

SANTA FE COUNTY

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REGULAR MEETING

BOARD OF COUNTY COMMISSIONERS

March 13, 2001

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:00. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Commissioner Paul Duran, Chairman
Commissioner Marcos Trujillo
Commissioner Javier Gonzales
Commissioner Paul Campos
Commissioner Jack Sullivan

Members Absent:

None

IV. INVOCATION

An invocation was given by Chairman Duran.

V. APPROVAL OF THE AGENDA

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- B. Tabled or withdrawn items**

SAMUEL MONTOYA (County Manager): Mr. Chairman, members of the Board, good afternoon. We have one amendment under item IX. F. 1., under Matters from the County Attorney. We're adding on to the executive session, Mr. Chairman, discussion of pending or threatened litigation. That is the only amendment. We have two requests for tabling of items, Mr. Chairman. Under item X. F. 4. CDRC Case A/V 00-5951, relative to Alan Weiss Appeal/Variance. The second, Mr. Chairman, is number X. F. 7. CDRC Case 00-5760, Rancho Encantado Master Plan Amendment, Rancho del Monte. Mr. Chairman, these

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two items have been requested to be tabled. Item 4 was requested by the agent for Mr. Weiss and item 7, I understand, is a request from staff to table. I stand for any questions, Mr. Chairman.

CHAIRMAN DURAN: Any questions of the County Manager?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Sam, under our policy, I'd like to hear what the reasons for the tabling requests are.

MR. MONTOYA: Mr. Chairman, I believe the agent for Mr. Weiss is here and Penny Ellis-Green from our staff is also here to explain tabling for item 7.

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, regarding Rancho Encantado, they have requested tabling to allow them to look at further water related issues. A part of the development plan, some issues were raised and they wanted to meet with the County Hydrologist and sort those out before they came in front of you for master plan approval.

CHAIRMAN DURAN: Any questions on item number 7? Ms. Vazquez.

ROSANNA VAZQUEZ: Good afternoon. Dr. Weiss has requested tabling because Dr. Weiss lives in Los Angeles and he is a doctor whose schedule often keeps him very busy and are usually done at the last minute. The tabling was sent in on Friday afternoon as soon as I was made aware on Thursday afternoon that he was going to be not in town. So I did send in the tabling on Friday afternoon, made a call to the Land Use Office to leave a message with Marty for Mr. Dalton that we were going to table the case and also received confirmation on my fax that the fax got in on Friday afternoon.

CHAIRMAN DURAN: Any other questions of Ms. Vazquez.

COMMISSIONER SULLIVAN: Ms. Vazquez, just to inform you and others, the cut-off is Thursday for our tablings so in the future, if you could get these in by Thursday at the close of the business, pursuant to the resolution that we've passed on that. And also, this item came up last month and the same reason was given for tabling and my concern is that we, I think got this one out in time so that people that may have come, at least those that saw it on the web where it was indicated that it was tabled so that we're not inconveniencing the public. But this is the second time that the same reason has been brought up, the unavailability of the applicant. Would it be possible for the applicant to determine his schedule before he puts the item on the agenda?

MS. VAZQUEZ: If I may speak to that Commissioner Sullivan. First of all, my client's schedule is a little difficult to determine because he is a doctor and we have tried to do that. It has been the policy of the Land Use Office and if somebody could correct me if I'm wrong, that a tabling would have to be for the previous, for the next month, and not an indefinite tabling. And so that was why, when I did the initial tabling, I didn't ask for a scheduling of March, it was put on to the March agenda. And that's just, I think, in order to make sure that the cases get heard. With respect to the timing of it, again I apologize for it, and if the resolution calls for three days, then I will have it in by Thursday afternoon, but in

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computing the time, it seems to me that two business days prior would meet Friday afternoon.

COMMISSIONER SULLIVAN: The resolution reads two full business days.

MS. VAZQUEZ: Okay. Then the direction from the Commission will be that that constitutes Thursday afternoon at five?

COMMISSIONER SULLIVAN: That's been the direction since the resolution was passed. Yes.

MS. VAZQUEZ: Okay. I apologize for that. The direction I was given is that I could get it in on Friday and I apologize again.

COMMISSIONER SULLIVAN: I understand. There was some confusion there and before we go through this yet a third time, is Dr. Weiss, or will Dr. Weiss be available next month.

MS. VAZQUEZ: Well, this time he will, Commissioner Sullivan. And I just want to explain another thing. I could go forward on this land division without him. However, there were questions raised by the neighbors, and there were questions raised by the CDRC as to the intent of Dr. Weiss and we have both felt that it would be important for him to answer those questions. For him to deal with some of the history of the property. And that was why it was so important that he attend. I apologize, and I would like some clarification also from the Land Use Department. At one time there was a policy that there would be three tablings and if there had been beyond three tablings, the case would get withdrawn. I don't know whether that policy is still in effect, but if I could get clarification as to that. And also clarification from the County Attorney as to the two days on the resolution.

CHAIRMAN DURAN: Estevan, can you tell us about the three tablings issue?

ESTEVAN LOPEZ (Land Use Administrator): Mr. Chairman, Commissioners, that is true. The Land Use Department has an internal land use policy that we've operated under that after the third consecutive tabling, we would—it's not withdrawn [audio difficulties]

CHAIRMAN DURAN: ...because it didn't meet the deadline. So we heard the case without having the applicant have the benefit of being here at the meeting. But the other thing, what I'm more concerned about is the fairness, if there are reasonable reasons why they're requesting a tabling. I would hate to have them go through the process over again, provided there was proper notice given to the neighborhood. And it seems to me that what you just mentioned to me would be fair, that they republish and that they renotice so that the community knows that this is coming up at the next meeting. Anyone else like to comment? What do you think about that, Commissioner Sullivan?

COMMISSIONER SULLIVAN: I think that's a good idea. Anything we can do, Mr. Chairman, to be sure that everyone understands the rules. I personally don't think that a reason that the applicant is too busy is a valid reason for not appearing before the Commission when he's got a matter on the agenda, and I would think it would be his counsel's duty to determine whether he's available or not and to convey that in a timely manner to the staff so we don't waste time continually like we're doing right now doing this. But I certainly concur that if we can clarify that internal policy as well of the three times issues.

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CHAIRMAN DURAN: So if we didn't table it, what would his options be? Would it be he'd have to republish or renotece?

COMMISSIONER SULLIVAN: Mr. Chairman, I think if we didn't table it, we would hear the matter tonight. His counsel is here and we'd hear the matter. But I think in this particular case, Deborah did get it out in the agenda on the web that it was to be tabled. My concern was that we don't keep bringing the public in and then having them go home and then bringing them in and have them go home ad infinitum. And I think in this case it was taken care of so I think it will be okay to table it today.

CHAIRMAN DURAN: So I have another question. So if someone has legitimate reasons why they can't make it to the meeting, and they miss the 5:00 deadline on Thursday, and we require them to come forward for us to hear their case, and they still can't make it because they have a legitimate reason, you're saying that they have to have their case heard without their presence? Maybe they don't have an attorney.

COMMISSIONER SULLIVAN: No, I don't think so. But I think Mr. Kopelman has a comment.

STEVE KOPELMAN (County Attorney): Mr. Chairman, members of the Commission, right now there's a resolution and what the resolution says is merely that if the tabling isn't done timely, then the matter is on the agenda, but the Commission then has the discretion whether to hear it or not to hear it. So it really is a question—then you could hear as to what the reasons are and decide whether you think they should go forward or not. That's how the resolution currently reads.

CHAIRMAN DURAN: And you think that's fair?

MR. KOPELMAN: Mr. Chairman, I'm just a lawyer. I just interpret—

CHAIRMAN DURAN: Well, whatever's fair, I guess, I think is what we should be pursuing.

MR. LOPEZ: Mr. Chairman, just for clarification and to make sure that we're following the direction of the Commission correctly, I understand the Commission now to be directing us that the cut-off for accepting letters for tabling should be 5:00 on Thursday for a Tuesday meeting. And secondly, I'm not sure if I received direction or not to try to formalize a policy relative to three tablings and renotece type thing.

CHAIRMAN DURAN: I think it's three tablings and then they renotece.

MR. LOPEZ: We'll bring something forward to formalize that policy.

CHAIRMAN DURAN: And hopefully, if someone's case is heard without the benefit of having them here, that this Commission would do whatever is fair. I guess we could leave it at that. Okay. Any other comments or discussion on the amendments? Or the tabled or withdrawn items?

COMMISSIONER TRUJILLO: With that, Mr. Chairman, move for approval of the agenda.

CHAIRMAN DURAN: There's a motion to approve. Need a second.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Second by Commissioner Campos. Any further

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discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed?
Motion carries.

VI. APPROVAL OF THE MINUTES: February 9, 2001 (Special Meeting)

CHAIRMAN DURAN: Any changes or amendments to those minutes? If not, I'll entertain a motion to approve February 9th's minutes.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: Motion by Commissioner Trujillo. Second by Commissioner Gonzales. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

**February 13, 2001 (Reconvened Meeting), February 13, 2001 (Regular Meeting)
January 30, 2001 (Regular Meeting)**

CHAIRMAN DURAN: Does that end the January 30th meeting or is that a separate one? Okay, February 13 reconvened meeting and the February 13th regular meeting. And the January 30th meeting.

COMMISSIONER TRUJILLO: No changes, Mr. Chairman. I make a motion to approve the minutes for all three meetings.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

February 15, 2001 (Special Meeting)

CHAIRMAN DURAN: Any additions?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman, I just want to clarify one thing in reading the minutes. Obviously, as we go through these minutes there's an occasional typo and that type of thing. The Board doesn't want to hear that in terms of minute corrections, I would assume.

CHAIRMAN DURAN: Well, I think it's your prerogative. I think it's blatant mistakes and obvious mistakes.

COMMISSIONER SULLIVAN: If it doesn't change the intent of the minutes I

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don't want to labor on typos. I just want to clarify that.

COMMISSIONER CAMPOS: Mr. Chairman, just maybe a point of clarification. Page 75, it shows that the Commission on that date approved the Las Campanas case. But if we look at page 102, it was decided that indeed it was tied and not passed and perhaps just for the sake of clarification, we could refer, on page 75 at the very bottom to page 102, so there's no confusion as to what happened on that particular case.

CHAIRMAN DURAN: It that okay? Great. So noted. Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman. Let me just make a clarification. I want to compliment the minutes taker. I think in the amount of time that these minutes come back, they are extremely accurate. And so I don't want to imply by any stretch of the imagination that there's a lot of typographical errors. They are quite accurate and a very good job is done with them. I just want to be clear about that.

CHAIRMAN DURAN: Okay. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

VI. CONSENT CALENDAR

A. Request ratification of actual travel expenses for the County Clerk

MR. MONTOYA: Mr. Chairman, it's on the Consent Calendar and it's for a trip out of state to Houston for the County Clerk to attend an election center school. I stand for any questions, Mr. Chairman.

CHAIRMAN DURAN: Any questions of Sam?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Mr. Montoya. This came up at the last meeting. I think there was a request for actual travel expenses for the Assessor. Explain to me why these come up to us at this point in time.

MR. MONTOYA: Mr. Chairman, especially for the out of state travel, the per diem ordinance, the travel regulation that we have requires us to come before the Board for any out of state trips for any elected officials or for any department heads, simply for the Board to have an idea of where our staff or where the electeds are requesting to go and for what purpose, Mr. Chairman, and that's the only reason.

COMMISSIONER CAMPOS: So the ordinance requires that the Board approve actual expenses for out of state travel?

MR. MONTOYA: Mr. Chairman, yes. Because the ordinance, the DFA ordinance sets a standard rate for travel, and when you travel to a different location, different city, sometimes those expenses exceed the amounts that are allowed by the Department of Finance. So the only way to cover the actual expenses is to have the Board authorize actual expenses versus per diem rates.

COMMISSIONER CAMPOS: What is the per diem rate in New Mexico?

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MR. MONTOYA: Mr. Chairman, I'll defer to the Finance Director to give you the specificity on that, but \$75 per day is I believe what the per diem rate is. Sixty-five in state.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

CHAIRMAN DURAN: Any further questions of Sam?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: There's a motion by Commissioner Trujillo. Second by Commissioner Sullivan. Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

VII. PRESENTATIONS AND AWARDS

- A. Presentation regarding a technology dedicated to converting solid waste into value-added products while solving environmental problems, by Donn G. Duncan with Waste Technology Transfer, Inc.**

DONN G. DUNCAN: Thank you, Mr. Chairman, Commissioners. It's my pleasure to share with you an opportunity under consideration of a technology that is looking at northern New Mexico for moving the technology to a location in this area. The technology is over two decades in age and it was related to an earlier study when we had the fuel crisis in the seventies for converting different materials to fuel-like substances. A professor at the University of Arizona continued the project after the Department of Energy abandoned it because of the drop in oil prices and actually used what is now called bio-mass, which is organic material that is waste.

This biomass consists of things like forest waste or slash, rubber tires, plastics, crop residues, things like corn stover, wheat straw, cotton waste, animal waste, and also includes the wet part or the organic part of our landfills, which comprise, on average, over 80 percent of the landfill content. This technology has been through a process of a prototype plant and several products have been produced and several organizations have voiced a strong interest in sharing this technology and its uses.

These companies include Honeywell, General Electric, Williams Power Company and other companies including Dupont. And since I now live in this bit of heaven, I have a strong bias to bring that company here. Other places under consideration are the Delta Region in Mississippi, because of both their poor economics and their large amount of cotton waste; Lake Tahoe, for similar concerns that we have here with our watershed and potential fires; stay in Arizona, and there are some other places under consideration.

What is nice about this technology is that it solves an environmental problem with great social mobility and does not have a waste stream. We've designed a new plant and I'll show you a picture of the demo plant in Tucson. The new plant will be contained within a building, has no waste stream, no smokestack, and indeed the products that come from the process that are not immediately usable are excess water, because the primary feed stock that we worked on

has wood and wood products, and carbon dioxide.

We have redesigned this so that the water is of use, so that there's a net gain of water. ¹⁸⁹⁹⁴⁹³
Electrical uses. We have a very efficient system and actually we use some of the product as an energy source. And finally the CO₂ the scientists thought of cleverly using that to create a greenhouse in the front of the demo plant where we can grow tomatoes and demonstrate to people who will come from we believe many areas to see this in process.

If I may, I'd just like to show you a couple pictures and then answer any question.

CHAIRMAN DURAN: Mr. Duncan, you can take the microphone with you if you'd like.

MR. DUNCAN: This is an old prototype. We've changed the design quite a bit. Can everyone see this satisfactorily? As you can see, it has a relatively small plant. The prototype of the first plant we would build a semi-works plant is in the range of less than half an acre. The subsequent commercial plant with the laboratories would all be contained within buildings and would probably need a total of less than five acres, which would also be available for feed stock storage whether used for slash or other crop residues or municipal solid waste from the landfill.

The product, what we call the base product, is very close to petroleum except that it contains about eight to ten percent oxygen. Which is good in a way because we don't believe we can compete with the low cost fuels but with the oxygen there's a series of other products with great value that we've produced and feel will make this very economical. One of the questions that's asked is what does this mean that the community in which this particular technology would reside. And this is what we configured for Santa Fe if it would be here. First the initial semi-works plant and then the commercial plants, and as you can see, there's a fairly robust number of high quality people employed in this facility.

At the completion of the commercial expansion we would see in the range of, we have here 129 people employed at fairly attractive wages for the most part. I'll stop now, if there are any questions from anybody.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: Is this activity, has it been implemented anywhere else in the nation?

MR. DUNCAN: Not this technology. Only in Tucson. And so the first implementation would be what is called a semi-works plant, so we can produce not commercial volumes but testing volumes for companies that are asking for this end product material, such as I mentioned, Williams and Dupont and other companies.

COMMISSIONER TRUJILLO: So this would be a national location.

MR. DUNCAN: That's correct.

COMMISSIONER TRUJILLO: For this technology. And you'll be accepting solid waste, I guess, from across the nation.

MR. DUNCAN: No, we would keep that local, because the economics are dependent upon a distance in travel, because this is a low-value material. The waste really

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doesn't have a lot of value. Something I did not mention is we have designed this also as a mobile plant, so we can on two small flatbeds, take a mobile plant around. For example, using our Santa Fe Watershed. As you know, one of the issues is transport and the only access perhaps down Canyon Road. The process actually compresses the volume dramatically, taking the forest slash, so instead of having 12 trucks, for example, coming down Canyon Road, we would have one or two at the most with this base product. Then we would bring it to the commercial plant for further refinement depending on the product mix we would create.

But I'm excited, since I live here and don't want to move to, quite frankly, Jackson, Mississippi or some other places, would like very much to have the opportunity to have this as a consideration here for Santa Fe.

CHAIRMAN DURAN: Mr. Duncan, if you sited this facility on land close to our land fill or within the landfill, would you be screening the solid waste that comes into the facility or—because I heard from our land—the director out there that he has some concern that this facility might slow down the process of getting the solid waste and –

MR. DUNCAN: There are two or three ways of approaching this. First, usually or frequently we go to transfer stations where some of this is already separated, and we would initially start out with for us, the easiest materials to use such as the forest slash, construction materials, before we move into the municipal solid waste. We would then coordinate with a recycling facility group to begin to separate that. I would consider that to be somewhat downstream from the initial aspect.

Another aspect is we are—since this would be kind of the model plant basically for the country, hopefully, we would certainly consider a revenue sharing arrangement because we would not want to negatively impact the function of the landfill because it's pretty fragile for the economics, quite frankly.

CHAIRMAN DURAN: So you would actually deal with the solid waste after it has come in to the facility, so it wouldn't affect our tipping fees.

MR. DUNCAN: That is correct. I've talked with the people at the landfill and said we would be more than willing to do a post-scale utilization. What works for them—we're pretty flexible in that aspect.

CHAIRMAN DURAN: Okay, so it's my understanding that the reason that you're here this evening is that it's going to take a joint City and County understanding and agreement in order to allow the solid waste facility to permit this, actually the right to have this facility placed in our landfill.

MR. DUNCAN: That is correct.

CHAIRMAN DURAN: So I guess the question today is, I know you're making the presentation to us but my understanding is we need to, if we're in agreement with—that this is something that the County would consider, then it would go to the City and you would ask them for the same approval, and with both of us giving you our blessing, you could then go to the solid waste committee for them to determine whether or not it's feasible or a worthwhile venture.

MR. DUNCAN: Correct.

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CHAIRMAN DURAN: Okay. Any questions for Mr. Duncan?

COMMISSIONER TRUJILLO: Just one more from a financial standpoint. What would be the impact on local government, if you will, the City and the County?

MR. DUNCAN: As I mentioned, we would—I'd certainly consider and entertain not negatively impacting things like tipping fees. So we would have a cooperative effort to make sure that we would not withdraw potential funding from the landfill. As you can see from the impact, if you look at the first paragraph here, there will be a fair amount of initial capital utilized, but then you start looking at revenues that finally get down to the bottom here. Revenue, probably, annual revenue of over \$24 million a year at that stage, plus the additional benefits. So I think the benefit both from the employment, obviously tax, and if we have to do a revenue sharing, we could consider that also.

COMMISSIONER TRUJILLO: So there wouldn't be an out-of-pocket expense to taxpayers initially for the capital equipment? Or is that something—

MR. DUNCAN: No. I'm glad you asked that. No, we're not asking for you all to finance this. So there would not be, there would be a net gain potentially, after sales of tax revenue. Our primary consideration for you all is a siting area. If we could on County land site this, you would still own the land and we would pay probably a nominal amount on leasing, and then the rest we would personally capitalize. Might consider some bonds for downstream of capital improvement, but that would be not a grant, that would be a bond issue.

CHAIRMAN DURAN: Well, I'm inclined, with concurrence of the Commission to set this thing in motion and allow Mr. Duncan to make a presentation to the solid waste agency for final determination. And the reason I'm in favor of it is it does provide 129 jobs to our community, and if there's some revenue sharing possibilities, then it's probably worthwhile at least to pursue further discussion. What does the Commission think about that?

COMMISSIONER TRUJILLO: I also support it and I think it would have a positive impact on the community from an environmental standpoint, recycling the solid waste for better uses and hopefully stifling the proliferation of solid waste and trash all over the countryside. Hopefully this would be conducive to doing that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr.—I'm sorry. Could you give me your name again?

MR. DUNCAN: Donn Duncan.

COMMISSIONER SULLIVAN: Mr. Duncan, my understanding is the material, the heavy like oil liquid which comes then from your process that you've been working on can be used for things such as an asphalt additive to improve the performance paving or as additives for industrial plastics to improve resistance to ultraviolet light. Would these additives then be made there at the landfill site from this oil and if so, what would be the air quality ramifications of that?

MR. DUNCAN: We don't feel we negatively impact. We've run these in the laboratories in Arizona and we capture any elements that might be inappropriate, but at this

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time we do not see any negative impact from these.

COMMISSIONER SULLIVAN: But you do manufacture them—

MR. DUNCAN: We don't do those on site. It would be sensible, for example, if the Department of Transportation wants to improve the quality of the roads here then we would do them at the commercial plant. It would depend on the product mix for the local area which of those products we'll produce.

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

CHAIRMAN DURAN: Any other questions? So I guess I'm wondering, do I have the blessing of the Commission to send a letter to the City saying that—I'll get you a copy of it before we send it out, but basically it would say that we are interested in pursuing further discussion with Mr. Duncan on this project?

COMMISSIONER GONZALES: Yes.

COMMISSIONER TRUJILLO: Yes.

COMMISSIONER CAMPOS: I would agree.

CHAIRMAN DURAN: Okay, great. Thank you, Mr. Duncan. We'll get that letter, hopefully—how soon do you need it?

MR. DUNCAN: When it's convenient.

CHAIRMAN DURAN: We'll do this as quickly as we can and get it circulated for more comment.

MR. DUNCAN: Thank you very much.

VIII. B. Appreciation award given to Public Works Department for their exceptional work during the emergency declaration in southern Santa Fe County

CHAIRMAN DURAN: I think I'd like to ask Commissioner Sullivan to present this award since it's his district.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN DURAN: And you know about as much about it as I do.

COMMISSIONER SULLIVAN: Well, I'm going to sit down just a minute here and hold this up because of the microphone being here. I asked the staff, the County Manager to present this award because I felt that during the snow emergency that we had in southern Santa Fe County, the staff responded in a very timely fashion. At one point in time we had 13 pieces of equipment down in Edgewood clearing snow, getting people out of ditches and getting children to school. Getting people to hospitals and doctors, getting medicines from pharmacies to the individuals. The town of Edgewood also committed its equipment and personnel and volunteers and I know that a lot of people within the department, particularly the staff, those who answered the phones as well, were subject to a lot of disgruntled and sometimes angry and sometimes desperate people and I think dealt with them in a very professional manner.

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So we want to recognize not just those who operated the equipment, the D-8's the D-9 s, the Caterpillars and so forth who were there but also those who were involved in the process itself. So let me turn it over.

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, I'd just like to say, as you all know, on February 1 a state of emergency was declared in southern Santa Fe County. On a normal basis we have four operators down in that part of the district. For this state of emergency, we had 21 individuals down there. And it wasn't just the individuals that went down there to help in the southern part of the county, we still had snow to be removed in the northern part of the county, so the people up north not only went down south to help but they also had to contribute extra time to take care of their areas. So I'd just like to go through and recognize these individuals. Not all of them are here but most of them are here.

We have Rick Lovato, Orlando Duran, Tony Montoya, Johnny Gonzales, Loren Martinez, Art Trujillo, James Martinez, Ted Rodriguez, Pete Rivera, Jr., Andrew Armijo, Ramon Trujillo, and John Rubio. You guys can have the rest of the day off. [Note: It was 4:55 p.m.]

VIII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Finance Department

1. Financial Report – Report on year-to-date revenues and expenditures and mid-year budget reviews

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioners, it was requested back in January when we submitted the quarterly report, and then also again last month, that we bring a monthly revenue and expenditure report to the Commission. We've always just prepared a quarterly report that we submit to DFA so that's not something that we've done on a regular basis. However, we would be more than happy to do that out of the Finance Office. We track revenues monthly and expenditures monthly.

