting Utilities Director): Mr. Chair, Commissioners, my name is Doug Sayre. I'm the County's Acting Utilities Director. Maybe I could add some input on this. Regarding the Buckman diversion project, what we're looking at in cooperating with the City is going forward with a request for 65 percent of the funding of the overall project, which is approximately \$65 million. Presently, we're looking at approximately \$36 million to start the design process on this project. So what we're really going for this time is to try to fund 65 percent of the \$36 million. That request. And then to see if we can get ongoing funding programs for the next portions of the project.

CHAIRMAN CAMPOS: It's a joint request.

MR. SAYRE: It's a joint request.

CHAIRMAN CAMPOS: The money would come to the City and the County.

MR. SAYRE: To my knowledge it would on that specific item. The other thing I was going to add, Mr. Chair and Commissioners, is I think it's an ideal time to talk to the BOR while we're in Washington discussing the contract extension or conversion from the service contract to a professional contract with the BOR, especially Commissioner Keys who is -- the BOR is handling this contract conversion. I think it's come to somewhat of a standstill in Albuquerque and we're not sure why and we'd like to address him on that specific issue, which I've discussed with the City about we need to identify why there's a hold-up in this contract conversion because I think it needs to be pushed. And I think going to Washington and discussing that with the people back in Washington would be helpful to us at the time. That was the other issue I wanted to bring.

CHAIRMAN CAMPOS: Thank you, Commissioner Sullivan.

COMMISSIONER SULLIVAN: What was -- I didn't have the schedule in front of me. What were the dates?

MR. GONZALEZ: The proposed dates were departure on March 22<sup>nd</sup> and return on March 25<sup>th</sup>. I believe that's a Monday departure and a Thursday return.

MR. SAYRE: A Monday departure and a Thursday return.

COMMISSIONER SULLIVAN: I just wanted to make sure first of all that it occurred after the legislative session, which it obviously would. But secondly I think whoever

goes on the agenda, if our regional water and sanitation authority bill passes, and we have every hope that it will, that we also put that on the agenda because I think as we've just said, each year we go and say "Me too" to the requests that the City has put together and I think, as part of our agreement on an agenda for our attending we should lay out issues that we're going to be discussing, monetary issues, whether it's wellfields, whether it's funding of this authority, whether it's whatever, that the City would say "Me too." We concur as well, when we talk about those issues. I think the time has come for that. Thank you, Mr. Chair.

MR. GONZALEZ: Mr. Chair, members of the Commission, one other major issue that I think probably has the federal attention that we probably want to connect with, our sister county up in Rio Arriba and perhaps Española. I know they've asked for funding down the road to deal with the Santa Cruz/Chimayo Valley water and sewer projects that are coming down the road. I think that this is the opportunity to get in touch with them. I know Commissioner Montoya has had some contact with them and see if we can't also coordinate efforts there in order to request funding for those projects.

CHAIRMAN CAMPOS: Okay. We had a conversation with Mayor Delgado on Thursday. Is that right? Was it Thursday, Mr. Gonzalez?

MR. GONZALEZ: That's correct.

CHAIRMAN CAMPOS: And we had a discussion about who would go. They're thinking of sending three Councilors. The Mayor and two Councilors. So I think one issue we have to discuss is how many Commissioners do we want to send. Commissioner Duran.

COMMISSIONER DURAN: I just have a little concern about our role, what role we're going to play when we go to Washington also. I think I've been there once or twice. I don't remember and we've actually been there to only support what the Mayor has requested, which was funding for a joint Rio Grande diversion project. And an extension of the San Juan/Chama agreement. And I just think that we need to go there with our own agenda and our own ideas as it relates to regional issues here. Whoever goes definitely needs to make sure that we're not there just on the surface saying that we're cooperating, only to come home to find out that we're not. Because we haven't been. And we said that in Washington a number of times. In good faith we said that we're working together and when we come back home it's hard to arrive at an agreement between the two governing bodies.

And I say that because if this bill passes, and I'm not sure that it's going to, Commissioner Sullivan, because the lobbyist for the municipalities who's a very strong lobbyist is opposed to it. And I don't know what he's doing while we're not there.

CHAIRMAN CAMPOS: Who's that?

COMMISSIONER DURAN: Fulginetti. I'm not sure what he's doing behind the scenes while we're not there putting it to our delegation there. I hope that it passes, but like I say, there's a strong undercurrent at the legislature trying to bring it down. So if it does go down, then we're back to square one relying on the City to understand our needs. That's just something we need to consider when we go to Washington.

CHAIRMAN CAMPOS: Who wants to go to Washington? How many people



should we send?

COMMISSIONER ANAYA: Mr. Chair, did we receive any money last year from the federal government after we had gone to visit with the delegation?

MR. GONZALEZ: I see Tony smiling back there. It's my understanding that we did. Tony?

TONY FLORES (Project and Facilities Management Director): I want to go.

MR. GONZALEZ: But it's my understanding from conversations with the City that there was a release of some federal funding in the amount of about \$2 million, roughly.

COMMISSIONER DURAN: For the Buckman wells, I think.

MR. GONZALEZ: I think that's correct.

COMMISSIONER ANAYA: But no money for the diversion project?

COMMISSIONER DURAN: No.

COMMISSIONER ANAYA: Well, I agree with Commissioner Duran. I think we need to go down there, and Commissioner Sullivan, with our own agenda and not just be there and say we're going to work together with the City when yet we come back and they're not working with us. I hope that they will continue to try to work with us and we are trying to work with them, I know for a fact, but I think we need to go down there and fight for our own money.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, I agree as well. I think it's all good and dandy to go over there and sing "Kumbaya" together and then come back and the tune changes to "Let's get it on." I think we've got to start looking at what we need in terms of our immediate vicinity and I totally agree with Gerald, the points that you've made. I had a real good meeting with the Lt. Governor from Pojoaque Pueblo. They're looking and discussing ways on how we're going to settle this Aamodt suit, how the authority may be set up long term. Had a good discussion with both Rio Arriba County and the City of Española. They're wanting to work on regional projects as well. And I think the key word is willing. And I think the point has come where we need to take a serious look at our water utility company and our system and how we're going to set it up long term for all the people in the county. That includes the City of Santa Fe quite frankly.

I think the message that we need to give at this point is that we have needs within the county that need to be addressed and there are some issues that you've already brought up but I think that can be addressed with our delegation.

CHAIRMAN CAMPOS: Okay, I would suggest that we send two Commissioners. I would like to go. Would anybody else like to go?

COMMISSIONER SULLIVAN: Mr. Chair, I would be willing to go but only if the water authority bill gets passed, because I think that opens up a new door. I think if it's not passed, then we're going to be probably whistling the same tunes and I don't have four days to do that, to allocate to that.

CHAIRMAN CAMPOS: So is there consensus that we should send three?

COMMISSIONER ANAYA: Where do me and Commissioner Montoya get to

go?

COMMISSIONER SULLIVAN: Hawaii.

CHAIRMAN CAMPOS: You went last year. You've been.

COMMISSIONER SULLIVAN: You got to go to Angel Fire. And Gallup.

COMMISSIONER MONTOYA: Farmington.

CHAIRMAN CAMPOS: Okay, that's the direction.

MR. GONZALEZ: Mr. Chair, Commissioners, what I'll do, I'll work with Doug Sayre and our internal staff and develop a menu for the trip and then we'll coordinate not only the visits that are currently scheduled through CDM and the City, but also contact the delegation members to see if we can't coordinate additional visits about the other items that we have.

CHAIRMAN CAMPOS: Thank you. Thank you, Mr. Sayre.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: I'm sorry, but maybe just to add to that, maybe if you think it would be appropriate to maybe invite some of the Pueblos and other northern folks. I don't know if --

MR. GONZALEZ: Mr. Chair, Commissioner Montoya, it's my understanding that they had scheduled, they were going to schedule their own trip some time in March. Now, if they're going to be there at the same time we could try and set that up. I don't know exactly when they were planning. I can -- I think John Utton has an idea what that schedule is so I'll find that out and if there is some opportunity to do coordination of our visitation with theirs we'll certainly set that up. Otherwise, we may need to discuss that a little bit more.

CHAIRMAN CAMPOS: Let me just state one thing, Commissioner Montoya. At the meeting with the Mayor and the City last Thursday, the Ferguson Group, who are the lobbyists for the City, I guess, they suggested that no more than five go because if you send more than usually everybody's just introducing everybody and you never get to talk about the issues. If you sent a huge delegation it's just introduction. It doesn't get to the meat of why you're there. That was their suggestion. It made sense to me. Just something to keep in mind.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Are you going to do any other matters from the Commission?

CHAIRMAN CAMPOS: Do we have to? It's 4:30.

COMMISSIONER SULLIVAN: If you don't want to.

CHAIRMAN CAMPOS: We've got to finish at 5:00. We've got to take a dinner break at 5:00. We've got public hearings at 6:00.

COMMISSIONER SULLIVAN: I'll hold it till later.

CHAIRMAN CAMPOS: Can you just hold it to the next time?

COMMISSIONER SULLIVAN: Sure.

CHAIRMAN CAMPOS: How's that? Come on, guys. It's 4:30.

COMMISSIONER DURAN: Just 30 seconds.

CHAIRMAN CAMPOS: Everybody's going to want 30 seconds.

COMMISSIONER SULLIVAN: I'll yield my 30 seconds to whoever needs it.

CHAIRMAN CAMPOS: Who wants to go first?

COMMISSIONER DURAN: Okay, real quickly. Gerald, you were in a meeting last night where the City talked about how they could extend their toilet retrofit program into the county. And I think there is a way of doing it and I would like for you to set up a meeting with whoever you think needs to be in there because I need some help thinking about how it might work. But if we're successful in getting this bill passed, and if we have different points of diversion that tie into the system, then those people that are hooked up or who could hook up to the system who have antiquated toilets and water -- they're not using water conserving devices, could possibly be brought into this toilet retrofit program.

CHAIRMAN CAMPOS: Is that 30 seconds.

COMMISSIONER DURAN: Almost. Because the City is running out of retrofits and pretty soon there will be no more retrofits. There'll be no more affordable -- actually affordable housing is exempt. But anyway, if you could set that up. Appreciate it. Thanks. See you later.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, Gerald, if you could also follow up. I had requested, probably about ten months ago, a draft ordinance on traffic calming and I was told that it was supposed to be available in November and still have not seen anything on that. And I just want to give kudos to the legislative team, Tony, Rudy, David Sims back there, the lobbyists, Agnes. All the people who have been out there. You're doing a great job and I think we're seeing some good progress and thanks for all your work.

COMMISSIONER SULLIVAN: I just wanted to thank the Commission for the work that they did last week in negotiating with the City in moving that water authority bill forward. I know there was a lot of tense moments there and I appreciate that and to send you greetings from our most western state of the United States and to tell you that having spent a week in Maui I learned -- guess what their most critical and number one issue is.

COMMISSIONER DURAN: Water.

COMMISSIONER SULLIVAN: Water.

COMMISSIONER DURAN: And I want to thank you for that bill too, because I think it was brilliant. I meant to tell you that.

COMMISSIONER SULLIVAN: But you forgot?

COMMISSIONER DURAN: I forgot.

COMMISSIONER MONTOYA: I like your tan, Commissioner.

COMMISSIONER ANAYA: Mr. Chair, Commissioners, some new employees. Jacqueline Perez, receptionist, legal, Community Health Development, John Alberton and Albert Duran. Public Works, Tim Vasquez. Fire, Patrick Salas. Assessor, Danielle Rodriguez. Sheriff, Camille Griego. Administrative Services, Laurie Johnson and Petra Cifuentes. And we have 66 other new employees. I'm not going to name them right now

at the Youth Development Facility and the electronic monitoring. I want to welcome you all to Santa Fe County. Thank you, Mr. Chair.

**IX. Presentations**

**A. Presentation of the American Institute of Architects – Western Region  
2003 Citation Award for the Santa Fe County Fairgrounds Master Plan**

CHAIRMAN CAMPOS: You're going to cooperate with us on this schedule?

MR. FLORES: Yes, sir. I am. As you are all aware, we contracted with the firm of Ellis Browning to complete a master plan for the Santa Fe County Fairgrounds. That was presented to the Board the fall of last year. October of last year, I believe. The firm of Ellis Browning submitted the plans that they prepared for the fairgrounds of Santa Fe County and have received a 2003 citation award in planning from the AIA Institute, Western Mountain Region, which includes Colorado, Arizona, New Mexico, Utah, Nevada and Wyoming. And I have members of the Fair Board with me today to accept it. Mr. Gary Runer, Paul Lewis, David Howard and Pat Torres, the County Extension Agent. Thank you.

CHAIRMAN CAMPOS: Thank you.

**IX. B. Presentation and Update on the Water Conservation Ordinance  
Implementation – Liza Vitale**

LIZA VITALE (Review Specialist): Hi. I'm Liza Vitale with the Land Use Department and right now I'm working on implementing, one of my jobs is implementing the water conservation program. And I have a power point presentation prepared that's coming up.

There are four main aspects to the County's water conservation program. There's the commercial retrofit program, the well metering program, conservation, signage and literature distribution, and public education and outreach.

For the commercial retrofit program, basically, the way we are implementing it is we mailed letters to 80 plumbers in the Santa Fe area to find out if they'd be interested in working with us and those that responded we put on a list and they told us what kind of price they charge for inspections. And then we mailed letters to all of the businesses in Santa Fe County that aren't home occupation businesses and that aren't within the Two-mile Extraterritorial zone. And the three main requirements for the retrofit program are that the toilets and urinals must be replaced with low-flush models. Faucets must have aerators, and shower heads must be low-flow.

The way we're implementing compliance is with the letter I mailed a postcard they can fill out and have a certified plumber verify that they have low-flow plumbing. And then after, if they don't have it initially, then the plumber will do that and then send it to me. And then we're going to identify certain business. Suppose they're a restaurant or a lodging establishment, we'll

target them initially with letters. After we start receiving postcards we will do random inspections, because we won't be able to inspect every single one. We'll mail a reminder to every business in June and the ones that are high water users we'll probably mail the reminders out pretty soon.

As businesses comply we'll mail them a certificate of compliance commemorating the fact that they are conserving water so that the customers know that they've done that. The City of Santa Fe has offered to let me tag along with them while they do their inspections because we look for the same things. So then I'll be trained at inspecting toilets and other appliances.

The second program is the domestic well metering program. Every domestic well user that has water restrictions signed something that said they would submit their annual well meter readings and put a well meter on and this is just a way to make sure that's happening. So when people come in to apply for a development permit, now we're asking them to tell us if they have water restrictions and if they do then on the development permit they have to put down the water restriction, the amount of it, give us the well meter serial number and give us the well meter reading. And with that information we put it into a database which we'll be able to track who has water restrictions and if they're complying.

Once the applicant has put that into the development permit then the people in the inspections division will forward me a copy of the development permit and I'll enter it into the access database. The database includes a space for the property location ID, the name, address and phone number of the property owner, the township, range and section, the amount of the water restriction, the development permit number, the well meter serial number, a current meter reading with the date and the previous meter reading with the date. And then the database will be able to determine if the users have exceeded their water restrictions. We'll be able to print out address labels for those that are in excess, and also print out address labels for the yearly reminders that we'll do.

Another thing we thought of to help this program going is to create a used meter program so that - right now, Utilities is switching out a lot of meters to put in the radio-read meters and they have a number of good used ones available. Those property owners that are located far out in rural that aren't going to be doing the radio reads later on, we can offer them a free meter if they want it. And that will kind of cut costs for them. We're still figuring that out though.

The follow-up to this is that they'll be notified with water conservation educational material if they're in excess of their water restrictions. And if they still are in excess then we have a schedule of violations. The first one is \$50, the second is \$100, the third is \$200 and the fourth and all subsequent violations are \$400.

The third element of the water conservation program is conservation signage and literature. We've required that every commercial entity put these water conservation notices in their restrooms, much like the City is doing. Businesses are being notified by mail and we're mailing them one notice. There are five notices they can chose from based on the style of the business and they can access them from our website or they can get them just by calling us. These are the ones that we have.

The other literature we have available for the public is a hotel brochure to put in all lodging establishments in every room to inform the guests about the need for water conservation. There is a fact sheet about low-flow toilets for people that have to retrofit. There are table-tents for restaurants that tell customers that they have to ask for water. Also, there's an abundance of literature from the State Engineer's Office which is available to us. We will be creating landscaping literature for people in the future that are buying landscaping from retail establishments.

This is the brochure for the lodging establishments. Here's the low-flow toilet fact sheet and these are the table-tents. These are also available on the website.

The fourth element of the program is public education and outreach. In January I participated in the American Association of University Women "Curiosity and Careers in Math and Science" in which a bunch of grade school came through and we did a water conservation game. Next week at the Sweeney Center there's a children's water festival which will draw about 550 fourth grade children. It's a two-day festival. There's numerous booths about water conservation and I'll be co-hosting a booth with a City water conservation officer with a game about water conservation.

I'm also a member of numerous committees – the State Engineer's Water Wise Committee and the Model Development Committee, which is a subcommittee of the Water Wise Committee. I'm on the steering committee for the Children's water festival. I plan to attend an Association of Realtors Meeting to review the requirements of water conservation and give them information. And I also intend to present information at community planning group.

We've also created a website that offers information about the County water conservation program and it offers links to the water conservation ordinances and the signage and also press releases. This is what it looks like so far.

One of the last things we're doing is recognition-based incentive program called water friendly businesses, which is the way to recognize businesses striving to conserve water by awarding them a decal for their window. That's a tentative logo, but something like that that's easily recognizable. And a certificate for their wall, and hopefully, I'd like to publish their names in the paper monthly if they comply. So it's a recognition. It's an incentive to get them to retrofit and do other water conserving practices. And I hope to work with the City of Santa Fe on this program to increase the area that it will affect.

In order to implement some of these programs, funding sources obviously have to be secured. And also, adopting the water conservation ordinance within the Two-mile Extraterritorial Zone I think would greatly increase its impact. I'm open for questions.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Liza, are you familiar with Kids, Cows and  
More?

MS. VITALE: No, I'm not.

COMMISSIONER ANAYA: Maybe you can get with Pat Torres from the County Extension Office and they do, they're going to have this at the County Extension and

maybe you could be there. And I know they do water conservation issues. Am I correct, Pat? And maybe you can be there and I know they're going to bring in about 500 kids to this so you could see how they do it and get some ideas and maybe you can offer some ideas.

