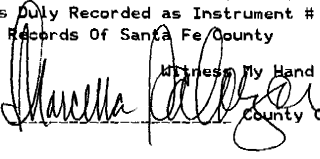


COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 121

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Valerie Espinoza
County Clerk, Santa Fe, NM

SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

March 10, 2005

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

SFC CLERK 05/09/2005

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
March 10, 2005 – 3:00 pm

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. State Pledge
- V. Invocation
- VI. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
 - C. Consent Calendar Withdrawals
- VII. Approval of Minutes
 - A. February 1, 2005
- VIII. Matters of Public Concern –NON-ACTION ITEMS
- IX. Matters from the Commission
 - A. Update on Film Initiative (Commissioner Vigil)
 - B. Consideration of a Joint Powers Agreement Between Santa Fe County and The Eldorado Area Water and Sanitation District Concerning Joint Efforts to Provide a Secure, Stable and Reliable Source of Water In The Eldorado Community (Commissioner Sullivan)
- X. Appointments/Reappointments/Resignations
- XI. Consent Calendar
 - A. CDRC Case # APP 04-5470, Dominic Vigil Appeal: Final Order (Appeal/ Home Occupation Development Permit Denied) (Land Use Department)
- XII. Staff and Elected Officials' Items
 - A. Matters from the County Manager
 - B. Matters from the County Attorney
 - 1. Executive Session
 - a. Discussion of Pending or Threatened Litigation
 - b. Limited Personnel Issues
 - c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights
- XIII. Public Hearings
 - A. Land Use Department
 - 1. EZ Case # S 04-4451-Oshara Village. New Village Consulting LLC., (Alan Hoffman) Applicant, Lorn Tryk, Agent, Request Final Plat and Development Plan Approval for Phase I of The Oshara Village

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Development which will consist of 175 Residential Lots and 136,000 sq. ft. Of Commercial Space on 74 Lots on a Total of 37.78 Acres in Accordance With the Previously Approved Master Plan. The Property is Located Along Richards Avenue South of Interstate I-25, in the Community College District, Within Section 16, Township 16 North, Range 9 East, (Commission District 5). Vicki Lucero THIS ITEM WAS PREVIOUSLY ITEM A-11 ON THE AGENDA

2. Ordinance 2004 – An Ordinance Amending Ordinance 2003-2, Article V, Section 5.2.2.g 8 and Section 5.2.2.g 9 (Master Plan Procedures), and Ordinance 1996-10, Article V, Section 5.4.2 (Final Plat Submittals), and Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code to Specify at What Stage Water Rights Are Required to be Transferred. Wayne Dalton (FIRST PUBLIC HEARING)
3. CDRC Case #V/Z 04-5490 Alfonz Vizolay Variance and Master Plan. Alfonz Vizolay, Applicant, Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code for the eligibility for Commercial Zoning Outside of a Commercial District. The Applicant is also requesting Master Plan and Preliminary and Final Development Plan Approval for an 8,510 sq. ft. Warehouse and Office. The Property is Located Within the Santa Fe Metro Highway Corridor in the Commercial Gateway at 4 Reata Road, Within the Remuda Ridge Subdivison, Within Section 24, Township 16 North, Range 8 East, (Commission District 3). Vicente Archuleta
4. CDRC Case #Z/DP 04-5190 Beth Longanecker Master Plan/Development Plan. Jim Corbin, Agent for Beth Longanecker Requests Master Plan Zoning and Preliminary and Final Development Plan Approval for a Commercial Horse Business on 4.43-Acres. The Property is Located Off State Road 14 at 2 Ron’s Road Within Section 26, Township 15 North, Range 8 East, (Commission District 5). Jan Daniels
5. EZ Case #S 96-1212 Las Campanas Estates VIII. Units 1,2,& 3. Las Campanas Limited Partnership (Michael D. Baird), Applicant, is Requesting an Amendment of the Plat/ Development Plan for 104 Residential Lots, to Permit Guest Houses. The Property is Located Off Las Campanas Drive Within Section 11, Township 17 North, Range 8 East, (Commission District 2). Joe Catanach
6. CDRC Case # A/V 04-5350 Marquez Variance. Julio Marquez, is Appealing the Land Use Administrator’s Decision to Deny the Placement of a Second Home on 10 Acres, Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 90 Quail Run Within Section 31, Township 15 North, Range 9 East, (Commission District 3). Dominic Gonzales
7. BCC MIS #04-5441 Santa Fe Brewing Co. Liquor License. Santa Fe Brewing Company (Brian Lock) is Requesting Approval For Four Liquor Licenses for a Restaurant and Brewery Within a Designated Employment Center Zone of the Community College District. The Property is Located at 35 Fire Place, Within Sections 25 and 26, Township 16 North, Range 8 East, (Commission District 5). Jan Daniels

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8. **EZ Case #S 04-4900- Churchill Estates Subdivision.** Thomas and Jane Gillentine, Applicants, Jim Siebert, Agent, Request Preliminary and Final Development Plan and Plat Approval For a 5-Lot Residential Subdivision on 15.83-Acres. The Property is Located Within The Community College District in an Existing Neighborhood South of I-25 and West of Richards Ave Off of Churchill Road, Within Section 17, Township 16 North, Range 9 East, (Commission District 5). Victoria Reyes
9. **LCDRC Case #V 04-MIS 04-5420 Vallecita de Gracia Subdivision.** Jim Brown, Applicant, Jim Siebert, Agent, For Final Development Plan Approval For Vallecita de Gracia Subdivision, a 11- Lot Subdivision on 42-Acres With the Average Lot Size of 2.5 Acres. The Property is Located Along County Road 54, Northwest of the Downs Racetrack, Within Sections 22, 27, and 28 Township 16 North, Range 8 East, (Commission District 3). Dominic Gonzales
10. **EZ Case # V/S 04-4880 North West Ranches L.L.C. Subdivision Phase I.** Jim Siebert, Agent for Northwest Ranches Subdivision (Jacques Constant), Request Preliminary Plat Approval for 19 Lots Within the Subdivision and Preliminary and Final Plat Approval for Phase I, Consisting of Six Lots, and a Variance of Section 3.5 (Road Requirements and Standards) of the Extraterritorial Subdivision Regulations to allow a 1,700 Foot Long Cul-de-sac. The Property is Located East of Los Suenos Trail and South of La Serena Trail, Within Section 19, Township 17 North, Range 9 East, (Commission District 2). Vicente Archuleta
11. Ordinance 2004-An Ordinance Amending Ordinance 1996-10, Article V, Section 8 (Subdivision Design Standards) of the Land Development Code to Require 30% of the Total Housing Approved Within a Subdivision of 5 Lots or Greater to be Affordable Housing. Wayne Dalton FIRST PUBLIC HEARING TABLED PREVIOUSLY ITEM A-1 ON THE AGENDA
12. **EZ Case # V/S 04-4970 Estancias Subdivision.** Charles and Jeannie Curtis, Applicants, Jim Siebert, Agent, are Requesting Preliminary and Final Plat Approval for a 12 Lot Residential Subdivision. The Applicant is also Requesting A Variance of Section 12.1 (Terrain Management) to Allow More than Three Isolated Occurrences of Slope Greater than 30%. The Property is Located North of NM 599, South of Tano Road, Off of Camino de Los Montoyas, Within Section 2, Township 17 North, Range 9 East, (Commission District 2). Vicente Archuleta

XIV. Adjournment

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County at 986-6200 in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

March 10, 2005

This regular meeting of the Santa Fe Board of County Commissioners, originally scheduled for March 8, 2005 was called to order at approximately 3:10 p.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

[None]

V. **Invocation**

An invocation was given by DWI Coordinator David Sims.

V. **Approval of the Agenda**

- A. **Amendments**
- B. **Tabled or withdrawn items**
- C. **Consent Calendar: Withdrawals**

GERALD GONZALEZ (County Manager): Thank you, Mr. Chairman, members of the Commission. We have the following suggestions for changes to the agenda from the staff level. First of all, Section IX, Matters from the Commission, I understand there's a request to table item A and there's the addition of item C, Discussion regarding County program to receive and record water usage. Then Section XII. Staff and Elected Officials' Items, there's the recommended addition of a new item under the County Clerk's Office, the addition of the County Canvass Board meeting to complete the Community College Board

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election process.

Under Section XIII. Public Hearings, Land Use Department, the previous item A. 11 has been moved up on the agenda, item 1, that's the Oshara project. From the staff level there is a recommendation to table. I understand, however, that the applicant does not want to table. Then we're also trying to confirm, there has been some indication that possibly there may be a request to table item 5. I don't know that for sure so I'm not making that recommendation at this point but as the meeting progresses we may come back with further information for the Commission. And then finally, item number 11 on your amended agendas which was previously item number 1 has been moved to 11 and is tabled. Or at least the request is to table that item. That's all I have, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Gerald. Any other discussion on tabled items from the Commission? Okay, I have one and that is item XII. A.1, staff is recommending tabling that item but the applicant wants to be heard. How does the Commission feel about that?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I feel the tabling is appropriate but if the applicant would like to make a brief statement as to why it's not appropriate I would be open to that.

CHAIRMAN ANAYA: Okay, so would you be willing to leave it on.

COMMISSIONER CAMPOS: For a few minutes only, to tell us why the tabling is inappropriate only, being the only issue.

CHAIRMAN ANAYA: Okay. Anybody else? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, there are, in looking over the packet, a number of things that are missing. This is the final approval. It included some water rights negotiations and those water rights are not in the packet. There is no discharge indication. There's a schematic drawing of the sewage treatment plant but there's no indication of whether that's in fact what's going to be built. Very importantly, Public Works is in disagreement with their road plans. That letter's in there. So there seems to be some staff work still that needs to be done and we can either hash this out here at the Commission level or we can have those things hammered out at the staff level.

CHAIRMAN ANAYA: I know those are certain issues that I have talked to the applicant about but he continues to tell me that he has the answers to those questions.

COMMISSIONER SULLIVAN: Well, he may, Mr. Chairman, but when we get to final development plan those answers need to be documented in the packet. So I think we have less flexibility at the final than we do at master plan level or preliminary.

CHAIRMAN ANAYA: Would you rather it be tabled?

COMMISSIONER SULLIVAN: I would prefer that. I think we've got a lot to do today. That would be my recommendation.

CHAIRMAN ANAYA: Okay, tabled. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I'm more in agreement with Commissioner Campos' perspective. The applicant did take the time to come here. I think if we

allow him a couple of minutes of presentation then we can gain the information that he's willing to give us. I have spoken with this staff with regard to this and I personally feel very uncomfortable moving forward despite the fact that we're hearing one message from the applicant and not seeing that information in the packet.

CHAIRMAN ANAYA: I understand. Thank you, Commissioner Vigil.
Commissioner Campos.

COMMISSIONER CAMPOS: We also have a letter that I was just presented with dated March 10th to the Board of Commissioners from Joe Catanach and I guess Vicki Lucero, outlining certain issues that need to be addressed, so if we're going to table, perhaps we need to define the issues that have to be addressed before they can come back to this Commission for consideration.

CHAIRMAN ANAYA: Do you want to at least hear from the applicant?

COMMISSIONER CAMPOS: Sure. Briefly, as to why tabling is inappropriate.

CHAIRMAN ANAYA: Five minutes?

COMMISSIONER CAMPOS: Yes. I talked to Dr. Wust about this and he feels that there's some serious water issues on this and he's concerned that the applicant hasn't seriously addressed staff's concerns so I too am very concerned. I'm in favor of tabling.

CHAIRMAN ANAYA: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I'm okay with hearing it.

CHAIRMAN ANAYA: Okay, so we will keep that one under Land Use Department, Section XIII. How about the rest of the changes? Is there a motion for approval of the agenda?

MR. GONZALEZ: Mr. Chairman, before we have a motion. I've just received written confirmation of the request to table item number 5, under Section XIII, Land Use Department.

COMMISSIONER CAMPOS: The Las Campanas case.

MR. GONZALEZ: That's correct.

COMMISSIONER VIGIL: Point of order, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: If we're going to hear only on the specific issue of tabling from the applicant, do we need to wait until their item on the agenda and all defer this to Steve. Or is this something we should hear now that we're considering a motion to table?

CHAIRMAN ANAYA: Are you talking about Oshara?

COMMISSIONER VIGIL: Yes.

CHAIRMAN ANAYA: I was going to leave it under Public Hearings if that's okay.

COMMISSIONER CAMPOS: It's okay with me.

CHAIRMAN ANAYA: We'll listen to them. We'll hear their concerns and if they sound legitimate we'll move forward. If not we'll table it. So under Matters from the Commission we're tabling A. Under XII, we added A. 1. And we're tabling XIII. 5 and XIII. 11. Is there a motion?

COMMISSIONER CAMPOS: So moved.
COMMISSIONER MONTOYA: Second.

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

COMMISSIONER VIGIL: Mr. Chairman.
CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Before we move on I'd like to recognize a guest that we have in the audience who is visiting from San Francisco. He is an appointed official, Ramon E. Romero. Would you please stand. Ramon is here on a holiday. I think he's going skiing. He has been appointed. He has been appointed. He was appointed by Gavin Newsome. No, Gavin Newsome is currently the elected official there and he is president of the San Francisco Development Agency. Welcome to Santa Fe.

CHAIRMAN ANAYA: Thank you for being here Ramon. Thank you, Commissioner Vigil. Are there any Consent Calendar withdrawals?

COMMISSIONER SULLIVAN: Mr. Chairman.
CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just on the Consent Calendar withdrawals, I don't know if it's a withdrawal but it may require some discussion. We received a memorandum from County legal which I haven't had a change to digest yet having to do with that final order and I'm going to need some time to digest it. I don't know if others had read it yet.

CHAIRMAN ANAYA: Could you brief us on what's going on there, Steve?
STEVE ROSS (County Attorney): Sorry, Mr. Chairman. It must have been written by somebody else. I don't have any idea what -

COMMISSIONER SULLIVAN: It's from Greg Shaffer.
MR. ROSS: I don't have any idea what that's all about.

CHAIRMAN ANAYA: We can discuss that in order can't we?

COMMISSIONER SULLIVAN: If it's on the Consent Calendar we're just going to approve it but Mr. Shaffer is making some recommendations dealing with that order. He says I recommend the BCC take administrative notice of Mr. Vigil's permit application for a fence. It has to do with this final order. So I think we need to pull that off the agenda and find out what this is all about.

CHAIRMAN ANAYA: Maybe what we can do is, if you can give that to Steve. Have you read it, Steve?

MR. ROSS: I haven't read the memo.

CHAIRMAN ANAYA: Let him read it and then when we get to the Consent Calendar we'll discuss that. By that time, you'll have it figured out, right? Thank you.

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VII. Approval of Minutes: February 1, 2005

CHAIRMAN ANAYA: What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, I have a few typographical corrections and I'd move for approval with those corrections.

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

COMMISSIONER VIGIL: Second. I also have some.

CHAIRMAN ANAYA: There's a motion and a second with clarifications.

The motion to approve the February 1st minutes passed by unanimous [5-0] voice vote.

VIII. Matters of Public Concern – NON-ACTION ITEMS

CHAIRMAN ANAYA: Is there anybody from the public that would like to come forward and address the Commission?

IX. Matters from the Commission

B. Consideration of a joint powers agreement between Santa Fe County and the Eldorado Water and Sanitation District concerning joint efforts to provide a secure, stable and reliable source of water in the Eldorado Community

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. We've discussed this a couple of times in the past. You have in your packet a final draft of the joint powers agreement that has been hammered out with a number of revisions between the County staff and legal, our bonding staff, Mr. Peter Franklin, and the Eldorado Water and Sanitation District negotiating team. I sat on the sidelines on this so I would turn it over to Gerald Gonzales and to Steve Ross for very brief comments about the process and then ask for a few minutes. The district has a brief presentation that they'd like the Commission to take a look at.

CHAIRMAN ANAYA: Okay. Thank you. Would you like to come forward?

COMMISSIONER SULLIVAN: I thought maybe Gerald and Steve might want to summarize where we are at this point or we could just move right to the district, whichever is preferable.

CHAIRMAN ANAYA: Okay, Steve.

MR. ROSS: Mr. Chairman, members of the Commission, I think we'll tag team. Gerald has kind of a pro/con list on the agreement but I'm responsible for the agreement that's in your packet so maybe if I could just take a few minutes to run over and hit the high points of the agreement. We've had probably four or five sessions with members of the district.

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They early on designated a team of folks to negotiate and in the negotiations on the County side have been myself, the deputy County Manager and our bond counsel, Peter Franklin. And what you see in front of you has been the results of those meetings. You'll see a lot of similarities to the joint powers agreement with the City of Santa Fe concerning the Buckman Direct Diversion. We borrowed liberally from that agreement because frankly there wasn't time to come up with some other model for addressing the County oversight issue and I'll talk about that in a second.

Essentially, what the agreement provides for is that the County will assist the district in completing the condemnation. As most all of you are aware, the state jury returned a verdict on the value of the system in connection with their request to condemn the system last fall, and that jury verdict was just a little over \$11 million, of which the district already had a general obligation bond of approximately \$7.5 million in hand, and the \$4.5 that represents the County contribution under this agreement would help them complete and satisfy the judgment that the district court rendered on the value of the system. I understand that \$7.5 million – I'm using round numbers there; those aren't the exact numbers – is on deposit with the First Judicial District Court and all that's lacking to complete the condemnation is the deposit of another \$4.2 million, I think, and then the district will own the system.

So that's one of the first points that's addressed in the agreement is that the County will contribute this \$4.5 million towards the condemnation and in exchange for that, the County will become a part owner of the system, and that's a proportional ownership based on the contribution of the district vis-à-vis the contribution of the County with its \$4.5 million, and that comes out to 31.25 percent. Then the agreement says that from that point on the County and the district will jointly own, manage, operate the water utility.

One of the recent developments that a lot of you are aware of is the court of appeals opinion in a case challenging the districts issuance of the general obligation bonds. So there's part of a paragraph in here that provides that the County's obligation is conditioned on us receiving adequate assurances that the existing bonds, the \$7.5 or \$7.8 million general obligation bond is okay and we'll use – Mr. Franklin, our bond counsel will help evaluate the information that we're provided by the district. The other day I asked for something in writing from the current holders of the bonds, that they would consent to an amendment of the bond resolution. Both Mr. Franklin and myself thought that if the persons who actually hold the bonds now would consent to a change in the bond resolution that the likelihood of further litigation on that issue was reduced. So that's now in the agreement.

The third main point of the agreement concerns the day-to-day operations and the management of the water utility, we're calling it. Essentially all the day-to-day operations and management of the water utility is delegated under this agreement to the Water and Sanitation district. The joint powers board that this agreement creates really exercises an oversight role. So the day-to-day process of supplying water to customers within the area served by the water utility will be the district's responsibility. The responsibility to send out bills, to set rates, to do repairs, to respond to customers complaints, all that kind of stuff will be done by the district and not by the County, and subject to general oversight by the board.

That takes us to those provisions. The agreement sets up an oversight board whereby the County can exercise its oversight over its share, its 31.25 percent share of the system. And that board is composed of two members of this body, two members of the Water and Sanitation district, and a fifth person appointed by those four people. You'll notice the similarity right away with the composition of this board and the composition of the Buckman Direct Diversion board because this is the same exact methodology we used there. Two board members from each body and a fifth appointed by those four.

That board will meet at least quarterly and will exercise authority over certain types of decisions that the water utility might make on a day-to-day basis, including their budget, their annual budget, expenditures that exceed \$200,000, adoption and amendment of line extension policies, changes in the boundary served by the water utility and the adoption and maintenance of the district's capital improvement program for the water utility, the matter of any additional debt and the terms of that debt and some other responsibilities related to termination, which I'll talk about in a minute.

The board members from both the County and from the district side serve two-year terms but there's no limitation on the number of terms that people can serve. And of course one of the County Commission representatives on the board is the Commissioner from District 5

COMMISSIONER CAMPOS: Who came up with that idea, Mr. Chairman?

MR. ROSS: Actually that was the district's idea. So there are the usual provisions in there for governance of the body and for replacement members and alternate members an things like that.

Then we get to some of the supplemental obligations of the district. Currently, what I've describes up until this point is the day-to-day maintenance and operation of the water utility as currently constituted, customers, wells, pipelines, things like that. These are additional obligations that the district has agreed to assume in connection with this project. The first of which is to develop a plan for financing, constructing, operating a water supply pipeline to interconnect the County system with the district. This is in response to County concerns that are long-standing concerning the actual physical availability of water in the Eldorado area. This plan has to be presented to this body, to the district board and the joint powers board within three years. And then the provisions go on to state that if it's technically and economically feasible to actually construct the pipeline, that the parties will formulate a plan to do so and memorialize that plan in an amendment to the agreement. And it provides for the terms of the agreement.

Another supplemental obligation that the district has agreed to assume in connection with this agreement is to plan for sewage collection and treatment in Eldorado if that's economically feasible. Similar provisions apply here. A plan must be prepared and presented to all three bodies within three years and then if the plan seems to indicate it's feasible to then go ahead by amendment to the agreement and work on actually constructing such a system. Then finally, the district has agreed in connection with this to participate in a study of aquifer storage and recharge projects with the County within a reasonable time of the execution of the agreement. This is the most flexible of the three conditions and similar provisions exist there if

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it seems to be feasible to do such projects. They also will be done and they'll be documented in a supplemental amendment to the agreement.

The district agrees to participate in County/regional water planning and conjunctive use strategies. We've talked a lot about this. Some of the language in this agreement was pulled directly from the principles of agreement that we have with the City and this section here is intended to harmonize regional water planning that we've been engaged in with the City and with others. You'll see some familiar language in here. Sustainability of groundwater resources, reasonable conservation measures, limits on residential water consumption, references to the County's regional plan and general plan and other things.

They've agreed in the agreement in Section 9 to provide fire protection in the area, and in Section 10 to permit the County to wheel water over the system to other places such as Cañoncito perhaps or Cañada de los Alamos. Of course 10 is probably only practical once the pipeline interconnection is in place. Section 11 is a district section whereby they set for their mission statement with their goals that rates in the area be just and reasonable and that design, construction, maintenance of their system is done according to accepted utility practices.

Sections 12 and 13 are boilerplate sections taking us to Section 14 which is the termination provision. There is a termination provision in every JPA that's required by statute. This is a little unusual because it has a more explicit repurchase option in here which we've discussed. As you recall when we first were talking about assisting the district it was in the form of a loan. It's now not a loan, but there is remaining in here the three repurchase options whereby the district or the County can force through termination of the agreement a buy-out of the County's \$4.5 million plus interest. If that occurs, the County's contribution has to be repaid with interest based on the interest that we receive on funds on deposit with the local government investment pool, which is where quite a bit of our overnight investments are right now.

Other than that the termination provision is fairly straight forward except for the fact that in order to discourage any party from terminating the agreement, any termination must also receive the approval of the joint powers board, except in the instance - suppose the district is able to accumulate sufficient cash to buy-out the County, under that specific circumstance there's no approval by the joint powers board of termination; that just happens.

Moving through the remainder of the agreement quickly. Most of this is boilerplate. The insurance clause is fairly standard. Today I noticed some typos in 18. Most of the references in there to the requirement to perform an annual audit and prepare records and statements and things like that are to the joint powers board, but in this instance since the joint powers board is going to have no budget and no staff, I think and Mr. Coppler agrees, that those references should really be to the district. So for example, in 18.2 it says Each year the joint powers board shall cause an annual audit to be performed by an independent, certified public accountant... I think that should read, Each year the district shall cause an annual audit to be performed by an independent certified public accountant. And that occurs throughout this section, 18.1, 18.2, 18.3, 4 and 5.

So if you want I can read those proposed changes into the record or perhaps just a

general description will suffice.

The liability provision is standard under 19. That's a standard provision that's used when two governmental entities join in an agreement. Same thing with paragraph 20. Paragraph 20, one is the dispute resolution from the Buckman agreement with the City, and all the rest of this is boilerplate. Unless you have any questions Mr. Gonzalez can walk you through what he's identified as pros and cons of the agreement.

CHAIRMAN ANAYA: Any questions of Steve? Gerald.

MR. GONZALEZ: Thank you, Mr. Chairman, members of the Commission. First I'll begin by pointing out that two Commissions ago the County did support the district before the Public Regulation Commission when this matter was before them on the basis that it was better to have the system in public ownership rather than private ownership. Going over the pros and cons themselves, Steve pointed out that there's the oversight board which would govern those items that he's enumerated. Of course that's pro. On the con side, the fifth board member to be selected by the two entities is an unknown so that's sort of a leap of faith uncertainty built into the agreement.

On the pro side there is support for other County water-related initiatives. We have the pipeline interconnection. We have regional sewage collection and treatment, aquifer storage and recharge, and then support for County regional water planning efforts, sustainability, for system integration and management, and it wasn't clear to me in looking at the agreement when we were talking about system integration and management whether the agreement is speaking of system integration and management internal to the district system or whether it is system integration and management between the district system and the County system.

Nevertheless, other initiatives related to water would be imposition of conservation measures including not more than .25 acre-feet for residential and reasonable use by commercial, apparently to be enforced by creating graduated rates that would impose essentially a penalty for water usage higher than those amounts. Cooperation with the County on its regional water plan and general plan and other relevant County documents.

On the con side, at least four of those items would require a study and a separate agreement to be negotiated between the County and the district. So there would be future agreements and future negotiations that would be necessary to effectuate some of these items that I've just enumerated.

On the pro side the agreement would address some current County concerns, one having to do with providing adequate water for approved fire hydrants. Some of the Commission members may recall that this sort of triggered the moratorium movement that occurred some time ago that resulted in the moratorium imposed in this area. In addition they would be required to permit wheeling to the extent that it didn't compromise customer service and the County would pay reasonable wheeling charges. I guess the comment here is that those two provisions and several others would not survive the agreement in the event of a buy-out for the system by the district. The termination of the JPA would require a one-year notice allowing preparation for that to occur. The County would receive interest based on the State/Local Government Investment Pool interest rates that would have applied during the period that the

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agreement was in effect. But again, upon termination, the County system and the system would disappear entirely.

The agreement requires carrying separate liability insurance. On the pro side, separate liability insurance makes each part responsible for their own liability. On the other hand, there is the issue of what kind of legal matters a county could be pulled into and I'll come back to this again shortly.

County total cost would be \$4.5 for this access to the system and the ability to effect the items that I've just indicated. That's on the pro side. On the con side of course, the County's funds would be depleted by \$4.5 million, and there is some uncertainty of how the County would provide the \$4.5 million without impacting other current County priorities, that is, are there sufficient available funds at present for future water rights purchases that the County is involved in for future County water projects and for future County wastewater projects.

Regarding the water rights purchases, we currently have approximately \$4.1 million in pending purchases being made or in process by the County and possibly an identified \$1 to \$1.2 or \$1.3 million in additional purchases that we're in the process of negotiating at present. This funding, given where we're at at present with respect to the issuance of water bonds would come out of the GRT funds that have been flowing into the County. So that can be counted as a plus or a minus depending on how you add it up. The County's ownership would be joint ownership so on the one hand, there would be no surprises regarding system problems. On the other hand there would not be any discreet County ownership of any portion of the system.

With respect to potential legal issues that I reflected on earlier, at this point it's not totally clear to us anyway at the staff level whether the district can successfully cure the recent court of appeals ruling and issue the bonds, although they seem to feel that they can. There is also the possibility of future additional litigation uncertainties. Potentially, if we entered into the agreement, even the re-issuance of bonds could be somehow attacked legally, or any future litigation items that were brought, it's likely that the County would be named as a party, since they would then be a partial owner of the system. Finally, DFA approval of the proposed JPA is not assured. It's still not entirely clear whether the DFA would raise somehow the loan issue again on some other level and I guess a final point is is there some way that entering into the agreement could impact the current moratorium that's in place. So those are the pros and cons that I've identified, Mr. Chairman, members of the Commission.

CHAIRMAN ANAYA: Thank you, Gerald. Are there any comments from the Commission? Hearing none, would you like to come forward and give your presentation, Mr. Nichols?

RAY NICHOLS: Thank you, Mr. Chairman and Commissioners. We've had pretty good coverage by your staff but if you'll bear with us just a little bit we do have a brief presentation. I have a handout. May I distribute that?

CHAIRMAN ANAYA: You bet.

MR. NICHOLS: Mr. Chairman, Commissioners, in previous presentations to this Commission, we described the needs that we had for funds to complete purchase of the water system. As a matter of fact, a year ago we had in hand the money that we felt was

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necessary to buy out the system. We were prepared to cover the market value of the system as determined by the contract between Eldorado Utilities and Utilities, Inc. In September a jury determined that the value was not \$6.3 million as had been anticipated, but a little more than \$11 million. Once we got that word, we immediately went to the New Mexico Finance Authority to see what kind of financing we could get to cover the remaining \$4+ million.

The New Mexico Finance Authority for the second time was not able to accommodate us because of pending litigation. It was at that point that we met with County staff to see what arrangements we could work out. And those arrangements were discussed over a period of several months with several iterations of a joint powers agreement. We finally arrived at the joint powers agreement that you have in your packet. Although we gave up certain ownership and management controls that we had hoped to retain, we think that the agreement is a good one. It's certainly acceptable to us and we think it's very workable. As a matter of fact, at our board meeting last night we passed a resolution which approved the JPA from the district's standpoint and we recommend it to the Commission.

Mary Reynard is a member of our board and has been acting as the board's representative on this negotiating committee that was mentioned earlier, and Mary would like to cover a number of items. The packet that you have, it was the total presentation. We have cut back on that significantly and Mary will cover the items that she wants to cover. Thank you very much.

CHAIRMAN ANAYA: Thank you, Ray.

MARY REYNARD: Thank you, Ray. I do have a brief power point presentation, Commissioners. Thank you very much for letting us come before you and talk about the proposal. Mr. Ross did an excellent job of reviewing the joint powers agreement with you and going over the salient parts of it. What I'd like to do is talk quickly. I'm going to shoot through several of these slides and just talk about the joint powers agreement from the district's point of view.

When we began the discussions with the County, we set out certain values or guiding principles for the negotiations and for the document that would result from those negotiations. First we wanted the negotiations to be a collaborative effort between partners. We approached the discussions openly and honestly and in full confidence that we could work out an agreement that would be mutually beneficial to the County and to the district. Since we in the district are committed to a regional approach as I know you are, for water resource management, we hoped our approach could serve as a model for effective collaboration between two entities.

We feel strongly that we've created a mutually beneficial arrangement wherein the County provides necessary cash to the district and in return the County receives an equity partnership in the district's water system. In this case, the return on investment for the County is involvement in decisions and planning related to water resources in the Eldorado region. The joint powers board, you've heard in some detail what the membership of the joint powers board will be, made up of Commissioners from the County, made up of board members from the district, and a fifth member that the other four would all agree upon. And although we understand the County does not want to be involved in day-to-day management, the joint

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powers board does have oversight of items such as the budget, expenditures over \$200,000, any changes that are proposed in the service area, decisions which might impact County land use policy, adoption and maintenance of a capital improvement program, adopting and amending line extension policies, and incurring additional indebtedness to name many.

In this collaboration in the joint powers board we would also work together to provide a preliminary plan for financing, construction and operation of a water supply pipeline to carry water from the County to the district. We would collaborate to complete a feasibility study of the construction of a wastewater disposal treatment facility, and we would collaborate to assess the feasibility of construction of a system of aquifer storage and recharge.

The option, if we do not receive the \$4.5 million that we're looking for, as I think you know, we have a deadline of June 1st, which is fast approaching. If we are not able to find the \$4.5 million that we need to complete the purchase, the cost to the community will include \$4 to \$5 million in interest, \$1.5 to \$2 million in EDU legal costs that we would have to pay, ongoing taxes to members of our community until the general obligation bonds are paid off, heavy legal expenses and loss of the entire water system. But the losses do not only occur in the community. There is a real cost to the County if we don't finish this purchase. If the system reverts to private ownership, I think the County can expect minimum involvement in regional planning, minimum cooperation with the County, and in my opinion and in the board's opinion, a profit motive would replace stewardship and commitment to the public good.

We believe that the partnership that is memorialized in the joint powers agreement is an excellent partnership. The County receives an ownership share in the district as is appropriate in return for their investment. The district receives the money that it needs to complete its purchase of the water system, and the district commits to active participation with the County in regional planning efforts such as conservation, becoming a wholesale purchaser of water from the County, research and studies related to pipeline interconnection projects, planning for regional sewage collection and treatment, aquifer storage and recharge projects, regional water planning and conjunctive use strategies.

Together we believe that the district and the County can pursue their mutual goals for sustainability of the aquifer, conservation, conjunctive use, good capital improvement planning, seeking state and federal funding together, and, most importantly, together we can achieve the ultimate goal of providing a stable, reliable and efficient source of public water to the 2800+ families in Eldorado.

Finally, I'd like to mention that we had a public meeting on Monday in Eldorado. It was very well attended. We had over 100 people there. We went over the elements of the joint powers agreement. We went over several other options that we've been looking at and we found that we had overwhelming support from the community to pursue the joint powers agreement with the County. And I think we have a pretty good group of people here who are here to demonstrate their support as well. So that's all that I have to say. Do you have questions that I or anyone here can answer?

CHAIRMAN ANAYA: Thank you, Mary, for your presentation.

MS. REYNARD: You're welcome.

CHAIRMAN ANAYA: Do any other Commissioners have any comments? Okay, I've got a question. Gerald, is this just for discussion only? We're not acting on anything? What is the intent here? Just for information purposes?