And what I've tried to do for you, and this is the first report of its type so you may have questions, concerns, you want to change it. That's fine. This is just kind of our first go at it. It's to give you a revenue report. The way that we monitor revenues is year-to-date. We don't budget revenues coming in monthly. We budget them for the entire year and then compare where they are year-to-date to where they were the previous year and where we estimate they should be, because the don't come in on a regular basis that projection changes. If the month is good, then our variance, if we actually go higher than our variance, our projected variance, it's going to be a little bitter higher.

But if it's a low month, then you'll notice -- what the money can be spent on. We just monitor to make sure that it's coming in at the rate that's estimated. There's one fund that we're a little bit concerned about and that is the road fund on the second page and the that's road fund 204. And that's because motor vehicle tax—you'll notice that we're about \$89,000

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behind in revenues from what we anticipated. DFA states that they believe that's because they implemented the two-year program for registering your vehicle and that a lot of people registered last year and not this year then, so revenues are down.

I've actually asked staff to investigate that a little bit because that would indicate we had more than usual revenues in there last year. They've also split up the distribution of that. So we're investigating that a little bit further to see if there's a problem with the distribution on that. And if it's not, if we've done the correct distribution, we've also marked some funds on the expense side of the budget in the road fund not to be spent to counteract the lower revenues.

Do you have any questions on pages 2 through 4? That's the rest of the revenue picture for all the other funds.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one, Katherine. I want to mention to the Commission that Katherine sat down and talked me through these charts and revised them with some of my suggestions and I think this is a real readable and helpful tool for us to look at and she's indicated that as things pop up, she'll bring them to our attention as well and we don't necessarily have to all be auditors. But on that last page, page number 4, the Water Enterprise Fund, I see that our actuals, our budgeted rather, was a million and a half. We're actually projecting around \$2 million and it's always good news to see a water fund that's projecting a surplus. And I just want to know how we did that.

MS. MILLER: Mr. Chairman, Commissioner Sullivan, actually, about \$600,000 of that, if you'll notice, the original, I think the original budget was less than that but we brought in then another \$600,000 for that grant that we received. Estevan can probably address that.

MR. LOPEZ: Mr. Chairman, Commissioner Sullivan, Katherine is at least in part right. We did receive a grant that wasn't in the original budget. That grant was for \$600,000. In addition, we also had significant sales of water for construction prior to the City and us ultimately implementing restrictions on water for those sorts of uses. But those initially had not been anticipated or budgeted for so that also amounted for an additional increase in revenues.

CHAIRMAN DURAN: Okay. Thank you.

MS. MILLER: Mr. Chairman, Commissioners, I'd also like to state that because we're in the developmental phase of these reports, the revenue report takes a long time for us to—it takes us about three weeks after the close, the end of the month to batch all the property taxes and make sure all revenues have actually been collected for that month and posted to the general ledger. So this revenue report that we've provided is actually through January, the end of January. It was completed about the third week in February. And then when we go to the next section, that's an expense report.

We're able to run expense reports any day. So that one was run actually on March 5 as we were trying to develop it. What I'd like to propose is then, after this month, at the end of April, I actually just bring you both reports, expenditures and revenues for the end of March,

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up through the end of March, so that we're preparing the same time frames. Now that I'm more aware of what you'd like, I can do that and have those ready. We'll just run an expense report at the end of the month, because it's hard to run them after the fact. I can't go back and run January's now.

So the expense report that was provided is by department first and the divisions within those departments are listed. We didn't go to the detail of each line item or category within the department and you can see that, and I gave you last year's actuals at the end of the fiscal year so you could see what was our actual expenditure in that fund at the end of the year when we closed the year. Then I start with the original budget that was approved last May by the Commission, and then the current budget. That's any budget adjustments that you've brought forward, that we've brought forward to you. Any new revenues would have to come in the form of a budget resolution to the Commission.

Then we have a column of the year to date expenditures, the current encumbrances—those are where we've cut a purchase order or reserved money for our payment. That would be like a construction contract. If we award a million dollar construction contract, you'll see a million dollar encumbrance so that that money doesn't end up getting spent somewhere else by accident. We encumber it under that project, under that contract, and then pay off it as we receive those invoices.

Then that second to last column is the amount of budget that's been expended or encumbered, which the target at the date, March 5th would have been 68 percent, and then the last column is the remaining budget. So I stand for any questions on the next few pages. I do have the detail broken out of the Sheriff's budget because that was an area of concern when we did the mid-year budget review. That's really the only area that's been—that and some of the other funds, like road fund and some things like that that I have mentioned.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Before we get into the discussions on the Sheriff's fund if there's to be a discussion, I just had two quick questions or observations. On the third page of that, in the center, on the third page of these expenditures, are the line items for the County Surveyor. And we talked about this early on and we set a salary for the County Surveyor and I believe that there was—in fact not this Commission, set a salary for the County Surveyor and I believe there was an intent to develop a scope of work for the County Surveyor as well. And I guess I wanted to inquire of Sam where we stand on that because I see that we've expended monies but we haven't budgeted any. Where do we stand with the County Surveyor?

MR. MONTROYA: Mr. Chairman, Commissioner Sullivan, we did have a series of meetings with Mr. Grace, the County Surveyor, and we did prepare what we believe to be a mutual agreement on the scope of services, scope of work that the surveyor would provide for the County. We have drafted that and we are basically operating off that premise that the job duties are clear now and actually, Mr. Chairman, it's worked out quite well. The first item that the surveyor is helping us with that has been most important to the County and to

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the school district of Pojoaque and also to the Santa Fe School District is working on an issue that Commissioner Trujillo asked us to focus on and that was the changing of school boundaries that was very important to either district and also to the County.

Mr. Grace is now working to define those boundaries. We are still working on some of the logistical items, Mr. Chairman, i.e., finding Mr. Grace an office and settling him in to a location. So we're still working on those particulars, but in terms of the scope of work, I think we have determined where that is going and he seems to feel comfortable with what we're doing.

The other element I'd like to interject, Mr. Chairman, is that it was a bit strange to develop a scope of work for an elected official and we understand that it was a sensitive point, but he was very cordial and very professional. It is the first time that we've utilized this position and he understands that and I appreciate his cooperation. I hope that understands the question, Commissioner.

COMMISSIONER SULLIVAN: So Katherine, we need to budget some money in there, correct?

MS. MILLER: Commissioner Sullivan, yes we do. Part of that—all we know at this point, Finance says is the salary. I was hoping to have a budget presented by the surveyor for other things like operating expenses and then present that budget adjustment to the Commission to put in the actual budget. And I would need some discussion with the County Manager as to where we would take that from. My suggestion would be contingency. We've still got quite a bit in contingency. It was not something at that time we prepared the budget that we knew we were going to have and that is what contingency's for. And then we will build it into the budget for fiscal year 2002.

COMMISSIONER SULLIVAN: The second and last question I had, Mr. Chairman, was on the environmental gross receipts tax, which is at the bottom of page 7. I see last year \$500,000, this year \$620,000 which has all been expended now. What is that for? Where does that go?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, a good portion of that goes to debt service for a bond that was issued in '93. It's just a tax, it's a gross receipts tax of 1/8 that's just in the county, not in the city limits. And a good portion of that goes to debt service. The reason that it shows that it's all expended, we transfer all the funds out, either into debt service, general fund or wastewater. And in general funds where it goes is to cover solid waste. And the tax is to be used only for environmental type expenditures like the transfer stations and wastewater. About \$130,000-some thousand goes to the wastewater, \$480,000 of that goes to the debt service.

COMMISSIONER SULLIVAN: That's all the questions I had, Mr. Chairman, other than if someone wants to discuss the Sheriff's funds.

CHAIRMAN DURAN: I have a comment on that. First of all, I thought that this Commission was going to be involved in the scope of work relative to the County Surveyor. I thought that you were going to come up with a scope of work and it was going to be presented to the Board of County Commissioners and we were going to have some input into

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it. I recall that we were going to do that because I guess we're going to be deciding some time soon whether or not that position needs, will be on the ballot next time. Am I wrong?

MR. MONTOYA: Mr. Chairman, my understanding was that we were to work with the surveyor to draft a scope of work and to implement a scope of work during the period of this continuing fiscal year, which is through June. We will provide that scope of work to the Board of County Commissioners. We were also going to structure, for the remaining balance of this fiscal year an operating budget such as Commissioner Sullivan has suggested, and also prepare a budget for 2002 for the surveyor, and during the budget hearings for 2002, is when it was my understanding we were going to look at that scope of work and thoroughly go through its components. That was my understanding, Mr. Chairman, and if I misread the Board, I apologize and we can do that sooner if you like, but that is how I was going to approach this particular issue.

CHAIRMAN DURAN: I'd just like to know what the scope of work is that you all decided.

MR. MONTOYA: All right, Mr. Chairman. We can make that available to the Board and I will take your input. Thank you.

CHAIRMAN DURAN: Then, I think under the Sheriff's Department, finance report. We have a pretty long meeting and believe me, I think if we get into this matter it's going to take up quite a bit of time and in all fairness to everyone, I think that we need some time to go over this report with Katherine so that when we do sit down and talk to the Sheriff about it that we have a complete understanding of it. So if it's okay with the Commission, I'd like to move on to the next item unless we have any other questions.

COMMISSIONER SULLIVAN: Very good report. Excellent report.

IX. B. Land Use Department

- 1. Request authorization to publish the title and general summary of an ordinance relating to utility and communications antennae, towers and other facility; encouraging the development of wireless communications infrastructure; prescribing regulations for location, placement, appearance and design; requiring compliance with the 1999 Telecommunications Act**

ROMAN ABEYTA (Deputy Land Use Administrator): Thank you, Mr. Chairman, members of the Commission. The County has received numerous development applications for towers and antennae recently. The current Land Development Code does not adequately provide for regulating this sort of development. Staff is developing an ordinance that will attempt to preserve scenic views in the county while also encouraging infrastructure development. When a draft of that ordinance is available, County staff would like to bring it forward for consideration. Approval of this request would permit consideration of the ordinance. Thank you, Mr. Chairman.

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CHAIRMAN DURAN: Any questions of Roman?

COMMISSIONER TRUJILLO: Just one question, Mr. Chairman. This is a request authorization to publish the title and general summary of the ordinance to regulate antennas and communications infrastructure. Does this have anything to do with a moratorium on—

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, this would be the first step in developing an ordinance and what we're going to be proposing later on this evening under the public hearing is a moratorium to give to, to allow us the time to put together this ordinance and at the same time put a hold on applications or new applications coming in while we develop that ordinance.

COMMISSIONER TRUJILLO: Oh, so we'll get an opportunity to discuss the moratorium issue at that time.

MR. ABEYTA: Yes, Mr. Chairman, Commissioner Trujillo.

COMMISSIONER TRUJILLO: Okay.

CHAIRMAN DURAN: So this ordinance will actually get us out of the moratorium if the moratorium is approved tonight. Is that—

MR. ABEYTA: Mr. Chairman, that's correct. Once this ordinance is adopted, then that would end the moratorium, if the moratorium is passed.

CHAIRMAN DURAN: Okay. Is there a motion to approve?

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

CHAIRMAN DURAN: Motion by Commissioner Trujillo.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Second by Commissioner Campos. Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

COMMISSIONER GONZALES: Mr. Chairman, I'd like the record to reflect I abstained from the vote.

- IX. B. 2. Resolution No. 2001-___. A resolution certifying and accepting a franchise transfer from Communications Services, Inc. to Broadband Broadrange, Inc. to operate a cable system in Santa Fe County**
- 3. Resolution No. 2001-___. A resolution certifying and accepting a franchise transfer from Santa Fe Cablevision Company to United Cable Television of Eastern Shore, Inc. to operate a cable system in Santa Fe County**

MR. ABEYTA: Thank you, Mr. Chairman, members of the Commission. Communications Services, Inc. owns, operates and maintains a cable television system in the County of Santa Fe pursuant to a franchise agreement. Communications Services is now

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desiring to transfer this franchise to Broadband Broadrange, Inc. as part of an internal housecleaning by AT&T. The requirements of Ordinance 2000-6 have been met. Staff is recommending approval of this transfer.

CHAIRMAN DURAN: Any questions of Roman?

COMMISSIONER TRUJILLO: If not, Mr. Chairman, move for approval.

CHAIRMAN DURAN: Did someone have a second?

COMMISSIONER SULLIVAN: Go ahead and get the second.

COMMISSIONER GONZALES: Second for discussion.

CHAIRMAN DURAN: Okay there's a motion by Commissioner Trujillo.

Seconded by Commissioner Gonzales. Any further discussion?

COMMISSIONER GONZALES: Quick question. Roman, what's the duration of this agreement? I'm sorry. I should have seen it in here.

MR. ABEYTA: Mr. Chairman, Commissioner Gonzales, I'm looking at the resolution now and it doesn't state what the duration is. I don't have that information.

COMMISSIONER GONZALES: Should there be? Or is there not—

MR. ABEYTA: Mr. Chairman, Commissioner Gonzales, I didn't actually prepare this resolution. I'm not sure what the ordinance calls for as far as whether or not there needs to be a time period.

COMMISSIONER GONZALES: Can you tell me Roman, or Steve, why it is, does the state give the County authority to approve these franchise agreements? Is that why this is before us?

MR. KOPELMAN: Mr. Chairman, Commissioner Gonzales, the County is granted the authority under state law to regulate the granting of franchises within the county.

COMMISSIONER GONZALES: So in that regulation, does it give counties powers to address issues that are related to the company that is asking for this franchise agreement?

MR. KOPELMAN: Mr. Chairman, Commissioner, there is authority vested in the Board of County Commissioners under state law. In addition, there is a County ordinance that also addresses this issue.

COMMISSIONER GONZALES: Okay. So that any point of the Commission wanting to change this resolution or address an issue that's related to the franchise agreement, could they do that at any point?

MR. KOPELMAN: Mr. Chairman, Commissioner Gonzales, the way it would work is that the franchise is in place for a specified period of time and in order to amend it, generally speaking it would have to be a mutual agreement to do so or else the County's authority then comes at the time when the franchise is up for renewal.

COMMISSIONER GONZALES: Okay. And we don't know when the renewal period is. Is that set by the state? When these renewal periods take place?

MR. KOPELMAN: Mr. Chairman, Commissioner, it would actually be set by the terms of the actual franchise agreement.

COMMISSIONER GONZALES: Is that what we're adopting here, or not yet?

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MR. KOPELMAN: No, Mr. Chairman, Commissioner Gonzales, this is merely the transfer of the ownership of a particular franchise. That's in the next matter.

COMMISSIONER GONZALES: Got it. That makes sense. Thank you.

CHAIRMAN DURAN: Could we require in this transfer that they provide ESPN-2?

MR. KOPELMAN: Mr. Chairman, absolutely.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One question, I had that same question. I think we need to know what the franchise period is. I believe it's fairly long yet to run on the current franchise, and because of that, I wanted to know if we could investigate with both this applicant and the one the issue of public access TV. There's been a gap there in the public access availability and in fact in the Eldorado area it's been cut off. And this Commission has indicated that it wants to make itself more accessible to the public and that's one way to do it. And do we have any flexibility here to enter into discussions with this company and the other one coming after it to address that issue?

MR. ABEYTA: Mr. Chairman, if I may. We have a representative here from AT&T or TCI Cable who might be able to answer some of the Commission's questions or concerns. If the chairman wants that.

CHAIRMAN DURAN: TCI? That's the company?

MR. ABEYTA: It's ultimately AT&T. I think AT&T owns TCI.

CHAIRMAN DURAN: Oh, great. I have a lot of questions now. I didn't know it was you guys. Sir, you're representing the cable company?

RUSTY SALTSGAVER: Yes.

CHAIRMAN DURAN: The one that is asking for the transfer? The new one or the old one?

MR. SALTSGAVER: This is simply a transfer. This has nothing to really do with the franchise. It's not an opener. What this is, is this has to deal with an internal transfer and in our franchise we're required to get a resolution or have you, in a sense okay the transfer internally. As far as the franchise itself, this isn't an opener. It isn't something that basically opens up for a new franchise. We're simply transferring from one corporation inside AT&T or actually, yes, AT&T, which is our parent company, to another subsidiary.

CHAIRMAN DURAN: Does the community ever have any input into your franchise agreement?

MR. SALTSGAVER: Not until the negotiation period opens up again. Like Eldorado, our negotiation period will open up in 2004. The County itself, we have, that one is another 19 years. But as far as this transfer itself, what we're talking about here with this resolution has really nothing to do with the franchise. What this transfer has to do with is whether or not the subsidiary inside AT&T actually has the legal means, the financial means and the technical ability to run a cable system. We've kind of gone over with Tom Dominguez to kind of iron out everything so it would go as smooth as possible.

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What they're doing is they're preparing this. They're trying to get it in place for a buy-out by ComCast cable. And once that's in place, that could take place.

MR. MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Sam.

MR. MONTOYA: If I could, Mr. Chairman, I would like to recommend that items 2 and 3 be tabled until the administrative meeting, Mr. Chairman. I think there are some questions that have been brought up that cannot be answered tonight by the staff and I believe that the Commission should have those answers before they make their decisions. So I'd like to recommend to you, Mr. Chairman, that we table items 2 and 3 until the administrative meeting on the 27th.

COMMISSIONER GONZALES: I'll withdraw my second.

COMMISSIONER TRUJILLO: I'll withdraw my motion.

COMMISSIONER GONZALES: And then I'll move to table.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: What I heard though really, whether we table, whether you bring us information that—any information you bring us isn't going to make any difference if we're trying to get them to provide service to the Eldorado area, we have to wait until it comes up to renegotiate in 2004.

MR. SALTSGAVER: That is correct.

CHAIRMAN DURAN: We're stuck with the service that you're providing for the community for another 19 years on the other one, right?

MR. SALTSGAVER: Yes, correct. The franchise agreement that we have with the County, that is the franchise agreement. Okay. Now what we're talking about here is something that is completely different. This is a transfer from one subsidiary to another, which is required within our franchise to notify you that this is going to take place. It's a federal requirement.

COMMISSIONER GONZALES: Mr. Chairman, as simple as it sounds, I agree. I still have questions relating to the actual authority and this internal transfer. I'm sure there are all valid points, but Mr. Chairman, I'd just like to see if we could table it to the administrative meeting to take a look at this a little bit more closely because there are a lot of issues that relate to franchise agreements that maybe we're not addressing here that we need to be aware of at some point in the future. So this is requiring us to take a look at that, even if, as you indicate, it has no interest in this process that you're asking us to do. Nevertheless, it's in front of us and we should ask the questions that we have and get some of the answers as they relate to the franchise agreements here in the county.

CHAIRMAN DURAN: So is that a motion?

COMMISSIONER GONZALES: Well, we've already made the motion to table and Commissioner Trujillo seconded it. You kind of indulged us in discussion when you weren't supposed to but I wasn't about to tell the chairman he was out of order.

CHAIRMAN DURAN: Okay, well I was out of order. Those in favor of the motion, signify by saying "aye." [Commissioners Gonzales, Trujillo, Sullivan and Duran

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voted with the motion.] Opposed? [Commissioner Campos voted against.] Motion carries.
Please feel free to call me out of order whenever—hopefully, that doesn't happen often.

IX. B. 4. Resolution No. 2001-36. A resolution adopting the "Santa Fe County Water Utility Water Supply Action Plan"

KATHERINE YUHAS (County Hydrologist): Thank you, Mr. Chairman, Commissioners. Before I talk about this action plan, there have been requests from the members of the audience that they're having trouble hearing everyone. I don't know if we can turn the microphones up, but I'm just mentioning it.

CHAIRMAN DURAN: They have a hard time hearing us or the speakers?

MS. YUHAS: I was told both.

CHAIRMAN DURAN: Okay, we'll try and speak up.

MS. YUHAS: Mr. Chairman, Commissioners, the resolution before you is to adopt the Water Supply Action Plan that was developed as a result of the water summit, which was held on February 15th. In the interests of time, I'm not planning to read through that whole action plan. I'll just stand for questions unless you'd like me to.

COMMISSIONER GONZALES: Move for approval of the resolution as presented.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Okay, there's a motion, there's a second. Discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd just like to add one clarification if I could in the level one goal where we talk about developing partnerships requiring a regional approach. We don't mention the City of Santa Fe in there and I think a major component of this Water Supply Plan was the County's commitment to work closely with the City of Santa Fe. And we talked about regional partnerships and that's good to have everyone in there but I'd just like, if it's possible, to add the City of Santa Fe in that language for that reason.

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, if I were to add after "with other governmental, specifically the City of Santa Fe" or some language to that effect, would that—

COMMISSIONER SULLIVAN: That would be fine.

MS. YUHAS: That would be fine.

COMMISSIONER SULLIVAN: I just need, I think we want to highlight it more than just a category of regional partnerships because we really did focus on our partnering with the City in some of these water issues.

COMMISSIONER TRUJILLO: And to that point, I think if we're including the City of Santa Fe, and we're looking at this from a holistic standpoint, we should also include the City of Española, the Native American communities, whatever cities that exist or

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incorporated communities in southern Santa Fe County, we should include all of those. So when I was reading this, as a regional approach, I included all of those entities. So if we want to be specific, let's be specific with Española and all the Native American communities and whoever else.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, so if I change that to now say, "the City of Santa Fe, the City of Española and all tribal entities" will that cover what we want? Or would you prefer that I develop a longer list to include in this? I didn't list them out because I was concerned that we would end up with a very long list of contributors.

COMMISSIONER TRUJILLO: As far as I'm concerned, the regional approach includes everybody and we don't have to be specific with the City of Santa Fe, with the Native American communities, with the City of Española, Edgewood or whatever. We're looking at it from a regional perspective that includes all of those entities.

CHAIRMAN DURAN: I understand what you're saying, Commissioner Trujillo. I also understand what Commissioner Sullivan is requesting. I guess, to me I think it's real important that the City gets the message that we are very interested in talking to them and working with them. Because they are the ones that are going to provide a partnership that is going to allow the County to provide the County residents with a sustainable water source, and we really need the City involved in this. So I guess the question we need to ask ourselves is if we don't say specifically the City, do you think that they might feel offended?

COMMISSIONER TRUJILLO: I don't think so.

CHAIRMAN DURAN: Okay.

COMMISSIONER GONZALES: Mr. Chairman, we don't have to argue this point too much more. I agree with both Commissioner Sullivan and Commissioner Trujillo. I think what Commissioner Trujillo is indicating though is an important message we send to the northern communities in Santa Fe County that they are as important in a regional relationship as the City of Santa Fe is. And in fact, in many respects, they are faced with a more dangerous situation because of the high nitrate level that exists in the Pojoaque community. More so than anything else, there is a need for us to develop strong regional relationships with the Native American pueblos and the City of Española. And so, if you ask the question, will we offend the City of Santa Fe if we don't include them here? Perhaps. I think you can ask the same question, do you offend the northern communities by saying just the City of Santa Fe and not these northern communities in terms of highlighting them.

I agree with Commissioner Trujillo. When I read "regional relationships" the City of Santa Fe came to mind. The tribes came to mind. the City of Española came to mind, and I think that's what it is. But I think that if we're going send out the message by specifically naming the City of Santa Fe, I agree with Commissioner Trujillo let's just go all the way and name the northern communities as being a priority as well and the southern relationships. But we don't have to stay debating this. It's just my two cents.

CHAIRMAN DURAN: Okay. Are there any other questions of Katherine?

COMMISSIONER CAMPOS: Mr. Chairman, I have a question.

CHAIRMAN DURAN: Commissioner Campos.

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COMMISSIONER CAMPOS: There's no mention of wastewater systems for compact communities, traditional villages, etc. It seems very important to me but it doesn't seem to be mentioned. Could you address that?