MS. VITALE: Okay.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Thanks, Mr. Chair. Liza, how much are you projecting already for next year in terms of the budget, what you'll need?

MS. VITALE: I haven't figured that out yet.

COMMISSIONER MONTOYA: Okay. Because the majority sounds like it's a lot of brochures and printed material, as opposed to - we're not going to pay for retrofits, are we?

MS. VITALE: No. It's mainly just in-house printing so far.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Liza, under your well metering database program. How, when an applicant come in and fills out the information on the well meter, serial number and restrictions and development permit number and so on, how are you going to handle residences, multiple residences on a single well?

MS. VITALE: Commissioner Sullivan, I'm actually not sure, because I haven't come into contact with that yet, but I suppose that we would put the name of every resident in the database under the same location ID number. What we're doing is we're tying the well with the water restriction to the property location ID number so people will know it's not tied to their name. So however that would work, we would just put whatever information about the residence on there and -

COMMISSIONER SULLIVAN: Because most of the approvals now are joint use wells. There's usually typically three, four or five residences on a well. And each one of those residences may have a restriction and in some cases it gets even more complicated where we've been approving things, developments for a quarter acre-foot, then .49 acre-feet if they have a guest house. Then all of them are on a well, that can produce, I assume, up to three acre-feet per year. So you have to have some methodology of saying, I guess of adding up all those totals and determining if it exceeds the total of the well, and then somehow going back to all the users and saying, I guess, as a group, you're exceeding the amount. I'm not quite sure how you do that but I think you're going to find that's more the case than single-metered wells.

MS. VITALE: Commissioner, I think that would be something we'd address in the database and I think it's just a matter of getting the information in there clearly and having a number of tables. I think it's definitely possible to develop a methodology for that.

COMMISSIONER SULLIVAN: If someone exceeds - what I'm getting at is the implementation and the fines. If someone exceeds the amount, let's say you add up all four of the wells and it's supposed to be one acre-foot, because they each have a quarter acre-foot, just as a simple case. Forget the guesthouses. Let's say your metering shows 1.5 acre-feet that was used. Who do you fine?

MS. VITALE: In the case if it was multiple people on one well, I guess what we would have to

do is designate it by the person who has a certain amount of water restrictions. So for one well, if every person has .25 acre-feet, then we would enter it under that. We'll figure it out.

COMMISSIONER SULLIVAN: But who would you fine? All four of them?

MS. VITALE: We would fine the person that is using over their water restriction. We're not going to do it cumulatively.

COMMISSIONER SULLIVAN: But you don't have any control. You don't have any record of that. All you have is the meter on the well.

MS. VITALE: They would have to have a meter for each property owner, I'm assuming.

COMMISSIONER SULLIVAN: No, that's not required. Hasn't been. Maybe that's something you want to bring forward as a land use item but in most cases, the meters are just on the wells.

COMMISSIONER DURAN: Commissioner Sullivan, in the well sharing agreements that I've seen those, the way that they distribute, the way the water is allocated, there is a meter going to each house.

COMMISSIONER SULLIVAN: There's one on each house?

COMMISSIONER DURAN: In almost all the well sharing agreements that I've seen.

COMMISSIONER SULLIVAN: Okay. So if we're doing that then that would solve that.

COMMISSIONER DURAN: I don't think we're requiring it but -

COMMISSIONER SULLIVAN: Well, that's what I'm getting at.

COMMISSIONER DURAN: You probably want to bring that forward.

CHAIRMAN CAMPOS: Question for Mr. Ross. Ms. Vitale has said that we do not have jurisdiction in the Two-mile? Is that correct?

MR. ROSS: I think what she was saying is that this ordinance doesn't apply in the Two-mile. It was never adopted by the EZA.

CHAIRMAN CAMPOS: So your opinion is that the EZA would have to adopt this?

MR. ROSS: Sure.

CHAIRMAN CAMPOS: This is a zoning matter. Or a water control matter. Can you distinguish between zoning and water control?

MR. ROSS: Well, zoning in the sense that it relates to density.

CHAIRMAN CAMPOS: Yes, but it has other aspects. I'd like you to consider that issue, whether the County has jurisdiction to impose this ordinance in the Two-mile and maybe let us know next time.

MR. ROSS: Okay.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: Then if it's not, we want to bring it forward for the EZA to adopt, correct?



CHAIRMAN CAMPOS: I would think so. Of course we need to talk about funding, things like that too. The EZA has a separate budget.

COMMISSIONER DURAN: The JPA.

CHAIRMAN CAMPOS: Thank you, Ms. Vitale. We appreciate it very much and think you're doing a good job and come up with some ideas as to maybe state law that we need for metering a lot of these domestic wells. I think that's a discussion I'd like to have staff have.

MR. GONZALEZ: Mr. Chair, members of the Commission, I just wanted to commend Ms. Vitale, because she created this whole program beginning this summer out of whole cloth, and I think we are where we are is a credit to her. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you.

**X. Committee Appointments/Reappointments/Resignations**

**A. Appointment of Tommy Spindle to the Santa Fe County Municipal/Developer/Utility Position on the Estancia Basin Water Planning Committee**

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Let me just ask a couple of questions. Staff, is anyone leading?

COMMISSIONER MONTOYA: Mr. Chair, I didn't get any information on that.

CHAIRMAN CAMPOS: It was something that came in late, I believe. Mr. Sayre, did you publish this to ask for applicants? Is this the only applicant? What's the deal?

MR. SAYRE: Mr. Chair, Commissioners, my name is Doug Sayre, Acting Utilities Director. This came from the committee of the Estancia Basin Water Planning Group. It was a recommendation from them. It was sent to, I believe, the County Manager for consideration and this was the recommended individual from down there. They forgot about the resume, and it's my understanding it was furnished. I don't know if it got in everybody's packet. But it has been furnished for the Commission to consider. But that was the recommendation from the committee as I understand it.

CHAIRMAN CAMPOS: So our option is to accept or reject the suggestion. Okay. There's a motion and a second to accept Mr. Spindle as the person to be appointed. Any discussion?

**The motion to accept Tommy Spindle as the appointee to the Estancia Basin Water Planning Committee passed by unanimous [5-0] voice vote.**

**XI. Consent Calendar**

- A. Request Authorization to Enter into a Joint Powers Agreement Between the New Mexico State Land Office and the County of Santa Fe Concerning the Cleanup of the La Cienega and La Cieneguilla Areas (Commission Office)**
- B. Request Authorization and Acceptance of Amendment #1 to the Special Appropriation Project Grant with the New Mexico Department of Finance and Administration (Project & Facilities Management Department)**
- C. Resolution No. 2004-16. A Resolution Requesting Operating Transfers from the Capital Outlay GRT Fund (213) to the EMS - Healthcare Fund (232)/Magistrate Court Building, to the State Special Appropriations' Fund (318)/Youth Shelter and Family Services, Eldorado Senior Center, and Stanley Fairgrounds, and to the Jail Operations Fund (518)/Youth Development Facility for Capital Expenditures in Fiscal Year 2004 (Project & Facilities Management Department)**
- D. Resolution No. 2004-17. A Resolution Requesting an Increase to the State Special Appropriations Fund (318)/Coordinated Health Complex and River Trail Corridor Projects to Budget Special Appropriation Projects' (SAP) Grants Received from the NM 2003 Legislature for Expenditure in Fiscal Year 2004 (Project & Facilities Management Department)**

CHAIRMAN CAMPOS: Is there a motion?

COMMISSIONER MONTOYA: So moved.

COMMISSIONER DURAN: Second.

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

SFC CLERK RECORDED 04/19/2004

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

**A. Community & Health Development Department**

- 1. Resolution No. 2004-18. A Resolution Authorizing the Application for the Local DWI Distribution/Grant for FY 2005**
- 2. Resolution No. 2004-19. A Resolution Authorizing the Application for the Local DWI Detoxification Grant for FY 2005**
- 3. Request Approval of the Local DWI Distribution/Grant Application for FY 2005**
- 4. Request Approval of Local DWI Detoxification/Grant Application for FY 2005**

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: Is it possible to approve items one through four?

CHAIRMAN CAMPOS: I didn't find anything at issue. It seemed like they should have been on the Consent Calendar.

COMMISSIONER DURAN: That's what I was thinking.

COMMISSIONER SULLIVAN: I did have one question, and I think it applied to the fourth one, although it was not too clear to me and that was it seems -- what of these funds are actually physically going towards the detox facility? It seems that we're staffing with personnel --

CHAIRMAN CAMPOS: We don't have a staffer here to respond.

COMMISSIONER DURAN: There he is.

CHAIRMAN CAMPOS: Mr. Anaya, Commissioner Sullivan has a question as to item XII. A. 4.

COMMISSIONER SULLIVAN: I think it was in 4 on the detox, the long, lengthy detox grant and there was a very small amount in there for the detox facility. I think it was some equipment or something like that. But what has happened to the CARE Connection theory that part of that building that we're going to purchase will become an overnight detox facility. What I read in the application was things about screening and assessing and referring, but anything about that seems to have been sanitized out. Or am I missing something? Is that still on track?

ROBERT ANAYA (CHDD Director): Mr. Chair, Commissioner Sullivan, it is still on track. The first phase of the project as recommended and provided direction by the Commission was to move forward the RFP on the screening assessment and referral piece. As far as the sobering detox piece, that's very much a part of the discussions within the CARE Connection. One of the things that we're considering are utilizing the site we purchased or using an alternate site, potentially the Youth Development Facility and part of the areas that are not being utilized for youth incarceration. That's one of the areas that we've been exploring in conjunction with the process. So it's very much in the mix.

COMMISSIONER SULLIVAN: My concern is I don't see it in this application

and we approved the option to purchase that building with the understanding that a portion of that building was going to be the detox facility and now that building is all filled up with staff and conference rooms. And I'm concerned that we're just expanding to fit the space allotted and we're losing that focus.

MR. ANAYA: Mr. Chair, your comments are well taken. By no means do we want to make commitments on the third that we've set aside for the sobering center. That third is still set aside for that purpose. Health Services staff is preparing to move into their sector of the building. We've actually done – Mr. Flores, Tony Flores has done the remodel for that wing. So all of the staff that's not spread out throughout pretty much the entire building is going to now move into the one-third of the facility, and then we'll have the middle third that's dealt with the CARE Connection portion. And then the other third, we still have set aside for the sobering piece. We can add within the application clarification that that still is very much a part of the process.

COMMISSIONER SULLIVAN: We're getting \$200,000 a year, right? That's supposed to go to that?

MR. ANAYA: Actually, Mr. Chair, Commissioner Sullivan, it's \$300,000 and it's for use through the CARE Connection sobering center and/or other sobering/detox needs in the community. So it's not specific only to be used for a sobering center. We have some discretion within that application to go among those three areas.

COMMISSIONER SULLIVAN: It seems to me that this application ought to say "sobering center" or whatever you want to call it. Detox facility. I didn't see that. I saw a lot of vague wording that made me nervous that we're losing track here.

MR. ANAYA: Mr. Chair, Commissioner Sullivan, we can make sure that there's clear reference to the detox/sobering center as well in the application.

COMMISSIONER SULLIVAN: And then, my last question was, where is the City on this? At one time the City had money that they were going to commit to this. Is that still on the table or what's the status?

MR. ANAYA: Mr. Chair, Commissioner Sullivan, that money is still very much on the table. We're analyzing the other possibilities of space, relative to that Youth Development Facility but their resources are still very much on the table. They are waiting to utilize their resources based on only the sobering component.

COMMISSIONER SULLIVAN: So what you're telling me now is that the staff is thinking about the detox facility or the sobering center being at the Youth Detention Center?

MR. ANAYA: Mr. Chair, Commissioner Sullivan, we've had some preliminary discussions in that direction because the space is already set up in one of the pods to be able to accommodate that potential need, maintaining separation of sight and sound from the youth in the facility. It's something that in preliminary discussions with even the City at the staff level, that they are in favor of researching and looking at. We want to make sure that as we review that possibility that we're keeping in compliance with Children, Youth and Families and making sure that we're not putting in jeopardy the youth, the adults or anybody involved. But we have started some of that preliminary evaluation.

COMMISSIONER SULLIVAN: I would question, is that wise to have adults at a youth facility. This was a concern the City had, that this facility would simply become administrative offices and it sounds like that's the way we're headed.

MR. ANAYA: Mr. Chair, Commissioner Sullivan, the individuals at the City that we've had some discussions with to include even some of the City Councilors, are in favor of the notion because it's something that they've talked about historically, potentially using the youth facility as a possible site for adults. That's not an uncommon practice, to have those parties together within a facility. It's clearly being able to maintain separation of sight and sound. And obviously, their willingness or unwillingness to participate in that if that's a possibility is very much important because we very much want to maintain those resources that they've committed at the table. And the initial reaction that we're getting is that it would probably be easier when it comes to the zoning and land use aspects of it, to look at the Youth Development Facility as an option rather than the new site as a potential option.

We're not saying we're taking the site of the current old magistrate off the books, we're saying that we potentially have an opportunity that we can bring to the Commission to look at as an option and it would be up to the Commission to determine whether you would want to move in that direction or not. As far as rehab costs are concerned, it would be far easier and far more effective from probably a financial standpoint because there's already separation of site and sound, and we would just be going in and doing some reconfigurations of a particular pod in that facility.

Mr. Flores, myself, the CARE Connection, people from the City of Santa Fe staff are all inclusive in the development of that process and bringing forward those potential options to you. But ultimately it's up to the Commission to determine if you want to go in that direction or not.

COMMISSIONER SULLIVAN: The last comment I would have, Mr. Chair, is if, and it sounds like that's the way you're going and this is the first I've heard of it until I read this grant application, I think you need to bring back to the Commission a reassessment of that facility, because we have an option to purchase that. We haven't purchased that building. We still have a lease option, correct?

MR. ANAYA: Mr. Chair, Commissioner Sullivan, we actually purchased that building several months ago.

COMMISSIONER SULLIVAN: Well, I wouldn't have voted for that purchase had I known that the staff was not going to do a detox facility there and this is the first I've heard of it. I'm rather disappointed about that.

MR. ANAYA: Mr. Chair, Commissioner Sullivan, if the desire of the Commission is to not look any alternate options at all, we can clearly take that direction and move forward based on what's historically happened in Santa Fe and Santa Fe County and that that youth facility was actually a proposed site as far as working in partnership with the City. That came up as an option. If the message from the Commission is you don't want us to look at that as an option then we can clearly take that direction and not present any alternate options at all. The other thing that we didn't want to do is we didn't want to bring a premature option to

you, we're exploring the possibilities of that, period. That's where we're at. We're in the discussion phase.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: I'd like to move on. Is there an option to approve items 1, 2, 3, and 4?

COMMISSIONER ANAYA: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTOYA: Second. Question. This is in relation to these four applications. Regarding any other funding that we've applied for, and the reason I'm asking this question is Representative Jim Trujillo mentioned to me when I was discussing with him about supporting the local option. He has reviewed some records and saw that we weren't applying for or haven't applied for or weren't receiving funding that we could have applied for. Do you know what he was talking about, David?

DAVID SIMS (DWI Coordinator): Yes, sir. Mr. Chair, Commissioner Montoya, if you look on page 1 of the regular distribution grant application. It's the thicker one that's the total of \$771,875, that page. If you look on the left column, we are applying this year for \$43,000 in grant. That was the thing - I have spoken with him as well. And he was under the impression that we had not applied for any grant money. There are three categories within the DWI grant fund. There's the distribution that goes to the counties by formula. There's the grant that's applied for competitively among the counties, and then there's the detox grants that are given out to seven different counties.

The part that he was confused about was in fact we did get awarded zero by the state grant council at the recommendation of DFA in the last funding cycle. However, we actually applied for \$13,600 last year. This year we are applying for that and by the way, that was the amount that we had reverted the previous year. This year we're applying for \$43,000, which is that \$13,000 that we reverted before, plus the amount we reverted last year. So this is approximately the same amount that we've reverted over the last two years into the grant. At the end of the year what money we don't spend out of the distribution goes back into the grant pool. And we are competing competitively this year for \$43,000.

COMMISSIONER MONTOYA: Okay. So it's not that we haven't applied for it.

MR. SIMS: That's correct.

COMMISSIONER MONTOYA: Okay. Good.

CHAIRMAN CAMPOS: Okay, we have a motion and a second. Any discussion?

**The motion to approve items XII. A. 1, 2, 3, and 4 passed by majority [3-1] voice vote, with Commissioner Sullivan casting the dissenting vote and Commissioner Duran not present.**

**XII. A. 5. Approval of Amendment to Fiscal Year 2004 Memorandum of Agreement Between Santa Fe County and St. Vincent Hospital**

MR. ANAYA: Mr. Chair, Commissioners, as you're aware, because you've been actively involved in the discussions with St. Vincent Hospital, we've been negotiating where it is we would recommend to the County Commission that we move relative to the MOA in the current year, fiscal year 2004, as well as the proposed fiscal year 2005. What you have before you is a summary of the background of where we are to this point. [Exhibit 2] Currently, what's on the table, if the Commission would move on it is to recommend out of the supplemental funding that there would be an amendment to add \$750,000 funding within the amendment for indigent care funding and medical care for residents in custody, as well as in fiscal year 2005, that the \$750,000 be carried into 2005 for the new MOA agreement as well as an additional \$200,000 to be devoted to clinic health care support.

Mr. Chair, another item that we've been working closely with St. Vincent on and the Commission has been concerned about is the resources necessary is to help augment places like the Women's Health Centers as well as the Presbyterian Medical Services need, and we are working closely with the hospital and feel we have isolated some resources out of carry-over money to be able to accommodate providing some interim stop-gap measures for Women's Health.

Mr. Chair, staff recommends that the Board of County Commissioners accept this proposed agreement that we've reached with St. Vincent Hospital and we would bring the 2004 amendment for formal approval by the Commission March 9<sup>th</sup>, and we would bring the proposed changes to the 2005 MOA for final approval at the March 30, 2004 Board of County Commission meeting. Mr. Chair, Commissioners, I stand for questions.

CHAIRMAN CAMPOS: Mr. Anaya, you're suggesting that we approve items 5 and 6?