MR. GONZALEZ: Mr. Chairman, members of the Commission, it's been noticed so that the Commission could take action today.

CHAIRMAN ANAYA: Okay, we're we supposed to have public hearings on this? You shake your head no. Tell me why?

MR. ROSS: Mr. Chairman, there's no requirement of a public hearing.

CHAIRMAN ANAYA: No requirement for public hearing? Okay. I know that there are some people in the audience that are against this and I'd like to hear from them if the Board is in favor of it or what is your - any comments?

COMMISSIONER CAMPOS: Mr. Chairman, if this can be kept brief and to the point I have no objection. If we can spend just a few minutes I have no objection to that.

CHAIRMAN ANAYA: Okay, just a show of hands. How many people here are in favor of this? [Approximately 40 people raised their hands.] You all pretty much agree with the presentation and what's been said? Okay. Sir, you had two hands up. That's not fair.

AUDIENCE MEMBER: I'm voting for my wife as well. I'm her proxy.

CHAIRMAN ANAYA: Okay. How many are against this? [Two people raised their hands.] Would one of you - you can both speak. I'm going to just give you a very short time. If you could just get to the point on what you don't agree with.

PAT COUGHLIN: Mr. Chairman, Commissioners, my name is Pat Coughlin. I live in Corrales. I lived in Santa Fe in the early eighties for five or six years and was the founding purchaser and have done some very, very limited development out in the Eldorado area, going back to 1983. I have been involved in the process, seeing Eldorado grow from a community of 125 homes to where the valley is right now. I personally right now, myself and some investors, own two different parcels of property that are within the Water and Sanitation District, depending on the map you look at, I have either two or one. Nobody seems to be able to tell me which one is in, which one is out.

At any rate, I have property that's within the district. I'm being taxed on it, paying the taxes and bearing the tax burden and the expenses that the district is putting on my property. I cannot receive any water service because of the water moratorium that's imposed in that area. I look at situations, being a taxpayer and having to support this, I look at situations, for example, the prior speaker mentioned whereby the original price was to be \$6.2 million and it went to \$11.2 or whatever it was through a court proceeding. Well, the reason for that was because when Utilities, Inc. was going to buy the system, that's a regulated authority and they were going to be under the auspices of the PRC and those water rights could not have been marketed outside the system. Well the Water and Sanitation District chose to be non-regulated. They made it so that they could sell those water rights outside the system, whereby the market value of those rights went up.

Now, as a businessman, I would have taken that into consideration beforehand instead of coming back and saying, Look, I've got a problem here. All right? I've seen one instance

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after another of failed business practices with the Water and Sanitation District and I do not trust them to be able to provide me water at any time. I'm concerned about it. I'm also concerned about the County, frankly, getting involved in a situation that could provide liability for the County in terms of ongoing litigation. As was mentioned earlier, the appellate court recently stated that the bonds that were issued were illegal. That has yet to be determined how that's going to be resolved. If the County buys into 31 percent of the system, assuming that some kind of purchase could be validated rather than it being perceived as a loan and I think there might be some consideration about that in the courts, then would you become part and parcel to any judgments that might come forth to litigants that currently have litigation against the Water and Sanitation District for damages.

There's some real issues here. I don't feel that it's being approached in a business-like manner. Although it may not be required I would have to say that in light of due process, there should be public hearings on this. This is a major step that is taking place here being considered. I think that when you look at something, for example, where the New Mexico Finance Authority said twice that they would not provide financing for this and that they can't get conventional financing, that ought to tell you something from a business standpoint. That's essentially what I wanted to say. I'm trying hard to maintain good faith in government. When I have had my property unable to be developed - I want to build a house out there. I can't do it without losing a tremendous amount of money.

The thing that I'm concerned about is that I remember nine years ago when the water moratorium went into effect I was here and I've been very involved in the community out there. I've been trying to get involved in a positive way in the community. I've been a founding member of the 285 Corridor Committee and chairman of the Simpson Ranch Committee twice, trying to work with people. And we've had some very positive elements take place out there. It's a very positive situation. Some not so, but for the most part it's been very positive. I think that the people that do not have water provided them but that are paying taxes to support the system have to be given consideration. It's only right. Government is not to oppress the people, and I feel oppressed. I don't know what to do or who to go to. I've tried to operate in good faith at all times and I see nothing but maneuverings and manipulations that I consider to be less than aboveboard taking place, subverting what I'm trying to do in an aboveboard manner. I'm certainly not accusing you folks of that; don't get me wrong. But when I see these kinds of things going on with Water and Sanitation District coming along and now wanting to have the County help them, bail them out from the mistakes that they've made getting up to this point. And I have to pay for it. And then I can't get water. There's something wrong with that picture. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: I gave him four minutes. You've got four minutes.

FREEMONT ELLIS: Okay, I'll try to keep it quick. I'm not necessarily against or for this in any adamant way except in terms of some very serious questions I think that need to be asked and considered, especially for a joint powers agreement. But first of all, let me say that considering the ramifications of the County becoming involved in something like this that all the details should all be extremely well disclosed to the public and very serious public

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hearings should be taken part in, at least two County Commission public meetings. When you look at the fact that the corridor plan and the Simpson plan had to go through any number of public hearings in order to get consensus and everybody heard by the Commissioners then I should think you would be very concerned about doing the same thing here.

First of all, as well, the joint powers agreement, as far as I can tell, if the County gets involved then you need to look at the fact that by County involvement you're automatically somewhat admitting that the moratorium is no longer valid, because then you're engaging your water capacity rights in conjunction with the Eldorado Water and Sanitation District and at some point or another you're going to have to drop the moratorium because it cannot be permanent. A moratorium is not defined as something permanent.

If you look at the documents in the JPA, for example, on the second page, there's language through the middle of the page where safe and reliable water is to be provided to the greater Eldorado area, focusing on excellent operations and service in partnership with its customers. Now, I live at San Sebastian Ranch. I'm not in the least bit tied to the Eldorado Water and Sanitation District except as a County taxpayer. So you need to look at what I'm saying from that perspective. I'm looking at it slightly from the outside. My understanding is that if an agreement like this comes about between the County and the EAWSD then you're going to have to face the fact that provision is going to have to be provided before you export water out of that system, you're going to have to provide water to all of those people that were promised water by the EDU that the EAWSD would like to refuse based on a moratorium that they would hope would be permanent, forever. And I think you can see the logic if the County gets involved then you can't keep that going forever.

Another thing that I think is very important is that there's no consideration for upstream an downstream water rights that the Eldorado Water and Sanitation District and before them the EDU in terms of draining our water tables, I can prove that one of our water tables in my area has been drained by about 20 feet in the last 20 years. We've had two wells run dry in the last eight months in our area and that means that the Eldorado Water and Sanitation District area, whether it's that district or it's called something else has been affecting our water tables in the Mountain District as Mr. Campos knows.

Another thing I'd like to ask is if the County's going to get involved, whether it's 31 or 41 percent of the value of ownership, my understanding is that when you really look at the amount, the County should own 41 percent of it, why wouldn't the County share in the profits in that? Is this a grant or is this a loan? Just exactly what is this? And I believe Manager Gonzalez asked a couple of those questions as well.

I think full public disclosure on the water rights that are involved, whether they've got 750 acre-feet, 785 acre-feet, all of that's very important. You're talking about a water pipeline that could be put in that could be used to transport water from the County to Eldorado but it can also be used to transport water from Eldorado to the County. There's elements in the JPA talking about wheeling and in Section 6 there's regional sewage collection and treatment and return flow credits for sewage. Those are water rights. They should not be allowed to export water rights until they resolve the water rights that they have to provide to the people that live

in that entire area and were promised water in the first place, before the moratorium. There are a number of issues that are not clarified in this entire situation with the JPA. I think it would be extremely premature for the Commissioners to approve such an agreement without getting down to very nitty-gritty details and facts and issues and resolving those, not just amongst yourselves and County Land Use, etc. and Hydrology, but amongst the entire community.

CHAIRMAN ANAYA: Okay. Thank you, Freemont. Were you invited to the last meeting they had?

MR. ELLIS: No, I was not invited but I did go, this last Monday.

CHAIRMAN ANAYA: Didn't you raise those questions at the meeting?

MR. ELLIS: Well, I raised two questions. One I raised was just exactly what happened to the ten percent of the 41 percent ownership. They were saying that the County has 31 percent ownership and if you look at the \$4.5 million and divide that by the entire amount that's involved, it ends up being 36 to 41 percent. And when I asked them what just exactly happened to the other ten percent of the ownership, they submitted to me that the legal fees and amounts that they spent since 1997 were being credited by the County in the amount of \$2 million, or \$1.1 million, depending on just exactly what figures they keep flying around with, and they said they were being credited with those amounts and therefore the County's ownership was reduced because of that.

Well, if you look at that on page 2 of the JPA it says \$2 million in costs since 1997 - I've got it right in front of me, that means that they've spent \$250,000 a year since then in legal fees. Now just exactly why would the County grant them immunity from value for that if they have not proven it in detail? Where's the accounting for that? Just exactly how many hours, what expenses were involved, just exactly what was involved with those \$2 million in expenses that reduces the County ownership by approximately 10 percent. There's no detail like that.

CHAIRMAN ANAYA: Wrap it up, Freemont.

MR. ELLIS: The second thing I brought up is that there are a number of other areas in Santa Fe County that very seriously need help from the County in their water systems far more than Eldorado. Eldorado has a water system that's functioning. It's working. It provides water, although they're trying to make sure that they don't provide water to the people that they originally promised to provide to and they're incurring legal suits and so forth and so on, and therefore the County would take those things on as well. But if you look at Chimayo and La Puebla and Cañada de los Alamos, Cañoncito, La Cienega, even Galisteo probably, there are a number of areas in Santa Fe County that could benefit enormously by having \$4.5 million spread out between them even, if not to just one of them, to resolve issues that are far greater than the problems that Eldorado is suffering right now. Now, I'm not saying that the Eldorado water system does not have problems. Obviously it does when you look at all of these issues. But you understand.

CHAIRMAN ANAYA: Thank you, Freemont, for sharing your concerns.
Commissioner Vigil.

COMMISSIONER VIGIL: I have a couple of questions and perhaps the appropriate staff person could respond to this. Initially I supported this initiative because it

made sense to me. I don't know that I know any other community in the county that mobilizes together as well as Eldorado does to create a product or come forth with an initiative, but after having heard that the County is prohibited from loaning money I sort of backed off thinking can we or can't we do this? If it is actually viewed as a loan, will legal respond to that?

MR. ROSS: Mr. Chairman, Commissioner Vigil, are you asking whether this is a loan as is presently structured?

COMMISSIONER VIGIL: I think I'm asking if it is viewed as a loan, what prohibits us from doing that?

MR. ROSS: We don't have the authority to loan money, either under the County statutes or otherwise that we can determine. The same thing applied to grants. My research and that of Peter Franklin, our bond counsel, when the suggestion was floated early on, we can't find anywhere in the statutes or in the constitution or otherwise that the County has authority to lend or grant money. So when you start talking in terms of granting or lending sums of this size we became really concerned that were we to agree to that it would result at a minimum in an audit finding or perhaps litigation, what have you, by taxpayers. We think it's really questionable.

There's another thing I can point to, there's no statute that says the County shall not loan money, but the County is a body of sort of limited authority. Recently, the courts have said that County's must tie all their actions to specific authority in the statutes. And there's nothing in there about loaning or granting funds. Fifty years ago you might have looked at this a little bit differently because at that time it was thought that counties had broader authority, more akin to that of the state. But fairly recent court decisions have seemed to indicate at least that the courts think of counties as bodies sort of like municipalities, limited by statute and they must trace their authority to statute.

So given all that it's our opinion that counties can't loan or grant money. I don't think this is a loan. We took great pains to ensure that this is not a loan. It certainly started out as a proposal for a loan but right now, the way this thing is structured is as basically a buy-out provision. It doesn't call for periodic payments. It doesn't set a term under which payments must be made and it doesn't set a loan interest rate or anything like that. It simply provides in the event of a termination, essentially what it is that one party will buy-out the other.

COMMISSIONER VIGIL: I have another question, Mr. Chairman.

COMMISSIONER MONTROYA: Mr. Chairman, on that point.

CHAIRMAN ANAYA: Hold on one second. He has something on that point.

COMMISSIONER MONTROYA: Mr. Chairman, on the document that we received it says advances. Is this an advance?

MR. ROSS: You're referring to the document that the district passed out?

COMMISSIONER MONTROYA: Yes.

MR. ROSS: The joint powers agreement act permits advances by one party to another in furtherance of the goals of the joint powers agreement and I think the use of that word advances was intended to refer to that specific authority granted under the joint powers agreement act, whereby one party can advance another party funds. I think that's what that

reference means.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Well, my legal mind is having difficulty with that because this actually involves a transaction where the County actually advances, not loans, buys out, whatever. There is a transaction that actually occurs here and that is the County has \$4 million and the County will give that \$4 million to the Eldorado - I don't know whether to say give or loan or grant. I'm sort of strapped here not knowing exactly which way we're proceeding with this. It's so nebulous. Not that you need to respond to that, Steve, because that's just the confusion that I'm having with it.

The other issue I guess I have with it. Again, Susan, I'd like to ask you, part of the pros and cons presentation with regard to this, and I think part of our role up here is we really have to be prudent principals for the dollars that I think we have elected to be responsible for. So with regard to the \$4.2 million, my concern, and I'll put it as basically as I possibly can is if we give, loan, grant, buy out, make available four point some million dollars to the Eldorado Water and Sanitation District and two years from now we're caught up in needing liquidity for some needs that the County has, where are we with that and do you have any concerns about that?

SUSAN LUCERO (Finance Director): Mr. Chairman, members of the Board, Commissioner Vigil, what my concern would be is just looking at the overall financial requirement of a project this size. \$4.5 million equates to one and a half years worth of revenue stream from our capital outlay GRT that right now we dedicate to all County related projects, with regard to water, water rights, water infrastructure, etc. So just from that standpoint, it's a huge investment that will take time to gain a return on your investment. I have not familiarized myself with all of the JPA requirements but I'm not sure how that return portion is built in in terms of our investment and what the annual projected profit margin would be and how the County as well as the district would fare from that type of partnership. So that's something I would want to study.

The feasibility of the overall system, if two years down the road, which of course you do in any kind of project like this, you're looking at new investment, new capital that's required to keep the project going, to enhance, expand, rehabilitate, etc. Where would and how would the parties negotiate that? How would we come to the table and find additional revenues or other streams in order to do that? And like I said, I haven't familiarized myself with all of the JPA requirements and perhaps that's in there. I do not know.

COMMISSIONER VIGIL: Is there a payback provision? I didn't see one.

MR. ROSS: Mr. Chairman, Commissioner Vigil, how do you mean? There is a repayment option in the agreement. The way it works, if the County wanted to get out of the agreement, the County would terminate the agreement. There's a provision in the agreement that says if the County terminates then the district must exercise its repayment option, which is set forth in a different section. So if the County terminates, essentially you give them a year's notice of termination and they're required to exercise their repayment option and buy the County out at that point.

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COMMISSIONER VIGIL: Is the repayment option actually laid out? Do we require payback within a certain amount of time if we opt out? And full payback?

MR. ROSS: Full payback with interest according to the LGIP rate, that's correct.

COMMISSIONER VIGIL: And is that, is there a specific amount of time that that needs to be done? Part of the problem is if that actually happens, what if the Eldorado Water and Sanitation District doesn't have the money to pay us back?

MR. ROSS: That's right, Commissioner. You can't think of this as a liquid repayment option. Under some circumstances, like say, early in the agreement in the first few years, until this litigation is solved, there's no way or it's impractical for the district to obtain revenue bonds. So say we gave them a year's notice right after the agreement was entered into, there's not going to be any way for them to exercise their repayment option without unduly burdening the ratepayers and the taxpayers in Eldorado. So under that circumstance it would take probably several years before they could actually make good on the obligation to exercise the repayment option.

Particularly early in the agreement that would be a problem. Later on as they've had a chance to accumulate capital and deal with all the litigation it becomes more of a liquid kind of asset of the County. But early on, I wouldn't consider it to be something we can get out of. We certainly shouldn't go into it thinking we're going to get right out of it.

COMMISSIONER VIGIL: Thank you. Mr. Chairman, I just have one more question and I'll defer to my colleagues, because initially, as I said, this seemed like such a simple resolution to assist the community and I do believe in partnerships and creating the opportunity to help each from that perspective. But since then it's become far more complicated to me and one of the complications, and I'm not sure any of our lobbyists are here, Gerald. You may be able to respond to this. This is just a frank question because I do lobby at the legislature. One of the messages I've gotten and this is not from all our delegation because those of you who go there recognize that you'll hear one story one day and the other the other. But one of the things I have actually heard is that we are actually before the legislature for capital outlay monies ourselves for projects that are necessary to Santa Fe County and in fact I've heard that those are possibly in jeopardy if we actually have \$4 million to allocate to the Eldorado Water and Sanitation District. Has the County heard that same message?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, yes we have and I'm not sure at the legislative level they distinguish between whether it's a loan or whether it's some other form of agreement. As you know, they simply count dollars and if they see dollars coming in, the question is where's the money coming from and why is it going there? So in some respects our fate here is not only in our own hands but to some extent also in the hands of other governmental entities or officials. Legislature is one. The other is DFA and even though we may take the position that this is not a loan, certainly DFA still has the option of taking the opposite position regardless of what our conclusion is.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Commissioner Sullivan.

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COMMISSIONER SULLIVAN: Just a couple of comments to follow up on Commissioner Vigil. I attended a capital improvements hearing recently and representative Whittaker said to me personally, he said You know, the communities that come to us that have some buy-in funds for capital outlay projects are the ones who receive our funding. If they have some support, some share in the project. So sometimes on one hand you'll hear, Well, gee, if Santa Fe County has this money then they don't need money at the state legislature. But on the other hand, in point of fact, where you are able to get funding from the legislature and Eldorado is seeking funds from the legislature as well to help them with their wellfield improvements, is when you can demonstrate to them that you have a community partnership, that you have a partnership with other political entities, which is what we're trying to develop here. And that's the message that I've heard.

So sometimes you'll hear excuses for not giving money and one is you have too much money and the other is you don't have enough money. But either way, I think reasoned partnerships show up in the legislature as being useful.

In terms of what is this animal? Is it a loan? Is it a grant? That is difficult to categorize but I look at it as an equity partnership. It's basically where we have funds coming in to the tune of \$7.5 million a year in gross receipts tax funds. Now, if the legislature, if that were to affect our ability to get funds at the legislature, I'm not sure there would be any difference whether we are doing something with that money or whether we're doing nothing with that money. That money is still coming in. That gross receipts tax has already been passed. So if I were a legislator I would say, What are you doing with that money? Are you getting it out into the community? Are you doing things that provide for safer public water systems? And I would say, Yes, we are. If we're doing nothing with it, if we can't develop partnerships like this, we can't do grants, we can't do loans, what are we going to do with that money? We have to have a mechanism and I think this is a good mechanism to do projects like this and other projects in both the north and the south part of the county.

So I look at it as an equity partnership. I think that's the kind of partnerships we want to develop. We want to develop that in the entire county. I think this is a prototype for doing that. It's not exactly the kind of document that we've dealt with before so we've had to personally work through it so it will pass muster at DFA. I think legal is definitely comfortable with it now. We do have the ability to get out of the document if we need that liquidity later on but as Mr. Ross says, I think we are making a commitment to the community to partner with them until they become financially solvent and solid. Thank you.

CHAIRMAN ANAYA: Any other comments? Commissioner Campos?

COMMISSIONER CAMPOS: Mr. Chairman, I do believe that public ownership is what we need to look at. I think we have to look at our County money in perspective of what we can do regionally and advance the interests of the greatest number of people in the greatest need. I do have a problem with this agreement. I think it is a loan. I think it's slightly disguised but it is a loan. I think it's too much money so I'm really not inclined to support it. I'd like to work with the district but not in this way. I think public ownership is important. Regional planning's important. But this doesn't cut it for me. Thank you.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I just want to clarify a few things here for my own thinking. This can probably be confirmed with a simple yes or no, maybe by someone from the district. In this handout again, that you gave us, there was a contract for \$6.3 million and now it's December 2001. Was that the announcement of the sale for the utility at that point, for \$6.3 million?

MR. NICHOLS: Actually, in December of 2001, the contract between the two utilities was announced at \$5.8 million, plus the cost of a rather sophisticated monitoring system, which brought it to about \$6.3 million.

COMMISSIONER MONTOYA: Okay. The decision of that time of the board was to seek condemnation in January of 2002. Is that correct?

MR. NICHOLS: We made a study of what condemnation would cost. We presented it to the community and asked the community to tell us whether or not they wanted us to go forward. They said, Yes, you should go forward. We held a bond election and in that election the voters voted better than two to one in favor of issuing the bonds.

COMMISSIONER MONTOYA: Right. What does that have to do with the condemnation?

MR. NICHOLS: Well, that gave us the funds that we needed to file for condemnation. The bonds were ultimately sold in January of 2004 and we filed for condemnation in February 2004.

COMMISSIONER MONTOYA: And those are the bonds that are currently in question right now.

MR. NICHOLS: Well, there is a question.

COMMISSIONER MONTOYA: Okay. So then you filed in February 2004 the condemnation.

MR. NICHOLS: Yes.

COMMISSIONER MONTOYA: And the jury determined that it wasn't \$6.3 million but it was \$11 million.

MR. NICHOLS: That's their conclusion. Yes.

COMMISSIONER MONTOYA: Okay. So by filing the condemnation the price went up \$5 million from what was being originally offered to what was determined.

MR. NICHOLS: That's the way it came out. We had every reason to believe that the market price had been established by the contract between the two utilities and that was the amount - the jury was instructed to determine what the market value of the system was. They chose in their wisdom to come up with slightly more than \$11 million.

COMMISSIONER MONTOYA: Okay. And you're saying you have the seven million dollars to pay for part of it, with those bonds.

MR. NICHOLS: Yes.

COMMISSIONER MONTOYA: Okay, and then the other question I have, the due date that was originally given was February 28th or March 1st in discussions that I had with you and now it's June 1st. Why has that changed?

MR. NICHOLS: The judge established that. We had suggested December 1st of 2005 and Judge Hall set June 1st as a reasonable length of time from November when he made that ruling until June for us to acquire the additional funding.

COMMISSIONER MONTOYA: So where did the March 1st urgency come from?

MR. NICHOLS: I am not familiar with the March 1st.

COMMISSIONER MONTOYA: That was the discussion that I had with you and Mr. Coppler.

FRANK COPPLER: Yes, that was the difference between the interest rates set by the court, Commissioner Montoya, for the period of time prior to the take-out of the \$7 million by the condemnee. Up until that date, it's a six percent interest rate. After that date, it's a ten percent interest rate. So the urgency of that date was that the interest rate on the judgment went up by four percent. That was the urgency.

COMMISSIONER MONTOYA: So the interest rate's gone up then, based on that.

MR. COPPLER: The interest rate has now gone to ten percent, which is the urgency of our appearance before you today and asking for entry into the joint powers agreement so that the County can buy in and we can deposit those funds and stop the ten percent because that's a substantial amount of money every month. A substantial amount of money.

COMMISSIONER MONTOYA: Okay. That clears it up.

MR. COPPLER: Then on the court of appeals issue, the court of appeals is in the process of considering a motion to amend the judgment to fix the resolution without any further to-do in the courts. And just to bring you up to date on that, yesterday, Judge Hall in the district court granted the motion of AMREP, the owner of the utility, to take the \$7 million out of the court. So the condemnees have accepted that money. Judge Hall has released that money, which means that Judge Hall has no question in his mind that when that court of appeals opinion comes back down he will fix it by merely severing the provision of the resolution. So that court of appeals opinion is simply not a problem for the reason that the courts look at that as merely being fixable by the severability clause in the district's resolution. If there was any problem at all with that, Judge Hall would not have released the money yesterday.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN ANAYA: Any other questions? Okay, I've got a question to legal. If we do lend them the money or however we were going to put it and the Eldorado Sanitation District has pending and threatening litigation, are we going to be involved in those litigations once this money is transferred to them?

MR. ROSS: Mr. Chairman, I guess the short answer to that is I don't know. I suspect that as a co-owner of the system we would be named in any future litigation that pertains to the district, perhaps even litigation related to the financing. But I don't have - I think we can expect to be named as a co-defendant in any kind of litigation that occurs but I

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don't have a crystal ball as to what kind of litigation might ensue. There's quite a bit of litigation that has occurred concerning this entire transaction. The election, the issuance of the bonds, what have you. There's two or three cases that are wending their way through the courts. The court of appeal's case is just one of those. But I would expect we'd be named in the future litigation.

That's why the insurance language in the agreement is so important and we hope that the board or the district buys a good insurance policy and that that policy names Santa Fe County co-insured so at least we have a lawyer assigned to us for that case, that we're covered by the insurance policy. But I think the short answer to your question is yes, we're probably going to get named.

CHAIRMAN ANAYA: Okay. And what about the water moratorium? If we do decide to partner with the Eldorado Water and Sanitation District will that moratorium be lifted? Is there a good possibility?

MR. ROSS: Well, Mr. Chairman, the Board of course is responsible for lifting the moratorium in the appropriate circumstances. In effect, I think the present moratorium requires us to review it periodically when circumstances change and this certainly might be a triggering event if the ownership of the system has changed and therefore we need to look at the moratorium. But I think in terms of the reasons for the moratorium, which were a water shortage in the Eldorado area. Nothing really is changed by this agreement because there's no new water source contemplated by this agreement, save the pipeline. And the pipeline isn't going to be built tomorrow under the agreement. There's a planning period that will occur and then the construction period would also apply. So I don't see any new water getting to Eldorado just by virtue of this agreement occurring. There has to be some other event. But I think it might be a good excuse or opportunity to take a look at the situation out there and see if anything has changed since the last moratorium ordinance that this board passed. I think that's our duty with a moratorium is to keep reviewing it to make sure that it's still applicable and timely.

CHAIRMAN ANAYA: I know we've gone on with this for a long time and I want to wrap it up here real quick but I want to know why, real, short, why did the New Mexico Finance Authority not lend them money.

MR. COPPLER: Mr. Chairman, since I was the one that was there at the time I could probably explain that to you.

CHAIRMAN ANAYA: Let me get it from him first Frank. Thank you.

MR. ROSS: Mr. Chairman, my understanding is the Finance Authority will not loan money when there's litigation involved and I understand that was the main reason. There were several lawsuits pending and they have a rule that they don't loan money to entities that have pending lawsuits. I only know that from hearsay and rumor just like everyone else in this room.

CHAIRMAN ANAYA: Okay, Frank. Go ahead, real quick.

MR. COPPLER: As a matter of fact that's correct. That is a rule. In fact, it's a statute that they can't give a clean opinion on a bond when there's pending litigation. That

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actually leads back to Commissioner Vigil's questions about is this a loan or is this a purchase of equity, and that's why we went straight to, Commissioner Vigil, the Joint Powers Agreements Act which establishes two criteria. The first criterion is each governmental entity has to have the same power. We looked under the County Code. The County has the power to own and operate water districts. The Water and Sanitation District has the power to own and operate water systems. The second criterion under the Joint Powers Agreement Act is a contract, which is what this is, agreeing to jointly exercise that power. So then we went to the other provisions of the Joint Powers Agreement Act and as Mr. Ross indicated before, it specifically allows an advance under the act, and that is not considered a loan under the Joint Powers Agreements Act. And then finally, I went and looked at all of the joint powers agreements the County has entered into in the past. Every joint powers agreement has a provision for termination for both parties, which this has, and every joint powers agreement has a provision for disposal of property, value of services and money contributed by each party. All of your joint powers agreements going back to the one I was involved in as City Attorney many years ago on the Extraterritorial area, has those same provisions. And so this joint powers agreement has that same provision. It has the provision of what each party is contributing, which is \$7 million from the district plus \$2 million in costs. Not all legal fees, I might say. Make sure of that clarification, and \$4.5 from the County. So under the joint powers agreement we have the joint contributions.

The district is making a contribution, an advance into this joint powers agreement, just as is the County. The district's advance or contribution is no more a loan than is the County's advance or contribution. And so that's how we arrived at that. And then we put in the standard provisions with respect to if the contract is terminated, where do the contributions go? And that's what Mr. Ross earlier alluded to. The money goes back to the County with an interest rate that's equal to what they would get otherwise and of course, in that case the district has its contribution back by operation of law because its \$7 million remains part of the district's equity.

So that's the concept. It's strictly a joint powers agreement. You've probably got a half dozen or a dozen of them in the County right now that are in effect, all of which have provisions for contributions by one party or another, all of which have provisions for those contributions to come back at the termination of the agreement.

CHAIRMAN ANAYA: Okay. Thank you, Frank. What is the pleasure of this Board? Do we want to move forward with this? This is apparently an action item to either move forward in helping out with the \$4.5 million or not. Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd like to move for adoption of the joint powers agreement as amended in Section 18 by Mr. Ross with regard to insertion of the word "district" versus "joint powers board". I feel that it is true that there's some risk when we do this, of potential litigation but I think that if we're going to take a bold step and get into the regional water and eventually wastewater arena throughout Santa Fe County, we're going to

have to take some risk and I think we have the ability to do that and we have the community support to do that. There are going to be some who want to frustrate those goals and they'll do that through the legal process. They're entitled to do that and eventually it will work through. We have to accept some risk in that regard. I think the reward, the benefit, the example is far more than the risk so I would move for approval, Mr. Chairman.

CHAIRMAN ANAYA: Okay, is there a second?

COMMISSIONER VIGIL: I'll second it for further discussion.

CHAIRMAN ANAYA: Okay, second. Any discussion? Commissioner Vigil.

COMMISSIONER VIGIL: I just don't know quite who to pose this to. We have like a certain percentage ownership – perhaps it's you, Steve. We have a certain percentage ownership, but it's only temporary. Am I correct?

MR. ROSS: Mr. Chairman, Commissioner Vigil, it's permanent until the agreement is terminated.

COMMISSIONER VIGIL: And once the agreement is terminated then the ownership goes void. Right?

MR. ROSS: Yes, that's correct.

COMMISSIONER VIGIL: Okay. And with regard to that fifth member of the joint powers agreement, has it been decided whether that is a member at large, is it a member from Eldorado? Do we have that hammered out?

MR. ROSS: There's no specific guidance in the agreement right now as to who the fifth member should be. It's just whomever the four board members decide on.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

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

The motion to approve the JPA with the Eldorado Water and Sanitation District failed by 1-4 voice vote, with Commissioner Sullivan casting the affirmative vote.

CHAIRMAN ANAYA: Okay, so now, where do they go from here, Steve? It's over?

MR. ROSS: Mr. Chairman, I guess without the joint powers agreement they will have to find that money elsewhere.

CHAIRMAN ANAYA: Okay. Thank you. Thanks for being here. We appreciate you waiting. I've got a request from the Clerk's office if she could move up the XII. A. 1. If we could hear that right now. Does anybody have any objections?

COMMISSIONER CAMPOS: No objections.

COMMISSIONER MONTOYA: No.

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XII. Staff and Elected Officials' Items

A. County Clerk's Office

1. County Canvass Board meeting: Completion of Canvass of the Community College Board election and approval of certification of the election

VALERIE ESPINOZA (County Clerk): Mr. Chairman, members of the Commission, I'm happy to report our second successful election in two short months, thanks to our staff and great poll workers. Here today is Denise Lamb to present the canvass to you.

CHAIRMAN ANAYA: Okay. Denise, thank you.

DENISE LAMB (Deputy County Clerk, Elections Bureau): Mr. Chairman, Commissioners, thank you for the opportunity to be here this afternoon. Briefly, we had a County Community College District Election on March 1st. Last week you authorized us to canvass that election. We have done so. We are here with the results of that canvass and I request permission to approach to present that canvass to you for your certification.

CHAIRMAN ANAYA: You bet. Do you need some action on this?

MS. LAMB: Mr. Chairman, Commissioners, that's correct. We need a motion for approval as well.

COMMISSIONER MONTOYA: So moved.

COMMISSIONER CAMPOS: Second.

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

The motion to approve the election results of the Community College Board election passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Is that it?

MS. LAMB: That is it. Commissioner Campos asked if I would read out what the results were, or you could do so if you have the canvass sheet. There were two candidates. This was an at-large election in the district. Margaret A. Garduño received 899 votes and Jennifer M. Augermaw received 576 votes.

CHAIRMAN ANAYA: So there were just two candidates and we were picking one?

MS. LAMB: There were two candidates and the voters picked on.

CHAIRMAN ANAYA: Okay, so congratulations to Margaret.

MS. LAMB: To Margaret Garduño. She was the winner.

X. Matters from the Commission

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chairman. First of all

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I'd like to congratulate the Pojoaque Elks who won their game last night. They'll be in the semi-finals tomorrow morning, 9:45 in the Pit against Portales. I'd also like to congratulate the Capitol Jaguars. They're playing at 6:30 this evening if I'm not mistaken.

Then Mr. Chairman, I just returned from the National Association of Counties Legislative Conference. We were able to get some good information, information that should certainly concern and alarm us regarding a number of major cuts that are being proposed in President Bush's fiscal year 06 budget. At the next Commission meeting, I will I think along with you Mr. Chairman, bring some resolutions forward that would certainly take a look at opposing any of these cuts and whatever we can do to defray any of that happening because it will certainly affect CDBG funding for one, Medicaid funding, possibly our indigent funding, just a whole lot of things out there that I think people need to be aware of that are going to impact, severely negatively impact the services that we provide here out of County government. That's all I have, Mr. Chairman. I'll talk further about those at the next meeting.