MS. YUHAS: Mr. Chairman, Commissioner Campos, I think that's not mentioned. I don't think we talked about it very much at the water summit. But I may have just missed it and some of this was put together as a result of the facilitator's comments and some of it was a result of my comments kind of joined together. So if we've missed that, I'd be happy to add it in because I think that is a critical part of what we need to do in the county.

COMMISSIONER CAMPOS: I think it's critical, because if we pollute our water, we can't use our water so we just don't have that water available to us. So I think it's really critical that we include it in the basic ideas of the plan.

CHAIRMAN DURAN: Would that be in level six?

MR. MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Sam.

MR. MONTOYA: I believe the wastewater issue was discussed under item seven.

COMMISSIONER GONZALES: Six. Evaluate the effluent reuse and—

MR. MONTOYA: Yes, true. But also under item seven because we talked about the Jemez and Sangre regional effort and that is water and wastewater, or the intent is that it be both. So I was thinking that at least we were thinking about the regionality of the issue and that it could be incorporated under there, if not specifically now, that we should specify that somewhere but that is very important.

MR. LOPEZ: Mr. Chairman, Commissioners, one thing that I'd like to point out that was a conscious decision in terms of when we did the water summit and some of the discussion that came out of that is that the real focus of this action plan, during the setting up of that water summit was the County water utility and how the efforts that are going forward with that. We had a minimal amount of discussion relative to other efforts countywide that are going on, but we had viewed this as kind of a springboard from which we would step out into all those other areas and work on those.

But the action plan that we were working on developing was really focused on the County water utility.

CHAIRMAN DURAN: Okay.

COMMISSIONER GONZALES: That makes sense, Mr. Chairman, Commissioner Sullivan, the fact that it states it the water utility and the fact that the only way the water utility is going to succeed in the future is through the cooperation of the City of Santa Fe. It seems to imply it's about the City of Santa Fe in terms of the regional relationship when it comes to our water utility, and that's what this resolution is about. Is that right?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, yes. That's absolutely true. This is about our utility, not necessarily the entire county.

COMMISSIONER GONZALES: So that it seems that with Commissioner Sullivan's request to add in the City of Santa Fe, that's a pretty reasonable request where the

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northern communities—we're not focusing the water utility to solve the problems of the northern communities. We're looking at a different approach to addressing that issue. So this is just solely focused on our County water utility and not so much the action plan for the County as a whole and how we're addressing some of the varied problems that exist. Is that right?

MS. YUHAS: That is correct. Absolutely.

COMMISSIONER GONZALES: That makes sense.

COMMISSIONER TRUJILLO: But the impact, excuse me, the impact can be on the northern part of the county if we do a diversion point at the Buckman well, we have an impact on that watershed, on the aquifers in that area, so we need to give impetus to some relationship from a regional perspective with those entities, because it's going to impact them directly.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, yes, I think that's also true.

COMMISSIONER TRUJILLO: So it's either regional, or if we include them in the dialogue, they'll be included.

CHAIRMAN DURAN: Any other questions of Katherine? What's the pleasure of the Board?

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: There's a motion and there's a second. Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

IX. C. Matters from the County Manager

1. Resolution No. 2001-37. A resolution declaration for the Santa Fe County Waste Department to purchase certain equipment

MR. MONTOYA: Mr. Chairman, members of the Board, the resolution before you comes before you for a very specific purpose. I want to point out, Mr. Chairman, that the emergency sole source procurement under Section 13-1-127 of the Procurement Code allows for the entity, this governmental entity to require or to request from the governing board an authorization to procure under an emergency declaration certain equipment. Mr. Chairman, the issue that is before us today relates directly to solid waste and our ability to manage that solid waste and deliver it to a final destination for processing. The issue at hand, Mr. Chairman, is that we have been unable to move that refuse from the convenience centers that we have around the county, more specifically from the northern sector, due to the fact that we utilize four roll-off vehicles to service these seven centers that we have around the county, and most recently we have had some very serious difficulties in maintaining this equipment.

Several of those major vehicles have gone done in different states of disrepair. We have

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not been able to maintain them effectively and the outcome of this entire process has been that we have had to close early some of our convenience centers, thereby providing some serious inconvenience to some of our constituents during the weekends specifically. The other problem that we have is that Caja del Rio is not open on Sundays, which does not allow us a venue to deliver the refuse once it has been collected. Therefore, Mr. Chairman, in order to resolve these pending issues, our request to the Board is to allow us to procure under the emergency provision of the procurement code, equipment, which is basically a roll-off truck that Mr. Lujan, the Public Works Director has identified in Albuquerque that would be easy to access and is available.

Mr. Chairman, we process about 45 tons a day of refuse and once we are unable to keep that maintenance of that system up, it creates many problems. One of those is that the Environment Department follows us completely and thoroughly and if we are not keeping those sites clean and maintaining them efficiently, we have issues with them coming back to us with some kind of violation. Mr. Chairman, we don't want to get into that situation and most certainly in a proactive fashion, we're asking the Board to allow us to procure this equipment. From a financial perspective we have reviewed the cost with the Finance Director and have identified the sources for acquisition. So we have looked at that thoroughly. With that, Mr. Chairman, I would defer to Mr. Lujan if he has any additional comments or any clarity on the point, but that goes to the meat of the matter, Mr. Chairman, and I would stand for any questions.

COMMISSIONER TRUJILLO: Are there any questions of Sam? No questions. James, do you have anything to say?

JAMES LUJAN (Public Works Director): Mr. Chairman, members of the Commission, as the Manager stated, we have been really, really running behind. We even were able to borrow a truck from Rio Arriba County. They did lend us one in the past. We ran it for about two weeks, two to three weeks, so equipment has been breaking down. We have requested from the state legislature for funding for this also through the New Mexico Mortgage Finance. It's just that today's the need and we're really behind on garbage. So I'd appreciate your consideration.

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman. And thank you for taking this into consideration, James.

COMMISSIONER CAMPOS: Question.

CHAIRMAN DURAN: There's a motion. There's a second for discussion.
Commissioner Campos.

COMMISSIONER CAMPOS: The price is \$111?

MR. LUJAN: \$111,000.

COMMISSIONER CAMPOS: \$111,0000?

MR. LUJAN: Yes, sir.

COMMISSIONER CAMPOS: Did you get prices from Albuquerque Truck and the Great Basin Trucks?

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MR. LUJAN: If you see back there, I just gave you a hand-out. Those trucks, we have called them because we did budget for them. We're looking at them for the next year's budget. We have called for prices from different vendors and if they range for this type of unit between \$110,000 to \$115,000.

COMMISSIONER CAMPOS: \$115,000?

MR. LUJAN: Yes. But the availability is what it is. The emergency procurement, we could not wait, and it's on one of the pages that I issued you that the availability of the truck. This was the only vendor with one available immediately.

COMMISSIONER CAMPOS: This is a used truck or a new truck?

MR. LUJAN: Brand new truck.

COMMISSIONER CAMPOS: Brand new truck.

MR. LUJAN: Yes.

COMMISSIONER CAMPOS: Okay. And it's something that you want to buy that meets all your requirements?

MR. LUJAN: Correct. It is currently, the specifications are pretty much what we have on our current units today.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: James, have you inspected the vehicle?

MR. LUJAN: This one we're purchasing?

CHAIRMAN DURAN: Right.

MR. LUJAN: These are the specs—this one's out in California. They can have it to us in three days, as soon as we issue a PO. We are waiting for this. We will go through the specs and meet it and go inspect it upon arrival.

CHAIRMAN DURAN: Oh, it's brand new, right? Okay. Any other questions of James?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just want to be sure that we're—and perhaps this is for Katherine—that we're operating within the procurement code in terms that we do have an emergency situation. Obviously we've had some breakdowns of this roll-out equipment and Katherine—is she still here? She already left. Okay. Is the warranty, James, on this, what you would get in any of these other vendors? Are we comparing apples to apples here?

MR. LUJAN: Mr. Chairman, Commissioner Sullivan, definitely.

COMMISSIONER SULLIVAN: And what is the warranty?

MR. LUJAN: The warranty on this one, there's different specs on it. The drive train is up to five years. I don't have them all right here on hand, but we will make sure that on any piece of equipment we have to go through that price. But this is, on your question of an emergency, solid waste is a health, safety and welfare. Right now, some of the garbage is sitting on the docks at some of these transfer stations. I believe Commissioner Trujillo has been there on Sunday when we have and that has been one of the violations that ED has. But

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we will make sure that all drive train, all components have the warranty that we would require, that the manufacturer's going to afford to us.

COMMISSIONER SULLIVAN: No further questions, Mr. Chairman.

CHAIRMAN DURAN: Those in favor of the motion, signify by saying "aye."

[Unanimous] Opposed? Motion carries.

IX. B. 2. Communications/announcements

MR. MONTOYA: Mr. Chairman, one announcement for the members of the Board and for the general public. We will be holding a tribal summit, Mr. Chairman, at the Bishop's Lodge on the 23rd of March which is Friday, next Friday. The intention of the tribal summit and I might add we've been working on this initiative for approximately a year and a half now, is to bring all the neighboring tribal governments, which, it's a total of eight tribal governments, together with the BIA, the Eight Northern Pueblos and the Office of Indian Affairs, to bring them forward and communicate with them about developing a mutual agenda of public policy that relates to the region again.

We're doing a lot of regional initiatives, Mr. Chairman, but the County of Santa Fe has never initiated a cognizant communication with all tribal governments relative to developing a mutual agenda. And we're talking about a very comprehensive approach. Anything that would take care of utilizing real property to talking about how to improve EMS service and police service in the area, mutual agreements of aid, talking about economic development, water issues, all relevant matters that might have a mutual concern.

So, Mr. Chairman, and health issues as well. We are very excited about the fact that many of the tribal governments have reacted very affirmatively and are very excited about coming to the summit, and I want to point out that this is not going to be the first and last meeting. Our proposal, Mr. Chairman, is to set the stage at the meeting on the 23rd and then continue to have quarterly meetings over the next two to three years to focus on particular issues like economic development, health issues, water issues, transportation issues, anything that might come up that works on the mutual agenda or that gets on the mutual agenda from a consensus standpoint.

So, Mr. Chairman, we're very excited about that and we hope the Commissioners can attend that meeting and it will start at 8:00 a.m. at Bishop's Lodge next Friday. I want to thank Commissioner Trujillo for the insightfulness and for the general support that he's given us in putting this program together. I stand for any questions, Mr. Chairman.

CHAIRMAN DURAN: Any questions of Sam?

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Montoya, are all the pueblos coming?

MR. MONTOYA: Mr. Chairman, so far, we have heard from six of the eight. The other two, there was a few deaths at the tribal governments and they basically shut down

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services for a few days. But we have every intention to follow up with all of them and I believe they will all come.

COMMISSIONER CAMPOS: Who hasn't responded yet?

MR. MONTOYA: Mr. Chairman, we have not heard from Cochiti and from Santo Domingo. The immediate neighboring tribes have responded.

COMMISSIONER CAMPOS: Thank you.

MR. MONTOYA: Thank you.

CHAIRMAN DURAN: Okay. Thank you, Sam. I have a question. There seems to be a lot of people out in the audience, and I'd like a show of hands of how many people are here tonight to discuss the Santa Fe County Urban Wildland Interface Code? All right. I would like for someone to make a motion to bring that ordinance before the other two, and that would be number A and then we would go into A and B because I believe that there's a lot of people that, it would be nice to get this thing discussed and out of the way so that they can go home.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There's a motion. There's a second. Any further discussion? That would be an amendment to move item C to item A. Okay. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

IX. D. Matters of Public Concern – NON-ACTION ITEMS

CAROLYN SIGSTEDT: My name is Carolyn Sigstedt. I want to commend the County Manager for putting this Indian summit together, and I know that it's taken a long time. I think it's important that the City play a role in that summit. I thought your water summit was an excellent summit but it was sad to me that the City was not there in presence. It's just valuable to have—it takes so much work to do these things, it's important that the major players be there.

The other thing that I want to mention is, I went to the City Council—not the City Council but the City Utilities meeting, the last Utilities meeting and the City did agree to go into discussions with the County and Las Campanas regarding San Juan-Chama. So that's good, beginning discussions. The other thing that they discussed was a need for their water company to pay for itself and raising their rates and I would suggest that regionally, the one thing that our water summit did not focus on very much was economics. And it's so important that your utility system and the City utility water system at least talk to each other about the economics of the system so that they can match or at least make sense.

And then the other comment I want to make is, Jack, your suggestion that we slow down on these franchises and pause a minute, I think is very good, before transferring. There is the possibility of cable TV in the county and this might be a time where we could perhaps discuss that. So that's very good. The other comment I have to make is Commissioner

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Gonzales, if you're recusing yourself on the ordinance, might you consider recusing yourself from item 2 and 3, because you can put broadband disks or whatever on—so possibly it's something to consider. Thank you.

CHAIRMAN DURAN: Thank you. Any other, anyone out there that would like to address the Commission? Okay. Great.

MR. MONTROYA: Mr. Chairman, I would just like to add that we did invite the City of Española, the County of Rio Arriba and the City of Santa Fe to this tribal summit.

CHAIRMAN DURAN: Thank you. Commissioner Campos. Sir, please. As long as you're not here to discuss something else that's on the agenda that we're going to discuss later. Please come forward.

JACK PAULE: Mr. Chairman, members of the Board. My name is Jack Paule. I'm sure that a lot of work and money has been put into developing a County use code, the County development plan and the various resolutions governing the rules of order of the Santa Fe County Board of Commissioners. Those being 1999-154, and 2000-164. The County development plan in particular inspired a lot of volunteer time and work at the various community levels, including the Highway Corridor Plan.

So now we have all these rules and regulations set forth for everyone in the county to abide by, everyone except for the Board of County Commissioners, and the County Development Review Committee. Case in point, to the BCC and the CDRC's approval of the Gonzales tower in Arroyo Seco. Time and again, each body violated the County land use codes, not to a minor infraction, but to some great magnitude. The BCC on December 12, 2000 went so far as to give to the Gonzaleses a tower in Arroyo Seco that had violated its own resolution 1999-154 when it issued its order on December 28.

Why go to the trouble of designing land use codes and development plans if the two governing bodies continually violate them in granting approval to a commercial interest for the safety, health, and welfare of the citizens, which is what was exactly done to the traditional community of Arroyo Seco. For the last four months, we've been trying to get your attention to the matter of public safety. But the BCC chose not to accept any of these pleas. In doing so, it acted in a negligent manner, without regard to public safety.

On the December 12th session we were not allowed to present our whole case against the tower. It was too late and in the early morning hours. Whose fault was that? Not ours. As such, I was not given the opportunity to present my case of the dangers of lightning striking this tower in a residential area. Now I believe I have more experience and knowledge than anyone in this chamber on the subject of lightning. If you have experienced a lightning discharge through your body more than once, then you have more experience than I. If you have had extensive damage to the electrical and electronic equipment in your home from a nearby strike, then you have more experience than I. If you have listened to more than 37 years to electrical discharges on short-wave and medium-wave radio frequency, identifying when a discharge will occur, then you have more experience than I have.

To further my knowledge on lightning, I have been in contact with Mr. Liam Firely III. He is a lightning expert with Lightning Protection Technology of Tucson, Arizona, and studied

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his reports, *Towers, Lightning and Human Affairs*. You all have a copy of it. And, I have obtained a primer on lightning from NASA on lightning and studied the reports from Global Atmospheric, Inc. I have a big notebook of information.

Therefore, I'm telling you, the Santa Fe Board of County Commissioners, that approving the Arroyo Seco Cell tower near the highway where buried electric cables are and in close proximity to human inhabitants, you are creating a very dangerous and perhaps life-threatening situation. And if this tower is built, and note that they've already started, when, and I say when, not if, when it is hit by lightning discharges, more than 25 percent will be tower initiated, the most damaging type.

Since the County has refused to consider this health and safety aspect, a negligent act, we feel, we are therefore putting the County on notice that it, along with the Gonzales family will be held directly responsible for any property damage, injuries or loss of life, in addition and not limited to other environmental affects such as loss of property value. Thank you.

CHAIRMAN DURAN: Thank you, sir. Is there anyone else out there that would like to address the Commission?

IX. E. Matters from the Commission

1. Request ratification of appointments to the Santa Fe County Regional Juvenile Justice Board

MR. MONTOYA: -- to participate in the Regional Juvenile Justice Board, which is comprised of about 20 different entities in this community. And the initiative is to comprehensively work against reducing juvenile delinquency in the community by forging all the possible resources together. Now the action item on today's agenda, Mr. Chairman, was to appoint the County representatives to that board and we discussed at the time that Commissioner Paul Duran and Commissioner Javier Gonzales wanted to be those members but we could not take the action to appoint them because it was not an action item on that agenda which is tonight's intent, Mr. Chairman. I'll stand for any questions.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, of the appointment of Commissioner Gonzales and Commissioner Duran in the Regional Juvenile Justice Board.

CHAIRMAN DURAN: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Second. Being a past juvenile delinquent, I appreciate the appointment and I feel honored.

COMMISSIONER GONZALES: This opportunity for our community, if we're selected, as a continuum model, will mean great things for the youth of this community, just as you know, in Luna County, down in Demming, where they've embraced this continuum model, their juvenile delinquency rate has decreased by over 40 percent. And it's taken the collective effort of the County, the City, and the schools to work together to develop programs

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that are beneficial for the kids, as opposed to detrimental to them. So it's going to be an honor serving with you on this board and I hope we get selected by the state for this continuum program. I certainly know that Judge Barbara Vigil is very excited about this. She's being as innovative as possible to try and be more proactive in how we address children who end up in our detention facility and I'm sure hoping that this comes to be. So thanks for allowing us to participate.

CHAIRMAN DURAN: Thank you. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

Are there any other Matters from the Commission?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had just one brief items and so we can move on to the hearings. But I just wanted to bring to the attention of the Commission an issue that's come up with regard to the Community College District Plan and of course, we anticipated that there would be some glitches that need to be worked out in that plan and as we've seen one particular development move forward, what we've found is some inconsistency, I think in interpretation of what consists of open space. And I've set up a meeting with the staff to review this, so I won't go into great detail, but what I basically just wanted to let you know what my concerns are.

When we have a—when the Commission last year approved the Community College Plan, they also approved a zoning map, much like the City of Santa Fe that has zoning, R-1, R-2 C-1, and so forth, the Community College District has zoning as shown on this map in various categories. What was presented was a lot of green on this map, which was open space, which was of course a lot of what the local community wanted and accepted that for some commercialization of Richards Avenue and some other issues that they had to deal with.

What we find is as we're beginning to move into some development proposals is that these green areas that are designated on the plan, which the Commission approved as arroyo corridors and open space, can in fact be converted into housing or other areas if their slopes don't exceed ten percent. And just about every area in the Community College District is under ten percent, other than arroyo sides. So really what the open space that was shown in green and seemed to be very pleasing and so forth in this district, turns out to be developable land.

Now, there's still a requirement that there be fifty percent open space, but that requirement handled by creating fifty percent open space within a development, that primarily benefits the owners or the residents in that area, perhaps some trails and what have you. So I'm of a mind that if we're going to change a zoning map, that the Commission should do that as a Commission action rather than as a land use, in isolated land use actions, particularly where we're proposing, or someone is proposing to use open space for housing or other uses.

There's several different views on how this is or can be done and how the zoning map can be interpreted and I'm going to meet with staff and discuss that and report back to you but I just want to let you know that I feel that there may be a need for some clarification, perhaps by amendment to the ordinance to really define what you can do in open space as shown on our

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zoning map.

CHAIRMAN DURAN: I'd just like to say something about that. It's been my experience in the past that the Land Use Department has required open space to be designated on most lot splits, subdivisions, and when—and that the owner of that property has the ability to come in after determining that open space that originally was designated as such actually is the optimum building site, and it was land use's opinion—correct me if I'm wrong, Steve—that provided that it meets the open space requirement, whether it's 30 or 50 percent, that the ability for the owner to move that open space to another area is their right at this point. Is that correct, Roman?

MR. ABEYTA: Mr. Chairman, the open space requirement that you're referring to is for subdivisions out to the five-mile EZ district and that's correct. If a property owner wants to amend his survey, we'll allow him to do that as long as the 30 percent requirement is met.

CHAIRMAN DURAN: How would that apply to the Community College District?

MR. ABEYTA: Mr. Chairman, we'd have to meet with Commissioner Sullivan and with our Planning Division and see if that would be allowed under the Community College Ordinance. We haven't had projects actually come in yet before the Board. We have applications, we've met with applicants who are going to be coming in so we need to see an application and see how it actually, how the open space requirement applies to it before we start making these assumptions as to whether or not they could be moved.

CHAIRMAN DURAN: So in any case, there would be a public process, right?

MR. ABEYTA: In any case, ultimately, the Board has the final approval of the development plan and I think the authority to alter that open space if it's in accordance with the overall plan and ordinance for the district.

CHAIRMAN DURAN: Okay. I don't see any problem.

MR. ABEYTA: Mr. Chairman, we will meet with Commissioner Sullivan so that we can try to address his concerns and if it does require an amendment, then we'll bring forward an amendment if that's what the Commission wishes.

CHAIRMAN DURAN: Okay. Any questions of Roman?

COMMISSIONER SULLIVAN: I just think that the issue—and we'll dig into it a little further and I'm not fully conversant on it, but I think there's a difference between a regional or an area open space and a little piece of an arroyo inside a 100-unit development that's designated as open space and this plan was adopted as a 17,000-acre district plan with integrated open spaces and trails and other entities and it appears now that we can chop that up and turn the public open spaces into quasi-public open spaces. But I do want to learn—I'm very concerned about this but before we bring something back to the Commission, I want to learn more about it but I just wanted to let the Commission know that I have those issues.

MR. ABEYTA: We'll meet with Commissioner Sullivan and we'll work that out.

CHAIRMAN DURAN: Good. Any other Matters from the Commission. I'd

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like to make one more request. Rather than us going into executive session—how long will executive session take?

MR. KOPELMAN: Mr. Chairman, members of the Commission, we have several items so I would assume that it would take at least a half an hour and we certainly don't have a problem deferring it until the end of the meeting.

CHAIRMAN DURAN: So is it okay if we bring the Urban Wildland Ordinance next?

COMMISSIONER CAMPOS: So moved.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There's a motion. There's a second. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

IX. PUBLIC HEARINGS:

B. Ordinance No. 2001-__ . An ordinance adopting the Santa Fe County Urban Wildland Interface Code (second public hearing)

REBECCA BUSTAMANTE (County Clerk): Mr. Chairman, I've been told there's going to be third public hearing. Is that true or is this the last one? If this is the last one, then it would be number 3.

CHAIRMAN DURAN: Well, let me comment on that a little bit. All of the Commissioners have received considerable calls from the public saying that they haven't had the opportunity to really review this ordinance or have enough input into it before we actually adopt it. So I believe that what we've agreed to is to have a third meeting, and in my opinion if we need a fourth and fifth, we'll have that too, but at least there's going to be a third meeting. Because when we had our first meeting, it wasn't the same make-up of the Commission. So this is really the first meeting for Commissioner Campos and Commissioner Sullivan. So in all fairness to them and to the community, we want to go to another meeting, which would be the second for Commissioner Campos and Commissioner Sullivan.

So when you come forward to speak, remember that we're going to have another meeting and there's plenty of time for us to consider your input and your concerns. Hank.

HANK BLACKWELL (Fire Marshal): Thank you, Mr. Chairman, members of the Commission for hearing this ordinance. I want to acknowledge the hard work of our staff in terms of putting this proposed ordinance together as well as the New Mexico Division of Forestry, US Forest Service. Again, I'm grateful for the people that have helped us put this ordinance together, this proposed ordinance, and I want to thank them. I'm also grateful for this level of public interest, both pro and con because I think that shows that we've got a good public process here and I think the concerns that we've heard over the phones, via e-mail and in writing have been concerns that have to be brought forward to this Board.