MR. ANAYA: Mr. Chair, we're only asking at this time for the memorandum of agreement and then we'll move to the other item separately.

CHAIRMAN CAMPOS: Okay. Any questions for Mr. Anaya? Okay, is there anyone from St. Vincent to address the Board on that issue?

MR. ANAYA: Mr. Chair, we do have some representatives here and I would defer to them if they'd like to make some additional comments.

CHAIRMAN CAMPOS: Mr. Valdez. How are you today?

JOHN VALDEZ: Mr. Chair, members of the County Commission, it's a pleasure to be able to be here with you today. We also have two members of our board of directors. We have Frank DiLuzio and Gene Valdez with us. We also have Dr. Mario Pacheco who is one of our physicians through St. Vincent Hospital that runs the residency program and also does primary care at the Pojoaque family clinic. So they were able to join us and we of course have two members of the Health Policy and Planning Commission of the County here to understand and listen to conversations also.

Mr. Chair, on behalf of St. Vincent Hospital, we have, we believe negotiated a good

resolution to our FY2004 and the amount of dollars that we're able to contribute to the FY2005 memorandum of agreement. Between now and March 9<sup>th</sup> and the following, I believe it's March 30<sup>th</sup>, I'm not too sure what those dates are, we'll be happy to work together with your staff so that we will be able to assure that we come back to you on those dates with sound language in the memorandums of agreement so that we may seek your approval of those memorandums of agreement.

Once again, as you know, Dr. John Lucas prepared a letter and sent it to you, Mr. Chair, and hopefully the other County Commissioners have a copy of that but we have found our conversations together with you to be very, very positive and very welcoming and we really look forward to establishing and continuing to work on a strong partnership with all of you as we tend to the healthcare needs in this community. Once again, thank you for your time and I believe if you have any questions we're prepared to answer any of those questions.

CHAIRMAN CAMPOS: Questions for Mr. Valdez? Okay. I'd like to thank you and St. Vincent Hospital and the board members. We've had some excellent conversations. I think we're all very interested in moving forward with a really strong partnership with the hospital. I think it's imperative that we are successful, that we move from there.

MR. VALDEZ: We look forward to it, Mr. Chair and we also have had a very good working relationship with the Health Policy and Planning Commission that serves this County and we look forward to seeing them engaged in our processes and bringing the incredible expertise that that group has to bear in assisting us with our decision making. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, sir. Is there a motion?

COMMISSIONER MONTOYA: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion?

**The motion to approve the amendment to the FY04 St. Vincent MOA passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]**

- XII. A. 6. Approval of Fiscal Year 2005 Memorandum of Agreement Between Santa Fe County and St. Vincent Hospital**  
**7. Approval of St. Vincent Hospital Sole Community Provider Request for Fiscal Year 2005**

MR. ANAYA: Mr. Chair, Commissioners, the letter Mr. Shepherd is passing out is a letter that was provided to you, Mr. Chair, as well from St. Vincent Hospital relative to the sole community match payment request to the state of New Mexico to provide for the sole community funds. [Exhibit 3] If you'll look at the second paragraph, the amount requested, \$16,741,153, for an estimated match payment of \$4,210,400. Staff is recommending approval



of this sole community provider request and is doing so in consultation – after having consulted with Mr. Shepherd, our Finance Department and the County Manager. Mr. Chair, Commissioners, I would stand for any specific questions.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Are we on 6 or 7?

CHAIRMAN CAMPOS: I believe we're on 6, correct? Or both?

COMMISSIONER MONTOYA: Okay, we're on 6 and we're discussing the sole community provider, which is number 7. I guess I'm lost. Isn't the first time.

MR. ANAYA: Mr. Chair, the presentation prior was items 5 and 6. If you'll look at the memorandum that we've provided to you. It was recommendations on fiscal year 2004 as well as recommendations for fiscal year 2005. So the Commission needs to vote on 2005.

COMMISSIONER MONTOYA: We need to vote on that.

CHAIRMAN CAMPOS: I think we do. Let's vote on 6. Is there a motion to approve fiscal year 2005 memo of agreement between Santa Fe County and St. Vincent's?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay, discussion.

**The motion to approve the FY05 MOA passed by unanimous [4-0] voice vote.**  
[Commissioner Duran was not present for this action.]

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: A question, Robert. It indicates in the letter that they don't know what the state Medicaid program may be and if it doesn't reach five percent they want to at least be able to have enough allocated to take full advantage of it if it does reach that amount. Are we committing to an amount – let's say we're at four percent. Then is our match commensurately reduced?

MR. ANAYA: Mr. Chair, Commissioner Sullivan, yes. If it was to come in at only the four percent, then we would utilize the match amount around the four percent increase only.

COMMISSIONER SULLIVAN: Okay. Because the \$4,210,400 is assuming a five percent increase.

MR. ANAYA: Mr. Chair, Commissioner Sullivan, correct. So if it comes in at four percent, that would be less. The one caveat that I would make to that is that we, being the hospital nor Santa Fe County know exactly what the percentage is going to be. Nor do we always know exactly what the match percentage is. It's historically been 25, 25.5, close to 26. So we don't know that exact number. They don't give us that exact number, but you're correct. It would go down if it was four percent.

COMMISSIONER SULLIVAN: We make these payments in advance those. We make them, is it quarterly? Quarterly. So we have to move forward and make the first quarterly payment based on the assumption that it's going to be five percent. Isn't that correct?

MR. ANAYA: Mr. Chair, we don't make the payment until they give the final sole community provider amount. We're projecting –

COMMISSIONER SULLIVAN: Okay. So we know what the exact number is. So in our approval of this resolution, this letter goes with the resolution that's in the book, right. Request for sole community hospital payment adjustment?

MR. ANAYA: Correct, Mr. Chair, Commissioner Sullivan.

COMMISSIONER SULLIVAN: So we're requesting \$16,741,152.77 for the sole community program. By approving this resolution, and I don't see it written here is the reason I'm asking, is the understanding that whatever that final percentage is, we are going to contribute that 25-point-whatever percentage it is.

MR. ANAYA: Mr. Chair, Commissioner Sullivan, yes.

COMMISSIONER SULLIVAN: Not one-quarter of \$16,741,000, because that may not be the number.

MR. ANAYA: Mr. Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Okay. So as long as we have that understanding. That's all the questions I had, Mr. Chair.

CHAIRMAN CAMPOS: Okay, is there a motion?

COMMISSIONER MONTOYA: So moved.

CHAIRMAN CAMPOS: Second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion?

COMMISSIONER DURAN: Commissioner.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: I have a question. Robert, at the last meeting we talked about how St. Vincent's was going to deal with the shortfall that Women's Health Services was experiencing. Does this letter deal with that at all? Do we have any assurance that they are – I spoke to Senator Rodriguez who told me that a representative from St. Vincent's had called and basically advised her that St. Vincent's had found roughly \$120,000, \$130,000 to fund the efforts at Women's Health Services. Have you heard anything to the contrary or can you enlighten me on that?

MR. ANAYA: Mr. Chair, Commissioner Duran, on the previous item that the Commission approved, we've isolated to this point \$90,000 that we're going to work with the hospital on providing to help fill the gap at Women's Health. And we feel confident – we being the hospital as well as the County, that we'll be able to find the other additional carry-over one-time money to help fill that, provide a stop-gap and we're going to work closely with the hospital to do that and we'll keep the Commission apprised as to where we find the money because ultimately, we'll have to bring that back to the Commission to get your approval to go ahead and allocate it and spend it.

COMMISSIONER DURAN: And your understanding is that they didn't rob Peter to pay Paul on this, right? Were other programs left unfunded or how did that happen?

MR. ANAYA: Mr. Chair, Commissioner Duran, to this point we've isolated \$90,000 that is currently unallocated carry-over money that staff on the County side feels comfortable that the purpose that the Commission has set as a priority being working to help Women's Health, that it would not have a detriment to other programs on a one-time basis to put a stop-gap there. We'll try and come up with the balance.

COMMISSIONER DURAN: Thank you, Robert. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, sir.

The motion to approve the sole community provider request for FY05 passed by unanimous [5-0] voice vote.

**XII. B. Project & Facilities Management Department**

**1. Request Authorization to Enter into a Professional Service Agreement with the Highest Rated Offeror in Response to RFP #24-01, Long Range Facilities Needs Assessment**

MR. FLORES: Mr. Chair, Tony Flores with PFMD. I'll be brief. The Board last April directed staff to prepare an RFP for this study. We received quite a few proposals, 37 individuals were solicited, or firms and we received the items that are listed in your proposal for evaluation. Based upon the written evaluation, staff interviewed the top three highest rated firms. Based upon the evaluation of both the oral and written, staff determined the highest rated firm was ARC/DCSW. That would be the contractor that we would begin negotiations with. I have in the memo outlined a determination on how we found a price that was finally negotiated to be fair and reasonable. I am requesting authorization to enter into an agreement with ARC/DCSW in the amount of \$131,203.76. And I stand for any questions, Mr. Chair.

CHAIRMAN CAMPOS: Mr. Flores, any issues with the terms and conditions of the contract?

MR. FLORES: Mr. Chair, yes. On page - for some clean-up language, for clarification, on page 2 of the agreement, compensation and invoicing, I am requesting that the amount of \$131,203,76 be included in lieu of \$131,200. Also, under item 5 or Article V, effective date and term, I am requesting a clarification from May 30, 2004 to leave the contract open through December 31 of this year or 2004.

CHAIRMAN CAMPOS: Okay.

MR. FLORES: Also, Mr. Chair, under the scope of work, under the Attachment A, page 6, I am requesting deletion of items 3 and 4 from the basic scope of services for this contract.

CHAIRMAN CAMPOS: Three and four?

MR. FLORES: Yes, Mr. Chair. On the bottom of the page it says detailed

master plan is an optional service as an architectural services. At this time, Mr. Chair, I am not recommending that we proceed with those and I would be reluctant to have those included in the agreement and I ask that they be removed from that attachment.

CHAIRMAN CAMPOS: Okay. Questions?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Tony, I'm familiar with the work of ARC.

I'm not familiar with -

MR. FLORES: Design Collaborative Southwest.

COMMISSIONER SULLIVAN: Design Collaborative Southwest. And I know ARC does a lot of these planning studies, particularly for schools. But I don't see ARC on the contract. The contract says with Design Collaborative Southwest. Where does ARC fit into this?

MR. FLORES: Mr. Chair, Commissioner Sullivan, ARC is the subcontractor of Design Collaborative Southwest that will be taking on the planning and assessment portion of it. Design Collaborative Southwest or DCSW has contracted services with the County before and also recently completed a Dona Ana County administrative component or complex, as well as the Chavez County law enforcement complex and has worked on the Bernalillo County and Sandoval County Courthouses recently. The prime contract before us is DCSW, Design Collaborative Southwest.

COMMISSIONER SULLIVAN: And what is ARC doing?

MR. FLORES: Mr. Chair, Commissioner Sullivan, they will be undertaking the interview questions, the assessment, the collection of the information and assembling our draft program document upon completion.

COMMISSIONER SULLIVAN: Okay, so they're a subcontractor to DCSW then?

MR. FLORES: Mr. Chair, Commissioner Sullivan, yes.

COMMISSIONER SULLIVAN: I see. How big is DCSW?

MR. FLORES: Mr. Chair, they are the third largest architectural firm in the state. I think their numbers total 73. They have large contracts with the US Postal Service, the United States Airforce at Holliman and at Kirtland and they have offices in New Mexico, Texas, and Arizona.

COMMISSIONER SULLIVAN: Okay, so ARC is like smaller than DCSW. So it's not the tail wagging the dog here?

MR. FLORES: Mr. Chair, no. It is not the tail wagging the dog.

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

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: Tony, on page 4, it says, item D, develop alternatives/options. A minimum of three sites will be identified to accommodate a consolidated facility. How are these sites going to be provided to the contractor?

MR. FLORES: Mr. Chair, Commissioner Duran, this discussion came up with

the Board previously. It would be a combination of things. First of all, staff will be assisting and looking at sites with them. They will be looking through the market to see if there's any available site that they could include as part of this. So I assume, Mr. Chair, Commissioner Duran, there will be a number of components on how the sites are identified. Mr. Chair, Commissioner Duran, I would assume that we're probably going to look at a half a dozens sites in total. However, once the program is done and we determine what the square footage is of the complex or complexes are, that will drive the site identification. So we will look at a numerous number of sites and of course the bottom three or the final three will determine how big the buildings will or could be.

COMMISSIONER DURAN: Okay. And my last question is, when the architect is reviewing or helping us analyze these specific sites, he will be looking at a consolidated facility, but will be also keep in mind that the judicial complex may not be part of the consolidated facility for reasons that were mentioned when the judges were here earlier. So I'm all for a consolidated facility, but I don't want it to go forward without the understanding that they could - they may not be best served by being with us.

MR. FLORES: Mr. Chair, Commissioner Duran, it's my opinion that when I use the word consolidated it does not necessarily mean in one facility. I would look at a possible campus environment where we have a very secure complex and a medium secure complex which would be our administrative component. I think that the judicial court's presentation, they indicated that there is a willingness now to look at alternate sites outside the downtown area which would open up possibilities and alternatives that we would look at.

Mr. Chair, Commissioner Duran, I don't view this as one building for both admin and judicial and DA for that matter because of the security issue.

COMMISSIONER DURAN: The safety concerns, yes. Okay. Thank you.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Just regarding the Attachment B, Tony. There weren't any deadlines or timelines. Did you set some up?

MR. FLORES: Mr. Chair, Commissioner Montoya, thank you. Actually my milestones were set up two months ago and I'm behind the curve now because I committed to the Board that we would have this back in April. I had worked with the Purchasing Division and DCSW in the negotiation process and they still have indicated to me this will be a four-month process to complete. So we are still on target, Mr. Chair, Commissioner Montoya, to have a final report back prior to June to be able to then determine whether the best avenue is to go for a consolidated facility bond or whatever the mechanism is.

Mr. Chair, Commissioner Montoya, even though the legislature is going on, if this is approved today, I'm planning a kick-off meeting tomorrow morning, prior to my mid-year budget review so that we can get the immediate response from the firm.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Tony, I'm very excited about what's happening with this. I can't wait to see it go all the way through and I like the fact that it's going to be a campus style complex, rather than a single building and I think it's going to be a great thing for Santa Fe County. Thank you.

CHAIRMAN CAMPOS: Okay. Is there a motion to approve with the amendments?

COMMISSIONER DURAN: So moved.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay. Discussion?

**The motion to approve the PSA with ARC/DCSW passed by unanimous [5-0] voice vote.**

**XII. C. Public Works Department**

**1. Resolution No. 2004-20. A Resolution Confirming the Abandonment for County maintenance of a Portion of Calle Sinsonte within the Puesta del Sol Subdivision**

MR. MARTINEZ: Mr. Chair, this item was tabled at the last meeting because Public Works did not provide a map. We've included a map in your packet and we've also, we'll be showing you a map here on your monitor. The residents of Puesta del Sol specifically Calle Sinsonte and the Puesta del Sol Homeowners Association are requesting for a portion of Calle Sinsonte to be abandoned for County maintenance.

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Any discussion?

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: Robert, I noticed the Department of Transportation initially was against this but then it seems to be in a letter now that they were on board. Is everything copacetic with the department?

MR. MARTINEZ: Mr. Chair, Commissioner Sullivan, they are in agreement. The reason they had a concern is because one of the residences, one of the homes on Calle Sinsonte is owned by the Highway Department due to the 599 right-of-way acquisition. But they are in agreement now and they have been on board and they are fine with this.

COMMISSIONER SULLIVAN: Okay.

MR. MARTINEZ: As you can see on the monitor, it's the yellow portion of Calle Sinsonte that is being requested to be abandoned.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Yes.

COMMISSIONER DURAN: Thank you for giving me the map. I think it makes sense to me now.

MR. MARTINEZ: Mr. Chair, Commissioner Duran, you're welcome.

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

**The motion to approve abandoning a portion of Calle Sinsonte for County maintenance passed by unanimous [5-0] voice vote.**

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

MR. GONZALEZ: Nothing from the County Manager, Mr. Chair.

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

**1. Executive Session**

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

MR. ROSS: Mr. Chair, we do need a closed executive session to discuss pending or threatened litigation, limited personnel action, acquisition or disposal of real property and/or discussion of the purchase, acquisition or disposal of real property or water rights. We'll be brief.

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

[The Commission met in executive session from 5:35 to 7:00.]

**Commissioner Duran moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Anaya seconded. The motion passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]**

COMMISSIONER DURAN: I move that we approve another year with Gerald

Gonzalez as the County Manager.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

COMMISSIONER DURAN: At what rate? Well, his existing salary plus a three percent increase from the general fund and another \$3,000 increase from our Commissioners' discretionary fund, for a total of \$102,000.

CHAIRMAN CAMPOS: Okay, and that would include the current contract that we have? This amends the contract that we have?

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Okay. Is that the motion?

COMMISSIONER DURAN: That's the motion? Is that what we talked about?

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Discussion?

**The motion to approve a raise in the County Manager's contract to \$102,000 passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]**

### **XIII. Public Hearings**

#### **A. Land Use Department**

1. **EZ Case #DL 03-4970 - J. Anthony Peperas, Sr. Family Transfer. J. Anthony Peperas, Sr., Applicant, Requests Plat Approval for a Family Transfer to Divide 5.13 Acres into Two (2) Tracts. The Tracts will be Known as Tract 2A-1A (2.56 Acres), and Tract 2A-1B (2.56 Acres). The Property is Located within the Pinon Hills Subdivision, at 97 Calle Francisca, within Section 25, Township 17 North, Range 8 East (Commission District 2)**

JAN DANIELS (Review Specialist): J. Anthony Peperas, Sr., applicant, requests plat approval to divide 5.13 acres into two tracts for a family transfer. The tracts will be known as tract 2a-1a (2.56 acres), and tract 2a-1b (2.56 acres). The Property is Located within the Pinon Hills Subdivision, at 97 Calle Francisca, within Section 25, Township 17 North, Range 8 East in the Five-mile District.