CHAIRMAN ANAYA: Yes, that sounds good, Commissioner. Thank you. Along with that there was homeland security issues. A lot of funding that's going to be cut. Commissioner Campos, do you have anything under Matters from the Commission?

COMMISSIONER CAMPOS: Mr. Chairman, the only thing that I really have that's concerning me is an action that the BCC took last time to add two additional positions to constituent support. I know Commissioner Montoya had a similar concern. My concern is that we can use this money elsewhere more efficiently to fund positions where we have serious demands for services. For example, the Land Use Code has to not only be reorganized and redrafted and brought up to date, it seems to me that that's a good place to put money. We look at Public Works and they've got needs that can't be met. Here we are adding additional constituent reps to somehow help the BCC when we can't provide some of these most basic services to our constituents. We've been working for four years on the Code rewrite. Or I've been pushing for it for over four years. We've been working at it for over a couple. I think we need more resources, more money in legal, maybe land use. There's just a lot of needs out there that are very critical and we're kind of putting them in second place, putting ourselves in first place. I don't think that's appropriate.

CHAIRMAN ANAYA: So what do you want to do?

COMMISSIONER CAMPOS: I'd like to at some point in the near future reconsider that action.

CHAIRMAN ANAYA: And how would we do that?

COMMISSIONER CAMPOS: Attorney Ross, what we have to do to reconsider that action?

MR. ROSS: Someone voting in the majority, Mr. Chairman, would have to move for reconsideration of that decision.

CHAIRMAN ANAYA: Commissioner Vigil, how do you feel about that? Are you still the same with two or one?

COMMISSIONER VIGIL: I have to sympathize or empathize with Commissioner Campos' statement because I recognize that the needs for the County and each

department are so strong and there is a dearth. I'm hoping that through the constituency services we can actually create a benefit to that dearth because I find myself, currently right now, restricted in calling our current constituency services until we go forth with the action that we've taken. I think that currently the way the Commission is set up we could probably do with one constituent services. So we would have to notice for considering that.

CHAIRMAN ANAYA: Does she need to make a motion to bring it back on the agenda?

MR. ROSS: Mr. Chairman, we can easily put that under Matters from the Commission on the next meeting. But it would have to be noticed if you wanted to take a vote and make a decision.

CHAIRMAN ANAYA: So we'd be okay to notice it and talk about it again?

MR. ROSS: Yes.

COMMISSIONER VIGIL: I'm okay with that.

CHAIRMAN ANAYA: You're okay with that?

COMMISSIONER VIGIL: Yes.

CHAIRMAN ANAYA: Okay, Commissioner Campos, anything else?

COMMISSIONER CAMPOS: That's it, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil. Do you have anything under Matters from the Commission?

COMMISSIONER VIGIL: In future meetings Rhonda Faught would like to be placed on the agenda and I think one of our policy analysts is looking into that. She wants to give us an update. Rhonda Faught of course is the cabinet secretary of the Department of Transportation. Beyond that, in a future meeting, one of the deputy directors for the Department of the Environment would also like to give us an update on what they are doing. The Department of the Environment received some allocations last year to update their rules and regulations. I'm really concerned about septic tank waste management and the lack of it here with the County. I know that the state is looking at a comprehensive response to their rules and regulations. I'd like that to be brought before the Commission so that we can track and perhaps parallel our efforts with what the state is doing. So I think those two should be placed on a future agenda. Mr. Chairman, to be perfectly frank with you I've already spoken with significant staff about that.

CHAIRMAN ANAYA: Okay, good. Is that it? Thank you. Recently, the Española Basin Tech Advisory Group was conducting their annual conference in Española, Santa Fe. They recently went on a field trip and their vehicles got vandalized. Maybe Steve, you could give us a little insight on what happened and we just want to send our apologies to what happened. I don't know who did it or what but tell me a little bit about what happened.

STEPHEN WUST (County Hydrologist): Thank you, Mr. Chairman. Last week for two days it was the Española Basin Technical Advisory Group annual conference. That group, of which the County has been a member since its inception brings together technical staff from various agencies including the US Geological Survey, the City of Santa Fe, County, Office of the State Engineer, Bureau of Mines, to exchange information about this

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area. And it's been very valuable for us, I might add and every year the EBTAG group puts on a conference and it brings in technical folks, decision makers and the public from all around New Mexico and surrounding states to discuss ongoing studies of this area. For example, I gave a presentation last week along with Pat Longmeyer of Los Alamos National Laboratories who is also a member of EBTAG on our Pojoaque Valley water quality study.

There was a field trip that was a part of that. There were about 60 people on that field trip. I think about 14 vehicles, and while we were at the first arroyo stop looking at rocks. Somebody came by and slashed two tires on every single vehicle, which included both private and government. So it was simply a malicious act. I want to say the good that came out of it. The Sheriff sent two deputies to take reports. They said of course they couldn't catch anybody but it would be valuable in their investigation for further incidents, so that was very helpful. Everyone who was on the field trip kept a good attitude and pitched in. We got all the tires to various tire stores and everything was fixed and back on the road in about three hours, three and a half hours.

But I wanted to say on behalf of the County, and I was hoping that the Commission would support this that these people who did this do not represent Santa Fe County and they do not represent the feelings of Santa Fe County towards this group or any other group and I also wanted to send my personal apologies since I was – since I'm a representative of the County in EBTAG and it was on county property, right around 599 and County Road 70 and I just want to send that out to the folks who were on that trip.

CHAIRMAN ANAYA: Thank you, Steve for bringing it forward and we do send our apologies. But how did they – they each have to buy their own tires, or how did that happen?

DR. WUST: It was a combination, Mr. Chairman. The government folks did it through their government process. Folks who went in private vehicles, they're going to have to talk to their insurance carriers but they had to pay.

CHAIRMAN ANAYA: Okay, tell them to keep up the good work that they're doing and we sure apologize.

DR. WUST: Thank you, Mr. Chairman. I will.

CHAIRMAN ANAYA: Thank you, Steve.

MR. GONZALEZ: Mr. Chairman, I just wanted to point out that but for a conflict, probably my vehicle would have had two slashed tires also. Since I attended the conference and had been planning to attend the field trips, but for a conflict that developed I would have probably would have had two slashed tires as well.

CHAIRMAN ANAYA: You lucked out.

MR. GONZALEZ: I did.

IX. C. Discussion regarding County program to receive and record water usage limited to .25 acre-feet for new homes

CHAIRMAN ANAYA: I know that it's under Jack Sullivan but I had a concern also. Now, recently I got a phone call from Julianne Grim from the *New Mexican* and she is concerned as I am now of why are we allowing people to record wells, their well logs, and very few have done it, when nobody in the County is checking to make sure that they are using .25 acre-feet.

ROMAN ABEYTA (Deputy County Manager); Mr. Chairman, we have representatives from the Land Use Department that have prepared a response to that article and also to some of the Commissioners' concerns. So Wayne is passing it out now and he'll present the memorandum to the Commission. [Exhibit 1]

CHAIRMAN ANAYA: Commissioner Sullivan, we are right now discussing your item C.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

COMMISSIONER VIGIL: I have a question with regard to this before we go into further discussion. For Roman, in my review of some of the conditions that we've been approving, it seems to me that there's pretty standardly a requirement that these well readings go to the State Engineer on a quarterly basis. Is that correct? Are they also doing readings?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, it's my understanding that the State Engineer's Office will put that requirement when they issue well permits also. Sometimes you'll see both.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay, Wayne, go ahead.

WAYNE DALTON (Special Projects Coordinator): Mr. Chairman, I just wanted to answer the question by stating there are certain elements to the water conservation ordinance, not just the metering program that staff has been working on. And this memo outlines those elements of the ordinance. The first element of the ordinance is the commercial retrofit program, which is time consuming for me. I've sent out 889 initial letters regarding the retrofit program. On January 1, 2005 the BCC directed staff to extend that date to July 1, 2005. Therefore I sent out another 626 letters regarding the retrofit program.

This is an ongoing task that I'm dealing with. Postcards are coming in as people are complying with. I'm entering that into a database. That takes a lot of time. Approximately 326 businesses have responded and random inspections have been done. Another element to this ordinance –

CHAIRMAN ANAYA: Who inspects?

MR. DALTON: Myself inspects and the person who did my job before, Liza Vitale did some inspections also.

CHAIRMAN ANAYA: Okay.

MR. DALTON: A second element to this ordinance is conservation, signage and literature distribution, which is an ongoing process. Letters have been mailed out to lodging

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facilities, nurseries, that are located within Santa Fe County regarding the water conservation ordinance and all appropriate signage and literature have been prepared and it's available in the Land Use Department or on the webpage where it can be mailed or delivered upon requests.

Just to go back to the first element of the ordinance, the commercial retrofit program, since that actually has a date in the ordinance which the retrofit program has to be completed, that section of the ordinance has actually taken priority. The third element of the ordinance is the water metering program.

CHAIRMAN ANAYA: Say that one again about priority.

MR. DALTON: Since the ordinance has a date that people have to comply with the retrofitting of their plumbing facilities, that section of the ordinance has taken priority. So in other words that mainly is what staff is working on.

CHAIRMAN ANAYA: To retrofit.

MR. DALTON: Right. The third element is the domestic well metering program. The development permit application has been modified so that all people requesting development permits have to submit proof of water meter, water meter serial number, water meter reading, photo of the meter and restrictive water covenants. I have sent numerous memos to divisions within the Land Use Department requesting this information. All that information is getting entered into a temporary well log, which I have updated since the beginning of the year.

CHAIRMAN ANAYA: Wait a minute. You said you're sending what to where?

MR. DALTON: I'm sending memos to the Development Review Division, Permits and Inspections, and also the plats examiner on what I need from them in order to log well information into this temporary well log that I'm using for now. I'm currently working with the Information Technology Division. It's a very slow process and I process that maybe we contract with a private entity in order for them to build this database for us. We actually have to have this database up and running in order for us to actually enforce water restrictions. That's my take on this situation. We are keeping track, myself, as of the first of the year, entering information into this temporary well log that I have.

CHAIRMAN ANAYA: Okay. Questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Wayne, do we have a count of how many water meters out there that we have required make reports to the County?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, is that from the beginning of the year or is that five years?

COMMISSIONER SULLIVAN: From whenever the Commission made those requirements for the reporting.

MR. DALTON: Mr. Chairman, it's my recollection from working in Development Review, this condition of approval for requiring water meter readings probably came up in 2001. I would say maybe 200 a year. That's development review cases, that's administrative plats, I would think. Just to give you a rough number, maybe 200 water meter readings a year.

COMMISSIONER SULLIVAN: Okay, have we gone back and logged in all of

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those? At least gotten that part in the database where each of those that is required to report to the County, and this is aside from State Engineer reporting. Do we have a handle on that? Is that in the system yet?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, no it is not. The temporary well log I have is only from the beginning of the year. What I've proposed was we contract with a private entity in order for them to build our database for us and actually go back and research five years in order to get that information put in that database.

COMMISSIONER SULLIVAN: I guess I thought that was being done, Mr. Chairman, and if we needed a contractor to do it - I know we approved the necessary FTE to do it, and if we needed a contractor to do it we probably should have been notified three or four years ago or whatever was necessary to get this moving. So how many do we have that are actually currently in your database?

MR. DALTON: In my well log from the beginning of the year, roughly between 40 and 50.

COMMISSIONER SULLIVAN: That's all I had, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan, when did you give direction to hire somebody to do this? Do you remember?

COMMISSIONER SULLIVAN: I'm going to say, maybe, when we first passed the conservation ordinance in I think it was 2002. We also budgeted, in fact staff recommended that we have personnel on board that could do this and that's the position that Ms. Vitale occupied and I recall we went through at least two extensions on the time period. I think since you've been here and Commissioner Montoya, at least one extension on the time period for this retrofitting.

CHAIRMAN ANAYA: I think there was one extension since I've been here.

COMMISSIONER SULLIVAN: And I think there was one before that as well. So I was under the impression we were getting this data and logging it in because the question always came up in the ordinance, what would be the penalties if it weren't complied with. And there were some changes made to the ordinance that addressed first notice, second notice and those types of things. Now it appears we need to hire some outside assistance and if that's what the County Manager is recommending then I think we need to do it because there's no sense in having a program with no teeth.

CHAIRMAN ANAYA: Commissioner Campos,

COMMISSIONER CAMPOS: Mr. Chairman, question for Mr. Dalton. The position that was funded for Liza Vitale that she filled before she left, is that a filled position now?

MR. DALTON: Mr. Chairman, Commissioner Campos, that's actually what I'm doing.

COMMISSIONER CAMPOS: Did you move into that position?

MR. DALTON: Yes.

COMMISSIONER CAMPOS: So there is no vacancy. You are filling that position.

MR. DALTON: That's correct.

CHAIRMAN ANAYA: You are the water guy.

COMMISSIONER CAMPOS: Okay, now I have a question for our County Manager. Where do we go? It seems that staff is asking for more resources and we're struggling every day to find the resources. What do you suggest would be the solution?

MR. GONZALEZ: Mr. Chairman, members of the Commission, Commissioner Campos, I think the resources that we need are really the resources that would allow us to go back through approximately four or five years of requirements that have been imposed by the Commission to meter wells. And the difficult was when we first started that program we did not have any idea that we were going to be tracking those. So those have been buried in plats and everywhere else. I think we're talking about a contract that would allow us to hire a person who could go back through the County records and maybe a \$10,000 or \$15,000 contract in order to create the list of those wells that we then need the reports for.

When Ms. Vitale left, as you know we were in the middle of dealing with the retrofit program and also with the signage program. And I think she had not yet begun to move with respect to the logging, although that was on her plate as a future task to do. In the conversations with her before she left, she indicated that that was going to be a time consuming process. It's more a rote process than something we would want a skilled person to spend their time doing. So from the Manager's point of view I think what we'd be looking at is a contract to have somebody come in and just sort through those records. Identify the wells, prepare the list of them and then at that point we can get in the process of actually sending the notices and tracking the well logs.

COMMISSIONER CAMPOS: So you're going to need someone to actually not only create the database but then to make sure that the reports are in, the letters are out. There's monitoring follow-ups.

MR. GONZALEZ: That would be the next step but it's going to take some time to put together the database just listing those people who are required to report. In the meantime we're working on the retrofit program and the signage program. So by the time we have those underway, then I think at that point we'll have a little bit of leeway at the staff level to begin the actual task of creating the database and doing the tracking and then sending the follow-up letters.

COMMISSIONER CAMPOS: Okay. And just a final comment, Mr. Chairman. When we consider adding additional constituent reps we've got to consider that there are some key functions that sometimes need money and resources and they're more important than serving ourselves first.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Wait. When you say serving myself, I'm not serving myself; I'm serving the constituents. So rephrase that.

COMMISSIONER VIGIL: I was going to make the same comment. Thank you for making it, Mr. Chairman. Gerald, if we consider that a necessary component of this I would like to support it. What I think is really more important and I would like to bring this

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point up to the Commissioners is as we look at the projects that come before us I think we have the opportunity to identify what kind of meters are there, actually, and whether or not we can coordinate them with a telemetry system so that from this point forward, when we are looking at metering, we're really looking at current technology for metering.

I know that part of the problem would be that we currently require it to be voluntary and most of the cases that we review we require it but with no one monitoring it or actually identifying what the readings are, probably it's more foreseeable. I don't know how expensive but as we're going through the mid-year budget review, requiring the metering to be done by the developer within a certain defined technology where telemetry is a part of that process and we can drive by and not worry about going into anybody's property but actually read the meter, just through a drive-by or perhaps even a home base. Has that been discussed?

MR. GONZALEZ: Mr. Chairman, Commissioner Vigil, that has been discussed at the staff level, not only with respect to this area but some other areas where we have dealt with utility services. So it's something that's on the table. There is a cost associated with that and the question is who's going to pay for the cost and that issue would have to be presented to the Commission for decision. But I think we agree that if given the new technology that seems to be coming on the market that that's an easier way to keep track of those kinds of things.

In the meantime, we still have the backlog of roughly 1000 meters that we need to identify and get the data current for so that we have a complete log. But we are having that discussion at the staff level about how to move forward with the radio metering program. Utilities is also involved in that discussion. In fact they were the ones who first raised the issue.

CHAIRMAN ANAYA: Okay, so what do you need from us? Direction in moving forward with a contractor to go back and look at the records so that we could get this up to speed? Is that what you need?

MR. GONZALEZ: Just agreement from the Commission that the proposal to hire that support in order to do that you feel is appropriate and that's the direction we're moving in unless you say otherwise.

CHAIRMAN ANAYA: What do you think? What do you guys feel?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I would support that. It's been mentioned earlier that we've discussed two representatives in terms of constituent liaisons but I think this money would be better spent in something that directly impacts the services that we provide and the reason I say that again is part of a public meeting that I was at in Pojoaque last week, it was mentioned that we have ordinances in place that we can't even enforce already. So I think it begs the question in terms of where are we going to put our resources and I think this is certainly one area that we should direct in that.

CHAIRMAN ANAYA: Do you agree?

COMMISSIONER VIGIL: Mr. Chairman, I guess I'm not real clear what Commissioner Montoya is saying. Are you saying we should do away with our vote on two

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constituency services and both of that money should be placed –

COMMISSIONER MONTOYA: No, what I'm saying is that we should put some of that money into direct services as opposed to something that's non-direct.

COMMISSIONER VIGIL: The current constituency services people, would you make the assessment that they actually do provide direct services?

COMMISSIONER MONTOYA: Yes. But what I'm saying is that I don't necessary feel that we need two more to do what they're doing.

COMMISSIONER VIGIL: That's what I needed clarified.

CHAIRMAN ANAYA: Okay, we're going to clarify the constituent services later on in the next meeting but right now, the direction that we're trying to give is for Gerald to move forward with hiring an individual to look back at the records so that we can come up to speed on the meter reading. Do you feel comfortable with that? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I'm having a little trouble understanding why the staff can't do it, to be honest with you. If it's 200, we can go back through land use and pick out those approvals. They're on file. Maybe it's a week's worth of work. I don't know. But I think the thousand that Gerald was making reference to here just a minute ago, you were talking, were you not, Gerald, about the number of meters on the County water system that are served by County water. Is that correct?

MR. GONZALEZ: Not just that, but those meters that have been required to report meter readings to the County.

COMMISSIONER SULLIVAN: Okay. And you think there's 1000 of them because Mr. Dalton just testified there were maybe 200.

MR. GONZALEZ: What I heard was 200 a year.

COMMISSIONER SULLIVAN: Okay. Maybe I misunderstood. Was it 200 a year, Mr. Dalton?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, that would be my estimation with administrative plat approvals, subdivisions that come through the Commission and get approval. That would be my estimation.

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, I'd like to say that we've been looking internally on our organization and our enforcement officers because one thing that I want to add to Mr. Dalton's presentation is that we have enforcement officers that go out every day and it might be a good idea for us to look at what they do on a daily basis and see if they can incorporate maybe monitoring the meters and checking to see where they're at. That's something that's put on the table and we're discussing internally. I don't know if that's the best way to handle it, but that's one way that we would like to talk about. And that would be having our enforcement officers when they go out to the different locations, maybe also look at checking the meters and helping the enforcement process of this which I think is missing. Also, as far as what Commissioner Sullivan was stating, how many permits? How many meter readings? We don't know. It's an unknown number. And that's why I think we're asking that we possibly hire someone to help us identify that, but also create a database. That is the big need for us right now. Have a consultant create a database so that we can track these

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permits and these meter readings and hopefully set it up so that Mr. Dalton would know, okay, this meter reading is due on this day. Maybe a flag that would come up. So that's our thoughts for that consultant.

CHAIRMAN ANAYA: Okay, so Commissioner Sullivan, I hear what you're saying. You're saying you'd like staff to do it. I'm not saying that they can't do it, but now that they throw in database, do you feel comfortable giving them direction to hire somebody to do the database part of it? First of all, we need to find out which meters they are, correct? And then follow-up from the backlog or whatever. What do you think?

COMMISSIONER SULLIVAN: I would certainly defer to the County Manager's recommendation, Mr. Chairman. I just don't think it's appropriate to hold this important County service hostage to constituent representatives. I think that's another issue that needs to be discussed on its own merits. I think we have the money in the budget to do this if it's \$10,000 or \$15,000. We have consultants on a retainer basis to do this. I don't think it needs to be coupled with constituent representatives but whatever it takes, and if that's what it takes, to hire someone to do what we should have been doing then I would support doing that because we need to get the work done.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I'd also like to defer to the County Manager. I appreciate Dolores Vigil's offer. I think it's good to sort of couple responsibilities but I think there does have to be a consideration of an employee, whether it be contract or whether it be in-house, it really does the coordination of this. So I'm willing to let the County Manager make those decisions.

CHAIRMAN ANAYA: Okay. I do too. You've got direction?

MR. GONZALEZ: Direction I certainly feel comfortable with, Mr. Chairman.

CHAIRMAN ANAYA: You got it. Commissioner Sullivan, did you have any other things from Matters from the Commission?

COMMISSIONER SULLIVAN: No, and if I did, Mr. Chairman, I wouldn't bring them up tonight.

COMMISSIONER CAMPOS: It's not a good night.

X. Appointments/Reappointments/Resignations

MR. ABEYTA: Mr. Chairman, we have none. No appointments.

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XI. Consent Calendar

A. CDRC Case # APP 04-5470, Dominic Vigil Appeal: Final Order (Appeal/ Home Occupation Development Permit Denied) (Land Use Department)

COMMISSIONER SULLIVAN: Mr. Chairman, I defer to Mr. Ross to tell us what the legal issues are that we need to be aware of.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the memorandum that's in - I guess it was in your mailboxes, was merely to call your attention to paragraph 15 of the proposed order, wherein you take administrative notice of some details of a fence that was constructed at the Vigil residence. Administrative notice is when an administrative body makes a finding that certain evidence should be part of the record of a particular proceeding. That's what's recommended here. We have a file in the building department that contains plans of the fence that was sort of a side issue in this particular matter but the plans and specifications for the fence were not contained in the land use file that pertained to this case, which was an application for a business license. So what this language in paragraph 15 does is make that, the file that's in the building department a part of this file so that you can rely on that evidence when you make your decision, which is proposed in this order.

That's all that does and I think Mr. Shaffer's memo was just to call your attention to the fact that you were doing that, that you were going to add those additional documents to the file on this case.

COMMISSIONER SULLIVAN: So is there some amendment that you're recommending to the motion that would approve this order?

MR. ROSS: No, there's no amendment needed. He was just calling your attention to language that he put in the order, which is in paragraph 15. It's in actually the parenthetical in there.

COMMISSIONER SULLIVAN: Okay. That automatically incorporates this fence material.

MR. ROSS: That's right. He just wanted you to know that you were doing that and call attention to it so that you understood that you were doing that.

COMMISSIONER VIGIL: Let me understand this a little more correctly, Mr. Chairman, Steve.

CHAIRMAN ANAYA: Commissioner Sullivan, are you done?

COMMISSIONER SULLIVAN: I don't understand it either so perhaps Commissioner Vigil can figure it out for me.

COMMISSIONER VIGIL: So let's say this is an exhibit, the map that identifies. This was not presented to us in the original packet when we made the decision to deny the home occupancy.

MR. ROSS: That's correct. Let's assume that that map is of the fence that's at issue.

COMMISSIONER VIGIL: Okay. So the applicant or legal is requesting that it

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now become a part of the informational packet that we received. Is this with regard to the pending litigation?

MR. ROSS: I don't believe there's any pending litigation but I think that in any case like this, which is a hotly contested case and adjudicates rights that we have to anticipate that litigation might result, and this would be a critical component in any such litigation, because we're required to have in the record evidence upon which to base the decision.

COMMISSIONER VIGIL: It will probably complicate this more. I understand that they have appealed our decision to district court.

MR. ROSS: It's news to me. It wouldn't surprise me but I'm not specifically aware of that. We get a lot of appeals in our office.

COMMISSIONER VIGIL: Okay. Could you find that out before the end of the meeting, if in fact it is pending litigation, because I think that would make a difference with me with regard to - I don't see any other reason why we need to amend the packet.

MR. ROSS: Mr. Chairman, I just made eye contact with Mr. Shaffer and he nodded his head. It appears that there is an appeal filed in this case.

COMMISSIONER VIGIL: There is an appeal filed in this case. Perhaps Mr. Shaffer could explain why we need to amend our packet of information with this map. Does it have anything to do with the litigation?

GREG SHAFFER (Assistant County Attorney): Mr. Chairman, Commissioner Vigil, I don't believe that you have to. It would be my recommendation and advice that you should. I think it bolsters your decision for the reasons that are set forth in the order which I'd be happy to walk through now, but the order walks through what I understand to have been the reasoning of the Board in denying the appeal and again I believe the more or less exact dimensions of the fence support that reasoning and in order to make the record on that point as clear as possible, I would recommend and I think it's advisable that you incorporate something into the record that has the exact dimensions.

COMMISSIONER MONTOYA: Which this does.

MR. SHAFFER: That is correct, Mr. Chairman, Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, move for approval.

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

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Any more discussion?

COMMISSIONER VIGIL: Just perhaps maybe we can have a discussion later with regard to this. I'm having difficulty amending the original packet that we reviewed and made a decision on with future information that we have before us now. So I'm going to have to abstain on this, Mr. Chairman.

The motion to approve the Consent Calendar passed by unanimous [4-0] voice vote with Commissioner Vigil abstaining.

XII. B. Matters from the County Manager

MR. GONZALEZ: Mr. Chairman, members of the Commission, I have a number of items that are informational. First of all, with respect to the RTC, as you know there's been some additions to the original proposed costs that have been discussed both at staff level and I think we've provided background information also to the Commissioners. In order to meet the agreement that we have with the Bureau of Prisons with respect to the RTC we're going to need some additional Commission approval to cover the cost of the increases related to the additions that we're preparing in order to meet the Bureau of Prisons' deadline. I'm suggesting that in order to do that we have a short special meeting some time next week at which we would provide information to the Commission not only on the RTC but also an update on the whole picture relating to both the adult and the juvenile and the electronic monitoring programs so that you know what's going on there.

We have at the staff level done some wrestling with what the potential cost increases are and we're trying to put some realistic numbers to those which we would have at a special session for next week. Right now, the envelope is looking like it's somewhere on the order of \$375,000 to \$425,000 in order to make sure that we have enough to absolutely finish the project. There is one short-fuse item. We need to order doors and windows at a cost of roughly \$22,000 in order again to meet the construction deadlines, so at that time we will also be bringing - I will sign that request at this point but we'll bring that back to you for ratification as part of this \$375,000/\$425,000 envelope figure that we're talking about.

So what I would like to do is simply see whether there's a date agreeable to the Commission where we could bring all of the information forward including the information relating to the adult facility and the electronic monitoring program. Part of this is also an introduction or a continued introduction to the multi-year budgeting we're doing because the figures that we bring forward would not only cover this coming fiscal year and this fiscal year but the one following. Along those lines, I just want to say that at the staff level we have just concluded a day and a half retreat dealing with the multi-year budgeting process in which we considered all of those items that the Commission brought forth at that last study session that we had on multi-year budgeting. We could either combine that with this special study session or just do a short study session on the Corrections Department issues and I'd simply ask for some feedback from the Commission for how they want to proceed with that.

CHAIRMAN ANAYA: Okay, you said combine the special meeting to update us on the juvenile electronic monitoring and the RTC, plus you said combine it with what?

MR. GONZALEZ: If the Commission wanted, we could also give them feedback concerning the items we have worked with budget-wise to respond to the concerns the Commission raised about multi-year budgeting at that session that we had about three weeks ago. That was the introduction to multi-year budgeting. At that point the Commission raised a number of items that had to do with their priorities and at the staff level we've tried to work those in to a proposed schedule that would run across the next two budget years and give you an idea of how potentially we could implement them and get some feedback from you about what

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your thoughts were in terms of whether it made sense to implement them in the way that we've been discussing at the staff level.

CHAIRMAN ANAYA: How does the Commission feel about hearing both of those, the budget process and the RTC special meeting update, Tuesday at 1:00? On the 15th.

COMMISSIONER MONTOYA: Mr. Chairman, I can't be here. And just a point of clarification, Mr. Chairman. We're going to give information to them? Who's them? Staff?

MR. GONZALEZ: That is the staff, particularly Finance Department as we're wrestling with the budget process but staff as a whole.

CHAIRMAN ANAYA: What date can you be here, Commissioner?

COMMISSIONER MONTOYA: Wednesday.

CHAIRMAN ANAYA: The 16th?

COMMISSIONER CAMPOS: I can't be here that day. I'm out of town all day Wednesday and Friday. Thursday would work for me. In the afternoon. We have an RPA meeting at 5:15. How much time we need, Mr. Manager?

MR. GONZALEZ: If we do just the corrections issues I think we could be done in about 45 minutes or so. If we did the other budget issues, we're probably looking at about two hours.

CHAIRMAN ANAYA: So can everybody do it at Thursday, 1:00?

COMMISSIONER CAMPOS: Give us a couple hours. Two o'clock? Two to four? Then we have a 5:15 RPA/MPO. It seems like it's going to be brief.

CHAIRMAN ANAYA: Okay, the 17th at 2:00.

COMMISSIONER CAMPOS: Does that work?

COMMISSIONER MONTOYA: Not for me.

COMMISSIONER CAMPOS: It doesn't work for you?

COMMISSIONER MONTOYA: No. I'll be Albuquerque. I have a work-related meeting I have to be at.

CHAIRMAN ANAYA: How about Monday? The 14th.

COMMISSIONER CAMPOS: I'm going to be out of town.

COMMISSIONER MONTOYA: I can't.

COMMISSIONER VIGIL: Harry, you're gone.

CHAIRMAN ANAYA: Monday the 21st?

COMMISSIONER SULLIVAN: I won't be here, Mr. Chairman.

CHAIRMAN ANAYA: Then that's the day we'll do it.

COMMISSIONER SULLIVAN: You got it. We rescheduled this meeting for you Washington guys.

CHAIRMAN ANAYA: We would have rather you had it.

COMMISSIONER VIGIL: Gerald, what's your time frame? When would you like this done? Within the next week or can we go beyond one week to two weeks?

MR. GONZALEZ: The sooner the better but probably after this coming Monday just to get the information put together.

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COMMISSIONER SULLIVAN: We better to it Thursday. There's goes St. Patrick's Day.

COMMISSIONER MONTOYA: I have a work meeting in Albuquerque that day so I won't be able to be there.

COMMISSIONER VIGIL: Perhaps you could submit your requests in writing.

COMMISSIONER MONTOYA: I'll send a proxy.

COMMISSIONER VIGIL: There you go.

CHAIRMAN ANAYA: Okay, Thursday the 17th. And we could do both of them?

COMMISSIONER MONTOYA: I would like to be there for the major one, Mr. Chairman, regarding budget.

CHAIRMAN ANAYA: Okay, so then maybe we should just talk about the juvenile corrections.

MR. GONZALEZ: We could do that then, which would probably need at most an hour so we could do that 2:00 to 3:00. If we just did the corrections issues.

COMMISSIONER CAMPOS: Three to four. That keeps us closer to the RPA meeting.

MR. GONZALEZ: Okay. That would work.

CHAIRMAN ANAYA: Three to four?

COMMISSIONER CAMPOS: So that's just simply RTC then?

MR. GONZALEZ: That's simply RTC and additional corrections issues.

CHAIRMAN ANAYA: Okay, 3:00 to 4:00, 17th. Any other matters, Gerald?

MR. GONZALEZ: Yes, if you want a legislative update we're prepared to provide that. I wanted to announce that there is a trip to DC on April 18th being coordinated by CDM who is the consultant that the City has hired to help lobby for federal funding for the Buckman Direct Diversion. Steve Ross and I were invited to participate in that trip. However, I did indicate to the City the priority would go to the Commissioners who have gone in the past if they want to go, or Commissioners who might want to go and participate in that. So I just wanted to get some feedback from you as a Commission of who might want to go on that trip.

CHAIRMAN ANAYA: What days are those?

MR. GONZALEZ: It's starts April 18th and would run, I think, through the evening of the 20th, so return on the 21st.

CHAIRMAN ANAYA: Eighteenth through the -

MR. GONZALEZ: Twenty-first return. So it would be the 18th, the 19th, finish up on the 20th. Eighteenth would be a travel day as I recall. Nineteenth and 20th would be work days, and then the 21st would be a return day.

CHAIRMAN ANAYA: Okay. Any other comments?

COMMISSIONER CAMPOS: I can't go. It's a whole week.

COMMISSIONER VIGIL: Mr. Chairman, is the purpose of this trip strictly lobbying for the Buckman Diversion project?

MR. GONZALEZ: No, it's also to meet with the Interior Department, to deal

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with the San Juan/Chama water and finalization of that contract and also some other federal issues related to Interior Department and the Buckman Direct Diversion project. So it's a combination. It is seeking federal money from the congressional delegation and some of the departments but it's also working with the San Juan/Chama contract.

COMMISSIONER VIGIL: And is CDM the lobbying firm that the City and the County somewhat share?

MR. GONZALEZ: I guess the way I would put it is they're the consulting firm that also does lobbying on these issues for the City.

COMMISSIONER VIGIL: Mr. Chairman, definitely, I'm interested in being a part of it but is it possible for us to go ahead and allocate two County representatives and then if I'm unable to make it, Gerald or Steve would be there?