From my perspective as County Fire Marshal, bringing this forward, working on

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this code and some of these plans is the responsible thing to do from where I sit, and I just want the Commission and the members of the audience here to know that. And bringing this forward is what I'm trying to do. Public comment and the wishes of the Board of County Commissioners will act on this, based on public comment. I think our job in the Fire Department was to bring this forward and get the public comment here.

I think because we've got a heightened public awareness again, I think we're grateful for that and I think that will help us as well. Perhaps the greatest risk for a catastrophic event, for a catastrophe in Santa Fe County is a wildfire. We can go back to Cerro Grande, we can look at the Viveash fire, we can look at the Oso Complex fire, the Dome fire, the fire in Red River, all which threatened and/or destroyed structures. That's in the last five years. Those were significant, extreme fires, all within probably about forty or fifty miles from Santa Fe County, or closer.

Other places, Oakland/Berkeley Hills lost 3,000 structures in 1991. We can go on. There's a risk and that risk is just as evident and just as extreme here in Santa Fe County and that's why we're trying to do things about it, not only with this ordinance but with public education. The urban interface issues and wildland issues increase when you have that intermix of human habitation and wildland fuels. Resources needed to fight wildland fires then are pulled away from the wildland fire, which causes it to spread while we protect other values, basically homes and individual property.

So with that, I don't want to go on. I know there's a lot of public comment. I'll stand for questions. The code, again, is not retroactive. We've made a great deal of amendments to the code. There are other suggested changes now that we are going to have a third public hearing, that I'd like to bring to your attention at some point in time before we finish today. And again, I thank you for hearing this and I thank the public for being here in numbers.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Hank, I also want to thank the Fire Department for bringing something like this forward. We never really seem to appreciate a code like this until we have one of these wildland fires that are bearing down on our structures. In my discussions, though, with the community over the last week, I don't think anyone has disputed the need for something like this. It's been the issue of how onerous it can be on property owners to actually comply with the code and the issues of enforcement.

So I'm wondering if it would be helpful, at least for me, if you can just do an overview of the intent of it, and then exactly what it is that people would need to comply with. And we're talking about individuals who've lived in traditional communities for long periods of time who may not know exactly how this will affect them, all the way to new subdivisions that are occurring near these wildland areas and what the effect may be to those subdivisions and things of that nature. And again, while we know that in our communities within Santa Fe County per se, we have not seen these out of control fires.

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We know from this past summer not only in New Mexico but all across the west, that when an out of control fire happens, it's very difficult to stop it and it can be very life-threatening. So I hope that as we go through this process, as the chair has indicated, whether we go to a third public hearing, a fourth or a fifth, that those that are concerned with this code help provide input as to how we can make it better, more user-friendly, but in the end, accomplish the objective of protecting some of these structures in these communities that could be threatened by a wildland fire.

So at least for me, it would be helpful if you could do just a brief overview and really what this code is asking people to do in their communities.

MR. BLACKWELL: Mr. Chairman, Commissioner Gonzales, again, I'll try to be brief and then I'll answer questions if need be, based on public comment because I think that it's important again that the people here need to be heard. We've made many revisions already to this code. We've been working on this for well over a year and based on public comment. The reason we're bringing it forward now is so that this governing body can indeed hear these concerns and have an overview of the code and then make a decision as to what amendments or if it's apropos for this code to actually be passed based on public comment. And that's our intent. The other intent is to strike a balance between something that's realistic in terms of providing a modicum of fire protection and mitigation against some of these larger fires and something that's feasible for the constituents. And that's our wish and that's why I think in a public forum you can hear some of those comments.

First of all, the code is not retroactive. I'll try to answer in order some of the questions that we've had via e-mail, via conversations, meetings with homeowners as well as telephone conversations. The code is not retroactive. It deals with new construction or remodels only, and the remodels have to exceed 50 percent of the original square footage of the home before they would fall into the code, which is similar to a lot of the codes in the county right now.

Secondly, there's been a growing concern about water requirements. One of the suggestions that we're going to make tonight is that the section on water requirements I think has largely been misread in terms of gallons per minute for single family dwellings. That only—that assumes in the code that there is a pressurized hydrant system in place. If there's not, those conditions do not apply, so we're recommending that that section be deleted because it only applies if there are hydrants in that area, not if it's in a rural area. So the concern that there's going to have to be large storage tanks on private dwellings, individual dwellings, that's erroneous. That would not be required so we're dropping that. So that gives you a little bit about the water requirements.

COMMISSIONER GONZALES: Can I ask you a quick question just going back to the new construction? Is there a minimum square footage before the code kicks in. I heard it was a minimum 1500 square feet, or 2500 square feet. Is there a minimum square footage before you're required to meet the aspects of the code?

MR. BLACKWELL: The minimum square footage, Mr. Chairman,

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Commissioner Gonzales, the minimum of 1500 feet would have to do with the water requirement or the sprinkler requirement in the extreme zones in terms of type-one construction only. All the structures would fall under the code, new structures. There are several exceptions. One has to do with accessory structures under 600 square feet and there are a few items like that in the code.

COMMISSIONER GONZALES: So any new construction will have to comply with the code?

MR. BLACKWELL: Basically would have to comply with certain aspects of the code. The second issue deals with defensible space. Probably the two most powerful points of protection that homeowners need to take both voluntarily or through this code is a look at creating a defensible space, and indeed, there have already been studies by the International Conference of Building Officials and some of the fire code institutes. So the Cerro Grande fire, as extreme as that fire was, that some of those structures would have been unharmed had there been a defensible space and had there been some vegetation management.

Defensible space does not mean clear-cutting. It does not mean taking down the trees that people want to move into. What it has to do with is actually arranging those fuels so that fire can't communicate from the ground to the low-lying branches to the crowns of the trees, contact the house and then burn the house down. So it has to do with fuels management. It has nothing to do with clear-cutting. And in many cases, a minimum of these trees would have to be cut down and in some cases, some of the more fire-resistant vegetation would be recommended to be put in place. But defensible space is a key issue.

COMMISSIONER GONZALES: Is that similar—I'm sorry, Mr. Chairman, just so I understand that. I apologize for the questions. What you just talked about, is that similar to what the Forest Service does when they go in to restore health to forests, where they actually do some thinning, do some vegetation issues, things of that nature so that in case there is a fire it reduces the risk of it turning into a wildfire? Is that similar to what you're asking in this code that people do to the area. Because the forest obviously doesn't go and clear-cut forests to protect it from fires. They do lots of thinning. Is that right?

MR. BLACKWELL: Mr. Chairman, Commissioner Gonzales, it's similar in terms of trying to maintain the healthy trees and some of the low-lying grasses and by treating, by this proper procedure of vegetation management if you will, indeed, if it's done properly it not only greatly protects the home from wildfire, but there are really, in terms of vegetation management, there's no negative effect in terms of any environmental damage, any flood damage or runoff damage, any negative effect to habitat, because again, it's not clear-cutting. It's just managing those fuels to try to keep fire from having a direct path from the wildland to the home or vice versa. I may also add that I've got some people here that obviously are experts, much more so than myself, from the US Forest Service and State Forestry that can also speak more definitively to those issues if you need.

COMMISSIONER GONZALES: In the creation of a defensible space, has

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there been an analysis in the code done as to what the impact may be on soils or any erosion that could occur on the property if individuals go forward in creating the defensible space that this code is asking them to do.

MR. BLACKWELL: In terms of any particular studies relevant to this code, no, we have not done those. We've worked with the Land Use Department to make sure that our codes and Land Use Codes in terms of vegetation and buffers and what have you are compatible, that they'll work cooperatively as opposed to conflictedly. So we've worked with the Land Use Department. Most of the studies, and again, I can defer to the Forest Service and a few other people here that that kind of vegetation management, in effect, should improve the health of the existing vegetation on the lot as well as have a positive aspect or a positive influence, if you will, to the environment, or the environment of the lot or in terms of habitat.

COMMISSIONER GONZALES: So it's in your opinion that by meeting this part of the code to create the defensible space that there won't be a negative impact to soils or to the property in terms of erosion.

MR. BLACKWELL: Mr. Chairman, Commissioner Gonzales, in my opinion, I would agree with that and I would also offer two other comments to that. The first comment being that there's probably over 200 jurisdictions in the United States that have adopted this code or used this code as a footprint and then adapted it to fit their jurisdiction. And there are case after case, in terms of structures that have survived those fires, number one, and there's been no negative influence in terms of those issues that you just brought forward in terms of proper vegetation management.

The second comment I want to make is if you look at what minimal impact this has, in terms of protection for entire neighborhoods, and look at ultimately, the cost of what could happen in a wildland-urban interface fire, again, if you want to talk about damage of habitat and runoff and flooding and harm to the environment again, I refer you to Los Alamos and a few other areas. And I speak there from experience. I spent 20 years in Los Alamos with their fire department and in February '91 tried to get an interface code passed there and again, it was not the right time.

And consequently I think now, a lot of those homeowners that I've talked to, I think would have preferred to have had a code, a mild code in place that would have helped with new construction to start creating those defensible spaces and managing those fuels so that they don't have the extreme problems in terms of impact to the environment, runoff, and effect to habitat that they're having now.

COMMISSIONER GONZALES: Thank you.

MR. BLACKWELL: Yes sir. Probably the last, one of the other aspects of the code that I think I need to cover in overview is that of exterior building materials. In these new homes, what the code requires is they restrict certain kinds of exterior building materials, primarily things like cedar shake roofs, wood siding, those kinds of more flammable exteriors. And what the code basically is designed to do, especially in some of the more extreme areas is to limit some of those exterior building materials to what we call

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fire-resistive building materials, such as stucco, such as—and stucco means stucco over mud bale. It means stucco over adobe. It means stucco over stick-built homes, but that's a fire-resistive exterior.

Also, eliminating those flammable roofs, particularly wood roofs and cedar shake roofs as well as in some of the areas it does requires certain other types of things to happen. For instance, sealing the soffits of the eaves to prevent firebrands from being blown up under the house, even if fire may be yards of hundreds of yards or even a quarter mile away, a lot of houses have been lost because firebrands have blown—some of these winds sometimes in these firestorms exceed 80 miles an hour as it was in Cerro Grande. And some of these firebrands can be blown up under some of the eaves of the houses.

So there are other requirements that help a house survive that radiant heat and some of those firebrands. So in essence, those are the primary tenets of the code. There is some flexibility of the code, just like to our Uniform Fire Code, in terms of allowing the code official to offer several alternatives to these people in terms of saying, here's the minimum that needs to be met, and our job, not as code officials but as public servants, is to basically provide options to those individuals so that they have a choice in terms of which one is more tenable to them in terms of meeting that code, and this code does allow for that as well.

CHAIRMAN DURAN: Commissioner Gonzales.

CHAIRMAN DURAN: Just another question as an issue that was brought up in terms of your requirements for driveways, especially in a lot of these areas, a lot of homes are set back and people have to construct driveways for a ways to get to these homes. Somebody had indicated they had read in this code that you're asking that these driveways actually be built large enough to handle tankers to get up into the property. Is that true? That you're asking for the width to be cleared off? In a lot of these areas—one of the issues that led us to the whole issue of the moratorium on Atalaya was this huge scar that was occurring on the face of Atalaya because of a very wide road that was being built up that way.

I think the concern is all of a sudden we're going to start seeing these scars up in the mountainous area with these wide roadways that the code may be asking people to build, to try and allow tankers to get up to their properties.

MR. BLACKWELL: Mr. Chairman, Commissioner Gonzales, other members of the Commission. Again, that's a salient point. The code in the wildland code virtually parallels our current Uniform Fire Code requirements. The codes right now say that we need in most cases a driveway that's approximately 12 feet in width, not 20. That's basically a public roadway. What we've done in the past, and that's similar to the code that exists now that we've had to enforce for those long driveways. And what we do is in some cases it may be topographically, or because of slope or terrain, it may be impossible to get that 12-foot width in certain areas of that driveway. At that point in time, again, as long as the intent of the code is met, for instance, if we can provide an average of 12 feet for that length of driveways but in some narrow areas be able to have a

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turn-out where we can actually have emergency apparatus be able to come and go.

That's one of the issues. With eliminating the water requirements from this code, which we're recommending, what that does is in rural areas, those people then greatly depend not only on defensible space and their exterior building materials and fuels management, but they rely completely upon tanker shuttle, which is what we use in the county. Which means we have to bring the water to them and provide a certain flow to fight the fire in their structure. That means we have to have emergency apparatus going both ways, taking water in, dropping it off, leaving to go to a water source to fill up and come back again. So that's why the 12-foot width in the code is an average, and that in some cases, we've done this with our own Uniform Fire Code, which in some ways is more stringent than the wildland code. We provide turn-outs where that road may not physically be able to be widened to 12 feet because of appearance, because of terrain. At that point in time, if we can have periodic turn-outs where we can allow our vehicles to get in and out quickly, not only for evacuation but for that tanker shuttle, then they meet the intent of the code.

COMMISSIONER GONZALES: So this urban interface code does not change the driveway requirements that are already existing in our code, the requirements for a driveway in terms of width and just because it's in a certain area. Does it change it?

MR. BLACKWELL: No. In terms of—and you can defer to the Land Use Department as well, but in terms of that 12-foot width, that's what we require right now in the Fire Department for access to those residences. If indeed that can't—in some residential areas or in some private dwellings, for instance, now, if that access is narrow at certain spots and it's not feasible to increase that width, then other parts of the fire code, and in other parts of the wildland code would apply. That's when we would jump to residential sprinklers. That's when we would maybe increase the area of defensible space or fuels management to further protect the home if indeed we had limited access to that area.

COMMISSIONER GONZALES: Let me ask you, to that vein, does the code allow for some type of discussion to occur between the property owner and the Fire Department, some type of flexibility so that it's not just the Fire Department that's showing up on someone's doorstep saying, You will do this, this, this and this, or else you're going to get fined. Is there flexibility built in this so that property owners can work with the Fire Department to accomplish the goal of protecting the property from wildfires?

MR. BLACKWELL: Mr. Chairman, Commissioner Gonzales, absolutely. The administration of this code would be identical to how we administer the Uniform Fire Code that we've adopted in the county right now, which basically, it forces the Fire Department to have some kind of a dialogue, whether that be in writing or personally, with the applicant, whether it be a developer, whether it be a subdivision, whether it be an individual homeowner, it basically causes a dialogue to occur at the permit or the application process where that indeed happens.

And that's how we do business in the Fire Department now and how we'll continue

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to do business, so that dialogue exists. That's basically where the greatest good for the greatest number happens is at the application process. We do that now with subdivisions. We do it with individual homes, even homes now that require sprinklers. We look at those plans and we dialogue with either the homeowner and/or the contractor, or the designer, in terms of looking at what alternatives they have to meet the intent of the code. So that would remain the same.

It also, I might say, that the reason we're using this particular code as a foundation is because it is, if you will, it's a cousin or a sister document to our Uniform Fire Code. Both these codes are published by the same organization. So the language is identical in terms of some of the sections and because they're the same codes from the same parent organization, then we know that the codes will not conflict. So that's one of the other reasons why we chose to use this code from the International Congress of Building Officials, because our Uniform Fire Code is also published by the same organization.

COMMISSIONER GONZALES: Very last question. In terms of the public process that's led up to this point, did your office at all send out for review or discussion the ordinance, the proposed ordinance to neighborhood associations, to large landowners, for their assessment and their feedback prior to this coming forward?

MR. BLACKWELL: Mr. Chairman, Commissioner Gonzales, yes. But did we contact the majority or all of them, absolutely not. And I think that will be clear when you hear all these comments from the people that are here to talk about the code. Given staffing and given what—to the best of our ability, we've probably had, I would imagine somewhere between 30 to 50 presentations in the last year to neighborhood associations, to other groups. We mailed out 7,200 postcards, individually, to notice this meeting, as well as notices in the paper. I've been on numerous, and so have a number of other staff, members of the Fire Department, been on numerous radio and other media talk shows and interviews. We've had a number of articles in the newspaper over the last year. We've had a couple of presentations just informational to this body, as well as some of the other boards and commissions in terms of letting them know where we were headed.

We've probably sent out over 500 copies of the code just in the last two weeks. We've probably sent out at least that many over the last year in whatever stage of revision or draft that it was, because we didn't want people to wait. So as we made changes, we kept sending those out. So we've contacted those people and we've probably logged, over the past month, I don't have the exact numbers, but I can tell you tens of hours, probably closer to forty to eighty hours of personal phone calls with people that have had questions of the code. So we've done our best to try to do that, but again, it's a large county.

So many people I think found out about it because we noticed them and that was our intent, and that's why we wanted to come before you again because we have much more public interest and awareness because of those notices and I think that's the beauty of the public process and why these people need to tell you what their concerns are.

COMMISSIONER GONZALES: Thank you. Thank you, Mr. Chairman.

CHAIRMAN DURAN: I have a question, Hank. Correct me if I'm wrong.

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Any development that occurs out in the county right now, any building permit that is issued, or any division of land or anything of that nature, does it not get submitted to the Fire Department for their review?

MR. BLACKWELL: Mr. Chairman, members of the Commission, in most cases, yes it does. It has to relate right now to the existing fire code. For instance, in some cases there may not be any code application to a remodel or a certain project. So some projects do not cross our desk, but the vast majority of reviews for development for subdivisions, for commercial interests and development as well as single family dwellings, the vast majority of what crosses Land Use's desk, comes to our office for review for both life safety and fire code compliance.

CHAIRMAN DURAN: And you do at that point make recommendations based on the merits of the development, how it's going to affect the wildlife or the terrain that it's being developed in? I ask you this because I heard you say that you currently have a code in place, and you just stated that you do review all the development that occurs out there, which leads me to believe that if somebody is going to build something in this area of high risk, extreme high risk, very high risk or any area that is affected by this ordinance that you're proposing, that you, at this point, you have the right right now to make a recommendation that this should occur or that this shouldn't occur. And this Commission then has the right to accept your recommendations or not. Is that correct?

MR. BLACKWELL: Mr. Chairman—

CHAIRMAN DURAN: Give me a ten-second answer.

MR. BLACKWELL: Yes it is, to the point that in some cases all we can do is recommend.

CHAIRMAN DURAN: Okay, good. But you can recommend. And if the development is occurring in an extremely high, volatile area, you would make that recommendation and we would at that point, I think if we use good sense and logic, probably go with your recommendation. So based on that, I actually think that this ordinance is totally unnecessary and I appreciate all the hard work that you and your staff have put into this thing but we have spent years trying to get the Land Use Department to a level where they are user-friendly, and to put another level of review and put it in your department's jurisdiction, I think is wrong.

I think we have the authority and the ability right now to go with your recommendations and we don't need this ordinance to do that.

MR. BLACKWELL: Mr. Chairman, first of all, again, there has been a lot of hard work, not only by our staff but I think there's been a lot of hard work by the people that are here behind me that came to hear what was going to happen tonight. There's been a lot of study, a lot of meetings, a lot of information exchanged, so there's been a lot of hard work on the public's part as well, number one. Number two, again, I think we would be irresponsible as a Fire Department and I as the County Fire Marshal would be irresponsible if I would not bring this to be heard, and that's I think, what I've been trying to do is to get this heard, also to try to raise public awareness to try to avert a

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catastrophe that has been so close to us. That's what I'm sworn to do.

CHAIRMAN DURAN: But Hank, if you have the right, currently, to make recommendations as to how a certain project should develop, taking into consideration the fire hazards that might be involved in it, you have that power. You have that right. And I'm not suggesting that we take that right away from you at all, but maybe we even give you a little bit more authority, and that is to make sure that every development that occurs in these areas goes before you so you can make recommendations, and that none of them falls through the cracks. And I know there's been a lot of hard work that has gone into this, but I'm not sure that it's necessary and I guess we'll find that out as this meeting progresses. But I have a question for the people that are out there. How many of you actually have a copy of this ordinance? And how many of you that are here tonight who wish to speak don't have a copy of it?

Then my last question, since I have to try and manage this meeting, is how many of you out there intend to speak? Okay, good. Any other questions of Hank? Thank you, Hank. Okay, this is a public hearing. Is there anyone out there that would like to address the Commission on this ordinance? Please come forward and state your name. I would just like to ask you that if someone before you has touched on one of your concerns, that you try not to repeat. If you do, just say that you agree with them and so we can move this thing along. Thank you.

ORALYNN GUERRERORTIZ: Thank you, Commissioners. I actually do support this ordinance. I think it's appropriate but I do think there are some modifications that should be considered. I want to address two issues that the Commission raised, because I may have a little more knowledge of the land use side of things. One was, it's my understanding, except in the Mountain Special Review District, the average building permit is not seen by the Fire Marshal. Just for your information.

And then also on driveway issues, driveways are not regulated under the existing Code, except in the MSRD. In the MSRD they limit it to 12 foot and they have some grade control issues. But in general, they don't. The proposal that is before you, the ordinance that is before you, if you're not located within 150 feet of a road that's 20 feet wide, then in essence, you end up creating a 20-foot wide road. And you can also have to create an area that's been fuel modified for forty feet, so ten feet either side of that road. That's one of my issues.

I guess my main concern is when I worked in this County, I worked very hard to try to protect the mountain and how it appeared to us down here in the flatter lands. And I was very concerned about terrain management issues. And I stand here today before you asking you to also weigh those issues against your fire concerns. Potentially, in some areas, this code would require fuel modification zones that will be as large as 1.5 acres around a home. And I think that that would be an eyesore. And I think that we would see some additional roads climbing that mountain and I'd just rather not see it.

I have that concern, and then another concern, and there's a lot of concerns actually here, but one other that I really think is a mixing of codes is where this code says that if the minimum lot size is below the County standard, then some of the exemptions wouldn't apply.

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And those exemptions in essence allow people to have sprinkler systems and thereby get out of some of the requirements of this code. I guess my understanding, my knowledge of this code, or of the Land Use Code says that there's only three ways to get a below minimum lot size. Either a variance granted by this Commission, the lot was created before the laws existed, or there was clustering. And I think all three of those cases are unique situations that I don't know that we want to penalize the people who don't have a minimum lot size because of that.

For example, theoretically, the rules could get a lot stricter if you lived in Cañoncito and lived on a ten-acre lot. Is a ten-acre lot any different than a 2.5-acre lot in some other location that meets the Code requirements for lot size. I don't think so. I don't think you would necessarily want to say that the exemptions wouldn't apply in those areas. I hope you'll consider all my ideas that are listed here, [Exhibit 1] but those are the ones I really wanted to raise this evening. Thank you.

TED BOLLETER: My name's Ted Bolleter and I'm the Fire Marshal for the City of Santa Fe. And I'm here to speak in favor of this ordinance and I'd like to clarify a few things, because a lot of people seem to think that this is creating more restrictions on them but actually, as a fire marshal what this is doing is giving us another tool which gives us more leniency towards these areas that are outside. Currently, if you were to look at either the National Fire Code, which the City of Santa Fe uses, or the Uniform Fire Code, if you were to build a new house today, more than 150 feet from a roadway, like Oralynn said, you would have to provide a 20-foot roadway, clear, drivable surface. This allows you to do it with a 12 and serve up to four units. So it's less restrictive than the current fire codes used in the City of Santa Fe and the County.

Another thing that it talks about is water requirements. This, you've amended or recommended to amend out the water requirements. Currently, in the City of Santa Fe it's more stringent even in these wildland-urban interface areas which we have several, like Hyde Park Estates, Sierra del Norte, Wilderness Gate, all of these areas. If you cannot provide 1000 gallons per minute of water for a single family dwelling less than 3600 square feet, you have to either provide, bring in water to provide that, or you have to sprinkler it, period.

This doesn't require that. So what I'm saying right now is that the City of Santa Fe is much more stringent in the wildland-urban interface codes, and I'm currently looking at this because this would give me more leverage to work with people and actually have lesser requirements for these urban interface areas. A lot of people talk about just wildland fires but you have to think about any kind of structure fire, year round. Everyone's concentrated on the wildland but if you can't get a fire truck to that location—most people who die in fires, die in a regular residential fire, 80 percent of them.