At its regularly scheduled meeting of June 13, 2002, the Extraterritorial Zoning Commission met and granted approval of Case #DL 02-4340, Peperas Land Division, to divide 10.4 acres into four lots of 2.6 acres each. At a rescheduled meeting of September 18, 2002, the Board of County Commissioners met and denied the request of Case #DL 02-4340, Peperas Land Division, based on relevant issues regarding increasing the number of lots in a non-conforming subdivision as it relates to infrastructure.



At its regularly scheduled meeting of June 12, 2003, the Extraterritorial Zoning Commission met and unanimously granted approval to Case #DL 03-4480, the Conservatorship of J. Anthony Peperas, Jr. Land Division to divide 5.131 acres into two tracts. At its regularly scheduled meeting of July 8, 2003, the Board of County Commissioners met and denied Case #DL 03-4480, the Conservatorship of J. Anthony Peperas, Jr. Land Division. At its regularly scheduled meeting on December 11, 2003, the Extraterritorial Zoning Commission met and unanimously granted approval to Case #DL 03-4970, the J. Anthony Peperas, Jr. family transfer to divide 5.13 acres into two tracts for a family transfer.

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 described property lies within the Basin Hydrologic Zone where the minimum lot size is 2.5 acres with a quarter acre-foot per year water restriction. The following lot sizes are proposed. Tract 2A-1A, 2.568 acres with an existing dwelling; Tract 2A-1B, 2.583 acres, which is vacant. Tract 2A-1B will stay in a conservatorship trust for J. Anthony Peperas, Jr., a 17-year old son, and Tract 2A-1A will be conveyed to J. Anthony Peperas, Sr. The property was previously owned by the applicant's uncle, Robert Rios since 1963. The application was reviewed for the following: access, water supply, liquid waste, solid waste, terrain management, fire protection, and archeological and environmental reviews.

All existing infrastructure, such as fire protection, water and liquid waste systems and roads within the Pinon Hills Subdivision have been constructed in accordance with the subdivision standards that were in place in 1964 at the time of approval. Infrastructure requirements in 1964 were not as comprehensive as today's standards, thus the Pinon Hills Subdivision is legal non-conforming. It is staff's position that the redivision of lots within the Pinon Hills Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing the formation of additional lots within Pinon Hills, the subdivision should be upgraded to current subdivision standards.

With respect to the size and number of lots, an upgrade to Pinon Hills 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.

If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed. Mr. Chair, may I add the conditions to the record.

CHAIRMAN CAMPOS: They're so entered.

[The conditions are as follows:]

- 1.. 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 County Hydrologist by the 30<sup>th</sup> of June of each year.

2. A shared well agreement must be approved by the County and executed prior to plat recordation. The plat must indicate shared well easements.
3. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts.
4. The EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$96.00.
5. Submit access permit as approved by County Public Works.
6. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan.
7. Easements for all natural drainage ways must be provided.
8. Terrain management improvements in accordance with Santa Fe County regulations will be required for the proposed dwellings.
9. The applicant must comply with the Fire Marshal Review as applicable.
10. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Jan Daniels, Development Review Specialist with the Land Use Department. These plans must be resubmitted with the Mylar prior to recordation.
11. Neither or the two lots can be sold for a period of ten years.

CHAIRMAN CAMPOS: Question. Is this the same property we've been ruling on two or three times?

MS. DANIELS: Yes, it is.

CHAIRMAN CAMPOS: Exactly the same?

MS. DANIELS: Yes, Mr. Chair.

CHAIRMAN CAMPOS: Same issues.

MS. DANIELS: Yes, Mr. Chair.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER MONTTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTTOYA: My understanding, correct me if I'm wrong, staff, is that this isn't the same issue. We're talking about a family transfer as opposed to a lot split.

MS. DANIELS: It's not - the first time Mr. Peperas came forward it was for a ten-acre land division, and then within the same property he came forward with a five-acre land division, and now he's come forward with a five-acre family transfer that the entire ten acres is [inaudible]

COMMISSIONER DURAN: Mr. Chair. So there would be three lots - a five-acre lot and two 2.5s, out of the original ten.

MS. DANIELS: At that time, that's what it would be if it were accepted. The entire ten-acre property is enclosed in a very tall cyclone fence with three strands of barbed wire. The entire property.

COMMISSIONER DURAN: How does this request – in some cases where there is a division of land, geo-hydro or other water reports need to be provided. But in a family transfer, you don't have to do that. And I'm wondering if that's the case, why couldn't we apply this? I really think it's important that we maintain the integrity of the family transfer process. So what staff is basically saying is that in the family transfer process, that because this is a subdivision that was approved prior to the new subdivision regs, and further division of any lots in that subdivision would trigger other development requirements, does that apply to a family transfer?

ROMAN ABEYTA (Land Use Administrator): Mr. Chair, Commissioner Duran, you stated it exactly. Staff's position is the same because it's in a subdivision, whether it's a family transfer or a regular division. However, the BCC has approved – we've taken this position in the past and the Board has approved family transfers within this subdivision recently. But the Board also imposed a ten-year holding period on those. So we've included that as part of our conditions of approval, we've added a condition that both lots would need to be retained for ten years. That would be consistent with decisions this Board has made in the past for family transfers in Pinon Hills.

COMMISSIONER DURAN: And the applicant has agreed to the ten-year provision?

MR. ABEYTA: Mr. Chair, Commissioner Duran, it's my understanding he has but he can confirm that when he comes up.

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

CHAIRMAN CAMPOS: Any other questions for staff? Okay, is the applicant or a representative present? Please state your name, address. I think you have to be sworn in.

ANTHONY PEPERAS: My name is Anthony Peperas. I reside at 85 Calle Francisca.

[Duly sworn, Anthony Peperas testified as follows:]

MR. PEPERAS: Good evening, Commissioners. In response to staff's review, I would like to make known some more information about Pinon Hills Subdivision, and not only surrounding subdivisions but most other subdivisions in the county. According to the local department's information and responses to my questions, all existing infrastructure such as fire protection, water and liquid waste systems, and roads within Pinon Hills Subdivision do meet conditions currently in place by today's standards. Roads within Pinon Hills are 24 feet wide with an 18-foot driving surface. This is to current County standards according to the Public Works Department.

All liquid waste systems are permitted, inspected, and approved by the Liquid Waste Department. All wells are permitted and inspected by the state. This is according to current standards. Fire protection is provided by Agua Fria Fire Department, which is within two miles of Pinon Hills Subdivision. This also meets fire protection standards currently in place for all county subdivisions without water hydrants or a water system in place. With respect to the number of lots and lot size, Pinon Hills has a lesser amount of

lots within the subdivision that are larger in size than most other county subdivisions.

Most of the other county subdivisions that are in the 2.5-acre county area have these same conditions or worse conditions. Yet most of the lots within their subdivisions are 2.5 acres or smaller. This is the size of lot I propose to create. Since 1991 there have been over 22 lot splits allowed in my subdivision. Most of them being smaller than 2.5 acres or at least half of them being smaller than 2.5 acres. The most recent split that I know of was this past summer allowing Mr. Martinez to split five acres into three parcels.

As far as I know, he's the only one within the subdivision that the condition of the ten-year, the ten years, not being sold within ten years was imposed upon. All previous splits granted before that, as far as I know didn't have that condition imposed on them.

Legally, a precedence has been set by you the County Commission through allowing these splits. Pinon Hills is in the 2.5-acre area and I'm not asking for a variance. I'm asking that you adhere to the condition the County has set on you for allowing 2.5-acre lots within a 2.5-acre area. By allowing the split of a lot into smaller than 2.5 acres on my same road within about 200 yards down from me I feel you have set a precedence by action, and ask that you do not let discrimination be the result of my efforts but give me the same consideration by the same action and approve my family transfer split.

CHAIRMAN CAMPOS: Any questions of the applicant?

COMMISSIONER DURAN: Mr. Chair. Are you opposed to the ten-year requirement?

MR. PEPERAS: Yes, I am, Commissioner Duran, and I have stated the reason why if I may.

COMMISSIONER DURAN: I heard you. I just wanted to make sure.

MR. PEPERAS: Well, I have a more legitimate reason why if you'd like to hear it, Mr. Chair, Commissioner.

COMMISSIONER DURAN: Go ahead.

MR. PEPERAS: In my two years of effort this condition was never once proposed to me or ever imposed on me to do. I feel it was yet again another effort to deter me from pursuing this family transfer and a last minute action to once again achieve a decision of denial by you the County Commission. To me this condition is obviously ridiculous. My oldest son is 17 years old and I have no idea what his future holds in the next ten years. I would never want to put him in a situation where he would not have a choice in bargaining with his options on this property.

But in an effort to give him and my other children a fair and good start in life here in Santa Fe I would hope they make the right decisions.

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER DURAN: I'm in agreement with you that in the past seven years that I've been here we've approved numerous lot splits and family transfers in there and these conditions were not imposed on them. And if it does pass tonight and I think if that's a requirement I think it would be totally unfair to you. Because we have set some precedents.

CHAIRMAN CAMPOS: I have a question for you. On page 4 of the report – have you looked at that?

MR. PEPERAS: No, I haven't.

CHAIRMAN CAMPOS: All the conditions of approval?

MR. PEPERAS: Yes. It was faxed to me, Chairman, so I believe this was the page.

CHAIRMAN CAMPOS: Do you agree to those, other than the 10-year restriction?

MR. PEPERAS: Yes, I do, Chairman.

CHAIRMAN CAMPOS: Okay. This is a public hearing. All those who wish to testify, please come forward. Everybody. We can swear you in at one time. Okay, just one person.

[Duly sworn, David Gold testified as follows:]

MR. GOLD: My name is David Gold. Address is 70 Sloman Lane. I'm here representing the West Santa Fe Association as the vice president. The West Santa Fe Association has taken a position that for legitimate family transfers of 2.5 acres we support them in the subdivision. It's just smaller that we're concerned with. In this we ask that the family transfers be truly legitimate. My understanding is that the last three subdivisions where family transfers came in front of the Commission that the 10-year holding period was imposed. Not just the last one but the three that occurred at the same time. Maybe staff can confirm that one way or another, but that's my understanding. So we're just simply asking that that precedent that's been set continue.

We feel that family transfers are actually where the family stay together and so forth is good, as long as a 2.5-acre lot – it's not that bad. The 1.25 ones we're still against but the 2.5 acres we actually support that for family transfer. So we would ask that you continue this. Obviously, if a great emergency arose or something like that where there was a severe financial hardship, that could be addressed by the Commission at that time. But I think family transfers should be legitimate. That's our position.

CHAIRMAN CAMPOS: Thank you, sir. Any questions of Mr. Gold.

COMMISSIONER DURAN: Mr. Chair, I just have one. I stand corrected. Roman confirmed that there were 10-year requirements placed on those.

CHAIRMAN CAMPOS: On three places before.

COMMISSIONER DURAN: So I stand corrected.

MR. GOLD: Actually, there's one other thing I need to add. I'm sorry. The reason the Pinon Hills is non-conforming has to do with ingress and egress as well. And I think that in a subdivision the size of Pinon Hills that there would be stricter fire and water standards as well. Thank you.

CHAIRMAN CAMPOS: Thank you. Anybody else. Okay, is there a motion?

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER MONTTOYA: I have a question for Mr. Peperas. You are absolutely opposed to condition number 11 in terms of the ten-year period?

MR. PEPERAS: Mr. Chair, Commissioner Montoya, I am as it reads. I think it's pretty blunt the way it reads and I think I would agree to it if it was worded different or if there was more added to it. The way it reads now is one sentence and I don't agree with it the way it reads right now. All it says is Neither of the two lots can be sold for a period of ten years. And my reason for that is obviously, none of us know where we're going to be in three, five or eight years. Different situations could arise with my children in those next five or eight years or whatever they'd be. And as Mr. Gold said, in the future, I'm sure that issue could be brought to the Land Use Administrator and maybe something could be done but at the same time, when I think about it, maybe we might have - we don't know where we're going to be in eight or ten years. Maybe we'll have a different Land Use Administrator. Maybe he won't agree to this condition.

Right now I know that Mr. Abeyta, if there was a hardship, I'm sure he would agree to it. I feel that we don't know what the future brings and what if there's different people in place and they just don't honor it because they weren't here when the agreement was made. So I would agree to it depending on how it was worded.

CHAIRMAN CAMPOS: Okay. Is there a motion.

COMMISSIONER MONTTOYA: One of the things that I have agreed to in terms of it, and I think Mr. Gold explained kind of my position on this whole thing is that legitimate family transfers I think are something that I support, something I think I've communicated a number of times and I think the other thing that has been a pretty consistent condition has been the ten-year period that has been included as part of the conditions for approval.

MR. PEPERAS: Commissioner Montoya, in doing the research, I only had seen that the last one that was imposed within my subdivision was on Mr. Martinez. I wasn't aware there were three individual ones. I thought it was the one proposed split for three parcels. So I was just asking Mr. Abeyta now if that was the case. He said there was two other individuals people that that condition had been imposed upon and I wasn't aware of it because when I did my research here I didn't see it on the files.

However, just to give you a little more information -

CHAIRMAN CAMPOS: We've gotten the information I think we need. I think we need to have a motion here.

COMMISSIONER DURAN: Hang on a second, Mr. Chair.

MR. PEPERAS: If I may say something just to clarify the legitimacy of the proposed split. I'm a builder and I build homes for a living. And presently I'm building in other areas and I have other lots in development. This is my own backyard that I hope to keep for my children. I don't want to develop and sell in my own backyard for my children. I can do that anywhere else in town. And I asked this past summer Commissioner Montoya to go out and look at what I have and see how the surroundings are, how they're landscaped, how it's enclosed. And I think he'd agree that if I were to split this and then

sell a piece, it would cost me a lot of money to split everything that I've done to keep it all in one compound or all in one unit within itself. And he could see that by the landscaping, the fences and what have you. How they go within the property.

If I were to split and get the split and then sell a piece it would cost me money to redo what I've already done.

CHAIRMAN CAMPOS: Is there a motion?

COMMISSIONER DURAN: I have a question.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, I move to deny on the basis of the Extraterritorial Zoning Ordinance which requires adequate emergency access. I believe in our review of this we have not seen that demonstrated.

CHAIRMAN CAMPOS: Is there a second? I'll second that for discussion.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: Mr. Peperas, what if we added language –

CHAIRMAN CAMPOS: There's a motion.

COMMISSIONER DURAN: This is discussion, isn't it?

CHAIRMAN CAMPOS: Of the motion to deny.

COMMISSIONER DURAN: I'm still going to ask the question. Sorry. If we were to add language to this, if the motion dies, if we were to add language that would say something that after a reasonable amount of time the applicant can show that a reasonable hardship exists, that you would have the ability to come before the County Commission and ask for that 10-year hold period to be removed.

MR. PEPERAS: Yes, I would agree to that, Commissioner.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN CAMPOS: Okay. There's a motion. Discussion?

**The motion to deny EZ Case #DL 03-4970 failed by 2-3 voice vote with Commissioners Sullivan and Campos voting in favor.**

CHAIRMAN CAMPOS: Is there another motion?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: Move for approval of the lot split with the following amendment.

CHAIRMAN CAMPOS: All the conditions plus an amendment to number 11?

COMMISSIONER DURAN: Right. Which would be basically what I just said, that the applicant would have the right to come before the County Commission and ask for removal of the ten-year hold period in the event he is able to substantiate a hardship, a reasonable hardship. Maybe the attorney can help me with that. Basically, what I'm trying to do is give him the ability to come forward if a hardship exists and let the Commission at that

time make a determination whether or not, based on the facts presented that it's appropriate to lift that ten-year period. That's my motion.

CHAIRMAN CAMPOS: Do you want help from the attorney?

COMMISSIONER DURAN: He can give it to the Land Use Administrator.

MR. ROSS: I think I can. I think I've got the substance of it, Mr. Chair.

CHAIRMAN CAMPOS: Let's hear it.

MR. ROSS: Condition 11 would read, "Neither of the two lots can be sold for a period of ten years; however, the applicant does have the right to come before the Board of County Commissioners and ask for removal of the ten-year restriction if the applicant can demonstrate to the satisfaction of the Board of County Commissioners that the condition would impose unreasonable hardship on the applicant."

COMMISSIONER DURAN: Excellent.

COMMISSIONER MONTOYA: Is that okay, Mr. Peperas?

MR. PEPERAS: Yes, Commissioner Montoya. It's fine.

COMMISSIONER MONTOYA: Second, for discussion.

COMMISSIONER SULLIVAN: Discussion. I don't see it in the staff conditions, but we usually require that whatever the hold periods are are shown on the plat when it's subdivided. Roman, could you address that?

MR. ABEYTA: Thank you, Mr. Chair, Commissioner Sullivan. You're correct. If we could add to that this shall be noticed on the face of the plat. We could add that language then.

COMMISSIONER DURAN: That's acceptable.

CHAIRMAN CAMPOS: Is it acceptable to the seconder?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN CAMPOS: Any further discussion?

**The motion to approve EZ Case #DL 03-4970, with staff conditions and an amendment to condition 11 as noted above passed by majority [4-1] voice vote with Commissioner Sullivan casting the no vote.**



- XIII. A. 2. **EZ Case #APP 03-4969 – Eloy Gomez Land Division Appeal.**  
**West Santa Fe Association, David Noble Agent, Requests to Appeal the Extraterritorial Zoning Commission’s Decision to Approve Plat Approval to Divide 10 Acres into Four Lots. The Lots Will be Known as Lot 1 (2.50 Acres), Lot 2 (2.50 Acres), Lot 3 (2.50 Acres), and Lot 4 (2.50 Acres). The Subject Property is Located Off of Penny Lane, within Section 25, Township 17 North, Range 8 East (Commission District 2)**
3. **EZ Case #APP 03-4973 – Gabino Carrillo Land Division Appeal.**  
**West Santa Fe Association, David Noble Agent, Requests to Appeal the Extraterritorial Zoning Commission’s Decision to Approve Plat Approval to Divide 12.53 Acres into Four Lots. The Lots will be Known as Lot 1 (2.57 Acres), Lot 2 (3.36 Acres), Lot 3 (3.30 Acres), Lot 4 (3.30 Acres). The Subject Property is Located Off of Penny Lane, within Section 25, Township 17 North, Range 8 East**

MR. ABEYTA: Mr. Chair, I’ve just been notified by the appellant that an agreement has been worked out on the following two cases with both Eloy Gomez and the following case, Gabino Carrillo and perhaps if the agreement could be read into the record or put into the record then both cases would be withdrawn.