MR. GONZALEZ: There was no limit imposed on the number of representatives the County sent. We were simply trying to be fiscally responsible in terms of the number of people we did send.

COMMISSIONER CAMPOS: Mr. Chairman, the other thing is I've heard this comment before. The more people you send, the bigger the delegation, the more introductions and the less substantive discussion. So it's probably wise to maybe limit the number of Commissioners we send, so that we can get some work done.

COMMISSIONER VIGIL: On the converse from my lobbying efforts, Mr. Chairman, the more people you send, perhaps if you give a united message, the more likely you are to get to substantive issues. I'm okay in DC. I just came from DC. I'm tempted but I think I wouldn't be able to commit to that amount of time.

CHAIRMAN ANAYA: I think if you talk to us individually and see who might be interested. I might be interested if it fits into the schedule as chairman of the Board to go along but I'd have to look at my schedule again. So we can talk about that.

MR. GONZALEZ: Be glad to do that, Mr. Chairman.

CHAIRMAN ANAYA: Anything else?

MR. GONZALEZ: There's two other things I have on my list other than a legislative update if you want one. We can do that briefly. We will be bringing forward at the next Commission meeting a proposed disaster declaration relating to the flooding that occurred recently so that we keep the doors open for possible reimbursement for monies that we've expended to do those repairs. We haven't been successful in the past but maybe things will shift because I understand we're in a slightly different position this year than we have been in the past.

MR. GONZALEZ: Gerald, excuse me. Could you back up a second. What are you talking about?

MR. GONZALEZ: The recent rains that we've had have washed out a number of roads. In the past the governor has also done an emergency declaration that has freed up emergency funds to reimburse some of the counties who have had a high burden because of the cost of doing road repairs from the state disaster funds. In the past we have declared an emergency and applied for those funds. Because of the way we were fiscally postured at that

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point we didn't get reimbursed in the past. However, we're in a slightly different position this year and we want to make sure we keep the door open so if it's possible that we can get reimbursed, the first step would be doing this declaration, then the second step would be the governor doing a declaration and then third would be applying to the state disaster agency and seeing if they would approve us for some reimbursement. So we'll be bringing that first step forward at the next meeting as a disaster declaration resolution by the Commission for your consideration.

CHAIRMAN ANAYA: Good. That's a good idea. In talking to other counties in the just recent past, they've received some monies from the governor. So that would be a good thing.

MR. GONZALEZ: Then I also want to point out that March 15th this City is having their election for their proposed GRT increase and I just point that out because it could have potential implications from a County standpoint for how we proceed with respect to joint water projects in the future. It has a number of implications. But I did want to remind everybody that that election is coming up.

Then finally, the question of whether you want a short legislative update or whether we can update you individually.

CHAIRMAN ANAYA: What does the Commission feel? Do you want a short legislative update or do you want him to get with us later?

COMMISSIONER MONTOYA: I'll just give you my two cents. People are here for public hearings starting at 6:00 and we still haven't even gone into executive session. So I would prefer one individually.

CHAIRMAN ANAYA: Okay. How does the rest of the Commission feel?

COMMISSIONER CAMPOS: Me too. We're behind schedule.

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

COMMISSIONER CAMPOS: It's nearly six and we haven't even had dinner.

CHAIRMAN ANAYA: Commissioner Montoya brought up a good point. Do you guys want to save executive session for the end of the meeting or do you want to continue with public hearing starting right now, actually?

COMMISSIONER CAMPOS: I'd like to take a short break.

COMMISSIONER VIGIL: Mr. Chairman, could we have at least a 15-minute break. We can go into executive session to try to accommodate everybody's schedule after 15 minutes, and move into the public hearings at 6:00.

CHAIRMAN ANAYA: All right. Let's do that.

XII. C. Matters from the County Attorney

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

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

[The Commission met in executive session from 5:45 to 6:20.]

Commissioner Campos moved to come out of executive session having discussed only limited personnel matters and pending or threatened litigation, and Commissioner Anaya seconded. The motion passed by unanimous voice vote.

XIII. Public Hearings

A. Land Use Department

- 1. EZ Case # S 04-4451-Oshara Village. New Village Consulting LLC., (Alan Hoffman) Applicant, Lorn Tryk, Agent, Request Final Plat and Development Plan Approval for Phase I of The Oshara Village Development which will Consist of 175 Residential Lots and 136,000 square feet of Commercial Space on 74 Lots on a Total of 37.78 Acres in Accordance With the Previously Approved Master Plan. The Property is Located Along Richards Avenue South of Interstate I-25, in the Community College District, Within Section 16, Township 16 North, Range 9 East, (Commission District 5). Vicki Lucero THIS ITEM WAS PREVIOUSLY ITEM A-11 ON THE AGENDA**

CHAIRMAN ANAYA: I believe the Commission wanted to hear briefly from Alan Hoffman on items that staff said he didn't bring to us. First, Vicki, I'd like to hear from you and tell the Commission what items Alan Hoffman has not given to us and then we'll hear from Alan briefly. We've got a long agenda this evening and I'm not going to allow people to keep repeating things. As soon as you repeat things I'll ask you to sit down. So Vicki, go

ahead.

VICKI LUCERO (Zoning Supervisor): Thank you, Mr. Chairman, Commissioners. We've put together a memo which I think all of you have received dated today and it list some of the deficiencies of this development. Some of the things that we still would like to see or that they still need to follow up on. We received a memo from the State Department of Transportation at the master plan level and I've got a copy of that memo here. *[Exhibit 2]* It sounded like there are still some issues that need to be addressed and we haven't received anything from them since that memo which was dated September of last year.

CHAIRMAN ANAYA: What are those issues?

MS. LUCERO: They had some issues – they were stating basically – well, let me hand this out. I've got copies for the Commission.

CHAIRMAN ANAYA: If you will just say real brief what they are and then we'll see if he's done them.

MS. LUCERO: Basically, the Department of Transportation didn't commit to – didn't make any commitments on the frontage road as far as this development goes. They hadn't agreed how the frontage road will be built out.

CHAIRMAN ANAYA: Okay.

MS. LUCERO: They were requesting some additional information regarding studies at Rodeo Road and Richards. There was just some other information based on their letter that still hasn't been addressed, and like I said, we haven't heard back from them since this memo. There are some issues that came up regarding Public Works' memos which are in your packet as Exhibit K, I believe. They're requesting that the northeast connector that aligns with Dinosaur Trail be built out as part of phase 1. The applicants were proposing that that be built out as part of phase 2 and they're not in agreement with that condition.

Doug Sayre from the County Utilities Department has also issued a memo stating that he still feels there are issues that need to be worked out as far as water and wastewater issues. Also, we haven't received any response from the Environment Department on the wastewater treatment system. So at this point, we're not sure what their position is.

CHAIRMAN ANAYA: Is that it?

MS. LUCERO: I believe that's it, Mr. Chairman.

CHAIRMAN ANAYA: Okay. Thank you. Any questions of Vicki? Alan, go ahead and come forward.

FRANK HERDMAN: Mr. Chairman, my name is Frank Herdman. I've been asked to speak on behalf of the applicant. My address is 123 East Marcy Street in Santa Fe. I'm an attorney. I represent the applicant in this matter. Mr. Chairman, members of the Commission, let me begin by thanking you for this opportunity to make a brief presentation about why we believe the hearing should proceed on this. I just want to go begin by going back to January when we were before you on preliminary and final development plan approval. As you may recall, at the conclusion of that hearing there was a motion that was adopted unanimously granting preliminary plat approval with instructions that the applicant meet with staff to discuss the issue of water, specifically the back-up plan that we had proposed at that

hearing.

We've actually done that. We worked very hard and we believe that we have resolved all outstanding issues involving water, including the back-up plan. And we have a favorable letter from Doug Sayre setting forth the back-up plan and our agreement to comply with staff's recommendation. We believe that we have done what we were instructed to do. We then received a memo from staff recommending approval, not raising any of the concerns that Ms. Lucero refers to. We've been proceeding under the assumption that we have done what we needed to do. Staff's original memo states very clearly that the application complies with the underlying ordinance and they recommend approval. So much to our surprise --

CHAIRMAN ANAYA: Hold on. That's where I get confused, Frank and staff. If you're telling me that they're recommending approval, which he thinks he is, and then we're coming up with these items, that's where I get lost. So what is it that staff is saying, that they're in compliance with everything and yet, staff, you're telling me that they haven't give us these items.

MS. LUCERO: Mr. Chairman, Commissioners, if you'll turn to our original memo, we had stated in there that we were awaiting comments from the County Utilities Division which we hadn't received at the time that this packet went out. The memo from Doug Sayre -- we received two memos. One of them, I believe both of them were actually just handed out to you. [Exhibit 3] The March 9th memo raises some concerns that they still have in regards to the utilities. We were hoping to have some of the other issues addressed by the time of the BCC meeting. We had spoken previously with the applicant regarding them trying to get us something in writing from the Environment Department and we still haven't received anything from them. So that's what these concerns --

CHAIRMAN ANAYA: Frank, what part of that don't you understand?

MR. HERDMAN: Well, with all due respect to staff, I'm looking at their memo and it says, unconditionally it says, Staff recommends final plat and development plan approval subject to the following conditions. I think it's fair to say in their memo, no reservation of the nature raised recently. Now, I don't want this to be a battle between the applicant and staff. I respect staff and I know that they work very hard. What we would like to propose is in order to avoid further confusion we did what we believe that we were supposed to do and we worked in good faith and very hard to resolve the issue that we believed was on the mind of the Commission. We're concerned that if we don't proceed with the hearing today that this will be a moving target for us. We submit that we address the issues that have been raised. But if the Commission believes that we haven't, and we would entertain, certainly, the Commission's specific instructions as we did in the past so that we can get this application to you in a way that is satisfactory to everybody involved, so that at the next hearing there are no similar outstanding issues.

I'm prepared to go through the particular items that are set forth in the memo that was given to us at 3:00 today. I don't want to take up too much of the Commission's time but one thing that I did after 3:00 after we were given the memo is I conferred with Steve Rodriguez, who is a traffic manager at the Department of Transportation. Mr. Rodriguez is the staff

member that we've been working very hard with on the northeast connector. I asked Mr. Rodriguez, I said, Steve, if I came to you and I said that I wanted a letter from DOT stating as staff's memo says, that the northeast connector "can be accomplished" would you give that to me. And he said, Frank, that decision is made by the Access Control Committee. Staff is not going to prejudice that process by giving a memo to that effect. So what he is saying, it's not because of the concerns of the northeast connector but he's saying what we would like to see is get your final plat approval from the Board of County Commissioners and we can look at your application for the northeast connector in the context of what has been approved. That is their preference. That is exactly how we have been proceeding and we have actually talked to staff extensively about that issue. If you look at condition number 14, which was adopted by the Extraterritorial Zoning Commission, it requires us to get the northeast connector before recordation of final plat. That was done specifically for that reason so that we can accommodate DOT's request on how they would like us to proceed on that issue.

So what we're proposing is we don't want to be hamstrung by that particular condition that staff is requesting because we think it's a detriment to everyone involved.

CHAIRMAN ANAYA: So you think staff is asking for these things prematurely.

MR. HERDMAN: I think if staff wants us to go to DOT and say Give us a letter, the short answer to your question is yes, we think so.

CHAIRMAN ANAYA: Okay. And you're talking about the Department of Transportation, Public Works, Utilities and the Environment Department, all the same thing.

MR. HERDMAN: Yes. In terms of NMED, in all due respect to staff, I know there was a memo from the Utilities Department saying that detailed plans for the wastewater treatment facility had not been submitted. In fact, this book, which is almost an inch thick, containing detailed plans of the wastewater treatment facility was submitted to staff in August. So we believe that we have actually satisfied that requirement. We also believe that it's appropriate for us to get your approval here so that when we go to NMED we have a specific location that's been approved for the wastewater treatment facility. The condition that was approved by the EZC was designed specifically to accommodate that, so we could then go to NMED once we have final development plat approval. The condition states that the plat will not even be recorded until we present to staff the discharge permit approved by NMED. So we can't even turn over a shovel of dirt until that has been satisfied.

In terms of the traffic issues that have been raised in staff's memo, we are prepared to address those issues at the presentation here today. In fact, one of the items raised has to do with the proposal to extend the northeast connector to intersect with what will be called or what is known as Dinosaur Trail. That's an issue that was raised in staff's memo. We came here today prepared to discuss it. So if you all us to proceed with the hearing we believe that we can address these issues to your satisfaction, but if for any reason you do not, we will give you the context that will allow you to tell us: You still need to address these specific issues, which we're certainly prepared to do as we've demonstrated to you with the water issue.

CHAIRMAN ANAYA: Okay. Thank you, Frank. What is the Commission's

pleasure?

COMMISSIONER CAMPOS: I talked to Dr. Stephen Wust earlier in the week and he raised a number of issues about water that were not appropriately addressed and perhaps he could let us know what he thinks the issues are specifically that the applicant needs to address in the interim, before they come back to this committee for consideration.

DR. WUST: Mr. Chairman, Commissioner Campos, I'll start by saying the overriding issue is that most all of the assurances or agreements have been verbal. We've gotten very little documentation that can definitively say what the parties will do and what they've agreed to and that's my biggest concern because I can tell you the last thing that I got in writing from the applicant was in terms of the water budget. The Commission itself asked us to work out the water budget. You know that we had a disagreement. And their response that I saw in writing was we still think it's .12. They put conditions on it in terms of proving up the water budget that said the County must prove that the development is using too much water, and that's not the way we've done it ever with the previous applicants, developments, and I responded in writing. I said here are the issues and here's a plan that I think that could be done. They bring this many water rights and it could be credited this way and we calculate it this way and to-date, I've got nothing in writing saying that they agree to that or that that's a reasonable proposal. So that's my issue. I've come forward with solutions, I think and I've gotten verbal responses that say we're okay with that or we could do that.

The NMED permit, I think is a very important issue and the reason is that they've been told since November, because I had a response last November, that said they need to go to NMED and apply for a discharge permit. We had verbal assurances that we don't need to do that. We're sure we can get a permit. Well, that's important because they're planning to use wastewater recycling as part of their water budget. So it's very important for us to know whether NMED is comfortable with that treatment plant and with its capabilities. So it could be included as part of the water budget. Today we've got nothing in writing that says NMED is comfortable with that, that it's a treatment technology they're okay with. We don't need an approved discharge plan but one hasn't even been applied for. We don't have any response from NMED saying even the treatment facility is suitable for this.

Commissioner Campos, that's a concern because it hasn't been resolved. Again, I'm going back to what the Commission said. We were supposed to resolve things. We don't have a comfort level because it hasn't been resolved because there's not documentation to support it. The thing on the water rights, I just heard yesterday and Doug Sayre's here to give you the details, but one of the later proposals of the applicant was to use some of the County's 375 acre-feet from the City with this San Juan/Chama interim agreement to be applied to their back-up plan. I don't know if that's still the plan or not. I haven't seen anything in writing but I just heard that that is one of the proposals and we're not comfortable that that's not settled yet. I don't want to argue whether it's a good thing or not. That's really a policy decision. But we're uncomfortable because a lot of these things are just not settled or documented.

CHAIRMAN ANAYA: Thank you, Steve. Do you have any other comments?

COMMISSIONER CAMPOS: No, I'm comfortable with what Dr. Wust has

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presented as a basis for the tabling, plus the memo of staff dated March 10, 2005. I think there are a lot of issues the applicant has not seriously addressed yet.

CHAIRMAN ANAYA: Okay, so it sounds like the applicant needs to sit down with staff again and go over those things so at least when we have this discussion with staff on board they feel comfortable. Is there a motion on the floor to table?

COMMISSIONER CAMPOS: Motion to table.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER SULLIVAN: Second.

The motion to table EZ Case #S 04-4451 passed by unanimous [5-0] voice vote.

- XIII. A. 2. Ordinance No. 2005-___. An ordinance amending Ordinance No. 2003-2, Article V Section 5.2.2.g 8 and Section 5.2.2.g 9 (Master Plan Procedures) and Ordinance 1996010, Article V, Section 5.4.2 (Final Plant Submittals), and Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code to specify at what stage water rights are required to be transferred (FIRST PUBLIC HEARING)**

Wd: Thank you, Mr. Chairman. On February 17th the CDRC met and acted on this ordinance. The decision of the CDRC was to recommend approval of this ordinance. On January 25, 2005 staff requested further direction from the BCC regarding this ordinance. As directed by the BCC, staff is proposing the following amendments.

Article V, Section 5.2.2.g.8, master plan procedures, has been amended as follows: A master plan submittal shall identify one or more sources of water to supply the proposed development, i.e., County or other utility, wells, water rights transfers, proposed point of diversion, etc. The analysis will also include estimated water budget, demand, by phase, total demand at full build-out, including commercial uses, if applicable and a water conservation plan.

Article V, Section 5.2.2.g 9, master plan procedures. In addition to the requirements listed above, all applicants requesting master plan approval of a non-residential development proposing to use more than one acre-foot of water per year, or a Type I, II, or IV subdivision must submit a water supply plan for the first sustainable phase of development, as required by Article VII, Section 6 of the Code; provided, however, that permit to appropriate water issued by the Office of the State Engineer, provided for in Article VII, Section 6.2.2 of the Code are not a required part of the water supply plan to be submitted as part of a master plan report, though the applicant may, at its discretion, submit such permits as part of its water supply plan. If the applicant opts not to submit permits to appropriate water issued by the Office of the State Engineer, the applicant shall submit sufficient written documentation to demonstrate that water rights are available for the first sustainable phase of development. Water rights shall be considered available for the purpose of this subsection when the water rights are owned by the

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applicant, under contract or option to the applicant, or otherwise deemed available by the Board. Sufficient written documentation includes but is not limited to a water rights deed, an option agreement to purchase water rights or other appropriate documentation deemed sufficient by the Board.

Article V, Section 5.4.2.ciii, staff has inserted, If required by Article VII, Section 6 of the Land Development Code, a permit to appropriate water issued by the Office of the State Engineer. So what that means is basically that the water rights transfer has been complete and the Office of the State Engineer has actually issued a permit to appropriate water. So that process would have to be complete at final plat submittal.

Article VII, Section 6.4.2.b, instead of 160 acres, staff has inserted 40 acres, and Article VII, Section 6.4.2.c, language inserted is draw-down of the water table on the properties adjoining the development. That was actually language that was recommended by Dr. Wust.

Recommendation: Staff recommends approval of this ordinance. Thank you.

CHAIRMAN ANAYA: Okay, is there any comment from the Commission?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Wayne, regarding the language that you just read on the Article V, 5.4.2, if required by Article 5.2 Land Development Code a permit to appropriate water is issued, or is issued as it's written?

Wd: Mr. Chairman, Commissioner Montoya, is issued. Likes it's read.

COMMISSIONER MONTOYA: Okay. So water issued. Not water is issued.

Wd: Right.

CHAIRMAN ANAYA: Okay, any other comments? Hearing none, this is a public hearing. Anybody in the audience would like to come forward and talk about this? It's the first public hearing. Okay, hearing none, thank you very much and you'll let us know when the second public hearing -

Wd: Mr. Chairman, this will be scheduled for the April BCC meeting.

CHAIRMAN ANAYA: Okay. Thank you. Good job.

XIII. A. 3. CDRC Case #V/Z 04-5490 Alfonz Vizolay Variance and Master Plan. Alfonz Vizolay, Applicant, Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code for the eligibility for Commercial Zoning Outside of a Commercial District. The Applicant is also requesting Master Plan and Preliminary and Final Development Plan Approval for an 8,510 sq. ft. Warehouse and Office. The Property is Located Within the Santa Fe Metro Highway Corridor in the Commercial Gateway at 4 Reata Road, Within the Remuda Ridge Subdivision, Within Section 24, Township 16 North, Range 8 East, (Commission District 3)

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chairman. On January 20, 2005, the County Development Review Committee met and acted on this case. The decision of the CDRC was to deny the application.

Alfonz Vizolay, applicant, is requesting a variance of Article III, Section 4.1 and 4.2 of the Land Development Code for the eligibility for commercial zoning outside a commercial district. Article III, Section 4.1 of the Land Development Code states, "Commercial and industrial non-residential uses are permitted only in zoned districts." There are several reasons why commercial districts are established. The primary reason is to avoid strip commercial patters of development along collector and local roads of the county. Also to protect existing and future residential development from encroachment of non-residential uses. This property is not within a commercial district at a qualifying road intersection.

Lot 1, Block 3 consists of one acre located in the Remuda Ridge Subdivision and currently has a 1,861 square foot office building. The property is located between two commercial districts, one being the Cerrillos Road/I-25 district, and the I-25/NM 599 district. The proposed development is an 8,510 square foot stucco warehouse and office building that will be utilized to manage and operate an environmental clean-up company. An existing 1,861 square foot office is currently being used by the company for office space. The proposed warehouse building is for equipment storage. Any outdoor storage will be limited to 600 square feet and will be screened.

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

The application was reviewed for the following: existing conditions, access and parking, water, fire protection, liquid and solid waste, terrain management, landscaping, signage and

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lighting, traffic.

Recommendation: Staff's position is that this application is not in accordance with Article III, Section 4.1 and 4.2 of the Land Development Code and the Santa Fe Metro Highway Corridor District Plan. In granting this variance, the purpose of the Code to avoid strip commercial development along collector and local roads and to protect existing residential development from encroachment of non-residential uses would be violated. Staff recommends denial of the request.

The proposed master plan is in accordance with all other procedures and submittals for master plans set forth in Article V, Section 5 of the County Land Development Code. If the decision of the BCC is to recommend approval of the variance, staff recommends master plan zoning with preliminary development plan approval subject to the following conditions, and final development plan subject to approval by staff. May I enter the conditions into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a. State Engineer
 - b. State Environment Department
 - c. State Department of Transportation
 - d. County Hydrologist
 - e. Development Review Director
 - f. County Public Works
 - g. County Technical Review Division
 - h. County Fire Marshal
2. Master plan with appropriate signatures shall be recorded with the Office of the County Clerk.
3. All staff redlines will be addressed. Original redlines will be returned with final plans.
4. The applicant shall comply with water harvesting requirements of Ordinance 2003-6. A water harvesting plan shall be submitted with the final development plan application.
5. The applicant shall submit a liquid waste permit from the Environmental Department with the development plan.
6. The applicant shall comply with all Fire Marshal requirements. The applicant will request a final fire inspection prior to occupancy of the building.
7. The applicant shall pay a fire review fee in the amount determined by the Fire Marshal in accordance with Santa Fe County Resolution 2001-114 prior to recordation of the final development plan.
8. All outside lighting on the property shall be shielded.
9. The applicant shall submit a cost estimate and financial guarantee for completion of the required improvements as approved by staff, or other method acceptable to staff.
10. Landscape plan shall include but not be limited to the following:

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- a. The applicant shall submit a landscape plan consisting of trees and shrubs for road frontage landscape buffer, front of building and west property line in conformance with minimum size standards.
 - b. Landscaping for road frontage shall also be located in front of fence.
 - c. All landscaping shall be of drought tolerant varieties and shall utilize a drip irrigation system.
 - d. Provide 50 percent evergreen trees/shrubs.
11. Applicant shall contact NMED about existing septic permit and apply for new septic permit for the proposed development.
 12. Applicant shall contact the Drinking Water Bureau to inquire about water quality testing.
 13. The applicant shall contract with a licensed solid waste disposal service for trash pick-up.
 14. The applicant must address all minor corrections by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Department. These plans must be resubmitted with the mylar prior to recordation.
 15. Approval of rural address.
 16. Applicant shall obtain a business registration prior to occupancy.

CHAIRMAN ANAYA: Thank you, Vicente. Are there any questions of Vicente from the Commission? Thank you, Vicente. Is the applicant here? Could you come forward, sir? State your name and address for the record.

[Duly sworn, Alfonz Vizsolay testified as follows:]

ALFONZ VISZOLAY: Mr. Chairman, Commissioners, my name is Alfonz Vizsolay. I own a company called VM Technology involved in water treatment and air treatment. We are involved with groundwater clean-up and polluted water. Also, Mr. Commissioner, I just would like to ask you a favor. Some of the people are here on behalf of me and some of them want to speak and some of them maybe would like to go home, but if you could sort of weed out who wants to stay or not, I would like to ask you if it would be possible to dismiss the people so they don't have to wait for me.

CHAIRMAN ANAYA: Okay. Will all the people that are in favor of this, would you please just raise your hand? [Twenty-two people raised their hands.] Okay, if you all want to go home, you can. If you want to stick around, you can, but we've got a number of 22. I'll have a chance for public comment, so the ones that are here can come forward and speak.

MR. VISZOLAY: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Let me do one thing. Is there anybody in the audience that is not in favor? Six. Go ahead.

MR. VISZOLAY: I bought this property in all intention that this was already

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commercial property. I'm not here to try to make some residential and convert it into commercial. I understand this has always been used, actually used by the County as a dog kennel. They used to use it for RV sales and this was never seen to be a residential property. All around my property as you can see there are businesses at this time. There is a church, there is Fedex, there are trucking companies and all of those are basically all around me are businesses existing. I think as a matter of fact some of the people who are here against this development they have the business on their residential property.

But to make it short I would like to just mention to you that I come here to this County to help out with the water treatment. I have a company. I've moved back from California. I used to live here in Santa Fe in the sixties and I'm dealing with the water treatment in the Española Water District and I also deal with Los Alamos, with Mr. Charlie Nylander to try to develop water quality, not only just quantity but water quality and working on water that may be polluted.

My company is going to have about ten people and the area I have right now, I developed it, I put in more than \$50,000 just trying to clean it up. I already invested just moving here and buying the property, over half a million, and other money I put into Santa Fe is over a million and a half I've invested into this town. I appreciate the fact that you changed over because right now I didn't find any property that I could develop my company. I'm here to try to help Santa Fe with this water problem. I deal with all over the country for the water pollution, out of sewage treatment plants. We have some better ideas. We have better clarifiers, we have better septic tank and I could help the county. Not only that but we are working with some video films for the younger generation to how to save water and I think Commissioner Montoya knows Mr. Nylander and you saw the video that has been put out by Los Alamos on water conservation which is excellent movie, but it's a little bit too high for the younger generation to understand.

So we are here to try to help. I'm sorry to cause all this problem for this community. I'm trying to develop it. I really want to make that better. That area in the corner used to be basically just trash dump and I hauled away about five truckloads. We tried to clean it up and aesthetically make that area a little bit more pleasing. It's really frustrating. I've been here now for six months trying to get this thing done, and I never, if I would have known that this was going to be this much problem I would never trying to bark up this tree. It's caused me a lot of hardship because my business is done and I could bring business to this community. I already brought business here for the local companies. I bring in here from Eclipse Aviation. I bring in companies from outside of New Mexico to do work here and make sure such as Mr. Leonard's steel company, and I have other people here that have businesses. I've been bringing business to this community so they could have some profitable organization here.

CHAIRMAN ANAYA: Okay, Mr. Vizsolay, do you agree with the conditions that staff placed on you? There's 16 of them.

MR. VIZSOLAY: I can take that.

CHAIRMAN ANAYA: Do you agree with them?

MR. VIZSOLAY: Yes.

CHAIRMAN ANAYA: Are you done with your presentation?

MR. VISZOLAY: Yes, sir. I am.

CHAIRMAN ANAYA: Are there any questions from the Commission to Alfonz? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Vizsolay, just one question. Did you take a look at or investigate the possibility of location at the County business park on Route 14?

MR. VISZOLAY: I looked at some areas. I tried to buy property there, but Mr. Commissioner, the problem I had is I bought property in Albuquerque and I had these containers which really look an eyesore right now because they are basically temporary storage of equipment and lab equipment and water testing equipment. And what happened is I bought this property and when I finally find out there was seven liens against it and taxes haven't been paid for six years. So I have to buy a property fast enough so I finally bought this and it took me six months to find out because I couldn't get the title to it because there was no title insurance. Everybody shake hands over here and I had to go back to Florida to find the person who owned this property, ten years, fifteen years ago. Because I didn't know who owned the property. But I bought it. So I was committed to it. So that took me some time. And now I'm trying to develop this and believe me, that is the most unlikely property to put a business. It's a triangle shape. I don't mind if it's on a corner, but I definitely never would have wanted to do this if I knew that this was a residential property. It was always commercial.

COMMISSIONER SULLIVAN: I understand.

MR. VISZOLAY: I've put \$500,000 into this property right now.

COMMISSIONER SULLIVAN: Well, the question I asked, in our business park which we have on Route 14 which has utility service, there's not a requirement that the property be purchased. The County has the property through a 99-year lease with the State Land Office and then we sublease it to potential businesses that bring economic benefit to the County. I just wondered if you had touched base with staff on that possibility.

MR. VISZOLAY: No, sir, I have not. I'm just trying to pursue what I was here and I was sort of in between --

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Vizsolay, I've actually done a site visit and one of the concerns I have is there are currently at least ten and within that average huge trash bins there. I recognize that perhaps there's a plan to do that. So ancillary to your response to me I'd also like to know exactly what your business is.

MR. VISZOLAY: I deal with water treatment. I deal with water treatment. I was doing projects with the United States Air Force for contaminated water. I worked on a B-1/B-2 project. I worked with water treatment in India under [inaudible] I deal with Africa. I deal with the United States for household water where you have very high concentrations of minerals. Some places with BCE, TCE, that contaminates the water, or sulfur. I put in water treatment in the house and also bacteria controls so that you have drinking potable water that you could drink. I could build small units and I could build big units. I was doing a project for

example right now at Flathead Lake in Polson, Montana. We are also doing a project hydrogen sulfide recovery. A lot of these digesters in you sewage treatment plant emit hydrogen sulfide which goes up into the air, causes acid rain. What I do is destroy the hydrogen sulfide to sulfate and it becomes fertilizer. So it becomes an inert gas that I could use in a fertilizer. I'm already talking to people at the sewage plant that I could help them out with the problem that they have with water. Because I helped other areas and that's why I came back to Santa Fe. Actually, my uncle, the one who taught me to come back here, he was a congressman or a senator George Corrain.

COMMISSIONER VIGIL: And the bins?

MR. VISZOLAY: In the bins I have instruments. I have water treatment sampling units. I have lab equipment. So I could use that. It's a laboratory, but I have to pack it inside in those containers to move it from California.

COMMISSIONER VIGIL: Does your business ever deal with transporting contaminants?

MR. VISZOLAY: No, ma'am. I do not deal with any kind of chemicals. Any machine I build, it's a site-specific clean-up. For example, Los Alamos, with all the problems that they have with heavy metals, that's some of the other contaminants that I'm not at liberty to discuss with you right now, but I could clean that up out of groundwater. I've worked with Lockheed. I've worked with municipal water. I work with underdeveloped countries. And sometimes we're talking about these sewage plants that we exhaust the water that we treat. Believe me, that water is a lot cleaner than you see people drinking out of mud holes in Africa. It's a sad thing, but we can do something collectively here. And I think companies like mind are needed here because I talked to Mr. Nylander and they need a collective effort for people here to understand this water problem, and I could bring something to the table.

My colleagues say, What am I doing here?

COMMISSIONER CAMPOS: Mr. Chairman, this doesn't really have anything to do with - there's a legal issue here, that's whether we should grant him a variance or not. Mr. Vizsolay should be addressing those requirements and he has not done so at all. Those are the only legal issues before us.

CHAIRMAN ANAYA: I know that but the Commissioner asked a question and I think she has a right to know what he does. So go ahead.

COMMISSIONER VIGIL: That's sufficient. Thank you, Mr. Vizsolay.

CHAIRMAN ANAYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: I just wanted to make it clear that there are some legal issues that the applicant has not addressed. Why we should grant a variance. The ordinance says you have to have met all these requirements, A, B, C, and D, and he hasn't talked about that. So he hasn't made a case for himself yet.

CHAIRMAN ANAYA: So why don't you ask him that question?

COMMISSIONER CAMPOS: Well, it's in the report. He's talked to staff.

CHAIRMAN ANAYA: What is A, B, C and D?

COMMISSIONER CAMPOS: That's up to him to do. It's not up to me. Look

at Article II, Section 3, Variances, on page 2 of the report. It outlines right in the middle of the page all the things you've got to address. You haven't done that. You're just saying you have a nice business and you can do a lot of good things but that's not what you have to convince us of.

MR. VISZOLAY: I understand that. But one thing, Mr. Chairman, I bought this property without really researching all this. I saw all those other businesses around my property. This was always used as commercial. I understand the legal issue. Maybe I should get Mr. Sommer over here, Karl Sommer, to explain it better. But I was just trying to be here to minimize everybody's time.

CHAIRMAN ANAYA: Are there any other questions? All right. Thank you. This is a public hearing. All those that are for this, I know there were 22 hands out there. Is there certain people that want to speak in favor with everybody. Go ahead and come forward, the ones that want to speak and come up here in the front, sit down and try not to repeat yourself. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, just remember there are some legal issues. It's not a popularity contest. We like him or he has a good business. They have to address the variance criteria. That's the only issue on the floor.

CHAIRMAN ANAYA: Well, I'm going to let them speak. They have the right to say whatever they want. Go ahead, sir. Your name.

[Duly sworn, Jeffery Maul testified as follows:]

JEFFREY MAUL: My name is Jeffrey Maul and I'm a resident of the neighborhood. I live at 26 Reata Road. I personally have looked at this property over the years and of course I was told it was commercial by all of the realtors as well. I tried to buy the property several years back myself. It is by no means a piece of property that could be used as a residence. It is inundated by commercial, surrounded by commercial. As far as the proposed business there, it is a clean, high-tech industry. This man is looking for a space to put his scientific equipment and I have an understanding of this business that he does off-site work and I think it could be a very productive business for the community.