So I just want to reiterate, this is just another tool in their toolbox. Currently, what you enforce and what I enforce as the adopted code is more stringent than this. So what you're doing is giving us more leverage to work with people. Thank you.

KIM SORVIG: Mr. Chairman, members of the Commission, my name is Kim Sorvig. I've got several hats on here today. I'm a county landowner. Like the other landowners, I don't want my house burned up. I don't want it washed away and I don't want it

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sunk in a sea of mud like we've had this year. I also have limited resources to maintain my property and to do things like expanding roadways. My second hat is that of a research professor in the school of Architecture And Planning and UNM. I'm a landscape architect. I've just released a book, a text book, on sustainable landscape construction and it covers a great number of the issues that have been referred to in relation to the fire code, things like stormwater erosion and loss of vegetation.

And the third hat I haven't worn for a long time but a long time ago, I had a summer job as a forest fire fighter, so I do have some experience with that. From those three angles, I believe I have some understanding of this matter. My short story on it is if we need to pass this code, and I think the chairman's point is very much relevant here, if we pass it at all, it must be adapted to this region. As you know, this comes to us like so many things we get in Santa Fe from Washington, DC, where the National Fire Protection Association wrote the boilerplate language that is the basis of this code.

Now I've had the pleasure of talking this over with Fire Marshal Blackwell on several occasions, and he has managed to get a number of suggestions that I, and I think many other people pushed for, into the Santa Fe version of this code. And this is good. If it were not for public pressure, this code would still be retroactive. If it were not for public pressure, this code would still be requiring 1000 gallons per minute in many situations for individual houses. I think we're very, very lucky to have Mr. Blackwell as Marshal at this critical time when we're considering adopting the code. He is an extraordinary public servant and whoever hired him ought to be commended very highly.

I've also spoken to many of the people who are here today. That includes soil scientists, vegetation and water specialists and people in the construction industry. And although I'm not formally representing them, I think I can summarize some of the concerns. Most of those have to do with coordination, and I think you can hear, from the comments by the City Marshal and the previous speaker that we don't know yet where this code as proposed stands in relationship to other applicable codes. It's pretty clear there are some conflicts when one person says no, it does not require widening driveways. Somebody else says yes it does. Somebody else says, yes, and you have to clear it to 40 feet width taking out the vegetation on both sides, which in fact, is my reading of the driveway part of this particular code as proposed.

There are two provisions of the code that have inspired the most concern from the people I've talked to. One of them, thankfully, has been proposed for deletion, and that is the water requirement. But the one that remains is the requirement that the code can tell private individuals to remove significant amounts of vegetation from their private property, around their residences and along their private driveways. That's of concern for several reasons and with all due respect to the Fire Marshal, it will increase erosion.

I have done research on this subject that is published in my book. It's based on national and local research both. The very minimum that you will find anybody saying that even partial removal of vegetation makes an erosion rate, is a doubling of erosion rates. Now, forest fires and wildfires are a sudden and very expensive catastrophe, but soil erosion is a constant, minor

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catastrophe in this region, and the people in Washington don't understand the severity of soil erosion in this region.

Flash flooding is part of the erosion cycle and in this part of the world, I'm fairly sure it claims more lives than forest fires. So I think we need to balance these things and to do that, we must coordinate this proposed ordinance, if it is in fact adopted, we must coordinate it explicitly with the regulations and programs from the state, County and municipal levels that try to fight soil erosion and soil loss. That try to deal with the visual aspects of how we develop, so we don't get major road cuts marring the landscape unnecessarily. So that we're not defeating our own attempts to revegetate areas in this county, which were overgrazed or had other disasters happen to them and have lost most of their vegetation and need more rather than less.

Those are the kinds of things that need coordination. And if those can be incorporated into this code in a specific and explicit way, then I believe I would support passing the code, because that would improve on the situation that we have today. If it's explicit. If it's simply allowing the current practices to go on but doesn't specify more explicitly how decisions are made and how coordination among regulations is going to be accomplished, then I don't think we should pass it.

I said before I believe we're very lucky to have Mr. Blackwell as Marshal and that is another consideration, because we have to consider he will not always be with us. I'm quite confident he would enforce any regulation in a very thoughtful and environmentally sensitive way. The person who follows him in that office may or may not have the same wisdom, the same knowledge. They may or may not have the same budget and they'd be forced to rubber-stamp things. That's why if we have a code, it needs to be explicit and it needs to be very, very well coordinated with our other regulations. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

BETH GERMAN: Commission, my name is Beth German, and I'm president of the San Pedro Neighborhood Association. We're also here tonight for asking for approval of our plan. We actually had a meeting last Sunday night to discuss urban-wildlands interface code and to try and get a feel for the community sentiment on it. We had approximately 30 people attend the meeting. I'm very glad we got the postcards last week. That was the first we had heard of it and many of us did get copies of the code as soon as we received the postcards.

We have sent e-mails to our Commissioners, Commissioner Gonzales and Commissioner Sullivan, outlining some of our concerns. It is a long list and I won't go through all of them, since I understand you will be having at least one more and possibly more public hearings on this and I really appreciate that. I do want to say many of us have been very assured in speaking with Mr. Blackwell. His interpretations and his intent and sincerity have been reassuring. He seems to lend a commonsense approach to what the code is theoretically intended to do. Unfortunately, however, the way the code is worded, it does not read the way Mr. Blackwell explains that he will enforce it and as the previous gentleman mentioned, as long as he's Fire Marshal we might be okay, but things change.

So I think it's very important for this Commission to adopt a code if a code's going to be adopted which reads the way it is intended to be enforced. And I also agree with the

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previous gentleman that it needs to be specific to this area. I will tell you just a few of the inconsistencies I've caught in the code and that other members from our neighborhood have caught. Originally, we understood that it would be retroactive. I understand now there's a proposed amendment that it only applies when more than 50 percent of a structure is modified. And that's under Section 12 of the Santa Fe County proposed amendments. Yet in the body of the code itself, it still says, in Section 101.2 and 101.5, that if any repairs are made to a structure, any structure, barn, house, shed, more than 600 square feet, any repairs at all, the entire code kicks in.

CHAIRMAN DURAN: What section is that? I'm sorry.

MS. GERMAN: 101.2 and 101.5. So I think if it in fact is meant to apply only if there's a 50 percent remodel, that needs to be addressed directly. There's another provision in the Santa Fe County proposed amendments, Section 6 that says if there are any conflicts in the provisions, the most restrictive will apply. So under that situation, if we repair a broken window, all of a sudden the whole code is going to kick in.

So that's one thing I think the Commission should look at. The code also states, and I didn't write the cite for this, that if there's a conflict with any other County codes, this fire code will control. I really wonder if that's the intent, that it would override every other ordinance in the county.

We did some research on sprinkler systems and from what we learned, it's approximately three to four dollars a square foot to install a sprinkler system in a home. So you're looking at a lot of money for anybody to do that. Now for those of us who want to control development that might be a good thing, but it's not a good thing for those of us who want to repair our houses.

I see that last Friday the code was further amended to make the requirements regarding heat generating engines to only apply in public lands and we do support that change because as originally passed out to us, we couldn't use tractors or chainsaws in our neighborhood. I know in the past there have been times when the County Commission has declared a state of emergency and said we can't have barbecues and use chainsaws and so forth and that seems to make sense. But we certainly don't want that year round.

We do have concerns about the defensible space requirements. We are very concerned of course about fire. But in speaking with some of the people in our neighborhood who have experience and training in firefighting, apparently there is a difference in the type of vegetation we have in San Pedro. We're primarily piñon and juniper, which as I understand it, burns more slowly and isn't prone to the explosions and so forth as the ponderosa forests are. So we would ask that any code address vegetation to each specific area. Most of our trees are only about ten feet tall so if we have to trim the first six feet, we're going to be left with really funny-looking little trees.

Section 507 of the code prohibits storing fire wood within 15 percent of our homes or any combustible fuel material, which I think would include wood pellet fuel. That might make sense in the summer, but in the winter when it's snowing we don't want to have to walk 50 feet to get our firewood.

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The code provides all the fire officials with full powers of law enforcement, and that's very troubling to many of us. I certainly don't mean to suggest that the current Fire Marshal would abuse that but anybody who doesn't have training as a law enforcement officer should not be given powers of arrest and so forth.

In the code Section 107.1.2 and 107.3 allows the Fire Marshal to come in and inspect our property and our homes at any time. I can certainly understand if they think someone is building bomb-making things or something that that would be all right, but in most cases I would think they would have to have a warrant and probable cause and again, it should be a certified law enforcement officer.

The \$300 a day penalty and 90 days in jail seems extreme for certainly, if not the whole code at least some of the violations. For example, if you kept some firewood on your porch during the winter you could run up a pretty hefty bill in a hurry. One thing I want to point out is that there is nowhere, at least in our part of the county, where we can take tree trimmings and brush. So if we're required to clear this, we need to have a place we can take them. We're closest to the Stanley fire station and all trimmings and so forth have to be bagged to go to that fire station. That's not practical with tree limbs and so forth.

The code itself doesn't define which area our neighborhood or other areas are in. I understand from talking to Mr. Blackwell we're in the very high district, although the code talks about extreme and has slightly different categories. I think it should be clarified in the code which neighborhood's in which category, so we know where we fit in. And then one last comment I'll make. I know many other people have comments is there's a waiver of liability in the code which I'd ask the Commission to look at because it changes what the current law in the state of New Mexico, current law in the state of New Mexico under the Tort Claims Act is. So I don't think that the County can adopt an ordinance which changes the liability the Fire Department would have.

Thank you.

CHAIRMAN DURAN: Thank you.

BARRY GREEN: Mr. Chairman, members of the Commission, my name is Barry Green. I moved to Santa Fe in 1982. In 1983, I was an assistant district attorney here in Santa Fe. I'm currently, I guess a large landowner. I live at 72 Wild Turkey Way, which is at the end of the Old Santa Fe Trail near Camp Stoney, Cañada de los Alamos area. Last summer, the Viveash fire had been going about a week when another fire started less than three miles from my home and from my home to that fire is only forest. Because I live right near the national forest. I'm mentioning all this so that so you know of my understanding and respect for the law and my concerns about fire. I am very concerned about it.

I do support the concept of ordinances to prevent fires, but I strongly disagree with the ordinance that's been proposed. First, I'm not really sure what the ordinance that's being proposed. I got notice of the ordinance by postcard a couple of weeks ago and I was really glad that I did. I immediately called the Fire Department and they mailed me a copy of the proposed ordinance, but I found out yesterday it's been revised since just two weeks ago. So some of the things I might have to say I've already heard or have been changed a little bit. I

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apologize for that.

In general though, the ordinance creates a whole new bureaucracy with sweeping powers, not accountable to the public and I think it's going to tremendously increase the cost of building a home and obtaining a permit and will criminalize many of the choices and activities we as homeowners take for granted. Specifically, the Fire Marshal will be granted broad powers to enact rules and regulations and to enforce the law. In Section 102.2 for example, it just says that the Fire Marshal can create rules and regulations to enforce these ordinances. There are no guidelines for those rules and regulations and there is no ability for public input into those rules and regulations. I think that's wrong. I think that any ordinance we adopt should be specific and state clearly what our requirements are. Otherwise, as a landowner, it's very difficult to know what's going to be accepted and what's not.

And any time we have a situation where public officials don't have written guidelines, written in writing, what the standards are, it sets up situations where things can be abused, where one neighbor can be granted certain rights and another neighbor denied those rights. The enforcement aspect, it's already been mentioned that the Fire Marshal is given the powers of a law enforcement official. I was a law enforcement official. The fourth amendment of our Constitution, the US Constitution says that law enforcement officials need probable cause to enter into a dwelling or to conduct a search. This ordinance gives the Fire Marshal the ability to do that upon reasonable cause. It's an entirely different legal standard, and that's in 107.3.

I don't think we should adopt an ordinance to protect us against fires that lowers our constitutional rights. Along those lines, the entire ordinance criminalizes our behavior if we violate it. I don't understand why we need to criminalize our behavior. Civil fines should be sufficient. For example, if my four-year old tells me Let's sleep out tonight, Dad. Let's pitch a tent. If I don't get a permit under Section 105.2 number 12, I'm in violation of the law; I've become a criminal. I understand that the chainsaw provision is being proposed to be removed. It says under that same provision that if I want to build a fence over six feet tall that I've get to get a permit and if I don't do that, I'm in violation.

I live in an area where there are a lot of wild animals that come on to my property: bear, deer, coyotes. Deer can jump a six-foot fence. Anything that I need to protect like my garden, I need to have a taller fence. I don't think that we need to have ordinances along those lines. They're very restrictive and burdensome. And that's the next point.

This ordinance is going to tremendously increase the cost of building a home and the time it takes to get a building permit. There's nothing in the ordinance that talks about staffing. With this ordinance, if we don't increase the staffing and the budget of the Fire Department, things are going to slow to a crawl here. Last fall, I needed to get approval of my road from the Fire Department. The Fire Department came out and looked at it and recommended some changes. I made the changes and then it took me six weeks to get them to come out again to reinspect.

Now if this ordinance is passed, it may take years to get building permits if we don't have more staff and more budget and I don't know where that's going to come from. It's not really addressed. This ordinance requires a vicinity plan. A vicinity plan requires you to do

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certain things for your entire piece of property, plus the property adjoining you for several hundred feet. It requires topographic maps. It requires identification of the trees and vegetation and it can require experts to come in and give that opinion. All of those things are going to cost a lot of money.

And this ordinance does not specify what's acceptable and what's not so it's going to be at the discretion of the Fire Marshal. For example, if the topo has be by an aerial survey, you're talking about \$10,000 for an aerial survey. If it can just be from USGS map, which a lot of time Land Use allows for terrain management, that's a whole nother story. That's very inexpensive. But we don't know, and there's a great distinction, there's a great difference between those two and from this ordinance we don't know what would be allowed. The building materials that will be allowed, it's kind of been addressed and so has the conflict of laws. To me that's a big issue, the conflict of laws.

I think that again, if we don't have a more specific ordinance, there's going to be a lot of dispute about which law applies and what's allowed, and all that's going to do is make building more time consuming and more expensive because we may have to disagree with what the Fire Marshal says. They may disagree with what we're doing. We've got to go through an appeals process. All of that takes time and money.

Also, nothing in the materials that we received, talks about the effectiveness of this strategy and the need for this. And I really appreciate Chairman Duran's comments. As far as we've seen at least from the papers, most of the fires that have gotten out of hand here and caused the most damage were caused by the government, lightning strikes or visitors to our area camping in public places and not taking the appropriate precautions. How—my question for the Fire Marshal is how many fires have we had in this area that were caused by homeowners on their property that got out of hand and spread to neighboring properties. I think that's a very legitimate question. If we're only talking about one or two in the last 50 years, why do we need this ordinance?

Also, the 100-foot diameter around the home, I question again the effectiveness of that. What we saw from the fires last summer was that 100 feet was not a barrier at all. Winds driving the flames quickly crossed that kind of a distance. So again, I question the effectiveness of the ordinance. If it isn't that effective or as possibly effective, is this something that we need to make a law, or should we just make it a guideline.

The issue of environment and habitat and soil erosion has been addresses somewhat. Should be have an environmental impact statement of an ordinance like this that really does affect the environment of our entire county. I think it would be appropriate to require something like that because we're talking about driveways scarring up mountains. One thing that wasn't mentioned is that if we do this 100-foot diameter around homes, what's it going to look like from far away? We're going to see forest forest forest, and then this fairly open area with a house sticking out. I don't know that that's what we want to be seeing all over the mountainsides.

I think that there are alternatives. I think that a good ordinance could be enacted, but I think that the ordinance first of all should not make violations criminal. Second of all, should

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be more specific than the current ordinance. Third should not change our constitutional rights and not give law enforcement authority to fire officials. It should stay with trained law enforcement officials and require probable cause. Access road I think needs to be more clear in the county, because unlike what the Fire Marshal said, it's a little unclear what it is. And I've even had the Land Use Director tell me that it's whatever they say it is, rather than something specific.

I think also, part of this process should require some kind of time limits. We should give the Fire Marshal's office a certain amount of time to do this review. Otherwise, our permits are going to get hung up for years under these kind of ordinances. The six weeks it took me just to get a reinspection is indicative of what may happen, especially if there's no additional budget or staffing for the Fire Marshal to enforce this ordinance.

Lastly, in terms of alternatives, I would ask that any ordinance that is drafted, be drafted as one document, rather than what I was given with pages of amendments and then a code, because it can be very difficult to cross reference all of that. And also, in one reading, it's very difficult to get the substance of the code when you've got to constantly go back and forth. So I would ask that that happen as well. I don't have any other comments. If there's any questions, I'd be happy to answer. Thank you for your time.

CHAIRMAN DURAN: Thank you, Mr. Green. Next speaker please

DAVID ARMSTRONG: Mr. Chairman, Commissioners, my name is David Armstrong. I think a lot of the points are being well made. One thing I see that's not really being considered, and I haven't heard a lot of and that is, I'm in a situation where my house is that even if I had the defensible, I had the water supply, my generator ran out because electricity poles burned down, water doesn't fill up the tank, firemen don't get there. Even if I have a defensible space and there's a fire, that means the fire could come to my house. And what I see in a lot of situations is that there's inadequate planning by the Fire Department and staffing and equipment that's required to fight such a voracious fire that we saw like at Los Alamos.

So one thing that I—this is a little off from the actual code itself, but I think it's a point that needs to be well addressed and that is how the Fire Department, the Forestry, is going to handle a fire and how they would staff it and the equipment needs and costs that would require to fight such a fire. And that's a point that I think needs to be addressed and brought into this issue, instead of putting a lot of the onus onto the public. I think this needs to be something that would help improve confidence in the Fire Department and know that houses can be—there would be staff, people there to fight a fire and that's basically all I have, outside of just better coordination with neighborhood associations as this plan gets developed. And that's really all I have to say.

CHAIRMAN DURAN: Thank you. Next speaker please.

RICHARD MORRIS: Mr. Chairman, members of the Commission, my name is Richard Morris. I live in Rio en Medio, and a lot of the things that I was going to say have already been said. Two items, one, it talks about a finding of fact being prepared before this ordinance is adopted. The finding of fact talks about urban wildland interface

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area boundaries and mappings of areas up to 640 acres. I don't know if that has been done yet. Also the appendix, 2B, that references the findings of facts has been deleted. There's also another section that was mentioned earlier, 105.2, talking about fireworks and referenced appendix 1A, 4.6, gives the Fire Marshal the authority to come and seize and remove fireworks.

Now I can see the problem with fireworks being set off, but I can't even possess them. I couldn't go buy fireworks, take them to my house to take them somewhere else. He could come and seize them. I don't think that is correct. A lot of the other things I've said, I've wanted to say, have already been said except for I've got a possible solution. And last summer in Rio en Medio and Chupadero, there was organized a community day where we had the Santa Fe County staff bring their chipper out. And they stayed there for it was either a weekend or two weekends with the chipper with manpower to operate the chipper. They allowed all the people from the communities to bring slash and debris and roots and branches to the community center, have all that chipped up into mulch. They then allowed all the landowners to take that mulch back to their home for use in their fields or their gardens.

The woman from San Pedro says they've got to bag up their debris. That seems crazy. Why don't we get more proactive, provide ways for landowners to clean this stuff up by providing the chipper and the manpower to do that.

In conjunction with that, we also have the big construction dumpsters brought out. We had two or three construction dumpsters. It was crazy. There was more garbage brought out there than you could believe. They were overflowing. The first thought was people are taking advantage of it. Well, that's the idea. We want people to get out there and get rid of the washing machines and the mattresses and all the things that collect around your houses over the years that cause fire hazards. So the funding that it would take to provide the inspections and all those things under this code, if you would take that money and generate it towards these types of things, I think it would address a big majority of the fire problem in these communities. Thank you.

SANDRA SANCHEZ PURRINGTON: Mr. Chairman, Councilors, my name is Sandra Sanchez Purrington and I live in Seaton Village, which is in the Hondo Fire District. I am here to discuss what would happen to historic sites if this went through. Seaton Village is a nationally designated historic site. All of our houses are close together. Our vegetation is 40 to 50 years old. If I had to think about \$600, I couldn't even maintain my house for a year before it would be subject to all the new regulations because at 40 and 50 years old, these houses need a lot of attention.

The site is not structure specific; it's site specific. So the entire village is designated as the historic site. Presently, we are safe because the land surrounding the village is privately owned by Dee Seaton Barber who is the Seaton heir. She is in a position now where she might have to sell it. It's not included in the site, but it could become available. If it becomes available and is subject to the new rules, it completely destroys the environment that Seaton Village is in. So I would ask that some concern be

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for new and existing building structures, premises located within urban wildland interface areas. Existing buildings and structure. So the language here is not retroactive at all. And I wanted to point out to you another thing that you ought to be aware of, and I would like the landowners to be aware of too. It says here in Section 6.03, and when you hear this think about a plaintiff's lawyer's field day. Persons owning, leasing, controlling, operating or maintaining buildings or structures requiring defensible spaces are responsible for modifying or removing non-fire-resistive vegetation on property owned, leased and controlled by said person.

That suggests to me if there's a fire and it started on the neighbor's land and he didn't maintain his property the way he should have, all the other neighbors can sue that person for not maintaining his defensible space and they go after his insurance company. I don't think we need to create a new right of action in here either, so that's just another problem within the defensible area one that I wanted to point out.

One other point on retroactivity, give the Fire Marshal his due, say it doesn't apply to anything except prospectively, how is that going to reduce the danger or fire now? We're talking about developed areas in the county. They're not going to have to change, according to the Fire Marshal at all. Everything is going to be as it is. So the only thing it's going to apply to is new construction. Undeveloped lots. Where I live, there's very few undeveloped lots left. I think where a lot of people live, there's very few undeveloped lots. So I don't think that this is going to do much good to prevent a fire in the area right now.

By the way, just a little anecdote I have about how fire came about in my place. I was called by my neighbor one morning at six o'clock, and this was about 30 years ago. My neighbor said, Oh, there's a fire up on your hillside. It started from the thunderstorm last night, and it looks like one of your ponderosa trees got hit. I went up there with a shovel and a pick and an axe and I put it out. Neighbors are the ones that are going to protect each other from wildland fires starting and developed areas, that's why I don't think there's been—as one gentleman pointed out, there may not have been three or four fires in developed areas in the county in these forests that have been caused by activities on neighbors.

So I think we have a nice code in place. This is redundant, what we're doing here and it pours arbitrary discretion into the Fire Marshal. He has enough to do already under the existing law, and he certainly doesn't have the staff to enforce this. So I ask you all to follow like the people in Los Alamos at the EZC meeting which nobody heard except me, the Fire Marshal said the people in Los Alamos didn't want the ordinance. Well, as I've said, I don't think the ordinance, if we have it now is going to prevent a fire this summer because it's not going to go back retroactively, according to the Marshal. The people didn't want the ordinance in Los Alamos. They had a fire, but the fire was started by a bureaucrat, it wasn't started by property owners here. So I ask you to use the existing system we have and not lay another big ordinance on the people of the county. We're already over-regulated as it is, as you know how I feel on that one. Thank you very much.

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LEE FEW: Mr. Chairman, Commissioners, my name is Lee Few. I live in Pojoaque. I'm a professional tree care person. I plant them and I take them down for people. So I know whereof I speak with this. I have three points. One, when you take trees out, when you do this clearing and I've done a lot of self-educating on it to be able to tell the consumers what they can actually do that's useful to them and not butcher their trees, not clear-cut around their homes, you generate a lot of waste material. It's inevitable. Unless the County has some way to deal with it and I don't know that we have infinite landfill space either. Even the piled up shredded chippings is something that's going to take some thought about what you're going to do with this material when the homeowner produces it or I haul it off for them.