CHAIRMAN CAMPOS: They would be withdrawn?

MR. ABEYTA: Yes. The appellant would withdraw their appeals.

CHAIRMAN CAMPOS: So you would like to have the agreement read into the record?

MR. ABEYTA: Yes, I think that would be appropriate so that it’s put on record.

CHAIRMAN CAMPOS: Has staff agreed to that agreement?

MR. ABEYTA: Staff would like to review it, but what we’ve heard so far, yes. We don’t object to it.

CHAIRMAN CAMPOS: Okay. Whoever’s going to make the proposal please come forward.

MR. GOLD: We’ve met with representatives from both of these subdivisions. We met with them and we have an agreement. Our concern is related to access and also there’s a point where there’s a traffic issue, where this hits Sloman Lane. So the agreement that we have is that they will leave an easement which we’ve already designated and that will eventually provide access to this subdivision and that could connect to Los Sueños Trail, which would be an all-weather crossing. That would actually be advantageous to the entire subdivision if they did that because then we could also have an access and this whole issue of coming in and out, ingress, would be improved, at least for part of the subdivision.

The second condition is that they've agreed that they're going to put covenants on that prevent further lot splits and also trailers and so forth. The third is that they will make repairs that we've agreed with them on Sloman Lane to mitigate the traffic problem that I mentioned earlier. With those agreements we're happy to withdraw the appeal.

CHAIRMAN CAMPOS: Mr. Abeyta, response?

MR. ABEYTA: Mr. Chair, staff is okay with the conditions.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER DURAN: Mr. Gold, where is Sueños Trail? Is it to the west?

MR. GOLD: To the east.

COMMISSIONER DURAN: To the east?

MR. GOLD: Yes, it's the one that comes down from the north next to the proposed Peters subdivision, Hurlocker's.

COMMISSIONER DURAN: Is it the property that the church owns?

MR. GOLD: Yes. Yes.

COMMISSIONER DURAN: The church owns the property along that.

MR. GOLD: Right.

COMMISSIONER DURAN: It's that little road that cuts off to the east.

MR. GOLD: Exactly.

COMMISSIONER DURAN: Okay.

MR. GOLD: So ultimately, that - and because there is an existing usage pattern demonstrated we feel like that would be a reasonable thing. When that subdivision comes forward.

COMMISSIONER DURAN: Good.

MR. GOLD: I feel like it's a good - everyone seems to be happy. Or at least not sad.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I'm glad to see that you guys are working together and solving things. It makes it easier on us. Thank you.

MR. GOLD: Thank you. We try.

COMMISSIONER DURAN: So, Mr. Chair, based on what was read into the record -

COMMISSIONER MONTOYA: Mr. Chair, Stephen, on a situation like this, what's the protocol? Do we still have to take action on these?

MR. ROSS: Probably what I would recommend is that you table it pending final disposition of it. If they withdraw the appeal then I assume the decision could be done administratively.

CHAIRMAN CAMPOS: You're going to move to table it?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN CAMPOS: This is a public hearing. Let me just ask for any public comment? Anybody else want to speak from the public as to Case –

COMMISSIONER DURAN: Mr. Chair, point of order.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: There is no discussion on a table.

CHAIRMAN CAMPOS: There has been no motion yet. I asked him to hold off. Gomez land division. Would you like to speak?

[Duly sworn, Rick Chatroop testified as follows:]

RICK CHATROOP: Rick Chatroop, 110 Wagon Trail Road, Cerrillos. Mr. Chair, Commissioners, I represent the other parties in this, Mr. Gomez and the Carrillos. We have no problem with the new condition. The 2.5-acre minimum lot split, the improvements to Sloman Lane, the granting of the additional access easement to improve the access of all the subdivision and that's all I can say. And thank you and thank Mr. Gold for working this out with us.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? Okay, this closes the public hearing.

COMMISSIONER MONTOYA: Mr. Chair, I move to table EZ Case #APP 03-4969, Eloy Gomez land division, and EZ Case #APP 03-4973, Gabino Carrillo land division.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: Second. I was going to say, the table should be tied into the written document provided to the legal, to the staff, and when that's brought it, that it's no longer tabled, it's taken off the agenda.

COMMISSIONER SULLIVAN: It won't come back. It won't come back if the appellant withdraws their appeal. It won't come back.

COMMISSIONER DURAN: Okay. Thank you.

The motion to table cases #APP 03-4969 and 03-4973 passed by unanimous [5-0] voice vote.

- XIII. A. 4. **EZ Case #A 03-4961 - Daniel Santos Appeal. Daniel Santos, Appellant (Christopher L. Graeser, Agent), is Appealing the Extraterritorial Zoning Commission's Decision to Deny a Request of Plat Approval to Divide 2.491 Acres into Two (2) Tracts for the Purpose of a Family Transfer. The Property is Located at 988A Chicoma Vista, within the Wolfe Subdivision, within Section 29, Township 17 North, Range 9 East (Commission District 2)**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chair,

Commissioners. On July 10, 2003, the EZC met and denied this request since the intent of the family transfer did not seem to be justifiable. On July 21, 2003, a letter appealing the decision of the EZC was submitted and was heard by the BCC September 9, 2003. The decision of the BCC was to uphold the decision of the EZC and deny their appeal. The decision was based in part on the applicant's unwillingness to accept the conditions of approval.

On December 11, 2003, the EZC reheard this request based on Daniel Santos' decision to accept the conditions of discussion from September 9, 2003 BCC meeting. The decision of the EZC was to deny this request for a second time. The conditions discussed by the BCC on September 9, 2003 were as follows: Daniel Santos will record a covenant restriction on Tract 3, which will restrict any further family transfers on the property. Daniel and Dorothy Santos will agree to record a covenant restriction which would require both of the proposed tracts not to be sold for three years after the division.

The above restrictions will be recorded on the plat of survey. The subject property lies within the Santa Fe urban area. This area allows for the creation of 1.25 lots for family transfers with a quarter acre-foot per year per lot water restrictions. The property has been in the family proper since 1992 and will be transferred as follows: Tract 2-A would be 1.244 acres, more or less, vacant, to be transferred to Daniel Santos, adult son, and Tract 2-B, 1.246 acres, more or less, with an existing home to be retained by the mother. Please note that Daniel Santos, adult son, had legal title to the property since 1992. A quitclaim deed was signed over to Dorothy Santos, mother, on June 3, 2003 in order to execute the family transfer.

Recommendation. The application submitted by Daniel and Dorothy Santos is in accordance with the Extraterritorial Zoning Ordinance, Section 5.C and the Extraterritorial Subdivision Regulations, Section 3.3.6.B. The EZC denied this request on the basis the applicant did not justify the purpose and intent criteria for the family transfer. If this request is approved, staff recommends the following conditions. Mr. Chair, may I enter the conditions into the record.

CHAIRMAN CAMPOS: So entered.

[The conditions are as follows:]

1. The private onsite access roads must have a minimum 38' easement with a 20' driving surface and must be developed meeting Santa Fe County Common Roadway Standards prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's 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 0.25-acre feet per year per lot. Water meters must be installed at each lot at the time of development, and meter readings must be submitted to the County Hydrologist annually by November 30th of each year. The applicant must submit proof of installation of a water meter for the existing residence prior to

- recording the plat.
3. Water supply to these lots are governed by The Extraterritorial Zoning Ordinance Section 10.1.A
    - a) Only one well shall be permitted to serve these lots. This well shall be subject to a shared well agreement to be approved by the County and executed prior to plat recordation. The plat must indicate shared well easements.
    - b) If regional water is available within 200 feet of these lots, drilling of any new domestic wells is prohibited.
    - c) If regional water becomes available, domestic well use shall cease within 90 days and these lots shall connect to the regional water system.
    - d) All wells drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.1.A.3. Proof of proper construction must be submitted at the time of development permit request, or upon demand by the County Land Use Administrator.
  4. A 10' wide utility easement along all property lines must be dedicated and shown on the plat for future potential water lines.
  5. As per ESR regulation, a solid waste fee shall be assessed for all newly created parcels. The fee for this subdivision is \$86.01
  6. As per EZO regulations a \$45,00 inspection fee must be submitted for all field inspections prior to plat recordation.
  7. The applicant must obtain approval from the New Mexico Environment Department for the proposed liquid waste disposal system and address permits for existing septic system.
  8. Applicant must contact Rural Addressing for the assignment of addresses of the proposed lots.
  9. Compliance with County Fire Marshal review as applicable.
  10. Submit family transfer affidavits and deeds transferring lots to family members prior to plat recordation.
  11. Terrain management improvements in accordance with Santa Fe County Regulations will be required A retention pond in accordance with the Santa Fe County Regulations will be required on Tract 2B and at the time of development on Tract 2A.
  12. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Victoria Reyes, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN CAMPOS: Okay. Any questions? Commissioner.

COMMISSIONER DURAN: So, the last time we heard this case, Mr. Santos wouldn't agree to - was it the time constraint? Is that what it was?

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MS. REYES: Mr. Chair, Commissioner Duran, that's correct.

COMMISSIONER DURAN: And it's the same case with him agreeing to it.

MS. REYES: Yes, that's correct.

COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN CAMPOS: Any other questions? The applicant or representative.

CHRISTOPHER GRAESER: Christopher Graeser, 200 West Marcy, the applicants, Daniel Santos and Dorothy Santos. Mr. Chair, Commissioners, you've all been through this before, so I'll attempt not to repeat myself, and I know there's a number of neighbors here, and maybe that'll apply as well.

Mr. Sommer was here last time, but I have read the minutes and I believe he presented the case fairly. In fact, this is a legitimate family transfer. This follows every requirement of the code. A little bit of history of how the family transfers work in the EZ: they are not discretionary under the Code. The Code specifies if you meet these six requirements, it's administratively approvable. At some point, the Extraterritorial Zoning Commission asked for these to come forward so they could review them. Sure enough, sooner or later, they were going to deny one. They chose to deny this one, which is how it got appealed to the Commission. We certainly maintain that the Code requires approval in these following conditions. Again, this isn't a variance request or anything like that. It meets the requirements of the code.

The concerns the neighbors have relate primarily or almost exclusively to traffic and water. Those are legitimate concerns throughout the county. But the fact is, this property was zoned permitting this division with traffic and water in mind. And the concern may be more of a concern for what the Code allows than a concern for the Code and for the increased urbanization of the area. I won't belabor it any more, I'll just answer the questions.

CHAIRMAN CAMPOS: Questions for Mr. Graeser? Thank you, Mr. Graeser. Ms. Reyes, question for you. Staff has concluded that they believe that this does not meet the intent of family transfer.

MS. REYES: No, Mr. Chair, we do believe that it meets the intent.

CHAIRMAN CAMPOS: Of family transfer?

MS. REYES: It's transferred down from the mother to the son.

CHAIRMAN CAMPOS: Is this from mother to son?

MS. REYES: As it is right now, it is. The property is now in the mother's name.

CHAIRMAN CAMPOS: Wasn't it son to mother at some other time?

MS. REYES: Mr. Chair, it wasn't. Since the beginning, he transferred the deed, he deeded the property to his mother before he came forward, and then she did the transfer. She executed the transfer. It's always been a little confusing because it said Dorothy Santos or Daniel Santos, but it's actually always been Dorothy down to the son.

CHAIRMAN CAMPOS: So the staff has no objection to this?

MS. REYES: Mr. Chair, it's in compliance, so –

CHAIRMAN CAMPOS: As far as you're concerned it's in compliance?

MS. REYES: As far as I'm concerned.

CHAIRMAN CAMPOS: Mr. Abeyta.

MR. ABEYTA: Thank you, Mr. Chair. If I may just add also that the reason why staff does not object is because another section of the family transfer provision states that so long as the land is within the family proper for five years prior to the division – it doesn't specify whether it needs to be in the mother's name or the child's name. It just says within the family proper for a five year period before they do the split.

CHAIRMAN CAMPOS: Is the County Code different?

MR. ABEYTA: Mr. Chair, I'm not sure if the County Code is different. No, the County Code talks about family proper also. But County Code may be more specific, but this split falls under the Extraterritorial Subdivision Regulations, and those haven't been updated the way the County code was recently.

CHAIRMAN CAMPOS: What was the reasoning of the EZC for denying this?

MS. REYES: Mr. Chair, the report said that they didn't believe the intent wasn't justifiable.

CHAIRMAN CAMPOS: It wasn't a legitimate intent to make a family transfer? That was their finding?

MS. REYES: That's correct.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Anybody who wants to speak, please come forward and we'll swear everybody in at one time. Okay. We'd ask you to be brief and try not to repeat, and get to the essential issue here.

[Duly sworn, Carl Gable testified as follows:]

CARL GABLE: Okay. My name's Carl Gable, I'm a resident of 1051 Chicoma Vista. I've been a resident there for 15 years. My profession is I'm a hydrologist and I do have concerns with the water in the area. Someone did just recently have to drill another well because their well went dry within just over a quarter mile of where this split has been requested. So I do have concerns with regard to the infrastructure, the sewage, and the water supply there.

Also, I do have concerns about whether the intent of this lot split is truly within the intent of the law because of the way – it belonged to the son. In order to try and comply with this, it was transferred to the mother so that then it could be split and passed from the mother to the son within the last couple of years. So I'll stop there. Thank you.

CHAIRMAN CAMPOS: Thank you. Okay, next.

[Duly sworn, Marta Nystrom testified as follows:]

MARTA NYSTROM: My name is Marta Nystrom. I'm under oath, I reside at 640-H Chicoma Vista. I had included a request for the inclusion of a letter in your packets. I don't know if you all have read that. But I do, in looking at the EZA ordinance concerning family lot splits, I do want to stress that it does say that the purpose is to permit

transfers of lots which do not meet the lot size requirements of the ordinance from parents or legal guardians as a one-time gift to a child in order to provide a "more affordable home site for these adult children."

This lot split would provide none of that. In the case of the parent, she has no intent of residing in New Mexico. She lives in California, and would be physically unable to occupy the house that she currently owns through a quitclaim deed. The son, Daniel, would already have the other two and a half acres. Why would he need to be a benefit of a family lot split? And further, he has made declaration to neighbors, of which one is present tonight, that it is not his intention to continue to reside in Santa Fe. He wishes to move permanently to Asia. So the whole issue of providing affordable housing is non-existent in this case.

Secondly, the attorney has stressed repeatedly that all of the requirements have been met. In fact, in every instance he has failed to notify the neighbors in the manner that's been required by the ordinance, through certified letters and through proper designation on the signage.

Finally, I'd like to state that it does say in the definition that it is - that the purpose to set forth standards for defining family transfers is to assure the procedure is not being used to circumvent zoning or subdivision requirements. Since it's his intent, and has been from the beginning, to sell the properties in order to do the lot split and maximize profit, I would say that's a clear intent to violate the definition of circumventing zoning. Thank you.

CHAIRMAN CAMPOS: Thank you. Next.

[Duly sworn, Gene Farnam testified as follows:]

GENE FARNAM: My name is Gene Farnam. My wife and I live at 971-V Chicoma Vista, across the street from Mr. Santos. I'm under oath. I have also written a letter to you that should be in your packet. I would like to just add one thing to that. As I was listening to your approval of the lot split for Mr. Peperas in Piñon Hills, the two and a half acre lot, I was struck by the concern for fire and egress. And I would point out that Chicoma Vista is not a subdivision. We're a kind of a conglomeration of a number of historical smaller subdivisions. And we don't have a community organization. We have a road that is in very poor shape, and it's really difficult for us to maintain it because it's a private road, and it depends on everyone making contributions to improve it. As I was thinking about the requirements for Piñon Hills and fire, I thought, well, we have a road that's almost a mile long, is a dead-end road, and we have only one way out in the case of a fire. A road that now, friends who come and visit us say is the worst road in Santa Fe.

So I think this is a consideration also, that two and a half acres is what we think is appropriate, and we just don't want to see this subdivided. And as far as I'm concerned, three years from now or ten years from now doesn't make any difference. Of course, we could be part of the city by then, I don't know. But a ten-year moratorium for us would not achieve our objective, and that is two and a half acre lots, which we think is appropriate. Thank you.



CHAIRMAN CAMPOS: Thank you, sir.

[Duly sworn, Ricardo Sanchez testified as follows:]

RICARDO SANCHEZ: My name is Ricardo Sanchez. I live at 871 Chicoma Vista, and I do understand I'm under oath. My wife and I have written the Commission a couple of letters. And in one of the letters we kind of quote the section of the ordinance which says, "A lot created as a gift from a grandparent, parent, or legal guardian to his or her natural or adopted child or grandchildren or legal ward." I think when they tell you that it doesn't really define how it can be handed down, I think it really does define it very specifically. It has to go from a parent or grandparent to a child or grandchild.

And this case has been so confusing, and Mr. Santos has I think probably done his best to make it confusing. Is it going this way or is it going that way? It doesn't seem like what he is proposing is really in the best interest of us as neighbors and the community in general. Thanks.

CHAIRMAN CAMPOS: Thank you, sir.

[Duly sworn, James Marshall testified as follows:]

JAMES MARSHALL: My name is James Marshall, and I live at 971-A Chicoma Vista, and I understand I'm under oath. Mr. Chair, Commissioners, a lot of what has been said tonight is in my notes. There's no point in me repeating things. But there are a couple of things I'd like to mention.

Some history prior to this application for family lot transfer. Last July 2003, there was a For Sale sign on Daniel Santos' property, the one he intends to do a lot split on. This sign was up for a period of time. Evidently, he wanted to sell the property, for what reason I don't know. We can only surmise. Maybe he needed cash, maybe he was beginning to liquidate his properties. I don't know. Keep in mind that they were two separate properties, and they are still two separate properties. Each has a home on each of these lots. My understanding is that the family transfer is to create a lot for a child, specifically a child, so that that child can build an affordable housing for him or herself. I personally believe that this particular case shouldn't be passed, because there is housing available for both Daniel Santos and his mother already.

Also, it seems strange to me that - I was here at the first meeting, and Daniel Santos pleaded his case, and he asked for a family transfer from himself to his mother. Then there was a lot of juggling around, he had quitclaim deeded the property to his mother so his mother could own a piece of property so that his mother could then pass it onto him. Now, this is really very convoluted and not clear. The only reason why I can understand why this is going on is -- my personal opinion is that Mr. Santos' desire is to cash out at some point.