I have first hand experience that he has brought a tremendous amount of industry into this community, has brought employment to my business and other businesses within the community. My company is Santa Fe Awning. I am fortunate to be over at the Turquoise Trail Business Park. Again, it's very difficult for a clean industry to come in this community and provide 10, 20, 50 or 100 jobs in the overall picture. I support this business and the location, even though I own a residence up the road.

CHAIRMAN ANAYA: Okay, you live in Remuda Ridge?

MR. MAUL: I do. I'm south, five doors down and two doors down from Fedex terminal at that location.

CHAIRMAN ANAYA: Thanks, Jeffrey. Any comments to Jeffrey? Thank you.

[Duly sworn, David Burns testified as follows:]

DAVID BURNS: My name is David Burns from Hal Burns Truck and

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Equipment. Yes, sir, you're talking legalities, whether it's commercial or not and that's part of the question. I was around in 1972 when the property was developed by Blue Chip Realty and Sergeants. Anyhow, it was sold under the auspices – it might have been in the covenants. I'm not really sure. I was young back then, but I do know it was sold. All these properties in here were sold to be used for commercial.

Now I was gone from 1979 to 1997 so I guess in '96 or '95 the County came in and made some rules I'm not really sure of. However, I will state that there have been commercial businesses in Remuda Ridge since 1975. And they have been there. Hal Burns Trucks is one of the first if not the first. And you have Kuckelman. There's a whole line of them. So what the legality, if it's commercial or residential, I know in '72 it was sold as commercial or implied commercial. This property was used commercially. Santa Fe County, the dogcatcher was there and they were there for about two years if I'm not mistaken. Now, you might not have a record of it because I understand Santa Fe County does not have to apply for licenses. So there might not be a record of them being there.

We have been paying taxes on that property. I'm the one that sold it back in June. I've been paying taxes. I bought it from Travel Town where my dad did a handshake deal from Travel Town back four years ago and we finally solved the deal a couple years ago. It was a handshake. I don't know what you call it. A real estate contract. But we finally sold it. But we've been paying taxes. I've got record of paying taxes as being commercial, commercial taxes. Thank you.

CHAIRMAN ANAYA: Thank you. I just want to recognize Greg Solano, our Sheriff is here. Greg, thanks for being here.

[Duly sworn, Brian Lock testified as follows:]

BRIAN LOCK: My name is Brian Lock, address is 304 Viero Street, Santa Fe. I'm with Santa Fe Brewing Company, just across the interstate from the proposed commercial property. In my view that whole area is seeming to become a commercial area. There's evidence around the property. I was actually at the property today and in response to Commissioner Vigil's comment on dumpsters, they aren't dumpsters. They're actually containers. I think that might be something you might consider when you're thinking they're dumpsters; they're containers.

COMMISSIONER VIGIL: Mr. Chairman, they look like large dumpsters.

MR. LOCK: There's a difference between a dumpster and a container. A container is –

COMMISSIONER VIGIL: I don't want to argue the point, Mr. Chairman.

MR. LOCK: I just wanted to make that point. I think that that area is kind of set up for this. He's been involved with things that can help the whole district there, including myself with my bottling line and my sort of thing that I'm manufacturing. He has a lot of experience in that. So I just find it very beneficial to have that kind of an industry in that area. That's all I have to say.

CHAIRMAN ANAYA: Thank you, Brian. Next.

[Duly sworn, Danny Marmion testified as follows:]

DANNY MARMION: My name is Danny Marmion. I live at 19-A Las Estrellas. I've owned property in the past in that Remuda Ridge Subdivision. I also looked at that piece of property myself to buy a couple of times, and I'm acquainted with Mr. Vizsolay. He asked me early on, once he had acquired the property to help him and we tried to put together the history of the property. When we went to the County files the listing that was in there was the original application for building permit which was for some type of a 7-11 or a grocery store. You've heard testimony tonight that it's also been Tiny Town, sold travel trailers out of there and you've heard testimony that Santa Fe County also conducted business there for a couple of years as a dog pound.

The thing of it is, with ordinances and corridor plans, this property has been there prior to the adoption even of the building code, so it's always been, as far as I can tell, used as commercial. And if it's not commercial, I don't see it being residential. People don't live in steel buildings and I don't think that's what we're here to say that residential people are going to move in there and buy it for residential; they're not. We're here for two reasons. To prove legally that the property is a non-complying commercial piece of property, is what the applicant's asking. As well, we're here for master plan approval. So if the Commission decides to grant the variance, the master plan approval, I think it's a 10,000 square foot building that does comply with all the requirements of the different corridors that affect the property. The applicant's going to build a 10,000 square foot building. He's going to build it earthtone colors. He's going to put stucco. All the conart boxes or trash dumpsters will all be vacated from the property. All the equipment, the laboratory stuff, the tools, will all be inside the building. The applicant will comply with I believe it's a 625 square foot outside storage. He won't exceed that. So the master plan really peaks it up and cleans it all up.

There is one issue. He put a fence on leaving the south side of the property but never did anything to the north side and he told me he's open to suggestions from the neighbors to put some type of a solid screen fence or screen or fencing material, whatever I think the neighborhood wants so that it won't be visible as they're coming in to their own subdivision where the residents are. So that's pretty much the way I look at it. If it's not commercial I sure don't see it as being residential. Thank you.

CHAIRMAN ANAYA: Thank you, Danny.

[Duly sworn, Jeff Gates testified as follows:]

JEFF GATES: Mr. Chairman, I'd like to speak on behalf of Mr. Vizsolay. My name is Jeff Gates. I reside at 3349 Avenida San Marcos. I own property at 27717 in close proximity to Mr. Vizsolay's property and I've seen his plan for his building and I think it's a nice design and I'd also like to speak on behalf of his character. I think this man will do the right thing for the community and in the ten years that I've owned this property and gone back and forth and back and forth, all I've seen on that corner is commercial property. So I think the use has been established. Thank you.

CHAIRMAN ANAYA: Thank you, Jeff. Anybody else would like to speak for this case? Come forward. Okay, hearing none, anybody that would like to speak against this case, come forward. Come forward and sit in the front pew if you'd like. Try not to repeat and

we'll go from there.

[Duly sworn, Dan Williams testified as follows:]

DAN WILLIAMS: Mr. Chairman, members of the Commission, my name is Dan Williams. I live at 23 Reata Road. With all respect to Mr. Vizsolay, I think what he's trying to do is honorable and a good business. What concerns me and what I'd like to talk to you about is the impact that your decision today will have on our neighborhood, our residential neighborhood. I think what you decide tonight will determine the future of our neighborhood and whether it's going to be a place for residents to live or whether it will be an industrial park or part industrial park. There are businesses there now. The ones that are there now I understand were grandfathered in before the current zoning was adopted.

The intent of that zoning as I understand it and from what was read earlier today was to preserve the residential qualities there and our quality of life. What concerns me, I guess, is that in the past year, three requests for variances similar to this were applied for and all three denied by the CDRC, including this one, and I understand there's another one in the works. That worries the residents a lot. In this case, if this one were granted, I would expect that the other ones that were denied would come back before you wanting similar treatment. How could you say no?

The businesses, some of the businesses that are there now, including the Fedex, which is right across from my property, I believe are there because of a lack of vigilance from the neighbors and by the County. I understand Fedex is operating there now without a business permit and has been for five years or more, and the staff is trying to address that. But those are the kinds of things we're worried about. Things coming in. Who's to say Mr. Vizsolay's going to stay there. Then there'll be a big building for something else to move in to. And we do not want to see that happen. Businesses come and go but the residents, myself and many others included plan to stay there and be there for a while.

All we're asking you to do tonight, all I'm asking you to do tonight is do the right thing for us who plan to be there in 20 years. Thank you.

CHAIRMAN ANAYA: Thank you, Dan.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a question. Sir, do you live in that area

close by?

MR. WILLIAMS: Yes, I do.

COMMISSIONER CAMPOS: And you have a home there?

MR. WILLIAMS: Yes, I do.

COMMISSIONER CAMPOS: Do you have a business on that?

MR. WILLIAMS: No, I don't.

COMMISSIONER CAMPOS: Is there anything that Mr. Vizsolay could do that would make you more comfortable with this development?

MR. WILLIAMS: There's nothing that he could do, no. There's something that I guess the County could do which would be to assure me that if this variance were granted that

similar variances would not be granted in the future.

COMMISSIONER CAMPOS: That's hard to do, once you grant one you have a precedent and –

MR. WILLIAMS: That's what we're worried about.

COMMISSIONER CAMPOS: That's what you're concerned about.

MR. WILLIAMS: Exactly.

COMMISSIONER CAMPOS: Do you think that this is predominantly a residential area right now or a commercial area?

MR. WILLIAMS: Absolutely, I'd say that the vast majority of the lots in the Remuda Ridge area are residential.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

CHAIRMAN ANAYA: Thank you, Dan. Next.

[Duly sworn, Charles Vigil testified as follows:]

CHARLES VIGIL: My name is Charles Vigil. I live at 31 Reata Road. Commissioners, I've lived in Remuda Ridge since 1978. Remuda Ridge is a residential subdivision. There are 84 lots in the total subdivision. Out of those 84 there are nine lots that have businesses on them right now. These lots were sold by the developer as commercial. It does not mean that the County approved them as commercial. Back in the early seventies there were not people watching over this as we are today.

My concern is that Mr. Vizolay has improved the property but he is planning on manufacturing these different systems to take some place else. That is not a commercial endeavor. That is an industrial endeavor. You're manufacturing. You may not use them on this property but you're manufacturing. Another question relates to the answer, within a two-mile radius of this property there are three approved and designated business parks or industrial parks. Remuda Ridge is not an industrial park. It has not been recognized as one, as a business park and we do not want to see it turned into one. I have to drive through there every day.

Now as far as the sewer problem, water, fire suppression, we don't have that. It's a rural neighborhood. They could have this at a business park. There have been mistakes made before with these other businesses coming in. I hope that we can learn from our mistakes and not repeat them. I do not want to see – they say this could not be a residential. There is an 1800 square foot metal building on it, but it's next to the church and it does not mean it won't be a residential. The metal building – they can knock it down. People can live on this property. Thank you.

CHAIRMAN ANAYA: Thank you, Chuck. Vicente, tell me about the septic system. Is there going to be a septic system and a well?

MR. ARCHULETA: Mr. Chairman, I believe there is a well on the property and a septic tank.

CHAIRMAN ANAYA: Already.

MR. ARCHULETA: Yes.

CHAIRMAN ANAYA: Okay. All right, next.

[Duly sworn, Steve Borman testified as follows:]

STEVE BORMAN: I'm Steve Borman and I'm on Lot 29. 29 Reata Road. Okay, pretty much everything that's been said is, by the fellows that have been talking against this variance are what I believe but it's that precedent setting idea there. Once we allow this to happen it's going to open the door. We've been trying to fight lately, especially lately, because now that we're much older and all that we're seeing that our property values have gone down. An example of that is I had an appraisal done on my property one time and they guy said he couldn't give me a very good appraisal. And I said, Well, why not? He said, the examples in your neighborhood are pretty bad. And he was talking commercial-wise. He had to go to another neighborhood in order to compare my house and make it more presentable for a loan I was asking for. Refinance.

That's one reason. The other is that precedent, and then there are businesses there that could improve. Let's face it. We have a business that's trying to get going here and we've got businesses there that need to improve. They're not very good representatives of the neighborhood. So we're fighting them and we got a new one coming on, potentially. Again, Mr. Vizsolay decides that he's going to leave, then another person may come in and absolutely destroy the area. Fedex is a very good example of a company that has destroyed a certain block there of an area there that - actually, the whole area is affected by this company, but the neighbors that are immediately next to the Fedex area are having a miserable time.

So we already have a precedent of a bad company being there. So that's why we're here to fight this variance because we know that once this opens the door it's going to open the door to others. And that's it.

CHAIRMAN ANAYA: Thank you, Steve.

[Duly sworn, Art Schwack testified as follows:]

ART SCHWACK: Good evening. Thank you. My name is Art Schwack. And I'm a resident of Remuda Ridge and I've been there since 1989. I've been there for over 15 years now. My main concern, I don't want to be repetitious so my main concern is the entrance to our community and it's zoned, as far as I'm concerned, and I've always found out that it's zoned as residential, I'd like to see the entrance to my community stay residential. And that's really all I have to say, because it's all been said.

CHAIRMAN ANAYA: Okay. Thank you, Art.

[Duly sworn, Joe Trujillo testified as follows:]

JOE TRUJILLO: Joe Trujillo, 30 Reata Road, Santa Fe. Mr. Chairman, Commissioners, let me first elaborate a bit on the history of the property at issue. I think it was 1985 or somewhere around 1985, I was a member of the EZ Commission, the Extraterritorial Zoning Commission. At that time, we had an application come before us for this Commission. What had transpired, according to what was brought before us is that there was a foundation that was laid on that property for a commercial building. It was red-tagged by the State Construction Industries Commission. It was also red-tagged by the County. It's my recollection that it was red-tagged because there were no permits for this building.

One of the issues was the corner of this particular building did not meet the setback requirements. I'm going by memory but my recollection was or is that the corner of this

building was within five feet of the right-of-way. We had a neighbor, a very dear friend of mine, who was part owner of this property. He came to me and said, Joe, you're on the EZ Commission. We need your help. We have a hardship case. There was a divorce proceeding and I believe it was the wife who was related to the seller and that was Mr. Martinez, Sam Martinez. She said she needs to make some livelihood. This property and this building was intended to open up a small grocery store, similar to a 7-11. And he says, Can you help us?

Well, one regret I have in life is that I complied with his request and we helped him. We arranged or I arranged for a site visit by the Commission members and we worked long and hard to try and accommodate and try and be in compliance with Land Use. At any rate, this is how this building came to be on this particular property. It was intended to be used as a 7-11, little grocery. Shortly after, the owner sold the property. Later on, there was a company that was involved with travel trailers and they used this property on a temporary basis because they were building a facility across the interstate, over on State Road 14, and this was used on a temporary basis for one summer. They must have had over 100 travel trailers on that property during that period. But it was our understanding it was of a temporary basis so we were kind of mite with what was going on there.

It remained vacant for a long time and the next usage was by the animal control, the Santa Fe County. And they were there approximately two years. They would operate out of there for animal control purposes. They vacated the building and after that, Hal Burns Trucking took over and before long we began to see junked vehicles on this property. Now, you have heard some testimony from Mr. Vizsolay that when he bought this property, and incidentally he bought it from Hal Burns Trucking. When he bought this property, there were what I heard were five truckloads of trash that were removed from this property. He is to be commended because he has done wonders. He built the wall. It's very attractive. He's done a good job. But what he is proposing, and you have heard all the testimony so I'm not going to be redundant, but what he is proposing does not lend itself to the land use code nor to the residential area.

There are 84 one-acre parcels and of those I think only nine are used for commercial purposes. It is our contention that all of those commercial enterprises are unauthorized uses. Fedex is a good example of the nightmare that is created when you accommodate strip zoning. Sheriff Solano is in the audience and his office has been contacted on numerous occasions because what we have had to deal with in the very recent pass is semi-rigs coming into the neighborhood and literally unhooking their trailers and leaving them in the right-of-way. And I'm not exaggerating. I even saw a trailer unhitched right at the entrance, and I'm talking about the frontage road. That was very recent. There was a trailer that was unhitched and left there for like two or three hours. I've seen that repeated several times in the right-of-way very near to the Fedex office.

You've heard testimony from individuals that don't even live in the neighborhood. Mr. Chairman counted 22. Of those 22 I only recognize three from my neighborhood. Now it's very easy to fill up the room with bodies. We could have done that. I could have invited my aunts and uncles, brothers and sisters, friends and associates from other areas that don't even live there but that's not the purpose for us being here. We have a very serious and legitimate

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concern. We love our neighborhood. The Southwest Sector for some reason has an image of if you have an undesired project that nobody wants in the neighborhood, well, send it down to the Southwest Sector. Nobody over there cares. And not only do the people not care; the County doesn't care because it's allowed everywhere. It's time, Mr. Chairman and Commissioners, that the County take a very serious look at what is happening in the gateway to our community. The area is trashed out. You have numerous unauthorized commercial uses spread out throughout the county. We have a very serious concern about our neighborhood. Those of us that have been there for 30, 20 years. In my case I've been there for 31 years. We are at the age where we don't have the time nor the energy nor the resources to start all over again in another neighborhood. For the most part, those commercial uses at the entry to Remuda Ridge, the people have no interest in the area because they don't even live there. Those of us that live there and have invested our life savings and energy would like to see it cleaned up and that's why we're here tonight to ask each and every single one of you to have the courage to do what the land code specifies.

In closing I'm going to focus on the land use code. You heard the staff report. Specifically, Article III, Section 4.1 and 4.3 of the Land Development Code does not accommodate this type of usage. So Commissioners, this is not a commercial use, this is an industrial use. You also heard testimony that part of the service provided by the applicant is to remove contaminants from water. We do not want these contaminants brought to our neighborhood.

And finally, I would ask you to try and envision and 8,000 or 10,000 square foot building at the entry to your neighborhood. Is this something that you would feel comfortable with? Commissioners, please help us.

CHAIRMAN ANAYA: Thank you, Joe. Anybody else like to speak against this? Hearing none, the public hearing is closed and Mr. Vizsolay, you can come up and rebuttal if you'd like.

MR. VISZOLAY: There were a couple of things mentioned that I'm going to manufacture big equipment. Well, I can't manufacture on that small property big equipment. There are containers going to be emptied and taken off the property. I bought this property and here is the development permit application. It is permit that was before applied to get the building on here. And also I know Mr. Trujillo and all these people are concerned what they say because if I would have known that his was always a residential property I would never, never would have bought this property. And also I think Mr. Trujillo, he comes up here and speaks but he has in a residential area, a business, a pumping, and he's says, well, it's grandfathered in.

I looked at the area when I came there and to me it was all understood and it was always residential. I got a building across the street from me is 8,000 square feet. And I'm really concerned because I don't want to ruin their neighborhood. As a matter of fact I want to improve it. That corner was a trash dump and I'm cleaning it up every week because it's somehow a target for beer bottles out there and trash. Mr. Commissioner, I'm having a hard time keeping it clean sometimes but if you look at the area, I tried to improve it, not deteriorate

it. And I don't think they really understand what I'm trying to do here. I'm not going to bring contaminants from some place else. I'm not going to rob Peter to pay Paul. The contaminants going to be cleaned up in the area and I will not even transfer it because you have to have special permits.

In trying to be legal about this, Commissioner Campos, I'm not a lawyer. I'm an engineer. I have a degree in chemistry, electric one. I don't want to mention all that. I'm here to try to help this community and benefit and try to build my business back up. I'm here to help you. I'm helping the university. I'm donating to other areas and I could bring you letters, but I'm not trying to say I'm a good man, but damn it, I'm not a bad one. And I'm trying to help you here. And I'm really concerned about these residents here because I wouldn't want that in my neighborhood either. But I didn't know that this is exactly what I have to go through here. And you have to weigh it out, the amount of money I put in there, and who would build a house in that corner when you have all these industrial buildings? And those people are not going to move. They are grandfathered in. I got a church.

You look at that whole area around there. It was obvious to me it was commercial. And I'm not going to build big equipment there.

CHAIRMAN ANAYA: Are you going to, Mr. Vizsolay, one of the concerns was the containers that you have outside.

MR. VISZOLAY: I'm going to get rid of those. I'm already -

CHAIRMAN ANAYA: Those are all going to be eliminated, and your stuff that's inside the containers are going to go in the building. What have you decided in building a wall on the east side and the north side?

MR. VISZOLAY: I was deciding to put up a wall so it's aesthetically pleasing, and I was talking to some of my neighbors how they would like to build it. As you know, I would send you some pictures. I've built the wall and it's broken up so I could put vegetation in between it and I planted trees and bushes and I have cactus put in there so aesthetically, it makes that whole area not like an industrial, ugly building, but actually build it with some aesthetic that would fit into Santa Fe. I'm not going to put a metal building up there. It's going to be stuccoed Santa Fe style with all the vigas. So they're not going to look at something that's - right now, I don't blame them. The place looks like with the trash bins, it does look ugly. But I want to get rid of those as soon as I can build this building. And I would like to find a property some place else and I'd be glad to sell this property back to the City if they want it. I'd move out of there, but right now, I've got too much invested. And who's going to pay \$250,000 for that property, building a house there? Tell me. It does not work. That property is a traffic area. And I understand we have Fedex there. I feel sorry for these guys living across from Fedex because they are running trucks day and night there. My company doesn't do that. We basically once a month if we're going to have a truck in there because we build specialized equipment. It's not going to be high traffic. I'm going to have ten people basically, employed and I'm going to have outside contractors come in and fill in on a project and that's how I run my business.

CHAIRMAN ANAYA: Thank you, Mr. Vizsolay. Commissioner Vigil.

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COMMISSIONER VIGIL: I actually have a question and perhaps it could be clarified really quickly. Vicente, this is probably to you. In our packets we have a letter from the State of New Mexico, the Office of the State Engineer, and it's dated September 24th. On the water demand analysis, water conservation – and I'll give you some time to reference that letter – that very first paragraph on the water demand analysis, last statement, it says It should be noted that the calculations allow for no industrial or commercial uses. Does that mean that when the Department of the Environment did this analysis they were considering their recommendation only for residential use? Or do you have an updated version from them?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, I don't have anything other than what you're seeing. Joe, can you answer that question?

JOE CATANACH (Review Supervisor): Mr. Chairman, Commissioner Vigil, I would interpret that by the State Engineer as saying that the business that's being requested would not use anymore than if there was a house on that property. In other words, you're going to have very few employees and I would interpret that – that was the intent of that statement. Very few employees at the business. The water use will be no more than if you had a residence on the property.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I just needed that clarified.

CHAIRMAN ANAYA: Okay. Any other questions? Comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicente, just one other clarification. In the letter from the State Engineer dated September 24, 2004, it says Further research by OSE indicated that the property is under real estate contract dependent on approval of this project. Is the property still under real estate contract?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, I believe that the property has been bought outright.

COMMISSIONER SULLIVAN: But initially it was under a real estate contract pending approval.

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

COMMISSIONER SULLIVAN: And then for some reason they decided to go ahead and –

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, the applicant had to do a title search to get full title for the property. At the time they had come in it was on a real estate contract based on that situation. They couldn't get title but they did a title search and as of the tenth of December a warranty deed was issued.

COMMISSIONER SULLIVAN: And when they came in to you, was it September? October? When did they come in?

MR. ARCHULETA: In August was when they applied.

COMMISSIONER SULLIVAN: In August of 2004? Okay. And at that time did you indicate to them that there would be a variance needed for this property?

MR. ARCHULETA: That's correct.

COMMISSIONER SULLIVAN: So in August, they came in for the permit, you indicated that a variance would be needed. So they were aware of that. The property was under real estate contract, and then in October they went ahead and purchased it and closed the deal, according to your records of 2004. Is that correct?

MR. ARCHULETA: The property wasn't actually closed on until the actual warranty deed was recorded, which was on December 10th of this past year.

COMMISSIONER SULLIVAN: Roughly six months, five or six months after the applicant came in. I'm just trying to establish that the applicant knew in advance of purchasing the property that there would be a variance needed to make it adaptable to commercial use.

MR. ARCHULETA: When the applicant came in, he came in on a notice of violation. So at that point we let him know that he needed to apply for the variance.

COMMISSIONER SULLIVAN: And at that point he was not the owner of the property.

MR. ARCHULETA: He had the real estate contract or a purchase agreement.

COMMISSIONER SULLIVAN: He had a purchase agreement that was dependent on the approval of the project and apparently he decided to go ahead and buy the property even though as of December he hadn't yet gotten an approval. Is that your understanding?

MR. ARCHULETA: Chairman Anaya, Commissioner Sullivan, what happened was he bought the property from Hal Burns' son, and at the time they thought they had an actual warranty deed from Travel Town. Travel Town did not have - Hal Burns did have an actual warranty deed to prove that he was the owner of the property. That's why after he sold it to Alfonz Vizolay they had to do a title search and it went through the courts and on December 10th, that's when it was finalized and the warranty deed was issued to Alfonz Vizolay.

COMMISSIONER SULLIVAN: In August of 2004 when he came in on a notice of violation, as a result of a notice of violation to request a permit, could he then have gotten out of the deal?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, I really don't know. That would be a question for Mr. Vizolay.

COMMISSIONER SULLIVAN: Okay, but he came - well, it's a legal question and we don't need to get into all the legal documents. But at the time he came in, to the best of your knowledge, it was still under contract for sale.

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

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN ANAYA: Any other comments, questions from the Commission? Commissioner Vigil.

COMMISSIONER VIGIL: Perhaps this is for Mr. Vizolay, and I'm just going to editorialize my statements to you. I have a really difficult time moving forth on a decision that violates not only the land code but the Metro Highway Corridor Plan, particularly because we have so many people out there in the community right now who are actually going through

their planning process and that process is feeling somewhat disempowered because they're hearing that the Commission is granting variances against their planning process. We do have several highway corridor plans where residential communities are very concerned as to whether or not the Commission is going to uphold it. So I know I have to represent what is in the most fair and judicious position for these residents because I feel very strongly that that's what I was elected for.

I guess I'm also trying to create a resolution based on my site visit. It is probably the best example of sprawl and mixed-use that I've seen in most recent history. It's really difficult to say what is commercial because there are some businesses out there that look residential but are actually commercial. It's very confusing to me. I guess what I would pose for you and I would ask Steve Ross to listen to this because if this is not legally possible then the proposition just can't move forward.

You have invested quite a bit in this. There are people who want to see you succeed in this community. If in fact you're involved with an environmental issue it is something that I'd like to promote. However, this is probably not the place to do it at. Is it possible for you to consider, and Mr. Ross, is it possible for us to grant a temporary variance? How could we phrase this, so that Mr. Vizolay could create a resolution to this and have some time to do it in, perhaps get some of his businesses and business transactions in order and look at alternative sites. And I'm just stating probably my rationale for my vote before the vote is taken. I'm going to have a difficult time violating our own Code and Metro Highway Corridor Plan on this. Steve? Or Joe? Whoever would like to respond to them.

MR. ROSS: Mr. Chairman, Commissioner Vigil, we don't have a mechanism for that in the Code, unfortunately. And then of course there's the practical issue. If you were to grant a temporary variance, he's proposing to improve the real estate with an 8,000 square foot building and that would be there, even if you granted, say, a two-year variance or something. That building is going to be there after that. So there's a practical issue as well as possibly a legal one.

COMMISSIONER VIGIL: And I guess, Mr. Ross, the temporary variance would be to not necessarily allow him to move forward with the current proposed development but allow him – and maybe it's not a variance. I'm not sure which way to propose. I'm looking for a way to split the baby there, to create the benefit for the investor and the benefit for the residents. Perhaps if he had an opportunity to remain there and settle his business, and try to find and locate a new business. Can we move forward in that sense? Commissioner Campos, can you help or can you hurt?

COMMISSIONER CAMPOS: I would just ask Mr. Vizolay, would this option be of interest to him anyway? You're saying basically allow status quo to stay, to exist, right? Nothing new, status quo, to give him a couple of years so that he can maybe find a better place, a more appropriate place. And the question I guess to Mr. Vizolay, would this be of interest to you? Would this work for you financially?

MR. VISZOLAY: Yes, that would be of interest to me. Also, Commissioner Sullivan, I would like to mention to you, when I find this out I already put the money down and

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it would have been really difficult for me to back out of the deal, because I made the deal basis on I bought the property and all I needed was the warranty deed to the property. I signed the paperworks and I couldn't back out. It was just impossible for me to do that. And to me, all the input that I got from all the people around that area is that this was always a commercial property and I didn't know any better. Believe me, I would not have wasted time and wasted all these people time if I would have known this.

COMMISSIONER VIGIL: Mr. Chairman, I see Mr. Vizolay as the victim in this process too, and this isn't an unusual case that hasn't come before the Commission before where this is somebody who has purchased property with the understanding however it's represented to you. And I don't want to accuse any industry out there of any kind of representation but I'm sure you entered into this in good faith and anticipation that you could move forward in fulfilling your business. And I'm open to suggestions. I didn't know the two-year time limit out there. I don't even know if you need two years. I just want to look at the possibility of creating the opportunity for you to exit this property in the most appropriate way. I'm not sure I agree that it can't be residential. That highway corridor, it is zoned residential and I'm not sure that there aren't owners out there who wouldn't purchase it for those purpose.

MR. VISZOLAY: Well, there are some properties in that location, used to be residential and it actually hasn't changed over to commercial, such as the pump companies, Kuckelman Pumps, for example. I was listening to the local people around me and I was telling them, so when I came here, I moved the containers, I came to the City to get a permit to have these containers on location. I have got the permit to put up the wall. I was trying to follow the rules and I'm not here to [inaudible] the rules. Understand, I'm just here to try to come in and support this community and I just stepped into this. And I tell you, it's a nightmare. And I know those containers are an eyesore and I don't blame these guys. I don't want my neighborhood to have industry either, but I've been trying to improve the wall. I don't know if you know this. I cleaned up that area. I tried to make it so it's aesthetically pleasing. I'm trying to put vegetation there so they don't have to look at some ugly industry or building there. I bought it because I just need to move as quickly as I can.

I'm telling you, it's a half a million dollars I've put into this. That's not pocket change, you know.

MR. CATANACH: Mr. Chairman, I just wanted to clarify for the record that staff spoke to Judy McGowan who was the staff that was directly involved with the Highway Corridor Plan. And she explained to us that when that Highway Corridor Plan was prepared it did not take into consideration the possibility that properties had legal non-forming status or not, that there was grandfathered commercial activity on the property. So the fact that the Highway Corridor Plan designates this property as residential, I wanted to clarify that they did not take into consideration that properties possibly had legal non-conforming status for commercial activity.

CCHAIRMAN ANAYA: Okay. Any other discussion? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Catanach, are you saying that this is legal non-conforming? That there's a history? There's been no breach -

MR. CATANACH: I'm saying that there's a possibility this property has legal non-conforming status. I don't think that staff has actually made a decision on that and it's very certain that if Mr. Vizsolay would want to continue to occupy this property with the existing building that we may be back at the Board of County Commissioners requesting that the issue of legal non-conforming status be addressed.

COMMISSIONER CAMPOS: Okay. Mr. Vizsolay, how much time do you need for a transition period? Let's say we go along with what Commissioner Vigil is saying or suggesting, that you need an adjustment period. How much time do you need?

MR. VISZOLAY: I'd like to take as much time as possible because the truth is right now I'm trying to relocate and get the whole mind state to do something else.

COMMISSIONER CAMPOS: It's very difficult because you want to build something.

MR. VISZOLAY: And I've already spent for development and the drawings and money out for that, but I'm going to see what I can do and I'll discuss it with my family how we should approach this.

COMMISSIONER CAMPOS: Would you think that we should table this for another month and have you think about this a little bit more with your family?

MR. VISZOLAY: Yes, that would be great. Another month would be -

COMMISSIONER CAMPOS: What do you think?

CCHAIRMAN ANAYA: Commissioner Vigil, you're saying that he go and see what other property that he could move his business to? It that what you -

COMMISSIONER VIGIL: Basically, I'm providing an opportunity for you to rethink what I feel you have been victimized by and give you an opportunity and I think perhaps maybe Commissioner Campos is on to something with tabling this, give you an opportunity to consider this option because my belief is that if you - and I think the neighborhood is probably - I'm probably misspeaking for some of them - amendable to creating some kind of resolution that is a win-win for everyone and at least from my vantage point at this time I would hate for us to vote against this variance and put you in the position that tomorrow you're going to have to try to find a new place. Whereas if you're given maybe an opportunity to think through your investment and find a new location, and I really would like you to look at new locations in the county because from what I can tell thus far the business you provide is very much needed and very much welcomed and can create a better benefit for Santa Fe County. But at this location is what the problem is.

MR. VISZOLAY: I understand it now but before I did not. And if I would have known that I could get out of the transition with my real estate I would have done. But at the time I was committed and once I usually do something, my words is my word and not all this paperwork needs to be. I shake on that I buy this property. And I got all the influence put in that this is a commercial property. I would never want to buy a residential property. That would be so insane if I had a company that I do. And I would like to move some place and I would like to ask if the City would like to have that property back. I've got to do something with it. I invested the money. Who's going to buy that property, you think? It was on two and half years,

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nobody wants to buy it because nobody is going to build a house there. You've got industry all the way up. You've got Santa Fe News, the tobacco company. You've been onto the property, Commissioner Vigil, and you looked at the area. You know, a lot to say about that whole area the way it looks.

You know, I had some of the people come and he says we sure appreciate you moving in here because now we want to feel like we want to fix up the property. I noticed other people. I put a trashcan out there. I hauled people's trash out of there. Let me help you. So I want to work with the community. And I know some of the people I have tried - we had a community meeting and I asked people to come and there were a lot of people that showed up, you can see on the record. And people who were for me, I wrote their name down and people against me you'll notice it's cancelled out because a couple of them here are against me. So I'm going to make sure they know that I never counted their name to be here.

Now, I'm trying to help this community and you see a lot of people here today voting for me to be here. I'm trying, see what I could move to. I'm going to need some help maybe from the County now. You guys could do something with that property if you like. Because I don't know who's going to buy it.