The second item that I was thinking about, since I'm not into making this plan retroactive and burdening people, but we live in a county and an area that have a lot of tightly clustered, small communities who can share growth like the people have talked about. The Fire Department, if they can't change that is going to have to learn how to deal with it. That may mean they get different equipment and different training. If they can't get up a 20-foot wide road because one's not there and it's 10-foot wide, there are brush trucks and other things that are made for these environments and they made need to change their force structure and training somewhat to deal with the situation as it exists, because as the previous gentleman said, doing something for the future is fine, but if you don't do anything for all the people that are already in that urban interface, that's who's going to burn. And that's just reality.

And the third and final comment that I have is rather than regulation, I believe in education. I think most people out there don't want their house to burn. They don't want to create an environment that's dangerous to firefighters that are coming out to save their property or protect their property. But they don't want to have somebody regulate it to them. I've gone out of my way to self-educate a lot, get materials on it, take the firefighter training for wildland firefighting, and it's an effort to get some of the educational materials and some of the information you need to pass on to the consumers.

If you go to conferences and stuff like I have, it's there and stacks of it, but the effort that's being put forth to educate the people in the community, the homeowners and even the renters, if this became the rule of law, on what is a flammable material around their house? What is bad brush? How do they deal with it? How do they cut it? How do they maintain it? It's not easy to find. Just like some people not being able to find this information about coming to this meeting.

So rather than regulate, I would seriously encourage the Commission and the Fire Department and the Forest Service and all the interrelated bodies out there to really step up education. If people would do the right thing by and large and then the only people that you would have to regulate are the people that refuse to and that's a slender minority out there. So I thank you for your time.

CHAIRMAN DURAN: Thank you.

WILLIAM A. SAWTELLE, JR.: I'm William A. Sawtelle, Jr. and I

concur in everybody's—in the specific objections that have been made by everybody. I do have two very serious ones. One nit-picker. Under Appendix 1B, you require a plat. I own over 100 acres. Jim Alley owns over 100 acres. I know of other people out there who own over 100 acres. How much are we supposed to plat? How detailed is it going to be? According to what this says, you could charge me \$10,000 to make a plat that nobody's ever going to look at.

Now for the deep real problems, this has not been compared to all the existing ordinances the County already has. That's been brought up, but I wanted to emphasize it. This shouldn't have come here until all the other ordinances that direct to roads, to other matters that are in here, are compared and synchronized. We're trying to do that for you but that isn't our job. That should be done before it ever gets here. And then the real horror of this thing, it says it repeals everything that is conflicting or might conflict, or will in the future conflict with this ordinance. That is utterly bad drafting. That's way too broad and at least that much ought to get out of it. Thank you.

CHAIRMAN DURAN: Thank you sir. Next speaker please.

PETER DIVING: Mr. Chairman and members of the Commission, I'd like to back up just for one second and speak to the gentleman who came up here who said he went and got wildland training. As a matter of fact, I was at that course that he attended and I'd like to applaud members of this community that go out and take advantage of the kind of education that's out there so they can defend their homes from wildland fires.

CHAIRMAN DURAN: And your name sir?

MR. DIVING: My name is Peter Diving. I'm a volunteer fire captain with the Madrid Volunteer Fire Department. I do not come here as an employee of the Fire Department. I'm not. And I wish to address an issue that I haven't heard a lot about here tonight. And that issue the firefighters. I was at Los Alamos, and when we walked into an area that didn't have a road wide enough for us to get out, our firefighters were in danger. When we went to a house that was burning, our firefighters were in danger. When we were on a street that had two houses that had defensible space, fire intensity was much, much lower, and our firefighters weren't in danger.

I've been very encouraged here tonight in hearing members of the community say, it's not that I'm opposed to this ordinance, I'd like to see changes in it. And that's a wonderful thing. But this ordinance is also about protecting the lives of the 400 volunteer firefighters we have in this county. And I hope that the community, as involved as they are in protecting their own rights, which is a legitimate concern, protecting their own ability to have their own space, would also like to protect the rights of those 400 firefighters that volunteer their time and go out there.

And I'd just like for you to remember that when it comes time to adopt an ordinance, whether it is this one or an amended one, and I hope the community remembers that too. Thank you for your time, gentlemen.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

PAUL OROZCO: Mr. Chairman Commissioners, I'm really encouraged by

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the interest and community participation to address wildland fire protection this evening. Both the communities' and interagency fire protection agencies agree that public ownership is the only way for any fire protection plan to work. I encourage the Fire Department and community to continue working on a fire ordinance that provides fire protection for communities, especially vegetation management.

There's three parts of the fire environment: topography, weather, and vegetation. Vegetation is a key component. As you can see by the hand-outs that I passed out, one of the problems that we have with catastrophic fire in the West has to do with the change in vegetation due to 100 years of fire suppression. You can see that most of our forests, both ponderosa pine and piñon-juniper forests are overgrown. What this means is that from historically low intensity, frequently occurring fires, we now have infrequent fire intervals that are high intensity. So what we're seeing all across the West is a greater intensity in fire behavior like we saw at Cerro Grande this year.

In addition to the vegetation, some of the social dynamics are changing. This is my 29th year in fire management and what I've seen is a change from lightning-caused fires as the main cause for forest fires to person-caused fires. Typically, lightning is much different than a person-caused fire because lightning normally starts on the upper 2/3 of a ridgetop. Person-caused fires can start anywhere. And if they start at the bottom of a slope then they can run to the top. Generally, lightning fires, they occur during the monsoon season or preceding the monsoon season and typically, relative humidities are higher.

If we look at all the fires that started last year throughout the West, most of the large fires were all person-caused fires. So what I would encourage is our Fire Department to continue to work with the community to come up with an ordinance that works for everyone that will reduce the risk for catastrophic fire. If we don't we face the same potential as the Cerro Grande fire. And as a person said before, it's not only a risk to communities, but it's also a risk to firefighters.

Lastly, Hank and I are working on an interagency project to get a chipper to reduce the fuel hazard. Thank you. My name is Paul Orozco.

CHAIRMAN DURAN: Thank you. Next speaker please.

RANDALL SMITH: Chairman Duran and members of the Commission, I'm Randall Smith. I'd just like to address this 50-page code in just a general way. Probably most of us here in this room that are opposing this moved to the country because we like country. We like that kind of an atmosphere with the trees and the animals and all these things. We moved here because we wanted a degree of freedom that you don't get in the city. We feel that we can be just natural out here and do the things that we want to do.

And in reading through this interface code, the thing that struck me most of all was that most of the regulations are discretionary to the Fire Marshal. You need to do this or you need to do that and there's nothing really stipulated in here as to what's really spelled out here for each person in each situation to do. And he would be given law enforcement capabilities and there's many people in this country that are willing to give up control of

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their property and their freedoms in exchange for more protection, more safety. But the control of my property is important to me as it probably is to everyone in this room, and I'd rather take my chances with my house burning down than give up control of my property over to a Fire Marshal and take my chances with him. Because I can rebuild my house if it burns down but I could never get the control over my property back once it's gone to the government. Thank you very much.

VICTOR YEWTZ: Mr. Chairman, Commissioners, my name is Victor Yewtz. I'm the Fire Chief to the Glorieta Pass Fire District, which is part of the Santa Fe County fire prevention system. I'm a volunteer. I have 30 years-plus volunteer firefighting experience. My whole district, the Glorieta Fire District is in the wildland interface, mostly in the extreme and very high areas. I'm not here really just to support this particular ordinance. I am here to support an ordinance that will address some very important issues that haven't been addressed properly in the past, and I think you need to know some things.

And I'm glad these people who are here tonight are here because they need to know some things too that might help them in their future planning. Just to give you a beginner, the regulation of roads, for whatever reasons, I'm not here to tell you but I can tell you it's not been truly effective. The Glorieta Pass Fire Station sits on the dead-end of a road that's not maintained by any government entity. As a matter of fact, it's not maintained, period. No one will take responsibility for that road, though there are quite a number of residences on it also.

This is how well the system functions as it is now. We have in our district, which is one of the smaller districts in the county, I hope you will understand. We have about six by seven, six by eight miles, I guess something like that. About 50 square miles in it. We've got well over 100 residences that we cannot get to to fight a fire. I've heard someone mention, well I've heard several people mention that the Fire Department should get some trucks that will get in there. Well, to fight a residential fire, you have to be able to have so much water application to effectively fight a fire. And I'm actually, thanks to the citizens of this county, I'm in line to get a very small engine to help me in my district, but it's really not sufficient to fight a residential fire. It has a pump that will put out about 250, 300 gallons a minute. That's not adequate to fight a fully involved structure fire at all.

It's not just a matter of equipment, it's a matter of access. We have to tell some people in our district that if your house catches on fire, we can't get to you. It's not that we won't come. It's not that we don't want to help. We can't get there because of where you're located. It's not always just with the road. Sometimes it's the grade. And if you will go into the winter season we would have to increase that number probably by another hundred because of where the roads are located, the grade and the fact that they're shielded from the sunlight in the afternoon. They're iced up. We can't get a truck up or down on either one. Even a four-wheel driving truck, a truck big enough to fight a fire. Okay?

It's not just a matter of training people, and we're training people like crazy. In

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my department, we train three to four nights a month, as well as take care of our business, plus the stuff we do on the weekends. When you take a person like myself, I'm a businessman, I'm a homeowner, I'm a property owner, I pay a tremendous amount of taxes into the public domain. My business generates a lot of tax. And when I have to go and spend three and four days for a training session, it bites pretty deep. It hurts. But my people were willing to do this because we see the need in our community and we would like to be able, as well as can communicate to our community what their needs are that they're not aware of.

Another area—let's go back to the fire station. You need to know about this, gentlemen. Last November we had an election, and as usual, we used our fire station as a place for the residents to vote. Because we're not even on a public road, we had no one to plow the snow off the road, and so people were having to park down at the end of the road about 1000, 1500, 1800 yards to get to the polls to vote. And of course some of the elderly didn't even try because it wasn't possible for them. Yes sir.

CHAIRMAN DURAN: Excuse me, sir. I need to ask you to stay, to speak to the issue, which is the ordinance. There's a lot of people that still need to speak and we have a long evening.

MR. YEWITZ: Excuse me. The issue is roads.

CHAIRMAN DURAN: If you could stay focused, I'd appreciate it. Thank you.

MR. YEWITZ: Another area that is involved in this that hasn't been brought up at all is the effect it has on providing for the community EMS services. For example, twice this past winter we have not been able to get a medical unit in to people who were in dire need of medical care because of the road situation. So what we did, in one case, one of my volunteers, another case, a second case, I was the volunteer to use our own personal vehicles to go into this residence that for whatever reason, the roads weren't there. Go to this residence, pick up the sick person, both cases, very ill, vomiting, making a mess of our personal vehicles, and carried this person out to access medical attention.

And then what really—and I don't mind doing that except this. The following day I have to put my wife and children in the same vehicle and expose them to this. And the people or our community need to know, these are some of the issues their local fire departments are facing in dealing with fire protection and EMS. Thank you, gentlemen.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

RANDY BELL: Chairman Duran and the rest of the Commissioners, thank you for this opportunity to speak. Like many people here, I'm very new to this particular document. I was grateful to get the postcard approximately a week ago. I've talked to many people who did not get such a thing. It would have been nice if the postcard had mentioned that the Extraterritorial Zoning Commission was likewise considering this earlier in the week but that was unfortunately not stated in there. I have not had a chance to analyze this in detail. I appreciate the earlier comments and the analysis that was done by Mr. Alley. I briefly read through it and I think there are a lot of very important points

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and I hope you take time to read that.

The gentleman who just spoke, and I understand him to be the Fire Chief of the Glorieta community. I think his points are certainly well taken. This ordinance is not the solution to those problems. This ordinance is something that I would encourage the Commission to discard. I believe that Chairman Duran's comments are well taken. The more I look at it, what I see in it is an ordinance that is an ordinance that grants extraordinary powers, against which there is almost no recourse. It is based on a huge grant of discretionary power to whoever the code official is and I presume the code official may be the Fire Marshal. I didn't see a definition of that term.

I'm sure Fire Marshal Blackwell is a nice man. He seems like he's well intentioned. Fire suppression is certainly something that the community has an interest in and the Fire Marshal has an interest in. However, I have never seen in an ordinance in my 30 years of practicing law in New Mexico that has the opportunity for so much abuse. And as Mr. Green noted, creates an extraordinary range of criminalization of what we as citizens ordinarily think of as our basic American rights. I think it's a frightening document. I think it's being sold to the public on fear and this whole recitation, yes we had bad fires in New Mexico last year. Where were they? They were in a completely different environment than we're talking about applying this here.

We do not have these ponderosa pine forests in most of Santa Fe County, in most of the settled areas that this is going to apply. This is generally going to apply to situations that have at most, piñon-juniper. They don't have these extensive areas of ground cover and of build up of pine needles. I really think the solution to concern about fire is education. I think getting the communities and community organizations to work with fire departments as many people have cited examples of that, and work with the communities and voluntarily getting them to trim potentially dangerous areas.

But to create this very complex system, which criminalizes so many different things and actually then grants power. I think Mr. Green's observation that granting criminal authority to the firefighters is outrageous. I don't—I'm not sure they want it. This, I think \$300 a day for any minor violation. I can think of thousands of violations that could occur in this and the discretion is granted is such that anybody enforcing this could abuse an individual, and there effectively is no recourse because, if you look at the appeal section, Section 104, it says the board of appeals shall not have authority relative to interpretation of the administrative provisions of this code and shall not have authority to waive requirements of this code.

So what can they do? The way I read that, the board of appeals that would be handling this can offer no relief to an aggrieved citizen. There are no variances. There is no interpretation. Nothing. You're stuck with whatever the authority that is imposing on you a requirement under their discretion, whatever they want to do, and that is a recipe for an abusive situation. I could go on and on, but I think there may be another opportunity. I gather there's going to be another opportunity. I would encourage this Commission to reject this document. I do not believe that the fundamental structure of it is such that it can

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be modified to work for the citizens of this community. So I would encourage you to—
CHAIRMAN DURAN: Thank you. It's Randall Bell.

PETER MERRILL: Mr. Chairman, fellow Commissioners, my name is Peter Merrill. I'm a resident of Santa Fe County. I feel I have a little unique position here in that I served three years as the fire chief of the Agua Fria Fire Department, a few years as its Fire Marshal, and also, last year I was president of our state builders' association. I was president of the Santa Fe area homebuilders of 1994. I'm currently second vice president of the Santa Fe area homebuilders and the way progression goes, I'll be president again in a couple years of the Santa Fe homebuilders.

So I'm kind of wearing two different hats at the same time here, both fire and construction standpoint. I feel that first of all, I want to commend Hank Blackwell and the group that have worked on this. You know, there's not a single one person that worked on this that said I can make more money on this thing. I can give myself more stability in my job. This was done to benefit the residents in the county of Santa Fe. That's the main purpose of this. And I know, right now I believe the estimate is approximately a third of all the money that's spent when you buy a house is on government bureaucracy.

We have Canadian lumber things that put tariffs on, so that makes the prices of lumber higher and the American lumber went up because they find they didn't have to be as competitive because lumber was being raised because of tariffs coming in. This is government regulation. And I agree 100 percent with the comment that Boy, we don't need more bureaucracy. But to put our head in the sand and say We don't need any more protection. We don't need any more codes. We don't need any more regulations. We don't need anything, I think is the wrong thing.

In 1999, we adopted, the state of New Mexico adopted the 1997 Uniform Building Code, which we still use today as a means of our construction. It took a year and a half for our state code committee, which I was a member of, to adopt that. We took the Uniform Building Code, the national one, and we amended it for the state of New Mexico. But there's a couple words that I want to bring up to you that I have not mentioned here tonight. The decisions were based on cost effectiveness, and overall effectiveness to the residents of the area.

Again, I'm hearing the word cost a little bit here, but I think frankly we should continue. There are things that are addressed in this new document that I think need addressing. Right now, we have a Uniform Fire Code in the state. The State Fire Marshal's Office uses the National Fire Protection Association 101 and 1 of the Life Safety Code. We have the Uniform Building Code. We have three different codes right now that people are building under and some people don't know which way to go and that's all we need is another fourth code coming in. But by the same token, I still think that we should take the time. And I chaired the State Fire Code Committee, which Ted Bolleter and Hank Blackwell, the two fire marshals served on that committee to modify the Uniform Building Code for the state of New Mexico for our fire-resistant materials and egress things, things along that line that are related.

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What I'd like to encourage, I think this is so quick. The fire has happened in Los Alamos and we're all saying let's get in there. Let's protect ourselves. Let's do our thing. And I agree 100 percent. I frankly feel it's very similar to the City of Santa Fe with their water problems. They're just not taking care of it in the long run. They need to jump on it and even if the water, they lift the water rights, you need to continue looking toward the future. And I think that's what our Fire Department is doing.

I think what we need to do is to have a committee made up of the fire people. I now as the building association, and maybe I'm wrong, but did you guys ever ask the builders association to sit in on your meetings at all? Anybody? You did ask them that? Then I apologize. I have never heard a single request asking the builders association to be involved. We have our committees that work on codes every day. In Atlanta a month ago, I went to building code meetings when I was there at an international builders show because we have new codes that are coming in.

I think you all know that we're looking at international building codes for the year 2000 and above. But I do feel we need to continue with this. I don't think we should do—I'm sorry, Mr. Chairman, we shouldn't just knock this thing down. Let's get this thing working where they may be certain things that would be beneficial to the residents that even with a little bit of cost increase would be worthwhile. As a builder, I can't believe I'm saying that because every time we add a cost to the house it takes people out of the market. It means so many less people can afford homes and we start bringing down the quality of the home because of all the governmental costs.

But I think we need to continue looking at this thing. I think we need to do it because there are items that are being addressed in this bill, in this regulation that are not addressed in any of the other codes. And I think, as you guys do on a daily basis, you guys make decisions, but you look at the cost. There isn't a person in this room that says here's the pros. Here's the cons. I'm going to do it based on that. They also say, What's it going to cost me? And then is it effective for the amount of money I'm spending, is it worthwhile to protect my children, to protect my family, whatever else, to spend this kind of money? That's how you make a sound decision. That's how our State Fire Code Committee made decisions as to what we should enforce.

I'm not going to give you examples of them. But again, if I can encourage you to not say Let's kill this thing. I agree with the vast majority here. In this form, this should not be passed. It is not ready. We don't know what it's going to cost us. We don't know—and I don't think there's a person here—Hank wouldn't be upset if he couldn't issue somebody a citation because he doesn't have the police power anymore. He's looking to do what's right for the citizens of this area.

And I think if we sit down and work this all out together, come up with a cost, make a proper presentation telling you what the costs are, the additional staffing, things along that line, I think that maybe we can get some benefits out of what they're trying to do. So I'd like to encourage us to table, this, not schedule a third meeting next month, the month after, let this group get together with some of the citizens, with people like building

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association people that really care about it and let's look at what can be beneficial to our residents and let's proceed with that. Thank you.

CHAIRMAN DURAN: Thank you, Mr. Merrill.

DONALD GARCIA: Mr. Chairman, Commissioners, my name is Donald Garcia, from PCI Contractors. I'm a family member. As a family member of PCI Contractors, we kind of eat to live and everything it takes just to kind of survive in the construction world. As it is, there's a lot of regulation just to put up a house or a building. As you know, to begin with you have to deal with the Environmental Department, County Land Use, and then you deal with CID. That's just to begin a house or a building, whatever you're going to be working on.

Then as you start working, you have to work with different inspectors right down the line. As soon as you start cutting the ground you're going to deal with footing inspectors and if you're going to deal with before you drop the slab, you're going to deal with the electrical/plumbing. There's two more inspectors. Then you've dropped your slab and then as you continue on from there you frame out your house or your building, and then you're going to have your framing inspectors and your electrical inspectors and plumbing will be coming back. And then after you're approved or disapproved, just depending on how it goes, you will continue on and just sheet the house. After you're done sheeting the house then you're going to get a couple more inspectors coming back to approve the plumbing and the electrical.

So there are a lot of steps already that it takes just to get a house through, or a building. I figure that if you were to pass this ordinance, it's going to cost the consumer more money, because it's not only going to take the builder more time to put this property up, this house, but it's also going to cost the owner more money just to have this house built. So the bottom line, I'm against it just based on the fact that there's already plenty of inspectors already out there. We're already regulated as far as it is. The bottom line, I feel that it's physically not that hard to build a house. The hardest part is dealing with the inspectors. So if we have to deal with another one, that's going to make it actually tougher on the consumer in their pockets. That's where it's going to hit them. Thank you.

CHAIRMAN DURAN: Thank you. How many more people intend to address this issue? That concludes the public hearing. Oh. I didn't see you raise your hand. I'm sorry. I thought you were just standing there for your health. Sorry.

STEVEN CHARLES DUBINSKY DE LA VACA: My name is Steven Charles Dubinsky de la Vaca, Mr. Chairman, members of the Commission. It strikes me as unusual that every time the insurance industry takes a big hit, as in the Cerro Grande fire, automatically, we have more laws to tell us how to live. Who on this council, who in this room can tell me that this law or any law, ten more like them, can defend me from what is essentially an act of God? Thank you.

CHAIRMAN DURAN: Thank you, sir. Hank, we have a long meeting—go ahead. Come on up.

NORA PEARSON: My name's Nora Pearson. I live in Lamy. Just to add

to what everybody else has said, one, most of us are forced to have fire insurance. I would rather lose my house, like the other gentleman said, and save the forest. Really what man does is—we can't duplicate what God does. We can duplicate what we do. And number two, the number one cause of erosion is roads. If I had to make my driveway accessible to the longest fire truck, I couldn't maintain it. I couldn't afford to maintain it. It's a terrible problem. Any rural driveway is the single biggest issue for a homeowner, how to get in and out of it. How to try and maintain it. It's very expensive and mostly it's in bad shape because we can't afford to.

Now, I couldn't afford to maintain a 20-foot road. Thank you.

CHAIRMAN DURAN: Thank you. I think, with the concurrence of the Commission that what we need to do is, Hank, we need to go back to the drawing board and actually get with the builders, other interested parties to come up with something that works. I think all of us want to protect our forests and protect our homes. I think it needs a little bit more input from the community before you come forward. And rather than table it for the next meeting, maybe we should—what would we do, table it indefinitely or would we—what would you suggest?

MR. KOPELMAN: Mr. Chairman, I would suggest that you do table it to a date certain, and then if it's not ready by that date, it can be tabled again, but I think—if you just end up taking it off totally, then it's going to have to be noticed again. I would suggest that if we can pick a date down the road to table it to and then send out a published notice of that date, and then hopefully shoot for trying to come back with a revised ordinance, if that's the direction of the Commission.

COMMISSIONER TRUJILLO: And if it's ready earlier, we can listen to it earlier?

MR. KOPELMAN: Mr. Chairman, I think that the public hearing would have to wait for that date. And you can continue to table it from meeting to meeting but I wouldn't recommend that. I don't think that's adequate notice to the public then.

COMMISSIONER TRUJILLO: It seems to me that this ordinance won't be ready for a long time, probably between three and six months at the earliest, if we want to get the input from the community, and get more specificity as the community has articulated, it won't be ready for a while.

CHAIRMAN DURAN: Well, how about if we table it to a certain date and if it wasn't ready they could come forward with a report, basically, of where they are in the process. Any of you Commissioners have any thoughts?

COMMISSIONER SULLIVAN: Mr. Chairman, I think that's a good suggestion. I would say it looks like we have either two or three months, if you wanted to table it forward to a meeting, certain date two months from this one or three months from this one, whichever you felt—

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: You can just make a recommendation as

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you go forward in doing this. Clearly, I think a lot of people have some good ideas. They've stepped up to the mike as to how they feel we could, as a community, assure the protection of these communities from any of these wildland fires. So Mr. Chairman, if possible, can we send the direction to the Fire Marshal in addition to seeking out input from the contractors and the neighborhood associations and everyone who has a say in this too, actually go to the communities that are going to be most impacted by this code. I'm thinking Cañada de los Alamos, Edgewood, Tesuque, La Cienega, all of them that you have listed in there, to actually hold some informational meetings and actually, an opportunity to gather information as to how we can increase this, or how we can make this a better code.