Now, I would like to make it clear that I honor the family transfer concept. And I've watched real estate values in this time skyrocket. And it's a valuable, valuable ordinance if it's used properly. I feel personally that in this particular case this family transfer is not legal. I don't feel that it's appropriate, and it's not within guidelines of the

ordinance.

Also, it was mentioned that none of us got registered letters letting us know of any of these meetings. This is the fourth meeting that I've been to. I've been to all of them. I haven't yet received a certified letter letting me know about these meetings. And so he at least, at the very least, he wasn't in compliance with that particular point.

That's about it. I'd just like to say that I am against this family transfer. I am also against the concept of putting a ten-year hold on the property as well, because I feel personally that it's not about supporting family. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Next.

[Duly sworn, Louise Baldinger testified as follows:]

LOUISE BALDINGER: My name is Louise Baldinger. I live at 880-B Chicoma Vista, and I understand I am under oath. I would like to read a letter that was written by another of our neighbors who is directly a neighbor of Daniel Santos' who could not be here this evening.

She says, "To the Board of County Commissioners. I am Mr. Santos' immediate neighbor on his northern border. His lot and mine were once one tract. The tract was subdivided into two, and I purchased my part with my house, which happened to fall directly on his northern edge. His property was undeveloped at that time. He subsequently bought and built a home to the rear of his land and on his south edge. He then fairly recently built another house immediately adjacent to his first.

Mr. Santos informed me sometime last year that he wanted to sell one of his houses, dividing his property into two parcels. He did put one house up for sale for several months with no buyers, probably because of their poor placement right next to each other and no way to provide privacy for a buyer no matter how he divided the land. Now, after being unable to sell his house, I understand Mr. Santos wants to give or sell his house to his mother so that they can now sell one more portion of his land for yet another house. However, the only reasonable place for a new house would be directly in front of my house, ruining my privacy and the quiet, rural setting that I have enjoyed for over twenty years.

I strongly object to the intentions of Mr. Santos to continue to try to develop his property, even after several rejections by this Board for being against County Codes. I ask that you again reject this effort to circumvent the codes and allow myself and this community to keep its rural air. Sincerely, Yvonne Oakes."

CHAIRMAN CAMPOS: Thank you. Next.

[Duly sworn, Tana Acton testified as follows:]

TANA ACTON: My name is Tana Acton and I live at 971 Chicoma Vista, directly across the street from what would be the new driveway if this lot split happened.

Honorable Chairman and County Commissioners, I'm just going to read this letter that I've prepared. Excuse me if it repeats anything. I come to you for my fourth time to draw attention to a situation near our home on a private, rough dirt road. I believe our neighbor, Mr. Santos, is intending to do a so-called family transfer for nothing more than

financial liquidity and gain.

First, I feel that Mr. Santos proved by a For Sale sign on this same lot that he intended to sell the lot from the conception of the family transfer idea. Ordinance Section 2.D, Common Promotional Plan -- and I'm just going to paraphrase this -- states that a plan undertaken by a single owner to offer for sale parcels of land as a common unit with the intent of using family transfer to circumvent zoning or subdivision requirements. Mr. Santos planned to use the family transfer to circumvent zoning requirements. This, I believe, is a blatant misuse of this ordinance which, according to the Violations and Penalties section, is punishable by violation dollars, jail, or not allowing him to get this transfer.

Now, we couple his transfer submittal omission of certified letters to neighbors, especially certified letters saying that he's applying for the transfer, with the fact that Mr. Santos did not expose that he recently deeded this contested half of his five acres to the same mother he is now transferring with or to or from. I mean, I know what Victoria said, but on the sign is the applicant is Daniel Santos. It does not say Dorothy Santos. The first sign it said Dorothy. Then it said Dorothy and Daniel. Now it just says Daniel. We're kind of confused out there.

It all seems to point to what I believe can be called a falsified submittal. Under ordinance Section 1.5, Enforcement, number six, falsified submittal of applications which are approved on the basis of submittals containing false information, which I think may be subject to revocation of approval. Now, you have not approved this yet. But if this lot is approved, then we will make a claim to the administrator that this is a falsified submittal, and we will ask for penalties. And we believe that we have all witnessed Mr. Santos' desire to sell, and desire to sell saleable lots.

Honorable Commissioners, I imagine that there are many abuses to this good ordinance, and you probably see them all the time. But not all of them get the attention of neighbors like us, and not all of them are in neighborhoods where anybody even cares. Here you have a chance to provide constituents with one of your many needed services, to enforce and protect the ordinances that protect us all. We are asking for you integrity in deciding this case, and thank you for hearing me.

Mr. Chair, can I just ask one more thing? If there are further proceedings about this case, we noted in the past three meetings that only Mr. Santos' lawyer was able to respond to any of the proceedings. Tonight, we would like to be able to also respond to any further things that go on, if that's okay with you.

CHAIRMAN CAMPOS: That would be fine.

MS. ACTON: Okay, thank you very much.

CHAIRMAN CAMPOS: Any further testimony?

[Duly sworn, Frank Willit testified as follows:]

FRANK WILLIT: Mr. Chair, members of the Commission, my name is Frank Willit and I'm the husband of Louise Baldinger. Our property abuts Dan Santos on the north, along with the Vaughn-Oakes. Last summer, I was down on the lot and met

Dan, talked about things, passed the time of day. He talked in glowing terms about southeast Asia and what a beautiful place it was and how nice the people were and how favorable it was to live there economically. And I came away from the conversation with a distinct impression that Dan intended to move there permanently.

And so with all this going on, and I concur completely with my neighbors, with all of this going on, I can only suspect that Dan wants to maximize his take when he sells out so that he can abandon the area and live wherever he wants to, Bali or somewhere. And I have no objection to that, except that it would leave us with a very bad precedent. And we're not going anywhere. We'll be here for a long, long time. And we don't want to see the area start to get subdivided and broken up and fill up with too many people in a place that's already stressed. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? Okay. I have a question for Mr. Graeser. I've heard this case maybe once or twice, and it's always been Daniel to mom.

MR. GRAESER: Mr. Chair, I don't believe that's the case.

CHAIRMAN CAMPOS: You don't think so?

MR. GRAESER: When this came before the Commission on September 9<sup>th</sup>, 2003, the transfer request was from Dorothy Santos. Dorothy Santos owned the property. Dorothy Santos to Daniel Santos. Daniel Santos did previously own the property, and transferred it to his mother.

CHAIRMAN CAMPOS: Hold on. Daniel did at one point own the property?

MR. GRAESER: Daniel at one point owned the property. And he transferred it to his mother.

CHAIRMAN CAMPOS: Now his mother wants to -

MR. GRAESER: So his mother can do a family transfer to him. That's how the Code reads, that's a time-honored administrative interpretation of Santa Fe County. In fact, County staff will suggest to people that that's the way to do it.

CHAIRMAN CAMPOS: Sounds like a circumvention to me.

MR. GRAESER: Mr. Chair, the Code reads that it has to be in the possession of the family proper for five years. The Code in fact defines family proper, and suggests, Mr. Chair and the Commission, that if the intent of the Code was not to permit a family where maybe the son has done better financially and has the property and the mother doesn't have the property, but they still want to take advantage of the family transfer provision, if the intent of the draft of the ordinance was not to allow that, in fact it wouldn't allow for it. It would say that it has to be in possession of the grantor for five years as opposed to the family proper for five years.

CHAIRMAN CAMPOS: Let me have one more question, Mr. Abeyta. This is from mother to son, but it was son to mother to son. That's the way you understand it, right?

MR. ABEYTA: Mr. Chair, yes. The property was owned by the son, and

the son transferred it to the mother in order to do the family transfer.

CHAIRMAN CAMPOS: When was the property transferred to mom?

MR. ABEYTA: I don't know those dates. Victoria probably has that information.

CHAIRMAN CAMPOS: Ms. Reyes? Do you have that information? Or Mr. Graeser?

MR. GRAESER: Mr. Chair, I don't have the deed with me, I don't think. But it was summer of 2003.

MS. REYES: Mr. Chair, it was prior to the applicant submitting for the family transfer. So before he submitted, he did the deed, deeded the property to his mom, and then his mother then submitted everything. And that must have been some time around June 2003.

CHAIRMAN CAMPOS: Thank you. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair. The question I have for Roman or Legal is it seems we have two things here in this small lot family transfer provision. One is what we've been talking about, which is this definition of family proper. And under requirements for approval, it says that the proof that the land has been in the lawful possession of the family proper for no less than five years, and that the recipient is an adult or emancipated minor is required. So I think that what the staff is saying is that regardless of the transfers back and forth between mother and son and back to mother and so forth, their interpretation is that it would meet the requirements of family proper for the five years. Am I understanding that, Roman?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, yes.

COMMISSIONER SULLIVAN: Okay. So from the standpoint of being eligible to apply for the family transfer, it's the staff's opinion that the applicant meets that criterion. But we seem to then be confusing that or messing that into the intent of a family transfer. So once we say the applicant apply or is eligible now to apply, and if we stipulate that they are, then we have to evaluate what's the intent of the Code. When I look at it under 4.3, where it says "small lot inheritance and small lot family transfer," it says, "Dwellings and customary accessory structures may be erected on a lot which does not meet size requirements of the Code, and is being created by inheritance or family transfer, provided the definitions, restrictions, and standards of this section are met."

So it makes reference to somebody wanting to create a dwelling and customary accessory structure in 4.3. So that indicates somebody wants to pursue a family transfer in order to provide a dwelling for some member of their family. Then it goes on to indicate that the purpose, one of the two purposes, one is to maintain local cultural values and the other, under 4.3.1.b, which I really see as the intent of the family transfer, is to permit transfers of lots which do not meet the lot size requirements of the Code from grandparents, parents, or legal guardians as a one-time gift to a child or grandchild in order to provide a more affordable home site for these adult children.

Now that seems to me to be what the EZC was looking at, and what we need to

look at, if that intent is met. Is that the intent of the applicant is to provide a more affordable home site for some of his or her adult children. And when I look at the testimony in the EZC, Mr. Santos says that neither of the homes is suitable for his mother, since they're split level, and he understood -- and I'm reading verbatim from the minutes -- that "in the family transfer provisions, one lot could be sold to finance building a house." So it seems that the testimony of Mrs. Santos is that he's not transferring this lot in order to provide a more affordable home site for any of her adult children, in this case would be his mother transferring it to him, but rather to finance building a house.

So that's what I read as being the intent of the Code. In my mind, I separate out the intent from the minimum application requirements. And it appears they've met the minimum application requirements, I can understand the staff's evaluation of that. But in my judgement, I cannot see from the testimony of the neighbors or from the reading of the Code that they meet the intent of it. Does that make sense? I'm not asking you, Mr. Abeyta, to agree or disagree with me. I'm just saying if I missed anything in what I've said there.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, no, you haven't. You're correct. We evaluated it for did it meet the requirements to submit an application. But it's ultimately the decision of the Board, or in most cases the EZC, does it meet the purpose?

COMMISSIONER SULLIVAN: Okay. And in this case in the EZC said no.

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: And it said Commissioner Lujan asked for a clarification on the intent of the family transfer. Mr. Catanach said family transfers are to provide a home site needed for a family member and that did not appear to be the case here. That's what Mr. Catanach said at the EZ. So that's what I think we need to be careful that we keep separated, the application requirements and then once we determine that the five-year period has been met, then we have to evaluate the intent and purpose of the transfer. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, any other questions or comments? Mr. Abeyta, it seems to me that the intent is to do a certain thing, accomplish a certain purpose, right? And don't you have to interpret the ordinance in light of the intent? You just can't ignore the intent. Because the case doesn't appear to be consistent with the intent, but you're saying, "So what? It meets x, y, and z." But you ignore the intent of the whole ordinance. Is that the policy of the County?

MR. ABEYTA: Mr. Chair, in discussing this amongst staff, the purpose statement, that language didn't transfer over to the requirements for approval. So that's the bind we've been in, and we've gotten a legal interpretation in the past that if it's not in the requirements, then --

CHAIRMAN CAMPOS: I just can't see how you can ignore the intent of legislation.

COMMISSIONER ANAYA: Mr. Chair?

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I move to deny case DL 03-4961 with the testimony that I have heard.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER SULLIVAN: Second.

COMMISSIONER DURAN: Mr. Chair? Point of order, Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: You can't have a motion until the applicant has the ability to rebut. We have done that in the past, and I cannot see why we wouldn't extend the same courtesy to this applicant.

CHAIRMAN CAMPOS: There's a motion and a second. Mr. Graeser. Briefly.

MR. GRAESER: Thank you. I will be brief. I will just respond to what was said, Mr. Chair. As the Commission knows, interpreting law, interpreting ordinance, you look first to the plain meaning of the ordinance. If that's ambiguous to you, then look to intent. The fact is, the plain meaning of this ordinance is very clear, and the application is in accordance with that.

I would point also – under the purposes of inheriting the family transfer, to permit transfers of lots which do not meet the lot size requirements to provide a more affordable home site is one of four purposes. The first one, a, is to maintain local cultural values by perpetuating and perfecting a traditional method of land transfer and families, which is intergenerational transfer.

The reason we came back and the reason that after the Commission meeting, we got Mr. Santos settled down, had him talk with his mom, convinced him that a three-year holding period that the Commission was asking for was okay, that he didn't have to divide the other lot, that that was okay, was because the Commission gave us a fair indication of what it wanted. And the reason we came back as opposed to taking another route, appealing it or anything like that, was because we felt we were in a position to say okay, we'll agree with what the Commission wanted. And we came back, in fact, the proposal that tracks exactly the language from the County Commission meeting minutes last time. All these other issues we've been through before.

With regard to water, from a hydrologic standpoint this is a good thing. There's currently a well that can use three acre-feet of water. If this transfer's done, water restrictive covenants are imposed that limit it to a quarter acre-foot per lot, half an acre-foot.

With regard to any sewage concerns, these lots are 1.25 acres, which is well more than what the Environment Department requires for placing individual septic tanks.

I don't know what the issue is with notification, but notification's been fully done. There's affidavit, pictures of the posting, there's several rounds of certified letters to everyone within one hundred feet excluding right-of-ways, legal noticing was done. That proof has been provided to staff, staff has reviewed it. And certainly I can provide it to the

Commission if the Commission would care to go over it.

CHAIRMAN CAMPOS: Have you submitted it to Staff for the review?

MR. GRAESER: Yes.

CHAIRMAN CAMPOS: Okay.

MR. GRAESER: Again, the ability to have a child transfer the property to the parent and then transfer it back under the family transfer provision is time honored in the County. It is done all the time. That's the way the County interprets the ordinance. It would be unfair and inequitable to interpret it differently for the Santos' transfer because the neighbors are concerned with -- their real concern is they don't like the fact that the ordinance allows 1.25-acre transfers. And there's nothing magic about 2.5 acres or 1.25 acres, but that's what the ordinance allows.

In fact, the proposal has Dorothy and Daniel Santos agreeing to a lot that they're not required to -- under the very terms of the ordinance, they're not required to. One of those is that they are imposing a three-year holding period both on the piece of property that Dorothy Santos retains and the piece of property that gets transferred to Daniel Santos.

Second, Daniel Santos is agreeing to place a provision on his piece of property that he owns next door that isn't part of this application at all. It would prohibit him or anyone from doing any further family transfers on that property. He's really trying to work with the Commission based on what the Commission had requested at the last meeting.

The notice issue also is -- the fact that people are here to protest means that they got actual notice. With regard to the allegations of underhandedness or presentation of false information, I just request that comments be kept to the law and to the subject of the application and not to personal attacks. Thank you, sir.

CHAIRMAN CAMPOS: Mr. Ross? This is an appeal from the EZC. Now, to sustain the action of the EZC, what kind of motion do we have to make?

MR. ROSS: I think a motion to deny the appeal from the EZC would do it.

CHAIRMAN CAMPOS: To deny the appeal? I think that's what's been made, right?

COMMISSIONER ANAYA: Yes.

CHAIRMAN CAMPOS: Sir, you had a comment, a brief comment.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I didn't mean to step out of line, but the applicant did sit down, and I figured he was finished with his testimony.

CHAIRMAN CAMPOS: State your name again.

MR. GABLE: Carl Gable, 851 Chicoma Vista. The notification that's up tonight is incorrect and it states there's a meeting on January 13<sup>th</sup>, which is not tonight. He came up with these, saying these were notifications. These are all returned undeliverable to the wrong addresses. If they can demonstrate that people signed registered letters, I'd like to see that. But I was never notified of this. Here's to Elizabeth Vargas, who's my neighbor, and this was returned because it was incorrectly posted. Another person, Frank



Willit, who's right here, it was addressed to the wrong address and returned. So if that's following the intent, it seems like this is obfuscation if anything. This isn't even a correct notification. So I think they need to get their ducks in a row before they come before this board and expect you to treat them — they're not treating this process with respect.

CHAIRMAN CAMPOS: Thank you.

COMMISSIONER DURAN: Call for the question, Mr. Chair.

CHAIRMAN CAMPOS: Hold on.

COMMISSIONER DURAN: I have a motion to call for the question.

CHAIRMAN CAMPOS: Is there a second? Ms. Reyes.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay, all those in favor?

**The motion calling for the question was passed by a unanimous voice vote**

CHAIRMAN CAMPOS: Okay, question has been called. I apologize.  
Okay, there's a motion to deny the appeal.

CHAIRMAN CAMPOS: To deny the appeal.

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

CHAIRMAN CAMPOS: Okay, the appeal has been denied.

- XIII. A. 5. BCC Case #MIS 04-6000 – Avanti Business Park Master Plan Extension. Avanti Business Park (Albert Dietz), Applicant, Jennifer Jenkins, Agent, Request a Master Plan Extension to Two Years for the Avanti Business Park, on a 10.27-Acre Tract. The Property is Located at the Intersection of I-25 and RT 599, within Section 26, Township 16 North, Range 8 East (Commission District 5)**

DOMINIC GONZALES: Thank you, Mr. Chair. Dominic Gonzalez, Santa Fe County Land Use Department.

CHAIRMAN CAMPOS: Okay.

MR. GONZALES: In 1983, the Avanti Business Park was granted zoning approval for a major center commercial district use on 140 acres.