CHAIRMAN ANAYA: Okay. I'm going to make a quick comment and then we'll go forward and see what the Commission would like to do. I know that in the past last year, year and a half, I've been working with some residents in the Remuda Ridge Subdivision and we have been trying to clean that area up. We sent letters and things have started to move forward. They were cleaning the areas up. Apparently when this came forward and you started putting your containers out there, then people thought, well, this guy's moving in. You're making us clean up and this guy's not doing any clean-up. So this is just the concerns that I hear.

I think, and this is personally speaking, that Mr. Vizolay has a nice plan here. He has a nice plan. He's already demonstrated that he has built a wall and he's already built the wall, and that he is going to clean up and get rid of those containers and move the stuff inside the building. I think that if we don't act on this and allow this, he's going to sell it to somebody else. It's not going to be sold as residential, I think, because nobody wants to live there. Even though it could be but mostly somebody's going to want to do a commercial and then we're going to be back in the same spot again and it might not look as nice as this. And it's going to go on and on and on. So here, at least we have somebody that is approaching the Commission, telling us what he's doing. I know right across the street there was a plat, a piece of property. They wanted to develop it. They had ten things on what they wanted to do. I wasn't sure. The community wasn't sure. The residents weren't sure.

I can see saying Wait, wait, if you pinpointed one thing, maybe we could agree on it. On this particular piece, he has pinpointed. He has told us what he's going to do. He's going to get rid of those things. He's going to build a wall. He's going to make it nice. He's working with the neighbors. He's had meetings. I just don't want it to go on and on and on. Now, we might miss out on this if we don't act on it. But I'm going to go ahead and bring it back out. I understand how the people that came up here and spoke against it, because it is frustrating. It is

frustrating that you drive around over there and you see places that are junky and we will clean those up. And maybe if this person, Mr. Vizsolay, makes a nice place, that the other people in the area will say, Hey, look. He's making his nice; I need to make mine nice.

So that's where I am on that. And I'll go ahead and turn it over to the Commission. What's the pleasure of the Board?

COMMISSIONER MONTOYA: Mr. Chairman, Mr. Vizsolay, it sounds like he's amenable to a tabling, I motion to table.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There's been a motion and a second.

COMMISSIONER CAMPOS: Till our next meeting?

COMMISSIONER VIGIL: Do we have discussion with regard to that? Because it was regard to the motion itself. When we do bring it back, could staff also bring back this whole issue of legal non-conforming and clarify that for us?

MR. CATANACH: Yes, Commissioner Vigil.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman, we do need a time certain for a tabling.

CHAIRMAN ANAYA: How about next meeting?

COMMISSIONER SULLIVAN: Well, the next land use meeting.

CHAIRMAN ANAYA: Next month.

COMMISSIONER SULLIVAN: Next land use meeting.

The motion to table CDRC Case #V/Z 04-5490 until the next land use meeting passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Thank you everybody for showing up, either for or against.

- XIII. A. 4. CDRC Case #Z/DP 04-5190 Beth Longanecker Master Plan/Development Plan. Jim Corbin, Agent for Beth Longanecker Requests Master Plan Zoning and Preliminary and Final Development Plan Approval for a Commercial Horse Business on 4.43 Acres. The Property is Located Off State Road 14 at 2 Ron's Road Within Section 26, Township 15 North, Range 8 East, (Commission District 5)**

JAN DANIELS (Review Specialist): Good evening, Mr. Chairman, Commissioners. Ms. Longanecker's agent, Mr. Corbin, would like to make a request.

CHAIRMAN ANAYA: Okay.

JIM CORBIN: Thank you, Jan. When I was last before you we tabled this so we could go drill a well, put a meter on the waterline and get a geo-hydro report in. We've

done those things but because of the weather those things have been pushed back into February. The geo-hydro report was handed into the staff yesterday. The well was drilled from the 15th to the 20th. The well test was done from the 21st through the 28th and we got the report in in nine days when you usually take three weeks to a month to do the report and get it in.

So I've talked to the County staff. They would support tabling. I've talked to the folks that are next door that have concerns about the property. I think that we are in a position where we may be able to get agreement between all the parties associated with this. So based on all that, I'd request that we table it until April.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: There's a motion, second.

The motion to table CDRC Case #Z/DP 04-5190 passed by unanimous [5-0] voice vote.

- XIII. A. 6. **CDRC Case # A/V 04-5350 Marquez Variance. Julio Marquez, is Appealing the Land Use Administrator's Decision to Deny the Placement of a Second Home on 10 Acres, Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 90 Quail Run Within Section 31, Township 15 North, Range 9 East, (Commission District 3)**

CHAIRMAN ANAYA: Is that District 3?

DOMINIC GONZALES (Review Specialist): Mr. Chairman, clarification on that. It's actually Commission District 5.

CHAIRMAN ANAYA: That's what I thought. Dominic, go ahead.

MR. GONZALES: Thank you, Mr. Chairman, Commissioners. On January 20, 2005, the CDRC met and acted on this case. The decision of the CDRC was to uphold the Land Use Administrator's decision to deny the placement of a second home on ten acres, which would result in a Variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code. The applicant is requesting an appeal/variance for placement of a second residential unit on ten acres. The property is located at 90 Quail Run in the Silverado Subdivision within the Basin Fringe Hydrologic Zone.

Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 50 acres per dwelling. Lot size may be reduced to 12.5 acres if the applicant signs and records water restrictions of a quarter acre-foot. Lot sizes or density of 2.5 acres is allowed based on a water availability report as approved by the County. There's currently one home, one septic system on the property. The property is served by an onsite

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well which serves the existing home. The applicant states that his son will occupy the second dwelling unit. The applicant's intention is to have his son closer to him and assist him with health reasons.

Recommendation: On January 20, 2005, the CDRC met and acted on this case. The decision of the CDRC was to uphold the Land Use Administrator's decision to deny the placement of a second home on ten acres, which Would Result in a Variance of Article III, Section 10, Lot Size Requirements, of the Land Development Code. Staff recommends that the request for this variance be denied. The intent of the Code it set minimum lot size and density of this area at one residential unit per 2.5 acres.

CHAIRMAN ANAYA: What? It says right there, one resident unit per 2.5.

MR. GONZALES: I'm sorry, Mr. Chairman. It's actually 12.5 acres. There should be a 1. The way they could get the 2.5 would be through the geo-hydro report. It's actually 12.5.

CHAIRMAN ANAYA: It's a good think I caught that. Is that it?

MR. GONZALES: Yes, sir, Mr. Chairman.

CHAIRMAN ANAYA: Any questions of Dominic? Is the applicant here? Come on up, sir. Julio, do you - are there conditions on here?

MR. GONZALES: Mr. Chairman, there is conditions, if you do approve the appeal. I believe they are Exhibit E.

[The conditions are as follows:]

1. A temporary permit will be issued for a period of two years and subject to extensions for consecutive two-year periods by the CDRC. The applicant at that time must prove hardship still exists.
2. Water use shall be restricted to 0.25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be recorded in the County Clerk's office. Installation of meters for existing residential units prior to issuing development permit.
3. No additional dwellings will be allowed on the property.
4. The existing driveway will serve all homes.
5. The applicant must follow all other building permit regulations including terrain management improvements as required by staff.
6. Failure to comply with all conditions shall result in administrative revocation of the appeal.
7. The applicant shall submit an Environment Department liquid waste permit.

CHAIRMAN ANAYA: Julio, do you have anything you want to add to what they presented?

[Duly sworn, Julio Marquez testified as follows:]

JULIO MARQUEZ: No, the only thing I want is to have my son next to me in case something happens to me.

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CHAIRMAN ANAYA: Okay.
MR. MARQUEZ: That's what I'm asking.
CHAIRMAN ANAYA: Right now you have ten acres and you want to put a second home on the ten acres?
MR. MARQUEZ: Right.
CHAIRMAN ANAYA: Does anybody have any questions of the applicant?
Commissioner Vigil.
COMMISSIONER VIGIL: Mr. Marquez, what kind of home is this?
MR. MARQUEZ: It's a mobile home.
COMMISSIONER VIGIL: How close to your residence will that mobile home be?
MR. MARQUEZ: I'd say approximately 200 feet.
COMMISSIONER VIGIL: And is your son here tonight?
MR. MARQUEZ: No, he is not.
COMMISSIONER VIGIL: Is your current health okay?
MR. MARQUEZ: I've got high blood pressure problems and I take a lot of medications.
COMMISSIONER VIGIL: Has your son had to come to your aid at any point in time?
MR. MARQUEZ: He's had to help me with stuff. There's some stuff I can't do.
COMMISSIONER VIGIL: Such as?
MR. MARQUEZ: Well, we have horses and we have chickens and stuff and there's times he has to help me feed them and stuff.
COMMISSIONER VIGIL: Okay. And staff, is there going to be any increase in water use as a result of this?
MR. MARQUEZ: Normal family use.
COMMISSIONER VIGIL: I'm sorry. Did you respond to that Joe?
MR. CATANACH: Mr. Chairman, Commissioner Vigil, the mechanism in the Code for adjusting lot size and density is through a water availability report, so certainly, there would be an increase in water use on the property and that is the purpose of having to do a water availability report to demonstrate that there is adequate water to support the proposed density, two units on ten acres, one unit per five acres.
COMMISSIONER VIGIL: Thank you, Joe.
CHAIRMAN ANAYA: Any other questions? Hearing none - one more question. Would he have to put in a new septic system, or tie into the existing?
MR. CATANACH: We have a condition that would require him to get a septic permit from the Environment Department. They would determine if the existing system could be shared or if there would have to be a new system.
MR. MARQUEZ: Mr. Chairman, I have already gone and talked to them and I have a letter from them.

CHAIRMAN ANAYA: Okay. Let me see it. Thank you, sir. This letter is stating that they don't have a problem with it. Any other questions, comment?

COMMISSIONER CAMPOS: Mr. Chairman, just a comment. There's no evidence to support a variance if you look at the criteria on page whatever.

CHAIRMAN ANAYA: Okay. So you're saying there's no hardship case.

COMMISSIONER CAMPOS: There is no evidence that the requirements of the Code have been met as far as granting a variance and we can't just grant it for personal hardship. There has to be strict compliance with the language in the Code. And we'd be ignoring it if we granted this variance.

CHAIRMAN ANAYA: Let me just ask if there's anybody in the audience that would like to speak in favor of this case, or against this case. Okay, the public hearing is closed.

MR. CATANACH: Mr. Chairman, I do want to clarify that if there is consideration of this request, staff does have conditions regarding a temporary, two-year permit.

CHAIRMAN ANAYA: Okay. Did you read this, Commissioner Campos? Do you want to see this? It's that Environmental letter. ED.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for Joe. I know that on other occasions the Commission has granted temporary permits. How are we monitoring those and are we able to revisit those as they've been granted? Is the burden of granting of this on the applicant and are they the ones that are required to come back or does the County assert themselves in the role of bringing the applicant back?

MR. CATANACH: Mr. Chairman, Commissioner Vigil, certainly, the County is trying to keep track of these temporary permits, but as more and more are granted it certainly becomes more difficult to keep track and monitor and enforce that these two-year permits have expired and the property owners need to come back for extensions or remove the mobile home. It certainly is a difficult process. I want to be straightforward about that.

COMMISSIONER VIGIL: Is there some way that we could flag these cases administratively so that they can be revisited within the time frame that the temporary permits are granted? I've only been on the Commission since January and I think we've granted a least a couple of temporary permits and I guess the concern for me would be if we grant these, how will we monitor them? And Dolores, maybe that's a question for you. Or maybe the answer isn't available tonight. Maybe it's something we need to talk about more administratively. My concern is if we do grant these permits, and we're not following through with them, we're going to have the same problem we actually have right now with our water metering.

MR. CATANACH: Well, like I say, we are trying to keep track of these temporary permits but it is a difficult process.

CHAIRMAN ANAYA: What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.
COMMISSIONER SULLIVAN: I'd move to uphold the decision of the CDRC
and the staff with regard to Case 04-5350.
COMMISSIONER CAMPOS: Second.
CHAIRMAN ANAYA: There's a motion and a second. Any more discussion?

**The motion to deny CDRC Case 04-5350 tied by a 2-2 voice vote with
Commissioners Sullivan and Campos voting for denial. [Commissioner Montoya was not
present for this action.]**

CHAIRMAN ANAYA: Okay, so we need to get Harry in here.
COMMISSIONER SULLIVAN: It's too late. Motion's over. It has to go back.
CHAIRMAN ANAYA: Okay, so what --
COMMISSIONER CAMPOS: It failed. You have to have a majority.
CHAIRMAN ANAYA: Okay. It failed, sir. Sorry about that.

**XIII. A. 7. BCC MIS #04-5441 Santa Fe Brewing Co. Liquor License. Santa
Fe Brewing Company (Brian Lock) is Requesting Approval For
Four Liquor Licenses for a Restaurant and Brewery Within a
Designated Employment Center Zone of the Community College
District. The Property is Located at 35 Fire Place, Within
Sections 25 and 26, Township 16 North, Range 8 East,
(Commission District 5)**

MS. DANIELS: On November 9, 2004, the BCC granted master plan
preliminary development plan approval to allow a brewery facility and restaurant. The applicant
is requesting liquor licenses for master small brewer to produce beer, number two, beer
wholesale, number three, restaurant and lounge to permit the sales of beer and wine with meals,
number four, off-site small brewer to distribute beer.

The State Alcohol and Gaming Division has granted preliminary approval of this
request in accordance with Section 60-6B-4 NMSA of the Liquor Control Act. Legal notice of
this request has been published in the newspaper and the Board of County Commissioners are
required to conduct a public hearing on whether or not the proposed request for four liquor
licenses should be granted. The request is in accordance with the master plan and preliminary
development plan approval and minimum notice requirements.

May I enter the conditions into the record?

[The conditions are as follows:]

1. Compliance with resolution imposing annual liquor license tax upon person who is holding State liquor license, (Resolution 2004-45) as applicable.
2. Portable signs and poster signs located on the exterior of the building advertising

beer and wine beverages are prohibited.

CHAIRMAN ANAYA: Any questions of Jan?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a question for staff. Mr. Ross, within the authority of the Commission, is there authority to add conditions of any sort to the liquor license applications? I'm thinking for example with regard to hours of operation.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the Commission's authority with respect to liquor licenses is extremely limited. Your only grounds for disapproving applications like this is based on distance from a school or church or something like that. I don't remember the exact criteria but they're very limited and there have been several cases out of the appellate courts that have basically said that that's all you can look at, whether it meets the statutory criteria. I doubt we could even condition our approval on anything effectively.

COMMISSIONER SULLIVAN: There's not a public nuisance component or anything that's permitted.

MR. ROSS: There is a requirement - you can deny a liquor license if it would affect the public health, safety and welfare, but there's two cases and the leading one, the Dick case out of Portales, it says basically you have to have some pretty serious, expert testimony on the record before you can deny it based on that criteria alone. Really, the best criteria is if it were located within a certain distance of a church or a school. And I think those distances are fairly - I can't remember. It's 500 feet, 1000 feet, something like that. So unfortunately, it's really more of a ministerial act on the part of the Commission. It's been that way for 15 years.

COMMISSIONER SULLIVAN: Mr. Chairman, I bring it up because there have been complaints lodged against this applicant for late night public nuisance complaints.

CHAIRMAN ANAYA: And your question was to put a time limit.

COMMISSIONER SULLIVAN: Well, my question was could a liquor license have that condition on it and Mr. Ross' response is no.

CHAIRMAN ANAYA: Okay. And Mr. Ross, I'm having a hard time hearing you. I don't know if it's me getting old or what. You need to speak into the mike. I don't know if they can hear you back there but I can barely hear you.

MR. ROSS: I'm sorry.

CHAIRMAN ANAYA: Don't do it again. Any other questions? Okay, this is a public hearing. Anybody in the audience want to speak for or against this case? Or the applicant. Do you have anything to add?

[Duly sworn, Brian Lock testified as follows:]

BRIAN LOCK: Yes, I just wanted to state in regard to Commissioner Sullivan's comment. This is intended as a family oriented place. There's not going to be a full liquor license. It's just beer and wine. I'm going to be providing wine in addition to our beer because I think it opens us up to more people's preferences in taste. I don't see this as a public nuisance

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in the evenings because I'm gearing it towards a family atmosphere. I'm going to put a section of the new pub grill dedicated to kind of a game room for small children. So to answer your question about that, I don't think that's going to be a problem.

CHAIRMAN ANAYA: Good. Any questions? Anybody want to speak for or against this? Come forward. Hearing none, the public hearing is closed. What's the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just a question to Mr. Lock. There are two staff condition. I'm assuming you agree to them.

MR. LOCK: Yes.

COMMISSIONER CAMPOS: I'd make a motion to approve with the staff conditions.

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

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Any more discussion?

The motion to approve BCC Case #MIS 04-5441 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Congratulations.

MR. LOCK: Thank you.

- XIII. A. 8. **EZ Case #S 04-4900- Churchill Estates Subdivision. Thomas and Jane Gillentine, Applicants, Jim Siebert, Agent, Request Preliminary and Final Development Plan and Plat Approval For a 5-Lot Residential Subdivision on 15.83-Acres. The Property is Located Within The Community College District in an Existing Neighborhood South of I-25 and West of Richards Ave Off of Churchill Road, Within Section 17, Township 16 North, Range 9 East, (Commission District 5)**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. On February 16, 2005 the Extraterritorial Zoning Commission recommended preliminary and final development plan and plat approval of a five-lot subdivision, or six lots, if the County water system is utilized. The Utilities Department is recommending that the subdivision utilize County water if able to hook up to the County water system. The applicant is requesting final development plan and plat approval to create a six-lot subdivision.

The subject property lies within the Basin Hydrologic Zone where the minimum lot size is ten acres. The area allows for the creation of 2.5 acre lots with water restrictions. The

applicant has submitted a water availability assessment and is proposing average lot sizes of 3.16 acres, more or less.

This application was reviewed for the following: existing development, access, water, fire protection, liquid and solid waste, terrain management, landscaping, open space, archeology, signage and lighting. Mr. Chairman, can I make a clarification to the staff recommendation?

CHAIRMAN ANAYA: Yes.

MS. REYES: Staff recommends preliminary and final development plan and plat approval for a five-lot residential subdivision and preliminary plat approval of the request for a six-lot subdivision, which would require the applicant to return to the Board for final plat approval for six lots, with the water service agreement approved by the Board, subject to the following conditions. May I enter the conditions into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. Development plan & plat with appropriate signatures must be recorded with the County Clerk's office.
2. All redline comments must be addressed.
3. Water use is restricted to 0.25-acre foot per year per lot. Water restriction covenants must be recorded by the applicant with the plat. Each lot must install a separate water meter and report water meter readings to the Land Use Administrator annually by January 31st of each year.
4. The standard County water restrictions, final homeowner's documents, and disclosure statement subject to approval by staff and must be recorded with the final plat.
5. All lots must share one well. A shared well agreement, approved by the County, must be recorded with the plat. The plat must indicate shared well easements.
6. Final plat shall include but not limited to the following:
 - a) Rural Addressing must approve road names and addresses.
 - b) A detention pond shall be required for all lot based on a minimum impervious surface of 5,000 square feet
7. Compliance with County Fire Marshall review as applicable, including off-site access and turn around that is required for emergency vehicles
8. All utilities must be underground.
9. Applicant shall obtain permit from Public Works Dept for driveways and utilities, this includes an asphalt pavement transition for Churchill Rd intersecting off Dinosaur Trail.
10. Grant a 10' wide public road and utility easement along Dinosaur Trail (separate from the trail easements) this is in the event that the County accepts dedication of Dinosaur Trail and needs to upgrade the road to a higher standard.
11. Applicant shall contact the Office of State Engineers to obtain a permit to drill the

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- well and submit meter readings on a regular basis.
12. All wells drilled on the property be drilled to sufficient depth to demonstrate at least 110 feet of saturated thickness of proper yield lithologies. Submit well logs to the County to document results prior to recording plat.
 13. The first well drilled be sampled for water quality analysis, with results to be submitted to the County. This analysis will be used to determine water quality requirements for the development.
 14. Access control limits as defined on the current right-of-way shall be located on all subdivision drawings that locate the right-of-way along I-25.
 15. The applicant must submit solid waste fees as required by the subdivision regulations.
 16. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
 17. Submit a cost estimate and financial surety for completion of required improvements as approved by staff.
 18. Applicant shall participate in a fair share contribution toward improvements for Dinosaur Trail and Richards Ave. Intersection.
 19. Submit section detail for development of trail along Churchill Road in conformance with minimum standards.
 20. Submit water service agreement as approved by County for use of County water system. Approval of water service agreement shall allow a six-lot subdivision.
 21. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) Soil & Water District
 - d) State Highway Department
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) State Historic Division
 - j) County Technical Review
 - k) County Water Utility

CHAIRMAN ANAYA: Any questions of Victoria?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Reyes, what about water harvesting? Is that incorporated in the conditions, or assumed because it's part of the ordinance, or how does that work?

MS. REYES: Mr. Chairman, it is in their development plan for water

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harvesting and I believe it's one of the conditions.

COMMISSIONER CAMPOS: I was looking at and maybe I missed it.

MS. REYES: And also where they have compliance with Technical Review, that will take care of a cistern as well.

COMMISSIONER CAMPOS: Are you talking about 21?

MS. REYES: Where there is compliance with County Technical Review.

COMMISSIONER CAMPOS: I would feel more comfortable if in everyone of these cases that this be spelled out. I would request that staff expressly include that condition. I know you have in a lot of the cases but I just didn't see it in this case.

CHAIRMAN ANAYA: Okay, so what do we want to say there, Commissioner Campos?

COMMISSIONER CAMPOS: Simply compliance with the Water Harvesting Ordinance or whatever language you usually use.

MS. REYES: Mr. Chairman, we'll put that in.

CHAIRMAN ANAYA: Okay. Any questions?

COMMISSIONER MONTROYA: So that will be number 22?

CHAIRMAN ANAYA: Yes. Commissioner Sullivan.

COMMISSIONER SULLIVAN: There were two things that I had for the staff. Number one is that all utilities will be underground. If it goes forward as a well project then it will need a 30,000 gallon storage tank and a portion of this property is within the highway corridor and also within the area even beyond, which requires compliance with the Highway Corridor Ordinance. I know because people have said the staff is saying what color roofs they have to have in the area. So I'm assuming, but I want to clarify it, that that storage tank would need to be underground as well. Is that correct?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, I do not recall the engineering plans, if in fact that was going to be totally underground or partially underground. Certainly Mr. Seibert could address that more clearly.

COMMISSIONER SULLIVAN: I'll ask him when he comes up and I'll ask the other question of him too. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay, any other questions? Thank you, Victoria. Is the applicant here.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. I'm representing the Gillentines in this matter. Commissioner Sullivan, to respond to your concern about the tank, we've actually made arrangements. There's a 12" water line that goes down Dinosaur Road. We have discussed with Utilities to extend a water line and a hydrant within 1000 feet of every building site. So we worked this out both at the utility level and at the fire level. So there will be no tank.

COMMISSIONER SULLIVAN: Well, that's great to hear but the application that's in front of us is essentially two-fold. It's for a well project as well as for a water system served project. Am I not correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So if the applicant decides not to go forward or can't make the necessary arrangements for getting water rights for the water service agreement, or decides not to, then they will go out there and drill a well and put a storage tank in, right?

MR. SIEBERT: Commissioner Sullivan, no. And this is a process we've followed in other projects as well.

COMMISSIONER SULLIVAN: Oh, you're just saying for the fire service you're going to -

MR. SIEBERT: Correct. Correct.

COMMISSIONER SULLIVAN: So this is another one of those deals where we build all the water lines and we provide the fire service free, but no residential service. Is that -

MR. SIEBERT: Commissioner, I think the applicant would like to tie into the County water system if arrangements with water can be made.

CHAIRMAN ANAYA: Is that all?

COMMISSIONER SULLIVAN: I had another question. We have a limit to the water usage of .25 acre-feet, which is common for the 2.5-acre lot subdivisions. Is the applicant also agreeable to a limit that no guesthouses shall be permitted?

MR. SIEBERT: I guess with regard to the 2.5-acre lots, yes. There is one five-acre lot. If that isn't subdivided under County Code we would be permitted the right on that one five-acre lot to have a guesthouse. So I would say he would agree on all the five-acre lots not to have a guesthouse.

COMMISSIONER SULLIVAN: Well, water is restricted to .25 acre-feet per lot, and that would be the five-acre lot as well.

MR. SIEBERT: Well, I guess the - if we could consider - typically, in the past it's always been the policy of the Commission and is permitted in the Code that if you had a lot that's twice the size of the underlying zoning district, which in this case is 2.5, that you'd be permitted to have a house and a guesthouse.

COMMISSIONER SULLIVAN: That's what I'm trying to clarify here. And I guess someone could come in and also request to subdivide that lot, correct?

MR. SIEBERT: I think that's the indication that if we're successful in either one of two things, proving up the hydrology, or getting County water - the preference is to get County water, that he would come back and request one additional lot.

COMMISSIONER SULLIVAN: So you're going forward with a geo-hydro? Is that correct?

MR. SIEBERT: No. The idea is that the first choice is to go with County water.

COMMISSIONER SULLIVAN: I understand.

MR. SIEBERT: The second choice, if things become so complicated that he can't accomplish that then as a fallback position he would do a shared well.

COMMISSIONER SULLIVAN: Okay, but as of what we would approve here tonight, that staff is recommending for master plan, preliminary and final, that's the well subdivision.

CHAIRMAN ANAYA: That's right.

COMMISSIONER SULLIVAN: And that says – there's five lots, regardless of what size they are – each lot is limited to .25 acre-feet.

MR. SIEBERT: Well, I guess that's perhaps an oversight on my part. He would not like to preclude the ability to come back and request a further division of the five-acre lot. Does that make sense?

CHAIRMAN ANAYA: No. Say it again.

COMMISSIONER SULLIVAN: He's agreeable to the conditions of .25 acre-feet except he wants to come back and change those conditions if necessary with regard to one of the lots, which is five acres in size. Is that correct?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So it's an approval, but not an approval. Or it's an agreement to restrict to .25 but not an agreement.

MR. SIEBERT: I guess the concern is that if you take it literally that the five-acre lot is restricted to .25 then he would be precluded never coming back and exercising his same right as other people to divide it into two 2.5-acre lots.

COMMISSIONER SULLIVAN: Okay, so getting back to my original question, not that we answered the other one, but getting back to this. Would the applicant be agreeable to a condition which says there will be no guesthouses permitted on lots less than five acres in size?

MR. SIEBERT: Yes.

COMMISSIONER SULLIVAN: Okay. And that that restriction will be noted on the plat.

MR. SIEBERT: Yes.

COMMISSIONER SULLIVAN: Okay. So we got that part agreed to.

CHAIRMAN ANAYA: What was that part?

COMMISSIONER SULLIVAN: As condition 23, No guesthouses shall be permitted on lots less than five acres in size and this restriction shall be noted on the plat. So that only leaves up in the air – there's one lot you say that's five acres or over.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: In the well configuration.

MR. SIEBERT: Well, in either the well configuration or the County water system.

COMMISSIONER SULLIVAN: So this is for five lots but ultimately it's going to be six lots. You'll either going to come back and request the five lot be divided based on a geo-hydro or they're going to come back with an administrative final plan on the sixth lots if they can tie into County water. Is that correct?

MR. SIEBERT: Well, no. Actually, the staff, one of the conditions that

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was imposed tonight be staff that wasn't part of the original report was that if they come back with a sixth lot then they have to have two things. With County water, they have to have a contract for a water service from the County, and they have to come back to the Commission to hear the sixth lot.

COMMISSIONER SULLIVAN: Yes. And the water service agreement. Because water service agreements always come back to the Commission.

MR. SIEBERT: I guess one thing I'd request that if it would be possible to have both of those heard on the same agenda, the same County Commission agenda.

COMMISSIONER SULLIVAN: That's up to the staff if they feel comfortable with that. I just wanted, Mr. Chairman, to encourage of course the applicant to pursue – and I have met with Mr. Gillentine about this, to pursue the County water option. Just passing around a picture of the property and that hydrant is there. *[Exhibit 4]* But that's – right behind that hydrant is the applicant's property. So I just wanted to show you that the waterline and the hydrant is there. And it's a very nice picture of a hydrant. So I brought another one to include for the reporter. And I have one for the applicant too.

The waterline is there and I just think it's absolutely nonsense if we don't find a way to hook up this up.

Another question I had, Jim, was that sixth lot. When you go over five lots of course we're into a different part of the County Code. That sixth lot, is the applicant agreeable to making that an affordable housing lot?

MR. SIEBERT: It's an issue that's never really come up.

COMMISSIONER SULLIVAN: Well, of course we have some affordable housing right next door in the La Pradera Subdivision because they're a part of the Community College plan and they have a requirement for 15 percent affordable housing. So it's in the area. We don't discourage it in the Churchill area and if we went to six lots would that be something the applicant would consider?

MR. SIEBERT: I would have to discuss that with the applicant. It's something that's never ever arisen before.

COMMISSIONER SULLIVAN: Well, we don't have to decide now because either way they would have to come back for the sixth lot, right?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Well, no. I take that back. If you do a geo-hydro, then the staff would approve the sixth lot. Is that correct?

MR. SIEBERT: Now, that I don't know. I'd have to defer to staff.

COMMISSIONER SULLIVAN: Joe, this is like we're reviewing two applications at one time, so could you explain how this works?

MR. CATANACH: If this applicant comes back to split the five acres on the cluster well, it's a plat development plan amendment that would have to come before the Board, based on a geo-hydro report. It would be a plat development plan amendment that would have to come before the Board.

COMMISSIONER SULLIVAN: To go from five to six.

MR. CATANACH: Right. Either way. For cluster wells or –

COMMISSIONER SULLIVAN: All right. I didn't understand that from the staff's report. So either one it's going to come back unless they stay with five lots.

MR. CATANACH: Yes, that's correct.

COMMISSIONER SULLIVAN: And one of the reasons I suggest the affordable housing is because we have a very small budget in the County's 500 acre-feet of a couple acre-feet that are committed to affordable housing. So I was just thinking if for one of those .25 acre-feet, the County, if that were an affordable housing unit, the County might be able to say for that portion of it we could supply from that small amount that we have committed for affordable housing for that unit. The applicant would still be required to get enough water rights for five units, but that would save them getting it for the sixth. Doesn't get them all the water but it reduces the requirement by .25 plus the 20 percent line carrying requirement. So that would be almost .3 acre-feet that the applicant wouldn't have to acquire. Does that make sense?

MR. SIEBERT: Yes, it does.

COMMISSIONER SULLIVAN: You understand, Mr. Chairman, what I'm thinking about out loud? Again, just throwing it out. And what's the justification? Well, this property is not within the Community College District plan in so far as the Community College District regulations. It's in an existing community section of it. So unlike La Pradera which is right next to it, this section is like Vista Ocaso which is out near Route 14, or closer to Route 14. It has existing 2.5-acre lots. Now this site doesn't have existing platted lots but it happens to be within that 50-acre rectangle that in the plan was called existing community. So within that 50-acre island in the Community College District, there is no requirement for affordable housing. So that's why I'm saying, Gee, if we got one we might want to be of some assistance by getting the water rights for that as well. I just throw it out aw something to think about. It might work. That's all. That's all the questions I had, Mr. Chairman, after showing you that really nice picture.

CHAIRMAN ANAYA: That's a nice picture.

COMMISSIONER SULLIVAN: I'm glad you like it.

CHAIRMAN ANAYA: Did you take it?

COMMISSIONER SULLIVAN: I did, Mr. Chairman, and I even printed it on my computer.

CHAIRMAN ANAYA: Do you want to continue?

MR. SIEBERT: No, I'll just answer any other questions you may have.

CHAIRMAN ANAYA: Any more questions of the applicant? Okay, hearing none, this is a public hearing. Is there anybody in the audience that would like to speak either for or against this case? Okay, there's none. The public hearing is closed. What's the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman, move to approve with conditions as brought forth by staff. Are there any additional conditions from anybody?

CHAIRMAN ANAYA: Well, let me ask you a question. What exactly are

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you moving?

MR. CATANACH: Staff's recommendation was preliminary and final approval for the five lots, and only preliminary approval for the sixth lot utilizing County water, meaning they'd have to come back for final. Or with the sixth lot utilizing County water.

CHAIRMAN ANAYA: And what I'm hearing from the applicant is that he's saying that he would rather use - and correct me if I'm wrong - that you would rather use County water. So are you saying that you want to go with the six lot preliminary?

MR. SIEBERT: Yes.

MR. CATANACH: I believe he wants both. He wants, in the event he uses the cluster wells he wants the preliminary and final, but he also wants a preliminary approval on the six lots utilizing County water, meaning he'd have to come back for final.

CHAIRMAN ANAYA: Okay, then we can make a motion for both.

COMMISSIONER CAMPOS: That's what they're recommending.

CHAIRMAN ANAYA: Okay. Gottcha.

COMMISSIONER CAMPOS: Under the conditions there's a five with an option for six, subject to the conditions. That's my motion, including the water harvesting condition.

CHAIRMAN ANAYA: Twenty-two?

COMMISSIONER CAMPOS: That would be 22. What else?

CHAIRMAN ANAYA: There was another one, no guesthomes on five acres or less.

COMMISSIONER SULLIVAN: On anything less than five acres, yes.

COMMISSIONER CAMPOS: That would be 23.