I think there's some things that we need to set out though, that people have brought up over and over tonight, that I'm concerned with as well. Issues like granting—the issues of the criminalization. I agree, that needs to be wiped out very early on so that it doesn't stay a contentious issue. The issue of granting police powers to our fire people, if that's in fact in this code, I think that those are issues that I heard continuously tonight about Santa Fe County moving its regulatory authority into the private domain of individuals.

We need to be very conscious as we develop this ordinance in making sure that we don't cross that fine line of individuals' rights on their property once they've gone through this whole process. And follow what Commissioner Duran indicated. Let's take a look and make sure that this is not a redundant code, that it doesn't cause people to go through unnecessary hardship in trying to protect and secure theirs. There's a lot that we heard tonight that I think people in the end we listen and adapt what they said into this ordinance, would be far more accepted. The ordinance doesn't have to be as stringent maybe, as it's been presented tonight.

But if the chair would allow the direction that the Fire Department actually go into these communities and spend some time gathering information, providing educational opportunities, working with the volunteer fire departments, beginning that educational program that people are talking about. We can do that before this ordinance is adopted and I'm sure you're already doing that. But part of promoting the education and letting people know how they can protect their areas is something that we should start since now, if we haven't, or continue if we have.

What I'd like to see before they come back is that there has been a process where the Fire Department has actually gone into these communities and have held public hearings and have gathered suggestions for how to make the ordinance a better ordinance that's more reflective of the community's desires to protect their areas from wildland fires.

CHAIRMAN DURAN: Could you put that in the form of a motion?

COMMISSIONER GONZALES: No way. That was too long-winded. I'd just like to do that in form of direction, if that's possible.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to hear from Mr. Blackwell. What's

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your response to the community's statements?

MR. BLACKWELL: Mr. Chairman, Commissioner Campos, thank you very much. Just a few comments. And first, I thank you for your time and I thank everybody here for their time and for their heartfelt comments. I really do, whether they were against the code or not. A few comments. Most codes are developed based on loss data, loss of lives, loss of property. Our intent was to at least bring this code forward to public hearing with enough interest to find out what public sentiment was, as opposed to the neighborhood associations and the meetings we've had. As opposed to let it just remain on our desk for another year or two. It was to get public involvement, actually to get it to be heard.

Again, I think I would irresponsible as you Fire Marshal and your Fire Marshal, everybody behind me, had I not brought this forward. The intent is to try to protect lives and property. And in that, a couple of things. One, I'm not interested in great power, as a few people commented. And I just want to let you know, it's not an issue of power, it's an issue of trying to do my job, which is to protect lives and property. And with public involvement, we'd prefer to do that. So it's not a fear-based code either. That's the other last comment I want to make.

These things happen, and in my many years of fire experience I've seen it happen and I've seen people die. I've seen properties lost. I've seen forests explode. So the issue is not fear-based. This is real and we need to deal with it and we need to deal with it as a community. And in that, I think the Fire Department supports and strongly recommends involvement. We hope that with this level of interest and concern, that a countywide coalition may be born and supported by you all, by the Commission, to take every measure possible to prevent these catastrophic fires from occurring and these losses from occurring, which destroy forests, habitat, property, lives, futures.

And because of that, it also threatens the lives of the citizens as well as our firefighters. So we're recommending the same thing now that we have this level of involvement that we form some kind of a coalition. Now, I would imagine that most everybody in this audience knows how to get in touch with me and I would be pleased, I think all of us in the Fire Department would, to have some kind of a countywide coalition formed where we can actually hammer out these issues and we can move forward as a community. And that was the intent of bringing this forward so it could get more community involvement.

CHAIRMAN DURAN: So do we have concurrence on Commissioner Gonzales' direction?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think I concur with Commissioner Gonzales on his direction. I think we need to resolve one important mechanical issue here that was brought up by several people, and that is how we deal with the physical code itself. We have this 1997 Urban-Wildland Interface Code and then we have recommended

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amendments and several people testified that that's very difficult to deal with, going back and forth and not knowing whether something has been omitted or revised and so forth. So I think first of all, what people were asking for in addition to some of these issues dealing with personal property rights and so forth, is a clear draft. And I know that would help me too as a Commissioner in reviewing this.

And I don't know that—when you start lining out things that are in this code that are not applicable to Santa Fe County, it may be easier to tag that draft to our current Land Use Code and work with the Land Use Planning Department and come up with the draft. So I think whether it's two months or three months or six months, possibly as Commissioner Trujillo suggests, that the first thing, you've heard all the comments here, you've heard the bulk of the comments, what I think would be mechanically to come up with a draft, that is, one document that everyone can look at and that you can then, as the chairman suggests, go out to the communities again, as you already have done, I understand, and discuss that document with them. So everyone's reading out of the same hymnal here and people can say, let's change this, let's change that, but as it is here, we just have a lot of comment. Is it 12 feet? Is it 20 feet? What's the zone? And diagrams help too, by the way. The Land Use Planning Department does that some times and diagrams are useful also for people to understand the clear zones and so forth.

So my suggestion on the direction, Mr. Chairman, would be first to get a draft that's one document that everybody can work with. Secondly, to take some period of time, let's say three months if that's workable, if the Fire Marshal feels that workable, to get that draft back out to people and to discuss it in community meetings, chamber of commerce meetings, builders meetings, whatever. Volunteer fire department meetings, and then come—and modify that for your suggestions and then come back with that draft to us for further review.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Sullivan, could we in addition to that, consider what the Fire Marshal and others have asked and that's the creation of this coalition, actually going out and seeking more collaborative effort in the development of the ordinance where we'd have contractors and neighborhood representatives and our fire people sitting down.

COMMISSIONER SULLIVAN: Certainly.

COMMISSIONER GONZALES: So at least there's all that dialogue that's taken place prior to what's happening up here or prior to what's happening here today. Would you agree to that in your direction, prior to it coming forward?

COMMISSIONER SULLIVAN: Certainly, but I just think it's helpful for the professionals that we have here to first have a document that everyone starts to work with, which is draft A, as it were and by the time it comes back to the Commission, it could be draft E, F or G or something. Then people are all working together and I think the department has made a good effort so far. There have been notices that have gone out and people are appreciative of that. And I want to, by the way, compliment the members of the audience this evening for their demeanor and courtesy and their comments, their

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well thought out and researched comments, which were very useful to me. But I certainly concur with what you suggest.

COMMISSIONER GONZALES: And I agree with that single document. Because I did have a hard time reading this '97 code the way it was written.

CHAIRMAN DURAN: Well, I'd like to see all this direction turned into a motion.

COMMISSIONER SULLIVAN: Mr. Chairman, I would move that the County Fire Department be directed to return to the Board of County Commissioners in three months time with a revised draft, having done the following in the interim: (a) prepared a single working draft; (b) coordinated their efforts with the community by forming a coalition of interested citizens who have contacted the department; (c) met with as many groups as possible and is reasonably feasible within the time period to discuss and develop the code. And if anyone would like to add a (d)?

COMMISSIONER GONZALES: That sounds about right.

CHAIRMAN DURAN: Okay, there's a motion by Commissioner Sullivan.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: Second by Commissioner Gonzales. Any further discussion?

COMMISSIONER GONZALES: Just to reemphasize what Commissioner Sullivan indicated again, meeting with interested groups, I think if we can go as far as meeting in the communities that are actually mostly affected. We can get out to San Pedro, we could get out to Edgewood. We can get up to Cañada, Pojoaque, all these areas. But let's go in and I know it's going to be difficult but I think it's important that people know that we're making ourselves available in their communities to come in and offer input, criticism, changes, whatever it is. I really think that that needs to happen, prior to you coming back with these within the three months.

CHAIRMAN DURAN: We're in the middle of a motion, under discussion. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, just a comment. I think what we have to do is basically as Mr. Blackwell has suggested, create a core group of people who are interested and want to have input and ideas. Just some basic concepts. I think that's the first step. Once the basic concepts are drawn out, then come back to this Commission to see if we are in agreement, if it sounds about right. And then begin the public process of going to communities which are greatly affected and then detailing ideas as to what the ordinance should look like or if people want an ordinance. I think that's the logical way, rather than just going out to all the communities immediately. I think perhaps we have to go back to the drawing board, look at some basic concepts and if we can do that, we'd be more effective.

CHAIRMAN DURAN: So, Commissioner Sullivan, your motion was to table with the following direction?

COMMISSIONER SULLIVAN: Correct. To table with that direction, and

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I think that is compatible with what Commissioner Campos is saying, because once this draft is developed, once there's some community input in that draft, it then comes back to the County Commission. We then continue the public hearing process based on that working, let me call it a working document or a working paper. So I don't see that in three months we'll be ready to approve or disapprove a document. I think in three months we will see that first working draft that has had substantial additional community input is the way I see it.

COMMISSIONER GONZALES: I concur and I don't think we're that far from what Commissioner Campos is asking either.
CHAIRMAN DURAN: I'll give you the last word, Hank. You wanted to say something?

COMMISSIONER SULLIVAN: I don't know if that was a motion to table, Mr. Chairman, or whether that was just a motion.

CHAIRMAN DURAN: Well, we need a motion to do something.

COMMISSIONER SULLIVAN: That was a motion with my a, b, and c. I don't know if we got a second or not.

COMMISSIONER GONZALES: We did.

CHAIRMAN DURAN: We either need to table it, approve it or disapprove it.

COMMISSIONER SULLIVAN: Well, my motion was to table it until a time certain which was the meeting three months from now.

CHAIRMAN DURAN: There's one motion with direction. The motion is to table with the following direction, which was to come back in three months.

COMMISSIONER SULLIVAN: Okay.

MR. MONTOYA: Mr. Chairman, it would be helpful for the record if we made it time specific to June 13.

CHAIRMAN DURAN: Fine. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

[The date of the meeting was subsequently clarified to be June 12, 2001]

[The Commission recessed.]

X. A. Resolution No. 2001-__ . A resolution amending resolution No. 1999-137, the Santa Fe County Growth Management Plan, as amended, to adopt and incorporate the San Pedro Community land use plan (first public hearing)

CHAIRMAN DURAN: Okay, we have ten items left on the agenda, and if each item takes twenty minutes we'll be here until 11:30. I guess we'll do executive session last.

PAUL OLAFSON (Planner): Thank you. Good evening, Mr. Chairman and Commissioners. I'll try and make my presentation brief. This is the first of two

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required public hearings under the Santa Fe County Community Planning Ordinance. This is the first presentation for the San Pedro Community Plan.

San Pedro community members began working on the planning process in 1998 to address growth and water issues affecting their community. The plan contains strong emphasis on maintaining the area's rural character and San Pedro's unique identity as a quiet residential mountain community. The plan supports diverse mixed-use home business and residential development that match the existing land use patterns in the community. The San Pedro Community Plan meets the required planning elements in Article XIII of the Land Development Code. This plan will be a tool to support the important values and visions of the community that have been expressed throughout the planning process by property owners, business owners and community members in San Pedro.

On February 22 of this year, the County Development Review Committee recommended approval of the San Pedro Community Plan with three amendments which are included in your packets and I will address them in a moment. I would like to begin with a short overview of the San Pedro Community Planning process to date, and I'd like to have two community members, Mr. Robert Clancy and Ms. Beth German to give brief descriptions of the planning process to date and the community support for the goals and policies outlined in this plan.

ROBERT CLANCY: Good evening Mr. Chairman, Commissioners. I'd like to say just a few words about the characteristics of San Pedro and the people that live there. We're located about 14 miles north of Edgewood in a rather isolated mountain valley. We're bounded on the north by the San Pedro Mountains, on the south by South Mountain. On the west is Heartbreak Hill, which is the pass between the two mountain ranges. The valley slopes to the east and it's very well defined.

Our plan boundary follows as well as we could the natural boundaries on the north and south, the mountain ridges. On the west, we butt up against Campbell Ranch and on the east up against the King Ranch. There's one road that provides access. That's Highway 344. People live on side roads off of 344. Most of those roads are private. We have about a hundred homes at the present. The valley is well forested and most of these homes are very well hidden. If you drove through there night or day you wouldn't have any idea that there were that many houses there.

It's very quiet. We have dark skies at night and we still have a lot of wildlife, ranging from packrats to, it's rumored, a mountain lion. That's exactly why people live there. A lot of us commute to Albuquerque and the only thing that makes it worthwhile is that it is such a quiet, beautiful place. We don't have any commercial center but we do have a fire station that was built a couple years ago. We are a very diverse group as far as income, residences, political leanings, philosophies, but we have a common bond of everyone likes it out there the way it is. They like it rural, quiet and peaceful.

That gives us a real cohesion as a community and that gives us the few bases that the plan is built on. One is that we want to foster and preserve the sense of community that we have, and the second is that as much as possible, we want to preserve the qualities

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that are the reason why we live there. And now Beth German, a San Pedro resident would like to tell you a little bit about why we feel a plan is necessary and time line that we followed in getting where we are.

BETH GERMAN: Mr. Chairman, Commissioners, thank you for giving us the opportunity to present our community plan to you. This process started actually back in 1996 when Santa Fe County issued a proposed Growth Management Plan which at that time was contemplated was govern all of Santa Fe County. Shortly after that proposed plan came out, some of the Commissioners came to a meeting at one of the elementary schools between our neighborhood and Edgewood, and it became very clear that our goals and desires were very different to those of our neighbors to the south in Edgewood. Meanwhile, we heard that numerous communities up in the north had several concerns which were different from either ours or those of the people in Edgewood.

So to our good fortune, this Commission or the previous Commission, passed an ordinance allowing communities to develop their own community plan to take care of their own growth management ideas. And our community has worked very hard over the last—well, I guess it's been almost four years now on this process. And I do want to say that the Santa Fe County Land Use staff has done an exceptional job of working with us. First Alina Bokde and now Paul Olafson have worked with us very closely throughout this time. For the last two and half years, Alina's come down to our community at least one a month late in the evenings to have meetings with us as we drafted this plan.

So we do appreciate this opportunity to try and do what we can to preserve and protect the rural mountain environment which we all treasure so much. And I do want to stress one thing Mr. Clancy said, which is despite our differences in the community—some of us live in huge, fancy homes. Some of us live in tipis. Many of us don't have power. Some don't have telephones. We have a wide variety of life styles. We are professionals, we are home business owners, we are independent people who live on the land, we are retired people. This is an incredible spectrum. But we are truly a community.

We have a very active neighborhood association that's been in place for about 15 years. Back in early 1997, after we went to the first meeting of the Santa Fe County Growth Management Plan and then learned that the County was going to allow communities to draft their own plans, the neighborhood association held a town meeting, invited everyone to discuss whether we wanted to do a community plan. One of the issues that came up at that meeting was that while most of our residents belong to the neighborhood association, there were a few people who felt that some of their goals were different from the neighborhood association. So to be sure that this planning process included everyone, we created a separate planning group, and yes there was some overlap with neighborhood association members, but also included people who chose not to be in the neighborhood association.

To my knowledge, I think all but about five or six families in the neighborhood do belong to the association. So we did create this separate planning group. The planning group consisted of a steering committee which met monthly for the last almost three years,

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and then held several townhall meetings. We've had five townhall meetings since 1997. In addition, the neighborhood association has monthly board meetings and an annual meeting. At all of these meetings, the community plan was discussed. The community sent out three different surveys on this. The first one was sent by the neighborhood association in 1996. The second one was sent by the planning group in 1998, and the third one was sent in 1999.

Then this past fall, I understand that the Land Use Department employees and the County Hydrologist and the County legal staff looked through our plan, made suggested revisions. We had more meetings, incorporated their suggestions and sent a draft out to the community, and once again had a meeting to discuss the plan. And then finally last Sunday we went over it somewhat where we were discussing the wildlife ordinance. Over all, out of the hundred families, we've had 66 different people participate in the process to one degree or another. Some people have been active throughout and others have been active when time permitted or when a particular issue which they were concerned about was being discussed by the steering committee.

There were also people within the steering committee who took on specific tasks such as looking at roads and infrastructure, development issues, water issues, things like that. And again, the County's been tremendous in providing us resources for our education and how to go about this process. I believe all of you have a copy of the plan and I know it's late and so we won't go through the whole plan bit by bit with you. We've tried to make it as specific as we can and to incorporate, to the extent possible, those things which everyone in our community reached a consensus on.

We realize there are a few areas where specific ordinances may have to be adopted and a few particulars on how certain things will be accomplished will need to be done. But I think the document you have before you is a comprehensive master plan for the San Pedro area. And I also think that it represents the desires of almost all, if not all of the residents of the San Pedro area.

The primary things that we want to protect are our of course rural mountain environment. We want to keep it rural. We want it peaceful and quiet. We want to protect our water supply. We want to prohibit mining and we want to prevent commercial development in the sense of gas stations and things like that. One of the things that our plan includes that may be a little different than some others and which is different from current County ordinance is the concept of the home business. I think right now, the County ordinance allows for home occupations and those right now can only take up 50 percent of your home and there's some other specific requirements on there. We actually have a number of home occupations in our community, and in our plan we wanted to allow for what we're calling home businesses, which are probably some of the same types of businesses, wood working, art galleries, massage therapists, these sorts of things, but in the plan, this 50 percent requirement is taken out so if you needed a 1500 square foot shop for your woodworking, you don't have to have a 3000 square foot house to accomplish that. So that reflects, I think, the reality of our neighborhood.

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Water is a tremendously important issue in our area. There's some people, all those across the road from me, haul water. There's some wells. People have drilled wells, even at significant depths and hit dry holes. So we're very, very concerned about water and the effect of future development on water. As I understand it right now, under Santa Fe County ordinances, we're in the Homestead Zone so that theoretically, a 160-acre lot size which can be fairly easily subdivided into a 40-acre lot and then with some other requirements be developed down to 2.5 acres. We don't want lot sizes smaller than 40 acres approved in the future in our community. We do have numerous small lots now. We also have several large lots.

One of the concerns we have is we have approximately 100 homes right now and there's 270 additional lots in the County Assessor's records in our area. And then at the same time, the hydrological study we're aware of relating to our area, which I believe was originally provided to us by Jack Frost, the prior County Hydrologist, had said that there's only enough water to support either 300 or 320 homes in our area. So even if those remaining lots are developed, there's a possibility that we don't have enough water to support those lots, let alone any further subdivisions.

So the home business and the lot size are two of the primary changes we have in our code. With regard to the procedure, I think it has been extremely inclusive. We have sent regular newsletters and notices, not only to people who reside in the area but to all landowners whose addresses we could find.

So that's just a very brief outline, some of the highlights of our plan and also the process that we've gone through.

CHAIRMAN DURAN: Thank you. Is there anyone out there that would like to address the Commission?

MR. OLAFSON: Excuse me, Mr. Chairman, I just wanted to run through a few more of the points within the plan if we have time.

CHAIRMAN DURAN: Go ahead.

MR. OLAFSON: Additionally, I think Beth mentioned some of the elements of the plan. The plan addresses residential development, lighting, visibility, home businesses, mining, water and the environment, wastewater, fire protection, and roads and trails. And there's both ordinance elements within the plan and programmatic elements. And an ordinance element would require an ordinance written to amend the County Code and a programming element would require working on different projects and activities and services for the community and with the community.

Briefly I think Beth mentioned the minimum lot size not being lowered to below 40 acres, and I had discussion earlier today with the County Attorney and Katherine Yuhas, the County Hydrologist, and they had some questions. They'd like to further examine that issue, but I think that's pretty clearly to the strong community support for that, limiting it at 40 acres as well as some of the water issues surrounding it.

CHAIRMAN DURAN: Excuse me, Paul. What is the minimum size right now?

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MR. OLAFSON: Currently it's in the Homestead Zone so it would be 160 acres. And then if someone could prove water they would be eligible to divide down to 40 with water covenants and restrictions. And I believe if they proved adequate supply they could even go below, down to 2.5, if they could prove available, adequate water.

CHAIRMAN DURAN: And so this plan advocates a minimum of 20 acres no matter what?

MR. OLAFSON: Forty. And in a moment I'll show you the existing land use map and that will kind of show too that a lot of these properties there, a good deal of them are non-conforming properties already existing in the community.

CHAIRMAN DURAN: Where's our attorney?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: On another point I think Paul, you mentioned that the community would be working on ordinances to address specific issues, requirements, for community development. Are these ordinances going to supercede existing County ordinance, or how—

MR. OLAFSON: With the community plan, just like the Tesuque plan, and they brought their plan and ordinance together, and we're doing this separately. We're bringing the plan first and then the ordinance to support the plan. And so under the community planning process, the community can tailor land use ordinance to fit the nature and the conditions within the community. So an example would be limiting minimum lot size to 40 acres, and that would be an amendment to the plan. And that will come following approval of the plan.

CHAIRMAN DURAN: So Steve, I have a question. This plan suggests that the minimum size lot be 40 acres when currently, if they can prove water, it's 2.5. It's kind of the same argument I had when we did the Tesuque plan, although I agreed that the change that they wanted from $\frac{3}{4}$ acre to an acre wasn't substantial. But this seems to me like a considerable taking of people's property rights out there and I would like to have your opinion on that.

MR. KOPELMAN: Mr. Chairman, members of the Commission, I did look at that issue and I've spoken with Paul and with Katherine and I touched base also with Beth on it. I do have some concern at this point. I think what needs to be done to support a 40-acre minimum lot size, I think there needs to be a pretty strong basis to demonstrate that that is required for the public health and safety. And at this point, I think that Katherine needs to review some of the water studies, but I would not be willing to sign off on a 40-acre minimum lot size at this point from a legal standpoint. I think we need to develop more information.

I think that the requirement that a reconnaissance geo-hydrology test couldn't be done; that it would have to be a full geo-hydro test on the property should go a long way to ensuring that there's adequate water for any subdivision or lot division that's being done. So I think that would mitigate against going to a 40-acre minimum lot size. But I have

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some concerns too and I think as staff, we need to look at some of the background data and we can report back at the next meeting what our opinion is, but at this point, I have grave reservations about that also.

CHAIRMAN DURAN: And that 40-acre minimum would even apply to a family transfer?

MR. OLAFSON: Mr. Chairman, Chairman Duran, that would be the intent. But as I tried to say too, that I think this is an issue that we can discuss and bring back for the public hearing.

CHAIRMAN DURAN: Continue with the other—do you have anything else to say?

MR. OLAFSON: Yes, I have quite a bit but I'll try and make it very short.

CHAIRMAN DURAN: Are you repeating anything that the woman before you stated?

MR. OLAFSON: I will try to avoid that as much as possible.

CHAIRMAN DURAN: Please avoid it.

MR. OLAFSON: Yes sir.

CHAIRMAN DURAN: Avoid it.

MR. OLAFSON: Direction taken, sir. Again, under Section 5 of the plan, residential development appears on pages 9 and 10. There again, we just address the 40-acre minimum and Steve just mentioned the plan would also call for a full geo-hydro report for any land division or increasing of density. There's some new noticing requirements because the area's so isolated to bring notice towards public roads so that neighbors and passersby can see it because if it's attached to the building it might not be visible.

Sending of summary, findings of the geo-hydro reports to neighbors to inform them that there might be impacts to their wells and impacts to the local water resources. Under Section 6 for lighting, the plan calls for shielding of all outdoor lighting, light poles not exceeding 24 feet in height, outdoor lighting having motion-sensing devices so they're not on all the time, all new security and flood lights having motion-sensing devices and no illuminated signs.

Under Section 7 for visibility, the plan prohibits building on ridgetops unless there's no other alternative building site available on that property, and if that were the case, there would be all the County design standards and requirements for slopes and ridgetops would apply.

The plan also calls for cellular towers and antennas to be limited to 24 feet in height, and at the CDRC, they attached an amendment that asked for cell towers to be possible on ridgetops with disguising to match the surroundings, and again, after speaking with Steve today, I know there's another ordinance dealing with cell towers and we would like to have this, the language around cell towers be congruent with any ordinance that the County would pass in the future regarding cell towers, so we'll address that language within the plan before the second hearing as well.