CHAIRMAN CAMPOS: Hold on for a second. Okay, this case is finished. If anybody wants to talk about it, please do so outside of the chambers. Folks. Mr. Graeser. Discussion outside. Okay.

MR. GONZALES: Thank you, Mr. Chair, Commissioners. In 1983, the Avanti Business Park was granted approval for a major center commercial district use on

140 acres. The Code at the time required a zoning, but there was no master plan process and no location criteria.

On October 25<sup>th</sup>, 2001, the CDRC granted the property owner's appeal and overturned the Land Use Administrator's decision that the Avanti master plan had expired. On January 8<sup>th</sup>, 2002, the BCC upheld the CDRC to deny the Land Use Administrator's decision that the Avanti Master Plan had expired and granted a two-year extension. The applicant is now requesting an additional two years. Article five, section 5.2.7., expiration of master plan, states that the approval of a master plan shall be considered valid for a period of five years from the date of approval by the BCC. Master plan approvals may be renewed and extended for an additional two-year period by the BCC at the request of the developer.

Recommendation: Staff reviewed the highway corridor plan and it designates this property as non-residential. Therefore, staff recommends approval of the requested two year extension with the following conditions:

1. The master plan is subject to all conditions of approval imposed by the BCC on January 8<sup>th</sup>, 2002.
2. A development plan shall meet the highway corridor design standards. Required setbacks of 50 feet from Interstate 25 shall be complied with.

CHAIRMAN CAMPOS: Do you have a recommendation, Mr. Gonzales?

MR. GONZALES: Mr. Chair, recommendation is approval of the two years.

CHAIRMAN CAMPOS: Staff is requesting approval for two years.

MR. GONZALES: Recommending approval.

CHAIRMAN CAMPOS: What is the good cause for the extension? Is there any good cause? Any good reason to extend this? There has to be some justification, don't you think?

MR. GONZALES: Mr. Chair, from the previous approval I believe the applicant was working with the County for the utilities, for the water in that area. That's why they requested a two-year approval before. I'm not too sure about what the approval is now, what the good cause is for now, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Mr. Abeyta.

MR. ABEYTA: Thank you, Mr. Chair. I've been working with the applicant as far as the - there was a condition that was imposed that the development plan meet the highway corridor design standards. Well, those standards haven't been adopted yet, so we have been going back and forth between myself, our legal department, the applicant, their legal department, as far as what those design standards would be. We met with several people who are interested in the property, but we could never give them a clear answer as to what the standards would be, what they would be or when they would be adopted. We are working on the Highway Corridor Ordinance now. We do expect them to come before the board sometime by this year, by the end of this year.

CHAIRMAN CAMPOS: The ordinance?

MR. ABEYTA: The ordinance itself for the highway corridor.

CHAIRMAN CAMPOS: Has anyone adopted any part of that? I mean, the City has a piece of it, EZ has a piece of it, the County has a piece of it.

MR. ABEYTA: Mr. Chair, the EZA has adopted a portion for the Two-mile, an ordinance.

CHAIRMAN CAMPOS: For their piece of the highway corridor?

MR. ABEYTA: Yes.

CHAIRMAN CAMPOS: Okay.

MR. ABEYTA: So staff supports it. We are recommending a setback though of fifty feet from the interstate frontage road.

CHAIRMAN CAMPOS: Okay, thank you sir. Applicant?

COMMISSIONER SULLIVAN: Mr. Chair? I had a question for staff. Roman, while you're on the mike there. Your recommendations indicate staff reviewed the Highway Corridor Plan and it designates this property as non-residential. Okay. For zoning, I assume, as separated apart from design standards. In the minutes of the January 8<sup>th</sup>, 2002 meeting, Ms. Penny Ellis-Green said that the Highway Corridor Plan does not designate this area as commercial. Did you do some further research and was it figured out that it does, or am I mixing up my zoning with design standards here?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, we've gone back and forth on this. Because it was part the - some of the lots within the master plan have been built out, so the plan designates those portions as commercial. So then when we took the original position that the rest of it had expired but then the board later on reversed that decision, then we would interpret then that that whole master plan then should be designated commercial as far as the highway corridor plan.

COMMISSIONER SULLIVAN: Okay, I understand. So let me see if I understand what's going on. This master plan is twenty years old, and there's already some buildings on it, and those are already commercial. The property that doesn't have buildings on it doesn't fall within the commercial part of the highway corridor plan.

MR. ABEYTA: Mr. Chair, right, that's correct.

COMMISSIONER SULLIVAN: But because in prior action of the board it was their determination that if one piece was designated commercial, it should all be commercial.

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: So the prior Board's approval or determination, I guess - was this back in 1983 or was this recently?

MR. ABEYTA: No, Mr. Chair, this was recently when they appealed our decision that it had expired. I believe it was back in 1998 or 1999. And then they needed to come back for a two-year extension to that. I believe it was '98.

COMMISSIONER SULLIVAN: Okay. So you took the position at that time that the property that was vacant didn't fall within the highway corridor commercial, but this would be an exception, like a little finger, as it were. Because it was a part of a

grandfathered commercial that already had commercial development on it.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Okay. So that's why we're saying that it's commercial.

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: Because a portion of that entire master plan -- was that master plan in phases, or was it one complete master plan?

MR. ABEYTA: I believe it was in phases, if I remember correctly.

COMMISSIONER SULLIVAN: So was this phase -- the first phase obviously is where they built first. Is this phase the vacant phase that we're talking about now?

MR. ABEYTA: I believe so.

COMMISSIONER SULLIVAN: I mean obviously they couldn't built on it if it weren't vacant. That makes sense.

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: So that's why you've arrived at -- the reason it complies. If you really look at the Highway Corridor Plan, it's not in a commercial area. But it's this grandfathering that you feel is the reason.

MR. ABEYTA: Right. Because it's right next door.

COMMISSIONER SULLIVAN: Okay. I understand. Then the one other concern that I had, and I wanted to ask how we would handle this, is that I always have the concern that the intent -- and I believe that was brought up before also. The question was asked so why is an extension needed at all, just to avoid the master plan stage? And Ms. Ellis-Green said yes, I guess to extend the length of the master plan. Because at this point an applicant wouldn't have enough time to submit and get approval for the development plan before the master plan expired. So we have an old master plan. We now require that water availability be ascertained at the front end. Does this property, this vacant land where they would build on, has that got water availability?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, no it does not.

COMMISSIONER SULLIVAN: Okay, our current requirements are if they were coming in right now with a master plan for this vacant parcel, whether it was commercial or not, we would say, Okay, you're a little premature here. Go back and determine that you have water availability.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Okay. So it seems to me that when we're giving extensions, and I don't have a problem philosophically against extensions, particularly in a situation where you're trying to work out the design standards issue, and I understand that. It seems that we need a condition or we need direction to the applicant who has already approved a master plan here. Their next step is going to be coming forward with a final development plan and preliminary. Usually they do them together to limit the public participation. So can you think of a condition or a direction or something

where if this extension were approved, we would say, In order to bring you up to today's standards, you are required to come forward with water availability prior to proceeding any further with preliminary final development. Is that reasonable, given our current ordinances?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, I can tell you that before they could come forward with a development plan, they would have to submit water automatically. So you won't see a development plan without them demonstrating water availability.

COMMISSIONER SULLIVAN: Because that would be required at the development stage anyway?

MR. ABEYTA: Anyway, right.

COMMISSIONER SULLIVAN: Okay, so my concern would be addressed there. Even though this is a twenty-year old master plan, we're not going to see a final development plan that doesn't have wet water associated with it.

MR. ABEYTA: That's right, you won't see it unless there's water.

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

CHAIRMAN CAMPOS: Okay. Applicant?

[Duly sworn, James Wheeler testified as follows:]

JAMES WHEELER: Mr. Chair and Commissioners, I'd like to thank you all very much for the job you're doing. This is the first time I've been to one of these meetings in quite a few evenings, and I can really appreciate where you sit. James Wheeler, 2019 Galisteo Street, Suite L-1.

In any case, I've been working on this project since 1986. It belonged to Al Dietz, it was Avanti Business Park. It was the 140 some acres of ground I sold to Channel 11 TV station. Part of the property now is the Metro Business Park, which is adjacent to this property. I've sold lots in there. It's surrounded by the - it was called Big Chief Stone Company at one point in time. So this property is completely surrounded by commercial property. There isn't a use.

The problems that I ran into when I started working on this again three years ago, when Mr. Dietz said, I'm ready to go ahead and start selling the property, is that he was unaware of the fact that there may not have been zoning on the property or that it had died because there had not been a development plan. So I had two offers on the property at that point in time. And when we went in they said, You can't do this. It is not zoned. So consequently Mr. Dietz came to the Commission. He asked for an extension. That was approximately two years ago.

Then again about six months ago, Mr. Dietz came to me and he said, I'd like you to market the property. And I did start marketing the property. But in the process I ran into the difficulty of setbacks, what exactly was the setback. And this evening it was clarified that the setback would be 50 feet from the interstate. That is something that Mr. Dietz can live with and we can develop a property with. But the way it was before, there were so many unknowns, whenever a prospective buyer would come, they would go the County,

they'd throw up their hands and say, We don't know what to do.

CHAIRMAN CAMPOS: Mr. Wheeler? Do you agree with the conditions?

MR. WHEELER: Yes, sir.

CHAIRMAN CAMPOS: Does anybody want to make a motion for approval with conditions?

COMMISSIONER ANAYA:: Move for approval.

CHAIRMAN CAMPOS: Public? Okay, that's right. This is a public hearing. Anybody want to talk about this? Okay, no one presenting. There's a motion to approve with conditions. Is there a second?

COMMISSIONER DURAN: I'll second.

CHAIRMAN CAMPOS: Okay, any discussion?

**The motion to approve BCC Case #MIS 04-600 passed by unanimous [5-0] voice vote.**

CHAIRMAN CAMPOS: Granted the extension.

MR. WHEELER: Thank you very much.

CHAIRMAN CAMPOS: Thank you, sir.

MR. WHEELER: I appreciate it. Good night. Thank you again.

CHAIRMAN CAMPOS: Okay, Mr. Abeyta, the next case is Sandia Vista. Is that with – we were told that somebody would address that issue?

MR. ABEYTA: Mr. Chair, the applicant submitted a letter this evening to us just requesting that it be withdrawn. And he's willing to re-notice and try to address the concerns and then come back to the BCC with his application.

CHAIRMAN CAMPOS: Okay. Mr. Ross, what kind of motion do we need to make at this point?

MR. ROSS: Mr. Chair, I'm not sure you need a motion if the applicant's withdrawn.

CHAIRMAN CAMPOS: Okay.

MR. ROSS: I think we just note it as withdrawn.

CHAIRMAN CAMPOS: Okay, then we go to La Pradera, that's also been tabled. So – sir?

[Commissioner Duran recuses himself from Las Cordilleras]

CHAIRMAN CAMPOS: Is that Las Cordilleras? Okay. And I guess the basis is that you have some involvement in the project? Okay.

**XIII. A. 8. EZC Case #S 02-4492 – Las Cordilleras Subdivision (Formerly Mountain Vista). Kaloko Land Corporation, (Lynn Fowler) Applicant, Jim Siebert, Agent, Request Final Development Plan and Plat Approval for Phase II of the Las Cordilleras Subdivision which, will consist of 18 Lots on 71.15 Acres. The Property is Located North of Camino La Tierra and West of Paseo de Aguila, within Section 4, Township 17 North, Range 9 East (Commission District 2).**

MR. DALTON: Thank you, Mr. Chair. On January 15<sup>th</sup>, 2004, the EZC met and acted on this case. The decision of the EZC was to recommend approval for final development plan and plat for phase two of the Las Cordilleras subdivision, formerly Mountain Vista, which will consist of 18 lots on 71.15 acres.

The applicant is requesting final development plan and plat approval for phase two of the Las Cordilleras subdivision, which will consist of 18 lots on 71.15 acres. Lot sizes will range from 2.5 acres to 6.68 acres, with an average lot size of approximately 3.65 acres. Lots containing five or more acres will be allowed a guesthouse.

Recommendation: The applicant has addressed the preliminary conditions, and staff recommends final development plan and plat approval for phase two of the Las Cordilleras subdivision, which will consist of 18 lots on 71.15 acres, subject to the following conditions. Mr. Chair, may I enter those into the record?

CHAIRMAN CAMPOS: Yes sir.

MR. DALTON: Thank you.

[The conditions are as follows:]

1. All redline comments must be addressed, and original redlines must be returned.
2. Road names and rural addressing must be approved by the County prior to recording the final plat.
3. The applicant will submit Homeowner's Association Bylaws, Articles of Incorporation, Water Covenants, Disclosure statement, restrictive covenants, maintenance agreement, and shared well agreement subject to Staff review and approval prior to recording the final plat.
4. The standard County water restrictions, final homeowner's documents, disclosure statement and Development Plan must be recorded with the final plat.
5. The developer must pay the solid waste fee in accordance with subdivision regulations (\$32.89) per lot, prior to recording the final plat.
6. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
7. Lot 13 will require disclosure for the possibility to install an advanced wastewater treatment system designed by a professional engineer and approved by the New Mexico Environment Department. This shall be clearly noted on the plat and in

- disclosure statement.
8. The six archeological sites shall be placed within preservation easements in order to protect them from future disruption. The preservation easements shall be shown on the plat.
  9. Residential Fire suppression sprinkler systems are required to be installed in all houses. This shall be noted on the plat.
  10. A signage plan must be submitted for review and approval prior to final plat recordation.
  11. Water use on this property will be restricted to 0.25-acre foot per lot with single residence, and 0.40-acre foot per lot containing 5 or more acres where guesthouses are proposed. Water restriction covenants must be recorded with the final plat. A water meter must be installed for each lot annual readings must be submitted to the County Hydrologist by January 31<sup>st</sup> of each year.
  12. The applicant shall submit a financial guarantee, in the amount approved by the County, for all improvements including fire protection, road improvements, drainage improvements, retention ponding and landscaping/re-vegetation prior to grading permit issuance. The financial guarantee for landscaping and re-vegetation will be kept until the plantings have taken, for a minimum of one year.
  13. The applicant shall address solid waste removal and septic maintenance in covenants.
  14. Compliance with applicable review comments from the following:
    - a) State Engineer's Office
    - b) State Environment Department
    - c) State Historic Preservation Office
    - d) Soil & Water District
    - e) State Highway Department
    - f) County Hydrologist
    - g) County Development Review Director/Technical Review
    - h) County Fire Marshal
    - i) County Public Works
    - j) Santa Fe Public School District
  15. The applicant shall pay a fire review fee in the amount of \$650 in accordance with Santa Fe County Resolution No. 2001-114, prior to recordation of the plat.
  16. All lots shall be required to have individual on site retention ponding if impervious area surface exceeds 14,000 square feet. This shall be noted on the plat.
  17. All utilities shall be underground, this shall be noted on the plat, covenants, and disclosure statement.
  18. A final fire inspection is required for the subdivision. No permits for building construction will be issued until improvements for roads, drainage and fire protection have been completed as required by staff.
  19. The applicant shall delineate proposed trail easements as private trail easement on

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- the plat, and roads shall be granted for public use.
20. The maintenance plan will include maintenance of roadways, drainage structures, and fire protection.
  21. No further division of this land will be allowed, this shall be noted on the plat and in the disclosure statement.
  22. The second dwelling unit on 5 acres or more shall be used solely for the purpose of a guesthouse, which does not include permanent, continuous residency, except for the care of immediate family members.
  23. The guesthouse shall not be rented separate from the main house.
  24. The applicant shall cap the wells and connect to the County Water System when it becomes available within 200 feet.

CHAIRMAN CAMPOS: Questions of Mr. Dalton? Okay. Mr. Siebert? Do you have any problems with the conditions?

[Duly sworn, Jim Siebert testified as follows:]

MR. SIEBERT: Mr. Chair, Commissioners, my name is Jim Siebert. My address is 915 Mercer, Santa Fe. We do not.

CHAIRMAN CAMPOS: Okay, do you have anything to add?

MR. SIEBERT: Pardon me?

CHAIRMAN CAMPOS: Anything to add, sir, before we go to public hearing?

MR. SIEBERT: No, I'm sorry the heater is on and I'm having a hard time hearing. No, this has been before you at least two times and this is the third time that it's coming before you. The EZA has reviewed it for master plan, the BCC has reviewed it for preliminary and final plan. Phase one is now complete. We're moving on to the second phase of the project.

CHAIRMAN CAMPOS: Okay. This is a public hearing. Anybody want to testify about this? Okay, no one coming forward. Question for the applicant, Mr. Siebert, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Siebert, when this first came forward, the developer was going to have a wastewater system. And in fact a master plan was approved with the wastewater system as a part of the submittal, as I recall. Now I understand it's going to be all individual septic tanks; is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: And the reason for that was that you felt you'd been treated unfairly because another subdivision nearby to you had been allowed to have septic tanks; is that right?

MR. SIEBERT: Correct. Subsequent to our approval, there was another approval of an identical subdivision in the same area where the Commission granted the use of individual septic tanks.

COMMISSIONER SULLIVAN: Now this phase is eighteen units; is there

another phase to it?

MR. SIEBERT: No, this is it.

COMMISSIONER SULLIVAN: It's the total. Okay. And did you investigate - you're going to have four wells serving four or five lots each?

MR. SIEBERT: Correct, it will be a shared-well system.

COMMISSIONER SULLIVAN: Did you investigate with eighteen units the feasibility of a community water system with one well?

MR. SIEBERT: Well, the difficulty of a community water system is just the issue of the purchase and transfer of the water rights. We're within the parameters of the County Code by the use of shared wells.

COMMISSIONER SULLIVAN: I may have asked this before, but remind me, how far are you? Are you reasonably close to the County water system?

MR. SIEBERT: No, in this case I'm guessing we're probably two miles away from the County, a mile and a half to two miles from the County water system.

COMMISSIONER SULLIVAN: So obviously the septic tanks are cheaper than putting in a wastewater system, so the developer has gone that route.

MR. SIEBERT: Well, there's other issues with a community wastewater system, part of it being on lots this large, you have issues of how you equitably deal with the management of a centralized wastewater system.