COMMISSIONER SULLIVAN: And that that would be noted on the plat.

COMMISSIONER CAMPOS: Okay, so that's the motion.

CHAIRMAN ANAYA: Is there a second?

MR. CATANACH: Mr. Chairman, I'm sorry. Again, I just want to clarify that the proposal for the six lots utilizing County water would only be a preliminary approval.

CHAIRMAN ANAYA: Right. We understand that. Is there a second?

COMMISSIONER VIGIL: Second.

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

COMMISSIONER SULLIVAN: Discussion.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, in the conditions, the information that Jim just gave us about the fire service connections, do we need to address that in the conditions? Because in the staff report you indicate the applicant is proposing two options for fire protection. I'm only speaking about fire protection now, not domestic usage. One being a 30,000 gallon storage tank. The other would be from a future 12-inch waterline

along Dinosaur Trail, installed a part of the La Pradera improvement. Mr. Siebert is telling us that they have an arrangement now with the County for that. Is that correct, Mr. Siebert?

MR. SIEBERT: What's proposed is an eight-inch line off the 12-inch line going down Churchill Road, approximately half the way down so that hydrant is within a thousand feet of any homesite.

COMMISSIONER SULLIVAN: I understand. So are we okay then including a condition that says fire service will be provided by Santa Fe County water system.

MR. CATANACH: Yes, that would be appropriate.

COMMISSIONER SULLIVAN: And is that okay with the applicant?

MR. SIEBERT: Yes, it is.

COMMISSIONER SULLIVAN: Okay, I'd like to add that condition as 24.

COMMISSIONER CAMPOS: That would be fine with me.

CHAIRMAN ANAYA: You're okay with that? Second's okay?

COMMISSIONER VIGIL: Yes.

CHAIRMAN ANAYA: Any more discussion?

The motion to approve EZ CASE #S 04-4900 passed by unanimous [5-0] voice vote.

- XIII. A. 9. **LCDRC Case #V 04-MIS 04-5420 Vallecita de Gracia Subdivision. Jim Brown, Applicant, Jim Siebert, Agent, For Final Development Plan Approval For Vallecita de Gracia Subdivision, a 11- Lot Subdivision on 42 Acres With the Average Lot Size of 2.5 Acres. The Property is Located Along County Road 54, Northwest of the Downs Racetrack, Within Sections 22, 27, and 28 Township 16 North, Range 8 East, (Commission District 3)**

MR. GONZALES: Thank you, Mr. Chairman. On February 3, 2005, the LCDRC met and acted on this case. The decision of the LCDRC was to recommend preliminary and final development plan approval and plat approval for Vallecita de Gracia, an 11-lot subdivision on 42 acres. The average lot size is 2.5 acres.

On October 8, 1998 preliminary plat approval was granted by the EZC for this project, which consists of a 16-lot residential subdivision. On October 14, 1999 a preliminary plat extension for 12 months was granted by the EZC in accordance with the Extraterritorial Subdivision regulations. Since EZC approvals, the Vallecita de Gracia Subdivision is no longer under EZC jurisdiction. On June 21, 2000 La Cienega/La Cieneguilla became a Traditional Historic Community, and this property now lies within

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the Traditional Historic Community of La Cienega/La Cieneguilla, which is regulated under the Santa Fe County Land Development Code.

On November 14, 2000, the Board of County Commissioners granted a one-year extension of the preliminary plan and plat. On October 9, 2001 the Board granted a second one-year extension of the preliminary plan and plat, which will expire on October 8, 2002.

On April 9, 2002 the BCC approved a variance of Article V, Section 8.3.4 of the Land Development Code to allow the use of concrete dip sections, instead of the Code required all-weather crossings subject to the following condition: The five lots that are accessed by the low-water crossings shall be deed-restricted from any development until the low-water crossings meet County standards.

The applicant is again requesting Preliminary and Final Plat/Development Plan Approval for Vallecita de Gracia Subdivision, a 11-lot subdivision on 42 acres with the average lot size of 2.5 acres. The application was reviewed for the following: existing development, zoning, community meeting, adjacent properties, access, terrain management, water, liquid and solid waste, fire protection and archeology.

Recommendation: Staff's position is that this application is in accordance with Article V Section 5 (master plan procedures) of the Land Development Code, and meets density requirements of Ordinance 2002-9, La Cienega/La Cieneguilla Community Plan. On February 3, 2005, the LCDRC met and acted on this case. The decision of the LCDRC was to recommend approval for preliminary/final development plan/ final plat approval for Vallecita de Gracia with the average lot size of 2.5 acres, subject to the following conditions. Mr. Chairman, may I enter these conditions into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. Development plan & plat with appropriate signatures must be recorded with the County Clerk's office.
2. All redline comments must be addressed.
3. Final homeowner documents (covenants, disclosure statement) subject to approval by staff, and shall include but not limited to the following:
 - a) Terms and conditions for shared wells.
 - b) Water restrictions metering and conservation measures
 - c) Solid waste removal
 - d) Road maintenance
 - e) Septic maintenance
4. Water usage restricted to 0.25 acre-feet annually.
5. Road names and addresses must be approved by Rural Addressing.
6. All utilities must be underground.
7. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Department
 - c) Soil & Water District

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- d) State Highway Department
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) State Historic Preservation Office
 - j) County Technical Review Division
8. This application is subject to final review by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
 9. Each residence shall have a water meter and meter readings shall be submitted to the County Hydrologist by March 30th of each year.
 10. Submit updated disclosure statement and covenants as required by staff (water restrictions/conservation measures and road maintenance).
 11. Final Plat shall include the following:
 - a) Compliance with Plat Checklist
 - b) Signature lines for utilities, committees and staff
 - c) Permits for construction of residential units will not be issued until required improvement for road and drainage facilities are completed as approved by staff.
 - d) Cross reference for covenants and disclosure statement.
 - e) Requirements for on-lot ponding
 12. Submit cost estimate and financial surety for completion of required improvements or option for completing required improvements prior to recording plat.
 13. The applicant shall comply with the water harvesting requirements of Santa Fe County's Water Harvesting Ordinance
 14. The five lots that are accessed by the low-water crossings shall be deed-restricted from any development until the low-water crossings meet County standards.
 15. Conformance with school impact ordinance.

CCHAIRMAN ANAYA: Any questions of Dominic? Commissioner Vigil.

COMMISSIONER VIGIL: Dominic, in the recommendations, it says the Santa Fe County Fire Department is currently reviewing this application. Do you have any updated information from the Fire Department?

MR. GONZALES: Mr. Chairman, Commissioner Vigil, at this time we have not received a review from the Fire Department. It was given them way back in August and we still haven't received the fire review.

COMMISSIONER VIGIL: Mr. Chairman, if this is a public hearing I guess we have to hear from the applicant.

CHAIRMAN ANAYA: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I had a question for Mr. Wust. Steve, there's a letter from the State Engineer dated August 27, 2004 that says due to the size of

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this subdivision the developer is required to submit a geo-hydrologic report. Have you seen that? I don't see it in the packet.

DR. WUST: Mr. Chairman, Commissioner Sullivan, there is no what I would call geo-hydrologic report. There is a - I believe it was called a pre-drill report that was done in '94 by Jack Frost.

COMMISSIONER SULLIVAN: But the State Engineer says a geo-hydro report is required for this size subdivision. Is that correct?

DR. WUST: Mr. Chairman, Commissioner Sullivan, I actually had said the same thing in my first review of this. Basically, the way this fell, it was in a policy that was developed by Roman Abeyta and myself when I came on board as Hydrologist and he was Land Use Administrator, that we would not revisit any water opinion from a previous County Hydrologist unless requested to do so, either by Land Use or by the Commission. This one, according to Land Use had a review by Chuck Heaton when he was County Hydrologist that recommended that there was sufficient water shown. So I didn't do any further review or development of that since the State Engineer's Office is not a party to that policy, then they brought in of course the same recommendation that I did originally, because they're not bound by that particular policy.

COMMISSIONER SULLIVAN: But you did have a letter dated September 9, 2004 in which you said you reviewed the submittal for Vallecita de Gracia and that it's complete for water supply requirements. "Article VII of the Land Use Code specifies that subdivisions of this size must have a geo-hydrologic report with pump test and a water quality analysis. No geo-hydro report, reconnaissance report or even water availability analysis was provided. The 1994 pre-drill review that was submitted 8 September 2004 does not qualify." *Exhibit 5J* Is that where we are right now?

DR. WUST: Commissioner Sullivan, that's absolutely correct.

COMMISSIONER SULLIVAN: So even though you and Mr. Abeyta decided not to go back and review old geo-hydros, this is saying that our Land Use Code requires a geo-hydro.

DR. WUST: Commissioner Sullivan, that's correct. It wasn't that we agreed not to go back and review geo-hydro reports. It was that if a previous County Hydrologist had already made a recommendation as regards to the water, we would not revisit that decision unless requested. I would not revisit that decision unless requested to do so and at that point, I was informed by Land Use that Chuck Heaton had provided one of those previously. I had not read that, by the way. I don't have a copy of it so I don't know exactly what he said but I was told that he had previously recommended approval of the water situation, so therefore basically my procedure stopped at that point. But I still am in agreement with you that no formal geo-hydrology report has been completed in this and I do not think that pre-drill report qualifies as a geo-hydrology report.

COMMISSIONER SULLIVAN: And you think that the former County Hydrologist based his opinion on the pre-drill report.

DR. WUST: Mr. Chairman, Commissioner Sullivan, that's my guess, although

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again, I haven't read Chuck Heaton's particular memo.

COMMISSIONER SULLIVAN: It just occurred to me, I know this subdivision, Mr. Chairman, was brought to us more than a year ago, and we debated for hours it seems about what to do about these inadequate crossings, these low-water crossings. And we just came up with all kinds of schemes and rerouting vehicles and all this kind of thing, none of which the applicant was in agreement with. So finally, I think Mr. Siebert came up with the idea that we'll subdivide the lots and then not allow any development on them until they bring the two low-water crossings. Or maybe it's just one, up to County standards. Which is I think where we are now. Is that right, Mr. Siebert.

MR. SIEBERT: Partially.

COMMISSIONER SULLIVAN: Partially. Well, when you come up you can correct me and explain how that works. My main concern is that aside from the access situation, which has been a problem all along in this subdivision, this 16-lot subdivision, is that we don't have a geo-hydro for a 16-lot subdivision, which is required by Code.

CHAIRMAN ANAYA: We're not talking about 16 right now, right?

COMMISSIONER SULLIVAN: We're talking about 16 lots, yes. This would allow 16 lots to be platted. Five lots would have a deed restriction on them that said You can't build anything on this lot until the low-water crossing is brought up to County standards. So I don't know how that works. I assume administratively, maybe the applicants would come back in and request this. I'm just not sure how that would - if one of those five lots were sold and the person that bought it wanted to build a house on it, what process they would go through to get that approved, to get a permit. Obviously the staff would say, Oh, you can't build a house until this is built to County standards and what would the person do? Would they come in and ask how they did that or who's going to pay for it? See what I'm saying?

I'm not quite sure what the process would be. But my understanding is, and correct me, Joe, if I'm wrong, it is a 16-lot subdivision, five lots are deed-restricted. Is that correct, Joe?

MR. CATANACH: They're actually requesting approval for an 11-lot subdivision. The question of whether they're actually platting these five other lots, I'm thinking that they're not actually going to plat those lots. That area of land where those lots would be would have a note restricting and prohibiting any permits on what would basically be a temporary open space.

COMMISSIONER SULLIVAN: Oh, okay.

MR. CATANACH: That's kind of the way I looked at it.

COMMISSIONER SULLIVAN: I was just looking at the State Engineer's letter of August 27, 2004 and they said that the request is to develop a vacant lot, a total of 42.12 acres into a 16-lot residential subdivision. So if it's only going to be 11 lots and I think in the staff thing you say 11 lots. So then Mr. Chairman, you're right. It's going to be an 11-lot subdivision, which also requires a geo-hydro.

CHAIRMAN ANAYA: Okay. Any other comments? Okay, applicant, come forward.

MR. SIEBERT: I'm previously sworn. If I can have Jim Brown sworn in. He'd

like to say something later. Mr. Chairman, Commissioners, first of all, the last paragraph in the letter from the State Engineer reads report dated April 1998, was authored by Jack Frost. In order to create the geo-hydrologic report the consultant used results from nearby pump tests. The consultant concluded that water would be available for the 100-year period described by the County. The OSE concurs with this opinion. So the State Engineer actually concurs with that prior report. That prior report actually was done for three subdivisions, two of which have actually been built out, pretty much built out and there really have been no instances of problems or difficult with water even during the drought period.

With regard to Commissioner Vigil's statement on fire protection, I would like to clarify that Mr. Brown has contributed previously to a 30,000 gallon storage tank which actually sits immediately adjacent, not on the subdivision. Immediately adjacent to the subdivision. To clarify the other issue, historically what's taken place on this property is there's actually two drainages, there's a tributary of the Arroyo Hondo and then the Arroyo Chamiso that goes through here. The prior action of the Commission was not to grant - although the interesting thing is there's two low-water crossings that serve a subdivision here and serve a subdivision here, but the determination of the County Commission was that the area on the other side of each drainage, both here and here cannot be utilized for any type of building construction until a crossing meeting the 100-year flood requirement was constructed in the drainages. So what we have done is restricted these two tracts on either side of the drainage to no construction. We've restricted both on the plat and on the deed. *[Exhibit 6]*

So the subdivision has actually gone from the 16-lot subdivision to an 11-lot subdivision. We eliminated three lots here, two lots down here. And I'll answer any questions you have.

CHAIRMAN ANAYA: Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, so Jim, we don't know if the Fire Department is in agreement with using these two 15,000 gallon water tanks in the adjacent subdivision to also serve this subdivision. Is that what you're asking them to give an opinion on?

MR. SIEBERT: Well, we haven't received the report from the Fire Marshal's office at this point.

COMMISSIONER SULLIVAN: Because normally, you'd be required to build a 30,000 gallon tank on the subdivision.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: You're saying, we think we can use the one next door.

MR. SIEBERT: Immediately adjacent to it. Correct.

COMMISSIONER SULLIVAN: So as a part of these conditions you're required to comply with the comments of the County Fire Marshal.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So if the County Fire Marshal says you need to construct a 30,000 gallon water storage tank, you're in agreement to do that?

MR. SIEBERT: We're obligated to comply with whatever the Fire Department mandates.

COMMISSIONER SULLIVAN: Okay. I just wanted to be clear because we don't have their comments yet, as Commissioner Vigil noted.

MR. SIEBERT: Yes, and I don't know why they're not there.

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Siebert, I actually have a question for Joe Catanach. Joe, did you get that September 9, 2004 memo from Dr. Wust? I just received it. Was this part of the original packet? It's my understanding it wasn't.

MR. CATANACH: Mr. Chairman, Commissioner Vigil, I was aware that Stephen Wust had indicated initially that the submittal for water availability did not constitute a geo-hydrologic report.

COMMISSIONER VIGIL: My understanding, Dr. Wust, and correct me if I'm wrong, is that you are recommending a geo-hydrological report. Is that not correct?

DR. WUST: Mr. Chairman, Commissioner Vigil, that was my recommendation.

COMMISSIONER VIGIL: And we have not received that.

DR. WUST: That is correct.

COMMISSIONER VIGIL: I'm probably making some plain statements that are obvious. I just want to make sure they're part of the record. A question back to Joe. Joe, was staff aware of Dr. Wust's position when they recommended approval of this subdivision? My understanding is that staff agrees and is recommending approval of this, but were they aware, did they do that with the awareness that Dr. Wust actually is recommending a geo-hydro?

MR. CATANACH: Mr. Chairman, Commissioner Vigil, staff was aware that Stephen Wust and Roman Abeyta had talked about the previous approval by the County Hydrologist regarding the water report back in 1996 or whenever that was done. Staff was aware that Stephen Wust and Roman Abeyta had made a decision that they were not going to infringe on a prior approval of a water report. So staff we relying on that decision that was made between Stephen and Roman.

COMMISSIONER VIGIL: How long ago was the original report?

MR. CATANACH: I'm thinking probably ten years ago.

COMMISSIONER VIGIL: So that's the most current information that you are relying on.

MR. CATANACH: That's correct.

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

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I guess two things. On the water geo-hydro, my concern is that in ten years, the two subdivisions have developed out here and the geo-hydrological situation has changed. So it would seem it would be appropriate to have that

information. Secondly, I'm still confused. Look at condition 14 in your packet, that we're imposing on the subdivision. That condition says, The five lots that are accessed by the low-water crossing shall be deed-restricted from any development until low-water crossings meet County standards. Now, what Mr. Siebert has shown us and what Joe has indicated is that we're not approving five lots back there. We're approving 11 lots and that lot isn't approved for anything. It's not platted. It's not anything. Although it's probably still a part of the master plan, isn't it Joe?

MR. CATANACH: Well, Mr. Chairman, Commissioner Sullivan, we actually already had it where they would not actually be creating the three lots over here and two over here. They'd be cross-hatching that and showing that for future development and there'd be some note stating that permits could not be issued in the – that is being restricted or prohibited from any permits in this area. That's why I called it temporary open space.

COMMISSIONER SULLIVAN: Yes, and I think that's a good term. I just have a problem with calling it five lots, because we're not approving five lots.

MR. CATANACH: In addition, it probably needs –

COMMISSIONER SULLIVAN: It's two tracts. It's tract 1 and tract 2.

MR. CATANACH: That's correct. The condition probably is not consistent with the way that's being done.

COMMISSIONER SULLIVAN: So perhaps that should be amended and tell me if I'm out of line, to read the tracts that are accessed by the low-water crossings shall be precluded, rather than deed-restricted. Or deed-restricted.

MR. CATANACH: Shall be prohibited or restricted.

COMMISSIONER SULLIVAN: Deed-restricted is okay, or prohibited and deed-restricted from any development until any low-water crossings meet County standard, and they come back for County approval, right? Would they not need to come back?

MR. CATANACH: Yes, Commissioner Sullivan, they would need to come back.

COMMISSIONER SULLIVAN: So I would read it to say, The tracts that are accessed by the low-water crossing shall be prohibited and deed-restricted from any development until the low-water crossings meet County standards and any additional development is approved by the BCC,

MR. CATANACH: Or subject to BCC approval or something to that effect. Yes. Staff understands your intent.

COMMISSIONER SULLIVAN: Is that acceptable?

MR. CATANACH: yes.

COMMISSIONER SULLIVAN: Okay. Then we've eliminated this confusion about five lots.

CHAIRMAN ANAYA: Right.

COMMISSIONER SULLIVAN: There is no five lots. There's two tracts.

MR. CATANACH: That's correct. There are two tracts that are what I'm calling temporary open space.

COMMISSIONER SULLIVAN: Currently undevelopable. Perhaps in the future they will be developed.

MR. CATANACH: Yes.

CHAIRMAN ANAYA: Any other questions? Is the applicant here? Come forward if you'd like to add anything.

[Previously sworn, Jim Brown testified as follows:]

JIM BROWN: The absence of a geo-hydrology study, I was not aware that there was no geo-hydrology study. There was a study done under the original application. Chuck Heaton, the County Hydrologist at the time, approved it, is my understanding. When we went through all these processes with the County and with the seller and through the court processes that we went through, I don't know if that geo-hydrology study would expire or whatever, but when it came time to resubmit at this time we approached the County and asked if we could just use the prior approval. And the answer was yes.

That's my understanding and we certainly would not want to circumvent any of the County rules and we were not trying to do that. I don't want the Commissioners or anybody else to think that we're trying to subvert any rules and regulations.

The reason why we came to the County and asked them if we could use the prior report was simply to save money. I'm just being honest with you. We have to remember that we're trying to put together an affordable subdivision, affordable housing subdivision. Any costs that are incurred, and these hydrology studies are expensive, about \$30,000, get spread across the cost of the land. So we're just trying save money for the people that are buying affordable housing.

Just so you all know, I own JK Squared, the company owns this, but I also own Preferred Building Systems out of Albuquerque. We build houses and ship them up here to Santa Fe. Over the past 20 years I've probably build 300 or 400 houses in the Santa Fe area. My houses are real houses. They're not mobile. They're not manufactured. I believe that this subdivision, I know it would be an addition to the community. As a matter of fact when we sent out the letters for the community meeting the only people that showed up were those in favor and all those wanted to buy houses from us on those lots.

Those lots I bought initially and it is still my intent and is still my goal to put our houses on those lots. We have already taken deposits for houses for people who want to buy those lots, so there's already a market established and again, this will be an affordable subdivision. I think it's something Santa Fe needs and wants and we've demonstrated 200 or 300 times already up here that we are a definite plus to the community of Santa Fe.

When we did that, just to kind of give you an idea why we thought the geo-hydrology report would not be an issue was that we sent out 137 letters to houses within 1000 feet radius of the subdivision. That's a lot of houses. And there's never been any water problems out there. To do a geo-hydrology report, and we had to agree with the hydrologist here was kind of expensive just to tell us what everybody already knows, that there's plenty of water there. And what was approved by the State Engineer. So again, I'm not trying to subvert, I'm not trying to get around it, I'm just trying to keep the cost down so that we can pass on those savings to the

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people of Santa Fe. I'd be glad to answer any questions.

CHAIRMAN ANAYA: Okay, Jim. Thanks. Go ahead, Commissioner Vigil.

COMMISSIONER VIGIL: What is the price range of the homes? What would they be selling for?

MR. BROWN: Our houses start at about \$55 a square foot and go on up to as much as you want to spend. The house/land package, and right now it would be about \$180,000 to \$220,000, depending on what the customer wants.

COMMISSIONER VIGIL: How many units is it again?

MR. BROWN: Eleven.

COMMISSIONER VIGIL: Eleven. I'm sorry.

MR. BROWN: Now, these aren't, I've got to go again, these aren't - if you go out there you'll see all kinds of different stuff out there, modulars and mobiles and manufactured. Ours are none of those. Ours are conventional houses. They're appraised conventionally. The banks think of them as conventionally. The mortgage companies think of them as conventional. So therefore the equity that - in other words they gain and they have an appreciated value and the buyers get equity. It does not decrease in value. So what happens as a result of that is you end up with a better neighborhood. That's been proven time and time and time again.

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

CHAIRMAN ANAYA: Okay, I've got a question and this is on the 66-foot right-of-way on County Road 54. I noticed that in some of those areas down there, people are building their fences closer than 66 feet and I know that we were going to put a water line down on that road and we're going to resurface that, repave it. So just to make it clear that your fence lines won't come in further than the County right-of-way. I don't know how you do that but I noticed that there's some in that area that do. Any other questions, comments? Okay, this is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER MONTOYA: Mr. Chairman, I move for approval with LCDRC conditions.

COMMISSIONER MONTOYA: There's a motion. Is there a second? I'll second it, with discussion.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is it possible to vote in favor of this and make it a requirement that a geo-hydro report be a part of a final approval?

COMMISSIONER MONTOYA: Mr. Chairman, Commissioner Vigil, I will take that as condition number 16.

CHAIRMAN ANAYA: That a geo-hydro be done prior? Okay, I'll go ahead and agree to that.

COMMISSIONER SULLIVAN: Mr. Chairman, is the maker agreeable to the changes we discussed on condition 14?

COMMISSIONER MONTOYA: Mr. Chairman, I'm sorry. I'm not feeling real well and I stepped out during your discussion.

COMMISSIONER SULLIVAN: Okay. We discussed, and I think there was no problem with the applicant or the staff changing condition 14 to state that the tracts, rather than the five lots, because they're not five lots, that are accessed by the low-water crossing shall be prohibited and deed-restricted from any development until the low-water crossings meet County standards and shall be subject to BCC approval.

COMMISSIONER MONTOYA: So you're changing it from tracts?

COMMISSIONER SULLIVAN: From five lots.

COMMISSIONER MONTOYA: That's fine.

COMMISSIONER SULLIVAN: Because Joe showed us that they're not really lots. They're these two tracts.

COMMISSIONER MONTOYA: Right. Right.

CHAIRMAN ANAYA: I don't have a problem with it.

COMMISSIONER MONTOYA: That's fine.

CHAIRMAN ANAYA: Okay, is there any more discussion?

The motion to approve LCDRC Case #V 04-5420 passed by unanimous [4-0] voice vote. [Commissioner Campos was not present for this action.]

COMMISSIONER MONTOYA: Mr. Chairman, I'm going to ask to be excused.

CHAIRMAN ANAYA: Go ahead. You'll get well.

COMMISSIONER MONTOYA: Before you all get any sicker.

CHAIRMAN ANAYA: Take care, Commissioner.

COMMISSIONER VIGIL: Take care.

CHAIRMAN ANAYA: We might see you Saturday.

- XIII. A. 10. **EZ Case # V/S 04-4880 Northwest Ranches L.L.C. Subdivision Phase I. Jim Siebert, Agent for Northwest Ranches Subdivision (Jacques Constant), Request Preliminary Plat Approval for 19 Lots Within the Subdivision and Preliminary and Final Plat Approval for Phase I, Consisting of Six Lots, and a Variance of Section 3.5 (Road Requirements and Standards) of the Extraterritorial Subdivision Regulations to allow a 1,700 Foot Long Cul-de-sac. The Property is Located East of Los Suenos Trail and South of La Serena Trail, Within Section 19, Township 17 North, Range 9 East, (Commission District 2)**

MR. ARCHULETA: Thank you, Mr. Chairman. On September 14, 2004,

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the BCC granted master plan approval for a 19-lot residential subdivision on 47.5 acres, to be developed in multiple phases, subject to staff conditions. On January 13th the EZC met and acted on this case. The recommendation of the EZC was to grant approval subject to staff conditions. The applicants are now requesting preliminary plat approval for the 19 lots and preliminary and final plat approval for phase 1, consisting of six lots.

The road and some utilities have already been constructed for the first phase of development. A well has recently been drilled within the property on lot 2-2 and will serve the six lots of phase 1. The final platting of the remaining lots will occur over a period of four to six years. The applicant is also requesting a variance of Section 3.5 of the Extraterritorial Territorial Subdivision Regulations to allow a 1700-foot long road that ends in a cul-de-sac. Section 3.5.2F.2.b.1 states: "A cul-de-sac may be either gravel or asphalt and shall be no longer than 500 feet. At the closed end there shall be a turn-around having a radius of at least 42 feet of driving surface, and a minimum right-of-way diameter or 100 feet. In order to accommodate circumstances such as difficult terrain, large lots of ten acres or more or cluster subdivisions with large open space tracts, the EZC may allow cul-de-sacs of up to 1000 feet in length as long as the average daily traffic of 300 vehicles is not exceeded and the County Fire Marshal approves the plan for fire protection and public safety factors."

The application was reviewed for the following: Existing conditions, access/traffic, water, fire protection, liquid and solid waste, terrain management, stormwater retention, archeology, open space, signage and lighting, homeowners association.

Recommendation: The BCC must have positive findings of fact that each of the variance criteria as set forth in Section 3.7.B of the EZO has been satisfied. Section 3.5.2.F.2.b.1 states: "A cul-de-sac may be either gravel or asphalt and shall be no longer than 500 feet. At the closed end there shall be a turn-around having a radius of at least 42 feet of driving surface, and a minimum right-of-way diameter or 100 feet. In order to accommodate circumstances such as difficult terrain, large lots of ten acres or more or cluster subdivisions with large open space tracts, the EZC may allow cul-de-sacs of up to 1000 feet in length as long as the average daily traffic of 300 vehicles is not exceeded and the County Fire Marshal approves the plan for fire protection and public safety factors." The Fire Department has indicated that the length of the cul-de-sac does not compromise public safety. Therefore staff recommends approval of the variance.

The proposed subdivision phase is in conformance with the approved master plan and the Extraterritorial Subdivision Regulations in the County's Land Development Code. Staff recommends approval of the request for preliminary plat approval for the 19 lots, and preliminary and final plat approval for phase 1 consisting of six lots. The EZC recommended approval subject to the following conditions. May I enter those into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:

- a) State Engineer
 - b) State Environment Department
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) Development Review Director
 - f) County Fire Marshal
 - g) County Public Works
 - h) County Technical Review
 - i) Soil and Water District
2. Final plat to include but not be limited to the following:
 - a) Compliance with plat checklist
 - b) Approval of rural address and street names
 - c) Installation of water sprinkler systems
 - d) Development permits for building construction will not be issued until required improvements for roads, fire protection and drainage are completed as approved by staff
 - e) Public trail easement along Los Suenos Trail
 3. Final homeowner documents (covenant, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not be limited to the following:
 - a) Water restrictions shall be .25 acre-feet per lot
 - b) Water conservation measures shall include water storage from roof drainage
 - c) Maintenance of roads and drainage facilities
 - d) Maintenance of septic systems
 - e) Solid waste removal by the homeowners association if the homeowner is not complying
 4. The homeowner shall contract with a licensed solid waste disposal service for trash pick-up.
 5. All redline comments shall be addressed.
 6. Applicant shall address the following issues from the Santa Fe County Hydrologist:
 - a) All water will be supplied by shared wells, each supply at least three lots
 - b) Submit a copy of the Water Quality Analysis from NMED to fulfill the water quality requirement
 7. A liquid waste permit must be obtained from the Environment Department for the proposed septic system prior to issuance of building permit.
 8. The applicant must record water restrictive covenants simultaneously imposing a .25 acre-foot per lot. Water meters for each subject parcel must be installed to monitor well use. Water consumption reports must be submitted to the County Hydrologist by January 31st of each year and submitted to the Office of the State Engineer on a quarterly basis. The applicant shall add this responsibility to the

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- director's duties listed in the well sharing agreement.
9. Trails shall be developed within common open space around perimeter of subdivision.
 10. Submit engineer's cost estimate and acceptable financial surety for completion of requirement improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.
 11. Submit solid waste fees in conformance with the ESR.
 12. Development plan submittals shall comply with the following:
 - a) Extend asphalt pavement on Los Suenos Trail to subdivision access road (Camino Los Suenos) for Phase 2
 - b) Common ponds for road drainage
 - c) Access roads shall have an easement width of 50 feet with a roadway width of 22 feet
 - d) Finished road grade shall not exceed three percent for 100 feet from intersection
 - e) Engineer calculations for size of culverts
 13. 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 Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN ANAYA: Any questions of Vicente? Is the applicant here?
Jim, do you agree with the conditions?

MR. SIEBERT: Yes, we do.

CHAIRMAN ANAYA: Is there anything else you want to add?

MR. SIEBERT: Maybe just a little clarification on the variance. The one thing that we've been doing in working with the Fire Department is two things. One is putting in a storage tank and bringing the fire hydrant down to a point that's within 1000 feet of every homesite, and we've increased actually the size of the cul-de-sac so instead of 42 feet of paving surface, the hard surface, you actually have 50.

CHAIRMAN ANAYA: Okay.

MR. SIEBERT: And I'll answer any questions you may have.

CHAIRMAN ANAYA: Any questions of Jim? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Is there a Fire Marshal's report? I don't see one in the packet. Do you have a report from the Fire Marshal?

MR. SIEBERT: Yes, I believe there is.

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, there is a report. I just forgot to include it in the packet.

COMMISSIONER SULLIVAN: This report says that they're okay with this

1700 feet?

MR. ARCHULETA: We got a verbal approval from the Fire Marshal on the cul-de-sac length and there are other conditions that the Fire Marshal's office is placing on the subdivision, such as a 30,000 gallon cistern and draft hydrants. There shall be two hydrants on the system. The subdivision is within the urban wildland interface area so they have to comply with those. A final inspection is required.

COMMISSIONER SULLIVAN: I guess it seems like every subdivision that we review, it comes in for a variance of that cul-de-sac length. I'm just wondering why we even have that requirement if we routinely, if the Fire Marshal routinely agrees to it being extended. Do you remember ever one being not extended. I can't think of one.

MR. ARCHULETA: Usually there's circumstances that allow it, I believe. I don't know.

COMMISSIONER SULLIVAN: Two other questions, Mr. Chairman. One is that in the staff report it says the hydrologist reviewed the geo-hydro report. The report demonstrates sufficient water for the proposed development with conditions. I didn't see any conditions in Dr. Wust's report. I just saw his review indicating that the geo-hydro was acceptable. Dr. Wust, what did you mean by "with conditions"? Do you know that that means?

DR. WUST: Mr. Chairman, Commissioner Sullivan, I'm going to - there are actually two reviews, but I believe if this one is correct, the Northwest Ranches earlier was called Constant. When I reviewed that geo-hydrology report there were a couple of conditions I imposed, one being that they should be sharing wells. They should be shared wells and that wasn't specified originally. I believe one was that the wells should all be drilled to the similar depth to the one that was used to demonstrate sufficient water availability. Those are the kind of conditions and they address those in a second submittal, or agreed to them or addressed them in a second submittal. If I can get that one I'll tell you the specific conditions. But it was basically how they go about finishing off their water supply. There were no conditions regarding demonstrating water availability.

COMMISSIONER SULLIVAN: Because I've seen conditions in the one, for example, that we just approved, as to the minimum depth of the well. But I don't see any - I see a condition here that says all water shall be supplied by shared wells, each supplying at least three lots.

DR. WUST: That was one of my conditions.

COMMISSIONER SULLIVAN: I don't see anything about drilling the well to at least the depth of neighboring wells. Was that another condition?

DR. WUST: Unfortunately we don't have that one but that's my memory that that was one of them. That's a usual thing I put in is that if they're having multiple wells, because they have demonstrated sufficient water availability with a particular well to a certain depth that the other wells should at least go to that depth. That's, as far as I know, that's always been agreed to by the developer.

COMMISSIONER SULLIVAN: Okay, didn't Mr. Siebert say that they've

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already drilled the well?

MR. SIEBERT: That was the basis of the geo-hydro report. But we do agree to that if you wish to add that as a condition. We don't have any problem with it.

COMMISSIONER SULLIVAN: Did you develop it to at least the depth of surrounding wells?

MR. SIEBERT: Well, actually it's deeper.

COMMISSIONER SULLIVAN: Okay. That's okay, Dr. Wust, right?

DR. WUST: That's fine. Commissioner Sullivan, actually what I was saying to them was any subsequent wells they drill for the development, in addition to the one they used for the water availability, have to be at least as deep as that first well.

COMMISSIONER SULLIVAN: That they drilled for the water availability.

DR. WUST: For the geo-hydrology report.

COMMISSIONER SULLIVAN: Okay, not the surrounding wells.

DR. WUST: No, Commissioner.

COMMISSIONER SULLIVAN: So the applicant wouldn't have a problem with that as a condition.

MR. SIEBERT: No problem whatsoever, Commissioner.

COMMISSIONER SULLIVAN: Then my last question, Mr. Chairman, was -- and this is for staff. There's a report from Charlie Gonzales dated December 9, 2004 indicating concerns with the drainage plan and that Los Suenos Court should be moved so the cul-de-sac is not in a drainage easement, and that regional ponds should be used so it's not up to the lot owners to have a pond for drainage from the roads. Have those issues been addressed?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, those will be addressed prior to plat recordation. And I believe that they did relocate the cul-de-sac.

COMMISSIONER SULLIVAN: Okay. What's the status, Mr. Siebert, on those?

MR. SIEBERT: Commissioner Sullivan, actually we've addressed all of them.

COMMISSIONER SULLIVAN: Los Suenos Court has been moved?

MR. SIEBERT: The concern actually was not the cul-de-sac itself, the roadway at the entry, because it was too close to the drainage. What we've done is we've slid that further to the west. So that has been addressed. The concern was too that the drainage from the roadways should have their own ponding system. Before we had one pond, each lot would have a pond and we oversize the ponds to compensate for the roads. Now we've added a pond here.

COMMISSIONER SULLIVAN: To take up the road drainage.

MR. SIEBERT: Correct.

MR. SIEBERT: So they've actually already done it.

COMMISSIONER SULLIVAN: So those two criteria have been addressed. Okay. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Mr. Chairman, I want to move for approval, but I'd like Commissioner Sullivan to be a part of my motion by stating that condition with regard to the well.

CHAIRMAN ANAYA: Okay, let me ask for any public input or public comment. It's a public hearing. Anybody would like to speak for or against? Okay, it's closed. Go ahead, Commissioner Vigil.

COMMISSIONER VIGIL: I'm asking Commissioner Sullivan's assistance in helping me make this motion, with condition number 14 that would state that the well must be drilled -

COMMISSIONER SULLIVAN: That any subsequent wells in the subdivision must be drilled to at least the depth of the well drilled on which the geo-hydrological report was based.

CHAIRMAN ANAYA: Okay, is there a second?

COMMISSIONER SULLIVAN: I'd second the motion, as amended.

CHAIRMAN ANAYA: Motion and a second as amended. Any other discussion?

The motion to approve EZ Case #V/S 04-4880 passed by unanimous [3-0] voice vote. [Commissioner Campos and Commissioner Montoya were not present for this action.]

- XIII. A. 12. EZ Case # V/S 04-4970 Estancias Subdivision. Charles and Jeannie Curtis, Applicants, Jim Siebert, Agent, are Requesting Preliminary and Final Plat Approval for a 12-Lot Residential Subdivision. The Applicant is also Requesting a Variance of Section 12.1 (Terrain Management) to Allow More than Three Isolated Occurrences of Slope Greater than 30%. The Property is Located North of NM 599, South of Tano Road, Off of Camino de Los Montoyas, Within Section 2, Township 17 North, Range 9 East, (Commission District 2)**

MR. ARCHULETA: Thank you, Mr. Chairman. On February 16th the EZC met and acted on this case. The recommendation of the EZC was to grant approval subject to staff conditions. The applicants are requesting preliminary and final plat approval for a 12-lot residential subdivision on 30.87 acres. The average density of the subdivision will be one dwelling per 2.57 acres. Lot sizes will range from 2.51 acres to 2.87 acres. The variation in lot size is based on a desire to preserve to the maximum extent possible the natural terrain and vegetation along the major drainage and its tributaries. Some of the largest surviving pinon trees are located within and adjacent to this drainage. The road crossing of the major arroyo has been carefully selected and surveyed at that point, which causes the least harm to the natural

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vegetation and cause the least damage to the bank of the arroyo.

Restrictive covenants will be placed on the property, limiting the height of the dwellings within the subdivision. Although the building sites are located at a lower elevation than the existing, adjoining houses, the covenants are designed to ensure that views are maintained from the existing and future houses on adjoining properties. The applicants are also requesting a variance to disturb 2,986 square feet of slopes 30 percent or greater along Vista Orion Road at arroyo crossings. Section 12.1.C.1.b.2 states: "Land with natural slope greater than thirty percent shall not be graded, paved, or built upon and must remain in its natural state except for required drainage structures, slope retention structures, utility installations, limited road or driveway cuts as described in Section 9.8.C.3.d.3, or low impact recreational uses such as trails and revegetation as necessary to meet the purpose of this Section 12.1."

The application was reviewed for the following: existing conditions, access, water, fire protection, liquid and solid waste, terrain management, stormwater retention, archeology, open space, signage and lighting, homeowners association.

Recommendation: The applicant is requesting a variance to disturb 2,986 square feet of slopes 30 percent or greater along Vista Orion Road at arroyo crossings. The proposed plat/development plan is in accordance with the Extraterritorial Subdivision Regulations. The requested variance for disturbance of slope over 30 percent is for the purpose of drainage structures for the road. Staff recommends preliminary and final approval subject to the following conditions. May I enter those into the record?

CHAIRMAN ANAYA: You may.

[The conditions are as follows:]

1. Final plat shall include but not limited to the following:
 - a) Signature lines for Fire Department and Public Works Department.
 - b) Cross reference for recording disclosure statement and covenants.
 - c) Dedicate road to Homeowners Association for ownership and maintenance.
 - d) Rural addressing and road name.
 - e) Identify open space easement in relation to lot lay out and grant for common use.
 - f) Common drainage ponds are designed for a maximum impervious surface of 10,000 square feet per lot, on-lot detention pond is required if maximum impervious surface is exceeded.
 - g) Grant a 10 foot wide public road and utility easement along north property line for
County Road 72-F.
 - h) Minimum width of road easement shall be 50 feet, and 38 feet for emergency access
road.
 - i) Specify a minimum 25-foot setback form edge of drainage ways.
2. Compliance with applicable review comments from the following:

- a) State Engineer
 - b) State Environment Department
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) Development Review Director
 - f) County Fire Marshal
 - g) County Public Works (access permit)
 - h) County Technical Review
 - i) Soil and Water District
 - j) State Historic Division
3. Development plan submittals shall include but not limited to the following:
 - a) Road sections in conformance with minimum standards for width of easement, 20 foot roadway for emergency access and crown.
 - b) Submit road section detail for paved asphalt extending a minimum of 50 feet from Camino de los Montoyas intersection.
 4. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
 - a) Water Restrictions shall be .25 acre-feet per lot.
 - b) Water conservation measures shall include water storage from roof drainage.
 - c) Maintenance of roads and drainage facilities and fire protection system.
 - d) Maintenance of septic systems.
 - e) Solid waste removal by HOA in the event that homeowner is not complying.
 5. Submit solid waste fee in accordance with subdivision regulations.
 6. All redline comments shall be addressed.
 7. Submit a cost estimate and financial surety for completion of required improvements as approved by staff.
 8. A liquid waste permit must be obtained from the Environment Department for the proposed septic system prior to issuance of building permit.
 9. The applicant must record water restrictive covenants simultaneously imposing .25 acre ft. per year per lot. Water meters for each subject parcel must be installed to monitor water use. Water consumption reports must be submitted to the County Hydrologist by January 31st of each year and submitted to the Office of the State Engineer on a quarterly basis. The applicant shall add this responsibility to the Director's duties listed in the well sharing agreement.
 10. The subdivision is subject to a 30 percent open space requirement. Trails shall be developed within open space in conformance with EZ standards.
 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 Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to

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recordation.

CHAIRMAN ANAYA: Thank you. Any questions of staff? Is the applicant here? Jim, do you agree with the conditions?

MR. SIEBERT: Yes, we do.

CHAIRMAN ANAYA: All of them?

MR. SIEBERT: Yes.

CHAIRMAN ANAYA: Even the two that Commissioner Sullivan is going to add?

MR. SIEBERT: I guess. Sure, why not.

CHAIRMAN ANAYA: Thank you. Any questions of the applicant?

COMMISSIONER SULLIVAN: Mr. Siebert, in one document – I'm confused on the lot sizes. In the document from the Utilities Department dated January 7, 2005, it says that the lot sizes range in size from 3.73 to 2.12 acres. And then in the staff report it says that the lot sizes range from 2.15 to 2.87 acres. Can you help me with that?

MR. SIEBERT: Commissioner, what happened when we initially developed the subdivision there was a misunderstanding on my part. We had used kind of a density transfer approach. There's some land that's very difficult to develop. We left all that within open space and had lots that were less than 2.5 acres. The determination of staff that with shared wells and onsite septic, each lot had to be a minimum of 2.5 acres. So we redesigned the subdivision so that every lot was a minimum of 2.5 acres. So you probably have the initial review when it was more of a clustered subdivision.

COMMISSIONER SULLIVAN: Okay. And then the other question I had was I have a concern with graveled roads. They just become a problem, whether they're private roads or public roads. And I see in your submittal that you're proposing to build gravel roads and it seems like this is in a fairly marketable area and that you ought to be able to afford some paving on those roads. Could you comment on that?

MR. SIEBERT: Let me talk to my client for just one minute.

COMMISSIONER SULLIVAN: Because that was one of the two conditions.

MR. SIEBERT: He would agree to paving the roads. In fact the ponds have been sized to accommodate paving of the roads.

COMMISSIONER SULLIVAN: Asphalt paving.

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Actually, I didn't have two conditions. That was the only one.

MR. SIEBERT: I just want Commissioner Vigil to know that this is really unusual that I would have four cases. Don't expect this every Commission meeting.

COMMISSIONER VIGIL: He's earning his keep this evening, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments, questions? Anybody want to speak for or against? Sheriff? The Sheriff has been sticking it out with us. He must want to talk to us after the meeting, I guess. Okay, hearing none, what's the pleasure of the Board?

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COMMISSIONER VIGIL: Mr. Chairman, I move to approve with the condition that the roads be paved with asphalt.

COMMISSIONER SULLIVAN: Second.

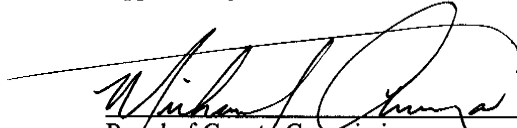
CHAIRMAN ANAYA: There's a motion and a second. Any discussion? I think that was a good condition because we have been getting a lot of problems with subdivisions that in the past, the roads were not up to County standards or they were, and then now since, it's rained so much they're deteriorating and then they want the County to come in and adopt them and take them over. So we will be looking at that in the future, making sure things are paved.

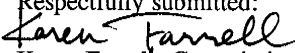
The motion to approve EZ Case #V/S 04-4970 passed by unanimous [3-0] voice vote. [Commissioner Campos and Commissioner Montoya were not present for this action.]


XIV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at approximately 9:40 p.m.

Approved by:


Board of County Commissioners
Mike Anaya, Chairman

Respectfully submitted:

Karen Farrell, Commission Reporter

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK



SFC CLERK 05/09/2005



MEMORANDUM

DATE: March 10, 2005
TO: Board of County Commissioners
FROM: Wayne Dalton, Special Projects Coordinator
VIA: Dolores I. Vigil, Land Use Administrator
Penny Ellis-Green, Deputy Land Use Administrator
RE: Water Conservation Ordinance Implementation

ISSUE:

The Santa Fe County Water Conservation Ordinance, 2002-13, was adopted December 10, 2002. On November 9, 2004 the Santa Fe Water Conservation Ordinance was amended to extend the time a business has to retro fit its facilities.

SUMMARY:

The Water Conservation Ordinance applies to businesses and residents though out Santa Fe County. The Ordinance identifies three main water conservation goals for Santa Fe County. Below are the three implementations of each goal.

1. Commercial Retrofit Program. All commercial entities, including government entities, within Santa Fe County are required to retrofit their plumbing facilities such that they utilize low-flow toilets, low-flow urinals, low-flow showerheads and faucet aerators.

Action Taken

Approximately 889 initial letters have been mailed out regarding the retro fit program to businesses. Originally the ordinance required compliance by January 1, 2005. The BCC directed staff to extend that date to July 1, 2005. Staff therefore amended the ordinance and a further 626 letters have been mailed to businesses with water conservation literature enclosed informing them that they have until July 1, 2005 to retro fit their plumbing facilities. This is an on going task for staff due postcards coming in almost everyday and entering those businesses that have complied into a database. Staff has to research certain letters coming back to the County due to lack of a sufficient address or

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business closure (approximately 26). Staff also has to research which of those businesses due not have to comply (i.e.) Home Occupations. Approximately 326 businesses have responded and random inspections have been done. Due to the ordinance specifying a date of which retro-fits need to occur this part of the ordinance has taken priority.

2. Conservation, Signage and Literature Distribution. All public and semi-public restrooms are required to post water conservation signs with language and/or signs furnished by the county. Lodging establishments are required to provide a water conservation informational brochure in every room to inform guests about the need for water conservation in Santa Fe. Retail plant nurseries are required to provide customers with County provided low-water landscape literature and water efficient irrigation guidelines at the time of plant sale. Landscape contractors, maintenance companies and architects are required to provide clients with County-provided low-water use literature and water efficient irrigation guidelines when presenting clients with a service contract. Title companies and real estate professionals are required to provide the entity purchasing a property with County-provided indoor and outdoor conservation literature at the time of closing. All building permit applicants and those initiating new water service with the Santa Fe County Water Utility shall be provided with indoor and outdoor water conservation literature.

Action Taken

Letters have been mailed to Lodging Facilities and Nurseries located within Santa Fe County informing them of the Water Conservation Ordinance. All appropriate Signage and Literature has been prepared and is available in the Land Use Department, on the web page, or can be mailed or delivered upon request.

3. Domestic Well Metering Program. All domestic well users with water restrictions are required to furnish proof of a water meter along with yearly water meter readings. Though this is already a condition of approval for assigned water restrictions, it has been difficult in the past to enforce these measures. A well-metering database has been created to track water usage among domestic well users with water restrictions.

Action Taken

The development permit application has been modified so all people requesting development permits have to submit proof of water meter, water meter serial number, meter reading, photo of meter along with water restrictive covenants. I have also sent numerous memos to the Permits and Enforcement Division, Development Review Division, and Plats Examiner requesting water restriction information in order to enter it into a temporary well log this well log has been completed from January 1, 2005. I have received a limited amount of information from these departments. I have been trying to work with the Information Technology Division on building a well meter database in order to keep track and enforce water meter readings within Santa Fe County. This has been a very slow process and staff is now proposing to contract with a private entity to

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build this database and go back to research files from recent years to obtain water restriction information. When the database is up and running we propose random inspections on properties reporting readings and inspections on other properties not providing readings. These inspections will be done by myself and inspections staff. Staff needs to create this database in order to actually go out and enforce water restrictions.

A fourth goal of "Public Education and Outreach" has been adopted as part of implementing this ordinance, as it unifies the three other goals and actively engages the public in water conservation. This goal includes educating children about water conservation, meeting with water conservation committees, and creating a Santa Fe County water conservation website. In addition, a public recognition program entitled Water Friendly Businesses is currently being developed and is proposed to run in conjunction with the City of Santa Fe.

Action Taken

Staff has taken part in water fairs. Staff has also taken part in committees such as SEO Water Wise Committee, Pojoaque Regional Wastewater Regional Advisory Group and the Children's Water Festival. I am also the staff liaison for the Energy Task Force and the Land Use Representative for the Public Safety Committee.

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NEW MEXICO DEPARTMENT OF
TRANSPORTATION
 MOBILITY FOR EVERYONE

R/W Bureau

September 23, 2004

Ms. Vicki Lucero
 Development Review Supervisor,
 Santa Fe County
 102 Grant Avenue
 Santa Fe, New Mexico 87504-0276

SEP 28 2004

RE: Oshara Phase One Final Development Subdivision

Dear Ms. Lucero:

Your referenced request has been processed and comments to be addressed are as follows:

Traffic Technical Support Section:

- In the Oshara Master Plan approved in 2002 a northeast frontage road between Oshara and the underpass of the I-25/St. Francis interchange was to be built with the first phase of this development. This report states that this frontage road will now be constructed during Phase II. At that time a separate traffic impact analysis must be submitted for this facility and the future traffic in this area. At this time the Department has no resolution on the frontage road and acceptance of this phase of the development does not imply that the Department has agreed that the frontage road will be built.
- The report shows a very small percentage of traffic accessing the site from the south. Discussions with NMDOT District 5 personnel reveal that the intersection at S.R. 14/Rancho Viejo Boulevard recently met warrants to be signalized. This is an area that is beginning to generate a substantial amount of traffic. The District requested that the report address any impacts that the Oshara Village Phase One Development might have on this intersection since it provides a southern access to the development.
- In the analysis at the Rodeo/Richards intersection for the Build Condition (PM peak hour) with both northbound and eastbound right turn lanes the right turns are removed completely from the analysis. This implies that these movements are free and do not have to merge with other traffic which is not the case. This assumption is logical in the case of the eastbound right turn lane since the right turns will have 37 s of green time during the eastbound and westbound through phases and 12 s of green time during the northbound and southbound left turn phases. In addition, the eastbound right turns may turn right on red into the southbound lanes where the v/c ratios are only 0.6. However the northbound right turns are higher in volume and will experience more delay because they would only have 17 s of green time during the eastbound and westbound left turn phases and 5 s of green time for the northbound and southbound through phases. Northbound traffic may also turn right on red during the eastbound and westbound through phases but during the PM peak hour the v/c ratio for the eastbound lanes is 0.95. There will be few gaps available for right turns.

Bill Richardson
 Governor

Rhonda G. Faught
 Cabinet Secretary

Commission

Johnny Cope
 Chairman
 District 2

David Schutz
 Vice Chairman
 District 5

Gregory T. Ortiz
 Secretary
 District 6

Norman Assed
 Commissioner
 District 3

Jim Franken
 Commissioner
 District 4

Bud Hettinga
 Commissioner
 District 1

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This could lead to queuing that might affect northbound through movements. An acceleration/merge lane could be provided in the eastbound direction to allow the northbound right turn to operate as a true free movement. Another solution could be to give the northbound movement more green time but this would affect other movements adversely

- In the analysis at the Rodeo/Richards intersection for the Build Condition (PM peak hour) with both northbound and eastbound right turn lanes the right turns are removed completely from the analysis. This implies that these movements are free and do not have to merge with other traffic which is not the case. This assumption is logical in the case of the eastbound right turn lane since the right turns will have 37 s of green time during the eastbound and westbound through phases and 12 s of green time during the northbound and southbound left turn phases. In addition, the eastbound right turns may turn right on red into the southbound lanes where the v/c ratios are only 0.6. However the northbound right turns are higher in volume and will experience more delay because they would only have 17 s of green time during the eastbound and westbound left turn phases and 5 s of green time for the northbound and southbound through phases. Northbound traffic may also turn right on red during the eastbound and westbound through phases but during the PM peak hour the v/c ratio for the eastbound lanes is 0.95. There will be few gaps available for right turns. This could lead to queuing that might affect northbound through movements. An acceleration/merge lane could be provided in the eastbound direction to allow the northbound right turn to operate as a true free movement. Another solution could be to give the northbound movement more green time but this would affect other movements adversely.
- The northbound right turn lane at the Richards/Rodeo intersection is needed to accommodate projected traffic not associated with the development. However, the development adds more than double the right turns when compared to future growth. The developer should bear some of the cost of this improvement due to the sheer volume of right turns that they are generating.
- The phase length for the northbound and southbound through movements at the Richards/Rodeo intersection in the Build PM Peak Hour seems very low at 10s including yellow and all red time. This would not be enough time for a pedestrian to cross the eastbound and westbound lanes. If more time is given to this movement the LOS of the other movements might be below acceptable levels and other improvements may be needed. This intersection is owned by the City of Santa Fe and this phasing should be reviewed by the City.

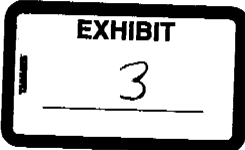
SFC Clerk 05/09/2005

If you have any questions or need further information please contact me at 827-1879.

/PC

Sincerely,

 Pete Contreras
 Property Management Unit
 Right of Way Bureau

XC: Ron Noedel
 David Martinez
 Kathleen Garcia
 Steve Rodriguez
 File



MEMORANDUM
Santa Fe County Utilities Department

TO: Dolores Vigil, Land Use Director and
Vicki Lucero, Zoning Division Director

FROM: Douglas M. Sayre, Utilities Department Deputy Director

SUBJECT: Oshara Village Development

DATE: March 9, 2005

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This memorandum is to express a concern presently by the Utilities Department that the Oshara Development has not completed to the satisfaction of this department the final development plan requirements that relate primarily to 1) Water and 2) Wastewater. The water needs were previously stated in my memo of March 3, 2005 which will require BCC commitment of a portion of the newly available water from the City of Santa Fe as well as an approval of a contract amendment to the present Greer Enterprises Water Service Agreement in order to obtain and meet the needed water budget for the entire phase one development.

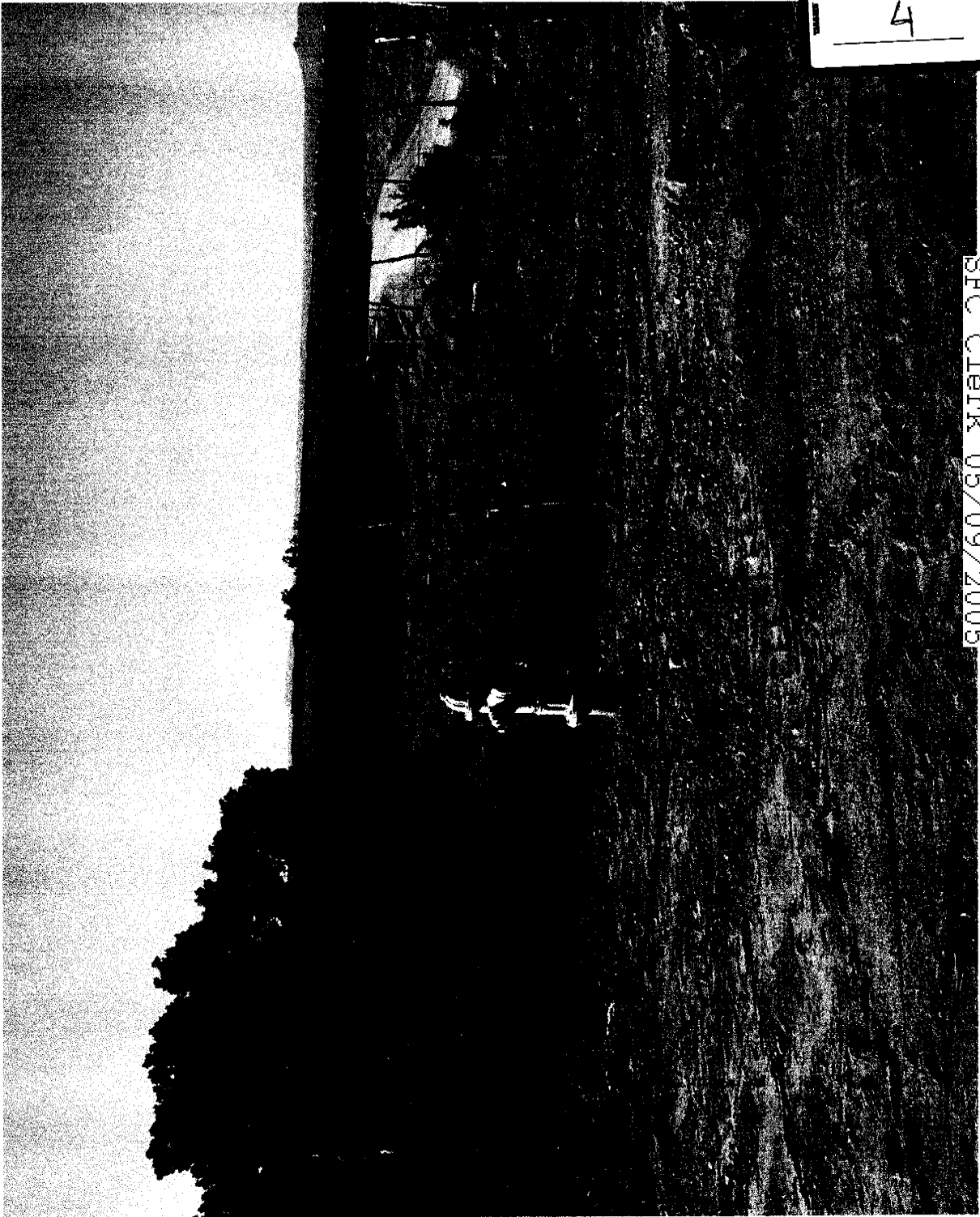
The wastewater concerns are that plans presently only indicate a concept wastewater treatment plan using an Intermittent Decant Extended Aeration (IDEA) process to handle the wastewater inflow. No detail drawings as to inlet works, main treatment plant size, disinfection unit, sludge handling facility, reuse water storage structure, pumping station, and emergency leach field are provided. Also no discharge plan for this entire process has been filed with the NMED as of this date to our knowledge.

To consider approval of the final development plan at this time based on the submittals to date regarding the water supply and wastewater treatment system is considered premature by the Utilities Department.

EXHIBIT

4

SFC Clerk 05/09/2005





UTILITIES DEPARTMENT



9 September 2004

TO: Wayne Dalton, Land Use Department
FROM: Stephen Wust, County Hydrologist *sw*
RE: LCDRC Case #S 04-5420 Vallecita de Gracia Subdivision

I have reviewed the submittal for the Vallecita de Gracia Subdivision. It is incomplete for water supply requirements.

- ◆ Article VII of the Land Use Code specifies that subdivisions of this size must have a geohydrologic report, with pump test, and a water quality analysis. No geohydrologic report, reconnaissance report, nor even water availability analysis was provided. The 1994 "Pre-Drill Review" that was submitted 8 September 2004 does not qualify.

If you have any questions, please call me at 992-9876 or email at swust.

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LEGEND:

- DIAMETER MINIMUM 7500 SQ. FT. BUILDING FOOTPRINT REGULATIONS. OTHER BUILDING SETBACKS MAY BE REQUIRED BY THE JURISDICTION.
- 12' DRIVEWAY LOCATION
- DENOTES STREET ADDRESS
- DENOTES SERVICE & LEACH FEED
- DENOTES SURVEYING REQUIREMENTS OF COUNTY CODE.
- NO DISTURBANCE OF ARCHITECTONICAL, HISTORICAL OR ENVIRONMENTAL S.F. COUNTY LAND USE ADMINISTRATION.
- NO FILLING OF THE AERODROME OF LOTS CHANGES OR AIRFIELD HANGAR IS PERMITTED.
- SHARDED WELLS SERVE THE FOLLOWING LOTS:
 - SHARDED WELL NO. 1 LOTS 9 THRU 11
 - SHARDED WELL NO. 2 LOTS 5 THRU 8
 - SHARDED WELL NO. 3 LOTS 1 THRU 4
- SEPTIC TANKS & LEACH FIELDS ARE NOT PERMITTED. THE AERODROME HANGAR IS PERMITTED WELL AS SHOWN ON THE ORIGINAL PLAN.

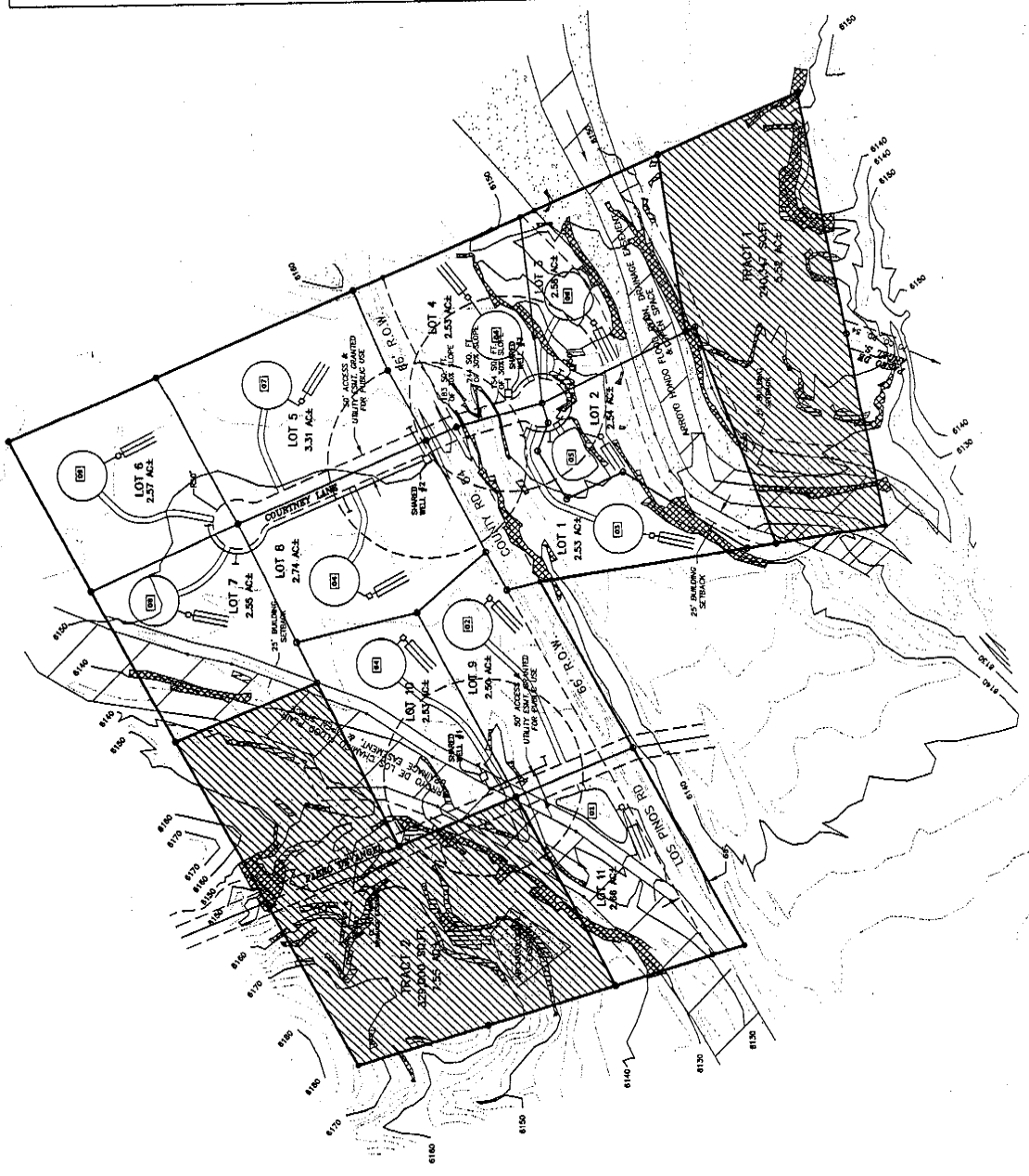
- SLOPE CATEGORIES:
- 0% - 20% SLOPE
 - ▨ 20% - 30% SLOPE
 - ▩ 30%+ SLOPE

NOTE:

TRACT 1 IS RESTRICTED FROM ANY DEVELOPMENT UNTIL THE CONSTRUCTION OF THE AERODROME HANGAR IS COMPLETED. THE AERODROME HANGAR SHALL BE CONSTRUCTED WITHIN THE SECTION 1.6.2 OF THE ZONING ORDINANCE. NO DEVELOPMENT PERMITS WILL BE ISSUED FOR THESE LOTS UNTIL THE AERODROME HANGAR IS COMPLETED.

TRACT 2 IS RESTRICTED FROM ANY DEVELOPMENT UNTIL THE CONSTRUCTION OF THE AERODROME HANGAR IS COMPLETED. THE AERODROME HANGAR SHALL BE CONSTRUCTED WITHIN THE SECTION 1.6.2 OF THE ZONING ORDINANCE. NO DEVELOPMENT PERMITS WILL BE ISSUED FOR THESE LOTS UNTIL THE AERODROME HANGAR IS COMPLETED.

VALLECITA de GRACIA
SITE PLAN



JAMES W. SIEBERT AND ASSOCIATES, INC. 141 WILSON STREET • SUITE 101 NEW HAVEN 06510 (203) 963-5000 FAX (203) 966-7511	SCALE 1"=100' DRAWN BY CH/OT	DATE JULY 2004 CHECKED BY JCS	SHEET 7 OF 9
	VALLECITA de GRACIA SUBDIVISION BUILDING EVALUATION PLAN & SLOPE ANALYSIS	PROJECT NO. 09/07/02	DATE 09/07/02

SFC Clerk 05/09/2005