COMMISSIONER SULLIVAN: Roman or Steve, let me ask a question. If a master plan is approved with a particular condition, in this case with wastewater treatment, and then subsequently comes forward with another, with that deleted, does the applicant have to go and resubmit and reapprove the master plan? Or can the Commission just waive or vary any of those master plan requirements?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, it can be handled - it depends on what it is that they're requesting a waiver for. For example, if it's something that wasn't a Code requirement, then the development plan could then be approved without having to comply with that or without an official amendment having been done. That's just our position, our policy. The Code's not specific as far as master plan amendments or what it takes in a master plan. The Code talks about allowing administrative amendments of master plans. It is our position that as long as it's not something, a waiver from the Code or in this case septic systems or an advanced system, a centralized system is not a requirement, therefore the staff felt that the development plan could come forward with septic tanks as long as it met the Code.

COMMISSIONER SULLIVAN: So really this doesn't just apply to this subdivision I guess. Any Type III subdivision, as long as we keep those requirements in the Code, we're just going to continue to see these wells and septic tanks just kind of march outward from the county, in the county. You're indicating there's no Code requirement that would require a sewage system or anything of that sort.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, that's correct. The Board could always direct us to amend the Code and require a system for a certain number

of lots or size.

COMMISSIONER SULLIVAN: So in this case it would just be – what you're saying is whether they had to resubmit a master plan would be determined by the County Commission as to whether the issue was a major one in the master plan, i.e., if the master plan said they were going to do five lots and they came in and said they were going to do 23 lots, that would seem to be a major change. But in the case of an issue where it's not a requirement that they have a sewage system, then that wouldn't be considered a major change, based on just staff's general interpretations.

MR. ABEYTA: Yes, that's correct.

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

CHAIRMAN CAMPOS: Okay. We've had a public hearing. Does anybody want to make a motion?

COMMISSIONER MONTOYA: Mr. Chair, move for approval.

CHAIRMAN CAMPOS: With conditions?

COMMISSIONER MONTOYA: With conditions.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Second. Discussion?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Maybe in light of the Aamodt case and others that are coming up, maybe we should direct staff as Commissioner Sullivan is suggesting if we look at maybe our ordinance the way it reads now, Roman, and take a look at seriously addressing the wastewater and the water systems.

CHAIRMAN CAMPOS: Okay.

**The motion to approve EZ Case #S 02-4492 passed by unanimous [3-0] voice vote; Commissioner Sullivan abstained and Commissioner Duran was recused.**

**XIII. A. 9. CDRC Case #SP 03-5960 – Chupadero Water & Sewer Corp. Development Plan. Chupadero Water & Sewer Corp, Applicant, Jim Siebert, Agent, Request Development Plan Approval for an Overhead Electric Line to Serve a New Well that Has Been Constructed by the Chupadero Water & Sewer Corporation to Serve the Community Water System for the Village of Chupadero. This Request also Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to Allow Electric Line Poles to Exceed 24 Feet. The Property is Located Off County Road 78 in Chupadero, within Section 6 Township 18 North, Range 10 East (Commission District 1)**

MR. DALTON: Thank you, Mr. Chair. Chupadero Water and Sewer Corp, applicant, Jim Siebert, agent, request development plan approval for an overhead electric line to serve a new well that has been constructed by the Chupadero Water & Sewer Corporation to serve the community water system for the Village of Chupadero. This request also includes a variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to allow electric line poles to exceed 24 feet.

On January 27, 2004 the Board gave staff direction to present this case with no recommendation from the CDRC due to the public health and safety concerns. The applicant is concerned that the existing generator providing power to the community well may not be adequate for a long period of time as required to allow the CDRC and BCC process to take place. The applicant is requesting development plan approval for an overhead electric line to serve a new well to serve the community water system for the Village of Chupadero.

The new electric line alignment will require a new 34-foot wooden pole to be located within an existing 10-foot easement for the electric transmission line that traverses the Village of Chupadero. One additional pole will be installed to cross County Road 78. This pole will be 29 feet in height and will be located approximately 16 feet off the edge of the pavement. The applicant states the height of the poles is dictated by the required clearance for electric lines crossing a public roadway.

Recommendation: Staff recommends development plan approval for an overhead electric line to provide service to a new well for the community water system serving the Village of Chupadero. Staff's position is that this request for a variance may be considered a minimal easing of the Code due to the health, safety and welfare of the community of Chupadero. Twenty-four-foot poles will not provide adequate clearance for electric lines crossing a public roadway. Thank you.

CHAIRMAN CAMPOS: Thank you, Mr. Dalton. Mr. Siebert, anything to

add to the report?

MR. SIEBERT: Mr. Chair, I was previously sworn. The one unique situation out there is that the majority of Chupadero is presently served by overhead electric lines and the system – Matt Bailey is here if you wish to discuss the status of the system. He’s the president of the water and wastewater association. But it’s basically on its last legs and if the old well goes out they will be forced to continue to – or be forced to use the generator and the generator will eventually fail as well. So we appreciate the consideration by the Commission.

CHAIRMAN CAMPOS: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Jim, we want to support, certainly, these mutual water associations. We know that they’re struggling to provide needed service. What’s going to be the cost of this, to do this?

MR. SIEBERT: I’m going to have the president speak to that.

[Duly sworn, Matt Bailey testified as follows:]

MATT BAILEY: Mr. Chair, Matthew W. Bailey, 2 County Route 78, Santa Fe.

COMMISSIONER SULLIVAN: I was just asking what the cost of doing this is going to be.

MR. BAILEY: To my knowledge the PNM cost is somewhere in the neighborhood of \$2500 to run this line as is shown on the plat.

COMMISSIONER SULLIVAN: What would be – did they give you a cost or have you had any estimates of what it would be to go underground. Just bore it under the road?

MR. BAILEY: I didn’t ask, but considering that we would have to cross telephone and our existing pipeline I would assume just off the top of my head that it would be in excess of our current resources.

COMMISSIONER SULLIVAN: You don’t have any estimates on that though?

MR. BAILEY: No, we do not know.

COMMISSIONER SULLIVAN: It would just be a conduit. This is not a waterline, right? This is the electric line for your pump?

MR. BAILEY: Electric power. We would have to go under – both sides of the road have easements for telephone usage, utility, as well as our existing water line is in the center of the road and we’d have to dig up the road directly, right through the center. I didn’t get a price on such a thing but I imagine it would be over \$10,000 to do 115 feet underground like that.

COMMISSIONER SULLIVAN: Okay, well, the small line, the expense is when you just bore them. Just small boring machines.

MR. BAILEY: I’m not aware of whether that’s even feasible because the road on the other side actually goes up on a hill. It’s not a crown. It’s only a crown on one side.

COMMISSIONER SULLIVAN: Yes. But they just dig a pit and it comes out in the pit.

MR. BAILEY: I'm not aware of the cost of that. I'm sorry.

COMMISSIONER SULLIVAN: Okay. So you feel that this would be less expensive than doing, than boring a conduit through.

MR. BAILEY: Yes, certainly. The original engineering plan called for this exact layout in our original PR report that we had done about two years ago. This is actually the final phase of that.

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

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I move for approval.

CHAIRMAN CAMPOS: We have a public hearing. This is a public hearing. Anybody here to speak on this matter? Okay, no one coming forth, the public hearing is closed. Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTTOYA: Second. Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTTOYA: I just want to thank the Commission staff for working with the Chupadero Water Association in getting this to us because I know this is urgent to them and I'm glad that we could work it out. And thank you all for coming.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.


COMMISSIONER SULLIVAN: I would just say that I would encourage the applicant to look into - even though you'll get your overhead approval, I would encourage you to look into the undergrounding because in most cases, that doesn't have to be done with PNM. That can be done by a private electrical contractor. And PNM has set rates which are usually quite high. They're the only ones that you can deal with and there's no competition. So it may be an option you might still want to look into but if that doesn't work out then you'll have your overheading option to deal with as well. Thank you, Mr. Chair.

**The motion to approve CDRC Case #DP 03-5960 passed by unanimous [5-0] voice vote.**

### **ADJOURNMENT**

Chairman Campos declared this meeting adjourned at approximately 8:45 p.m.

Approved by:

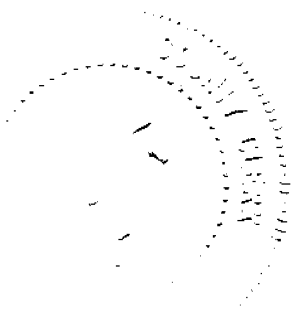
  
Board of County Commissioners  
Paul Campos, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

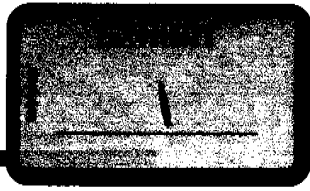
ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



SFC CLERK RECORDED 04/19/2004

# **West Santa Fe Association**



## **1. I am here to express concerns with the Well Service Agreement for Suerte del Sur**

- I am speaking on behalf of the following areas or associations
  - West Santa Fe Association
  - Puesta del Sol
  - Sierra Azul
  - Arroyo Chamisos
  - several others off Caja del Rio Road as well as the Relief Route
  - there are possibly 300+ well owners that could be effected

## **2. Notification Was Lacking**

- Normally any land use decision has strong notification requirements
- Any subdivision, or lot split requires notice via certified mail to all adjacent neighbors. The same for putting up a large shop building
- For a community plan all effected property owners are notified for multiple hearings
- Yet, for the most important possible item, water, there was a simple notice in the legals. We were completely unaware of this process until the developer notified us, one month later.
- I understand this is a new process, so I can see how this happened, however it should be rectified.

## **3. Public Outreach is Needed**

- If the county is getting into the water supply business, community support is needed. Educational outreach is necessary. Residents must be shown that this process promotes their health, safety and well being.
- Tomorrow night the developers have worked with us to have a community meeting.
- This will give residents a chance to understand the county plan as well as this specific proposal.

## **4. Several items concern me about the draft agreement**

- Three that come to mind with minor inspection are:
  - There is no provision for who will pay for monitoring wells or how they will be set up
  - No provision for hooking up to users who may be effected. There should be stubs in the ground when the water system is laid out.
  - No site has been determined. The area is a mile square. Location is critical to adjacent owners.
- It is clear that great consideration has been given to the developer, and some has been paid to the county. I feel that virtually none has been paid to handling well impacts on adjacent residents.
- I suspect as more people have a chance to look at this other items will be found

SFC CLERK RECORDED 04/19/2004



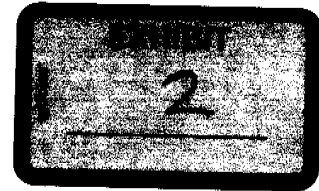
## ***West Santa Fe Association***

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### **5. We ask that at least one more hearing take place**

- If the agreement has not been signed, we ask that it be held.
- Even if it has been, it has provisions for changes, and is meaningless without the subdivision approval. It could be reheard.
- We are not necessary opposing the well at this point, although obviously we are very concerned. We are trying to insure that adequate safeguards exist at all stages of the process.
- The commission has done an excellent job in the past of soliciting community participation. This should be no exception. The community is looking forward to participating.

SFC CLERK RECORDED 04/19/2004



**Memorandum**

**To** : Santa Fe Board of County Commissioners

**From** : Robert A. Anaya *[Signature]*  
Steve Shepherd *[Signature]*  
SF County CHD Department

**Date** : February 10, 2004

**Subject** : St. Vincent Hospital/Santa Fe County Memorandum of Agreement.

**Issue:**

Santa Fe County (SFC) and St. Vincent Hospital (SVH) have been negotiating an amendment to the FY-2004 Memorandum of Agreement (MOA), as well as the FY-2005 MOA. Staff believes that an agreement has been reached.

**Background:**

SFC annually negotiates an MOA with SVH to benefit healthcare delivered to Santa Fe County residents. As needed, SFC and SVH amend the current MOA as needed.

SFC staff and SVH staff have come to agreement on both the amendment for FY-2004, and the FY-2005 MOA.

The FY-2004 MOA Amendment would add \$ 750,000 to Existing County Expenditures under items listed as "Indigent Care Funding" and "Medical Care for Residents in Custody". Carryover funding identified from the FY-2003 fiscal year would be used for additional "Clinic Healthcare Support".

The FY-2005 MOA Amendment would be contain the above mentioned \$750,000, as well as \$ 200,000 that would be devoted to additional "Clinic Healthcare Support" as agreed between SFC and SVH that is properly documented and supported.

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SFC CLERK RECORDED 04/19/2004



February 10, 2004

Paul Campos, Chairman  
Santa Fe County Commission  
102 Grant Avenue  
Santa Fe, New Mexico 87504-0276

*Re: Memorandum of Agreement for Fiscal Year 2004 and 2005*

Dear Chairman Campos:

I am in receipt of your letter dated February 9, 2004 as it pertains to the Memorandum of Agreement for fiscal years 2004 and 2005. First, let me state it was indeed a pleasure meeting with you and the other Santa Fe County Commissioners. I am hopeful that we may continue to meet on a periodic basis. The ability for our Board of Directors to meet with you and the other Commissioners is invaluable as we continue to jointly address the health care needs of the citizens of our community. I look forward to future productive dialog.

I appreciate that the County is facing a challenging fiscal future. St. Vincent Hospital finds itself in the same position; a vigorous debate in the New Mexico Legislature regarding Medicaid cuts proposed by the current administration that were projected to have a negative two million dollar impact on St. Vincent Hospital alone, increased competition from others for those services that generated a margin for the Hospital thereby enabling the Hospital to provide a broad array of services that do not meet margin, inflationary pressures in the double digits and the continued pressure from payers of health care to pay less for service and yet demand state of the art facilities for the delivery of service. I state this only to point out that governance, either in the public or not-for-profit sector, is as challenging as I have ever seen it.

**FY-2004 MOA AMENDMENT:**

In my January 8, 2004 letter to Gerald Gonzales, County Manager, I indicated St. Vincent Hospital would be able to make a contribution to Community and County Health related activities in the amount of \$5,512,000. This amount included an additional \$750,000 community health contribution from the Hospital. During our meetings, there was a request for additional funding for Women's Health and a need to restore cuts made to

**Background (Continued):**

Changes will be made to the structure and duties of the MOA Implementation Team and Progress Review Committee.

**Staff Recommendation:**

Staff recommends that the BCC accept the agreement that SFC and SVH staff have reached. County Staff and SVH will develop proposed changes to the 2004 MOA in consultation with the BCC and bring for the final draft March 9, 2004 for final approval.

The proposed changes to the 2005 MOA will be provided to the BCC for final approval March 30, 2004.

SFC CLERK RECORDED 04/19/2004



PMS Crisis Response. As a result of reviewing FY 2003 MOA expenditures, there is approximately \$90,920.33 unspent and which St. Vincent Hospital is willing to reallocate to meet these pressing community health needs. In addition, there is currently \$85,000 in the FY04 MOA that remains unallocated. Combining these two amounts will allow the Hospital to provide sufficient funding for Women's Health and PMS Crisis Response. It is important for the Hospital to assure that its contribution is in furtherance of its charitable purpose; therefore, verification as to services provided will occur prior to payment.

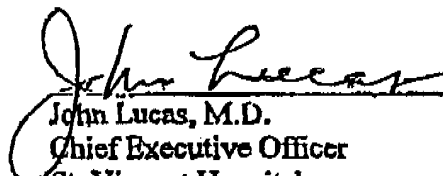
**FY-2005 MOA:**

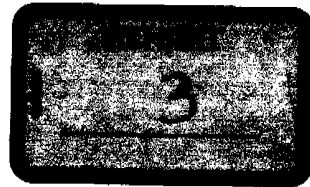
In your February 9, 2004 letter, you ask for an additional two hundred thousand dollars from St. Vincent Hospital for clinic healthcare support, jail medical care and other related community health benefit services. St. Vincent Hospital is willing to make this additional contribution so long as the services benefited further the mission and charitable purposes of the Hospital, there are plans for the expenditure and the services, and expenditures can be verified. This additional contribution will increase the Hospital's FY-2005 contribution to \$5,712,000.

Please know our financial condition is not markedly improved from our January 8, 2004 letter. However, understanding the projected budget cuts to a number of community programs as a result of a loss of state funding, it is important we all attempt to keep the safety net of our community intact. It is in this spirit that we are willing to make this contribution.

Lastly, I appreciate that the Commission desires a more active role in the development of the MOA. I know that our Board too will be having a more active role in the development of the MOA. These conversations will only result in a strengthened partnership that will benefit the citizens of our community.

Sincerely,

  
John Lucas, M.D.  
Chief Executive Officer  
St. Vincent Hospital



February 10, 2004

Paul Campos, Chairman  
Santa Fe County Commission  
102 Grant Avenue  
Santa Fe, New Mexico 87504-0276

*Re: Sole Community Provider Funding.*

Dear Chairman Campos:

On behalf of the Board of Directors for St. Vincent Hospital, I want to thank you and the other members of the Santa Fe County Commission for meeting with us earlier this year. These meetings gave us a great opportunity to dialog, listen and understand one another and the responsibility that each has as we carry out our respective missions. I know that our Government Relations Committee would like to engage in periodic conversation. We look forward to this opportunity.

During our meetings, we discussed this year's request for Sole Community Provider funding. St. Vincent Hospital is requesting that Santa Fe County seek full funding for Sole Community Provider. The County must provide its approval of Sole Community Provider Funds to the State Medicaid Program no later than February 15, 2004. St. Vincent Hospital has requested that Santa Fe County provide that approval at \$16,741,153 (with a commitment from the County to provide the necessary match of \$4,210,400). This amount reflects a 5% increase over the FY-2004 base sole community provider funded amount. Of course, we know that the percentage increase authorized by the State Medicaid program may not reach 5%, but may instead be something less. This approval, however, will ensure as much as possible that we do not miss any opportunity for additional sole community provider funding for the community's sole community provider hospital.

While the amount requested is significant, St. Vincent Hospital had a \$2.3 million deficit in fiscal year 2003 regarding the amount of unfunded community care and uncompensated patient care provided to the citizens of our community. In order for St. Vincent Hospital to remain a viable health care entity, it is important that we attempt to close this gap. Full funding of the Sole Community Provider Fund will move us in this direction.

I want to thank you and the members of the Santa Fe County Commission for your support.

Sincerely



John Lucas, M.D.  
Chief Executive Officer  
St. Vincent Hospital

SFC CLERK RECORDED 04/19/2004