Wind turbines and windmills would be limited to 24 feet in height. Applying some

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design standards for colors and materials that blend with landscaping, natural environment, as well as a 40 or less light reflective value on rooftops. Also the plan would alter the ridgetop definition from a 30-degree slope, what it is now, to a 20-degree slope, so this would include more areas that would conform the size of a ridgetop and it would also change the language for ridgetop from two parallel sides to any two sides that reach this 20-degree slope because some times the terrain does not exactly match parallel sides.

Under home businesses on pages 14 and 15, the plan would not allow, proposes to now allow any commercial node within the community planning area, and it then goes into the home businesses, which is a slightly more intensive use that Beth was just describing that includes a home occupation that's slightly more intensive. The plan would propose that a proprietor of a home business must reside on site. Again, noticing must be from a public roadway so it's visible for passersby. The plan would also eliminate the County's 50 percent requirement on home occupations. Under the current plan, a person may use 50 percent of their residence and accessory structures for home occupation. So if I had a 6,000 square foot house and a 4,000 square foot accessory structure, I could have 5,000 feet of home occupation. The plan would take that away and say that home businesses would be limited to 1500 square feet total.

Next, the plan would limit home business employees to three persons besides the resident and family members that are residing there and working in the business as well. All parking would be off roadways with 50 percent screening on parking areas. Signs for home businesses would be limited to six square feet, attached to the building or adjacent to the roadway. And finally, the plan would call for limiting of water consumption for business uses to a quarter acre-foot, .25 acre-feet of water per year. And that would be above and beyond any residential use. So a business use would allow .25 acre-feet of water.

The plan on Section 9 on page 16 under mining, the plan would prohibit mining within the planning area. Section 11 under wastewater, page 19, the plan would call for a setback of liquid waste disposals systems 300 feet from existing or planned wells. The CDRC recommended changing that to 200 feet to be in compliance with the existing commercial requirements. It would also require that septic systems be pumped and filled when they are retired or no longer in use.

Finally, under Section 13, roads and trails, items A and E on page 23, would require that private roads be designed, contoured and maintained to reduce erosion and that when and if there is a 50-foot or more easement available for roads, say there's two properties adjacent that had 25-foot easements each, that meandering would be incorporated into the design of the road to eliminate or minimize impacts from erosion.

The plan has some programmatic issues about working with, for example, under mining, working with public agencies to minimize impacts to the community from any existing or future mining activities on public lands surrounding the community planning area. There would work with the County and different agencies to develop education materials regarding water conservation, erosion control, closure of abandoned wells and

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mines, working on developing educational materials regarding alternative wastewater systems and water management on properties. Again, on fire protection, which we just heard about, working with the County and the community to develop better fire protection and voluntary measures with the community. And finally, under Section 13, roads and trails, to develop community involvement process on road planning within the community so that the community would have a voice and participation when roads are designed or realigned or whenever work is done on them.

Also to develop educational materials for road design and erosion control on private roads, referring back to the earlier comment, and to finally develop a community process to create voluntary trail easements and a trail system within the community. And it should be emphasized that's a voluntary measure to work with private landowners to provide access to open space areas and public lands that surround the community planning area, and only working with willing landowners. And finally, in your hand-out, you'll see, first of all, there was a letter that was submitted to me today for Commissioner Sullivan and it was asked that I present it to the entire body, stating support for the plan from Jay and Helen Crotty. [Exhibit 2]

Secondly, there's three amendments that are supported by staff for the community plan, and I also included a map, and this is a map of the planning area boundary, as well as some three, four lines in pink, that are changes to the planning area boundary. And the black dots outline the ridge tops within the community. [Exhibit 3] I'm almost done. Next, this is the existing land use map, and you can see it's all residential aside from the fire station. And just for reference, Highway 14 runs approximately one mile away from this planning area to the west and 344 connects it south to Edgewood, approximately 11 miles, I believe, north of Edgewood.

CHAIRMAN DURAN: So Paul, is it your understanding that the entire, all the property owners or a majority of the property owners in this planning area are in agreement with this plan?

MR. OLAFSON: It is my understanding there is very strong support from the community.

CHAIRMAN DURAN: And how—were all of them notified, every property owner notified in writing about this?

MR. OLAFSON: Yes. All property owner have, I believe, been sent three or four notices of the planning process as it has proceeded, and in December or November of last year, there was also—in December there was a final committee meeting and all property owners were also notified, as well as sent a summary of the plan and told that if they wanted a full copy of the plan or had questions they could contact us or attend the meeting as well.

CHAIRMAN DURAN: And since the final plan has been adopted, or since the final plan has been adopted by the community, have the property owners been notified that there is a final document available to them?

MR. OLAFSON: No. The final document is the document we're

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presenting right now. So there's been a lapse, I would say of maybe a month and a half, while this document was being prepared and brought before you all. But their content and ideas and the concepts, I believe, that were presented in December and were available then have been available throughout this period and are still the same. So the content hasn't changed.

CHAIRMAN DURAN: Any questions of Paul?

MR. OLAFSON: I have one more thing I just have to note. When the CDRC heard the case, they suggested three amendments, which you'll find on the second or third page of this packet. And the third amendment—the first two amendments, one and two, staff supports. The third amendment was a property owner, and you'll also find a letter in your packet, named Herbert Stoltenberg requested that his property be removed from the community planning area. It's approximately 80 acres. He has a map and it's attached in your packet. His property is roughly these two 40-acre parcels right here. And he asked that his property be removed from the community planning area and CDRC recommended that his property be taken out. Staff does not support this recommendation and the community does not support this recommendation either.

And there's three reasons. One, removing his property here would create a peninsula, and actually this planning boundary, as you'll see on the other map, has been extended here and here to correct it, it would create a peninsula here, which is against Section 4.3.2.d of the community planning ordinance, which recommends uninterrupted and inward or outward peninsulas shall be generally avoided. The boundary shall be uninterrupted and the inward and outward peninsulas shall be avoided.

Secondly, Mr. Stoltenberg in his letter states that he would not like to have his property from the potential for mining, however, the only access to his property is through a private road through the community, so any potential mining there would have a direct effect on residents and community members. And thirdly, he states in his letter that the plan would require him to grant access or easements for access to the BLM lands and that is I think a misinterpretation of the plan. The plan does not call for any mandatory access. It calls for voluntary agreements between willing and agreeing landowners.

CHAIRMAN DURAN: You answered my question. Any other questions of Paul?

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I understand there's 367 lots of record.

MR. OLAFSON: Correct.

COMMISSIONER CAMPOS: And that includes the 100 that have homes on the lots?

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

COMMISSIONER CAMPOS: So you could still have an additional 267 lots there.

MR. OLAFSON: Potentially, that's correct.

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COMMISSIONER CAMPOS: So does this plan adequately prepare the community for growth?

MR. OLAFSON: I believe it does. I think it addresses growth by trying to control future subdivision or land division, as well as for requiring adequate exploration and proof of water supplies and non-impacts on neighboring water supplies if someone wants to further develop.

COMMISSIONER CAMPOS: But the hydrology information so far that we've seen is fairly negative. Didn't look good. Is that the way you see it?

MR. OLAFSON: Mr. Chairman, Commissioner, I'm not sure I understand your question.

COMMISSIONER CAMPOS: The hydrology study's information that has been shown to us don't appear to be very positive as far as having water availability or a tremendous amount of water availability.

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

COMMISSIONER CAMPOS: Mostly surface water that supplies the area?

MR. OLAFSON: I believe it's almost all, Mr. Chairman, Commissioner Campos, I believe it's all groundwater wells and I shouldn't answer this. Ask the hydrologist, but I believe there is—when the rain comes it does infiltrate and that's what refeeds the aquifer below and that's in the community plan, the report by Jack Frost.

COMMISSIONER CAMPOS: It just seems to me that there's going to be development here and I hope that the plan does anticipate it because there are a lot of lots there that could be developed and there's not a lot of water.

MR. OLAFSON: Mr. Chairman, Commissioner Campos, I believe the plan recognizes that there are a great deal of legal non-conforming lots there and the community, I believe, through its community planning process decided that they wanted to respect the rights and the interests of people who have lots there, but they also want to limit future expansion and future subdivision in the area. And you comment, the question of water availability is very real.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Following up, Paul, on Commissioner Campos's comment, I am concerned also about the water. I see in the original draft that the water was limited to .25 acre-feet per dwelling, and in the revision, it essentially doubles that by enabling the residents to have .25 acre-feet and also the home business to have .25 acre-feet. Am I reading that incorrectly?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, I'm not quite sure. I think what—it depends. If someone has a water conservation easement on their property or on their deed from an earlier action, then they would be limited to whatever that restriction might be. It might be .25 it might be .5. I'm not sure. But what the plan is calling for is that if someone wants to do a home business and it requires a water use, that

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water use should not exceed .15 acre-feet, in addition to the residential use.

COMMISSIONER SULLIVAN: Let me read you the original language. It said Home businesses will limit water consumption to one quarter acre-foot of water per year, etc. And then the revision says Home businesses may use up to .25 acre-feet of water per year for business-related activities. Business water uses shall be calculated separately from residential uses. And so my concern is that with the indication in the report and the testimony that there may only be enough water for 320 lots, and there's 100 occupied now, if all 100 were to develop some type of home business, which I understand can be external from the home itself, up to 1500 square feet. You could in essence double your water usage, theoretically. Now realizing of course that not every single person is going to develop a home business. But theoretically, you've allocated that much water. And that seems to limit, to further limit any possible future development even of existing lots. Am I reading that correctly?

MR. OLAFSON: Mr. Chairman, Ms. German would like to address that if that's okay with the Commission.

COMMISSIONER SULLIVAN: Whoever's best qualified.

MS. GERMAN: This last amendment was written to clarify questions that came up at the CDRC. A few of the lots in our area are governed by a water covenant from the County that limits water use to a quarter acre-foot. For those lots, a home business wouldn't get any additional water. But most of the lots don't have the quarter acre-foot limitation. Most people have from one to three acre-feet of water rights on their property.

So what the language on the home business is is you can use up to a quarter acre-foot of water for your home business. But if your home business is on property that's subject to the water covenant that limits you to a quarter acre-foot, then you don't get an extra quarter acre-foot. Does that make sense?

COMMISSIONER SULLIVAN: No.

MS. GERMAN: Not all property in San Pedro is limited to a quarter acre-foot of water.

COMMISSIONER SULLIVAN: I understand that.

MS. GERMAN: If you have—

COMMISSIONER SULLIVAN: They're limited to three acre-feet, correct?

MS. GERMAN: Right.

COMMISSIONER SULLIVAN: So this would give them an additional .25 above the three acre-feet.

MS. GERMAN: No. It means their home business can use a quarter acre-foot of water.

COMMISSIONER SULLIVAN: And they could use the total up to three acre-feet.

MS. GERMAN: Right.

COMMISSIONER SULLIVAN: So why not write it that if they want a

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home business, their total usage is restricted to a quarter acre-foot. Because you seem to be severely short of water.

MS. GERMAN: For the home business?

COMMISSIONER SULLIVAN: No. For everything.

MS. GERMAN: Yes. We are short of water for everything.

COMMISSIONER SULLIVAN: No no. But the .25, why not, just a suggestion for consideration, limit, if they want to do a home business, the total usage to .25 acre-feet for home business and residential use.

MS. GERMAN: Well, I don't think—we don't have the authority to limit a quarter acre-foot water use for people who currently have three acre-feet of water. And that's certainly not our intent. But our intent is with expanded home businesses in the area, but we don't want high water use home businesses. So if you're going to have a home business, you can only use up to a quarter acre-foot of water for that. Now if your home business is on a property that's limited to a quarter acre-foot of water for all of your use, then that's all you get, business and house.

COMMISSIONER SULLIVAN: Okay. I don't read it that way but I certainly take your word for it. I read it that if you're limited to a quarter acre-foot, you are entitled to another quarter acre-foot for the business use. It says Business water users shall be calculated separately from residential uses.

MS. GERMAN: Right. And explaining, this was an item that was clarified and amended after the CDRC hearing because they read it differently than you did. So we can certainly come up with some other language on that. But the point is, if you have a home business, it could be a quarter acre-foot of water.

COMMISSIONER SULLIVAN: Okay. Moving on to a separate item. Then, I notice we have mostly in our new developments and lot splits and so forth, requirements for metering that the hydrologist puts on the use. I don't see any requirements in the plan for metering.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, that's already existing, that all new wells would have to put on meters. It's an existing condition.

COMMISSIONER SULLIVAN: And report annually to the County Hydrologist?

MR. OLAFSON: No, the annual reporting is not yet a requirement in the county. I don't believe it's been required. There is a requirement for the State Engineer but I'm not sure the effectiveness of the monitoring of that.

COMMISSIONER SULLIVAN: Because I think that's what the County Hydrologist has been doing and it would seem to be good to articulate that here in the plan that they—so people know it that they don't have to dig through the ordinances. It needs to be metered and it needs to be reported annually. Just a comment on the commercial, the home businesses. My understanding is that you can have a 1500 square foot business separate from your residence if you—but you must live on the site to have that business. And that there is no commercial proposed or recommended or allowed along 344, other

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than if it were to be a home business, i.e., somebody living there.

So an example I used before was a veterinary establishment, if they were to be located next to the fire station on 344, the vet would need to live on that lot that contained the veterinary clinic. Is that correct?

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

COMMISSIONER SULLIVAN: And I wondered about that because in the surveys, one of the surveys that you conducted, on page 29, one of the questions was Where should commercial uses be located? And the largest percentage of respondents said Only along 344, 46 percent of them, 26 percent said scattered and 28 percent said no response. So it seems like there is some indication there that commercial along 344 would be appropriate.

I understand the home businesses within the subdivision itself but I'm a little perplexed about the prohibition against any type of commercial other than home business along 344.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, you're correct, and if you read on page 29, if you look under B, San Pedro Community Survey 2, there was a second survey sent out by the planning committee to help clarify some of the questions and issues that were raised through the first survey and that the planning committee didn't feel comfortable addressing in the plan without further input from the community. And if you'll look down, the second question on the left hand column says Should we allow commercial use businesses? And that response is 80 percent No.

COMMISSIONER SULLIVAN: I did see that and that looks a little vague because you don't define what a commercial business really is. I think people are saying, No, we don't want commercial businesses, and if we have any, they should be located on 344 is the way I would read the survey.

MR. OLAFSON: Mr. Chairman, again, Commissioner, I would then look above that in the first survey. These are surveys—it says What types would you like? Large scale versus small scale. And you can see the discrepancies of the responses there as well.

COMMISSIONER SULLIVAN: Oh, I'm certain people wouldn't vote for large scale development but I think certainly you could have a community type business along 344 that would be a small scale development and certainly we're not looking at Walmart here. That's just a comment to think about and I realize this is the first hearing so I just wanted to throw out a few of these issues and not to denigrate the plan but simply just some ideas that popped up when I went through the plan.

Another issue is that one of the major things on page 28 on your survey is Are you concerned about roads in San Pedro? 68 percent said yes. I don't see a road component in this plan, other than a component of what to do with new roads. And I don't see any discussion at all or thought given to the maintenance of existing roads. Now, I assume there's a homeowners association and people pay into that to maintain roads—I'm assuming wrong. Heads are shaking no. So okay, even more reason that perhaps maintenance of

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existing roads should be a component of the plan. What would be your comment on that?

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, again, I think in the plan it addresses that the community did look at roads and that was an element of the planning process and the community planning committee, through their process decided they would like to maintain the existing scale and structure of the roads and they were okay to leave the private roads under private maintenance and the public roads under public maintenance and one of the planning elements calls for the development of a community body to work with any public agency in road development. But there was not a call, specifically for new roads or for upgrades.

COMMISSIONER SULLIVAN: And no call for some type of private or community organization to maintain roads. I understand the desire to keep roads small and to keep within character of the community, but regardless of how small they are they still need to be maintained. Sorry, am I missing something here? Everyone's saying the roads are okay the way it is? We don't need to maintain them? Maybe this can be discussed then—we still have some public comment so if there's some local people maybe they can address that, if they like the roads the way they are and they don't want to maintain them, I guess that's their business.

Let me throw out one other issue. I am concerned that one of the components in the contemporary community plan, and it's not a mandatory component but it's certainly an important one is an open space and trails program. And it doesn't—it makes reference to it here in terms of we're going to voluntarily set something up. But I see a conflict. I think part of the community planning process is to resolve some future conflicts whenever you can. You do have the public lands and the access to public lands is an issue and still is an issue and you just brought it up. I understand the land is private and certainly a community plan can't force people to dedicate trails but it could plan for trails and it could do some conceptual planning on access to the public lands. And I don't see that that's been addressed here and I think now is the time to think about that because now you have the community together. They're active in the plan. They recognize the issue, and I just see what happened here in Santa Fe in the Atalaya Mountain dispute where access to public lands became an issue way late in the process and should have been addressed early on.

I know it's discussed here about it's going to be worked on in the future, but I kind of have a feeling when this plan is adopted that people are going to go their own way and that may not get done.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, again, I believe the plan states that community open space and trails element would be developed within one year with the County open space in the Planning Division providing support and the community being involved in that. And that is outlined in the plan. I'm not sure if that's addressing your concern.

COMMISSIONER SULLIVAN: Well, would it be prudent to do that now, while things are fresh in people's mind rather than doing that as a separate element, since it is an element within the contemporary community plan. It's one of the planning elements

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that's outlined in the ordinance.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, again, it is outlined and I believe the plan addresses it to the extent that the community is comfortable and at the pace that they're comfortable with as well. I guess that would be the answer that I have understood as it's lain out here.

COMMISSIONER SULLIVAN: Okay, well my final comment for consideration by you all and the residents as well, is that it appears that you're asking us, I assume to adjudicate this boundary dispute, this question. As a part of the ordinance, one of the things that you should be doing when you created this district was to create the boundaries. At the time that the district comes to, originally came to the Board, the ordinance requires that the boundaries be set and that the Board approve them. So I'm a little concerned. I know this issue is the mining and no mining issue. But I'm a little concerned that we're setting a precedent.

I'm looking at for example, the Community College District and the Eldorado areas where the first thing we told the community to do was establish their boundaries. And we sent them back to the drawing boards to do that, to make sure they were all-encompassing.

And now we're being asked to adjudicate a boundary issue and I'm a little bit concerned about the precedent that that sets.

MR. OLAFSON: Mr. Chairman, Commissioner Sullivan, my reading of the situation is not that it's an adjudication issue. I believe that the original boundary did include this same parcel. Additionally, the planning process, the way it's set up is that a boundary is established to begin a plan. However, I don't think that boundary becomes fixed in stone until the plan then is brought forward as a completed element for the Board to approve. And because the planning process is fluid and changes do occur, sometimes the boundaries are changed or expanded or contracted. And I'm not really sure this is—I think that property was in the original boundary. That person is asking to be removed at this point and staff is recommending that the property be maintained within that boundary.

I mean if that's an adjudication—

COMMISSIONER SULLIVAN: Those are my questions, Mr. Chairman.
Thank you.

CHAIRMAN DURAN: Paul, I think it's important that you tell us that it was part of the original plan or it wasn't. I don't think that maybe works for us right now.

MR. OLAFSON: Mr. Chairman, again, I've been on this planning process for about two months and I think some of the community members can help address that more clearly. And if we cannot address it exactly at this hearing, I believe we can bring you that direct answer for the second hearing.

CHAIRMAN DURAN: Why don't you just research that and at the next meeting, let us know, so we can get on with the public hearing.

MR. OLAFSON: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Okay, we're going into the public hearing now, ma'am. Is there anyone out there in the audience that would like to address this

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Commission concerning the community plan? Please step forward and state your name.

STANLEY WALDRON: If you'll permit an old man to read his report. My name is Stanley Waldron. I live on County Road 112 and have been a resident of the San Pedro Community for 25 years. For a greater portion of that period I was involved with others of our community as a public citizen in environmental concerns primarily devoted to New Mexico's water resource and the imperative need to protect and preserve this finite resource. The outcome of this involvement has been the unsought role as a water research analyst.

Residing in the so-called fringe aquifer of the Estancia Basin, the later years have been directed in research as to the condition of the Estancia Basin and the potential for serious negative impacts on the domestic wells within the San Pedro community, as well as the draw-down effects on the perimeter of this closed basin.

After a careful review of the most recent data from the USGS/SEO reports, some Shomaker studied, the Stephens and Associates report and others, it became clear that this area, comprising the valuable watersheds of the San Pedro greater south mountain group of ranges had not been given adequate study. Because of this, I prepared an independent study to reflect the hydrologic connection between the greater south mountain group and the Estancia Basin, including some data on the San Pedro's negative impacts as a result of destabilization due to recurring mining activity.

With this background, I would like to make some comments on the two hydrological studies that are referenced in the community draft plan to the CDRC, February 22, 2001, and submit some conclusions.

First, I would like to commend the County staff and former County Hydrologist Jack Frost for the objective study that touches on the particular hydrological problems related to this area in which we live. I am in agreement with this report to the extent that it described and defined the are. Much more could be added as to the negative impacts of mining and the potential for loss of sustainability due to the draw-down impacts upon the Estancia Basin.

Public appreciation and thanks is also due to the many from our community who gave of their time and talents in the long process leading to this session. All those from your staff who served to assist them were greatly appreciated.

However, in all respect to Dr. Bill Turner of American Groundwater Consultants, I cannot agree with their evaluation, based upon the pump-test of one well and some in-house applications of general geo-hydrological assumptions.

With the recognition that hydrology is an imperfect science, a number of reasons to invalidate their conclusions are quite obvious. Our knowledge of the underground and the unseen is understandably limited. The following are some valid reasons:

One, this area has been geologically affected by two forces of great magnitude: the Tijeras-Cañoncito regional fault system, and the extended string of volcanic intrusives. In combination, these occurrences have both created this topography and contributed to its highly variable water resource. For the most part, the community is situated upon the

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highly fracture and tilted Madera limestone group. This has both pluses and minuses. Precipitation percolates more rapidly, but also leaves more rapidly.

Two, situated between two steeply sloping mountain fronts, this high valley receives more precipitation than in surrounding areas. At 7100 feet elevation, I've registered over 25 inches in the year 2000. This past January the snowfall was 41 inches. This is the plus side. The Madera limestone stratum slopes generally from 15 to 30 percent to the east and the Estancia Basin. As a result, the underground water movement is accelerated by the relatively steep and narrow gradients as is the surface flow from storm runoff. Water has a preference to go downhill.

Three, due to the eastern boundary tilt of the regional fault system and the sudden increases in elevation of the mountain fronts, groundwater movement is not only rapid but it follows a historic pattern in the San Pedro community. The Cañada de las Narrias not only drains the surface runoff of the area, it becomes the discharge potential for groundwater movement into the Estancia Basin. Groundwater in the discharge mode is convexed upward. Conversely, downward in the recharge mode. Recent wells drilled adjacent to the Cañada are more shallow. The water table rises. Well drillers affirm this.

Greater gallons per minute production is common. This is standard hydrological understanding, reliable field observation and confirmation, based on well log records.

This tells us that while we have water in some areas, the best quality water is in rapid movement. In addition, this observation is one explanation why there are so many dry holes and so many extremely low-producing wells. I repeat, it is but one explanation. The evidence of dikes and other geological obstructions can readily prevent the possibility of obtaining water.

Four, based on this somewhat sketchy analysis, it is my considered opinion that there is not adequate water available for 320 homes or for much less than that, which the Turner study suggests. Besides, a great majority of the undeveloped lots are situated in areas where no one has been successful in obtaining water and the terrain is not conducive for development.

Five, one further analysis must be considered before approval of extensive residential development in the San Pedro community. In hydrological terms this community is intimately connected to the Estancia Basin. This closed basin has been classified as a mined basin since 1965. Most of us are aware of the greatly increased demand upon the basin's already depleted resource. Current withdrawal is at such a rate that any appreciable recharge of the aquifer no longer applies.

Consultants are for the most part paid to render favorable reports. I think you're aware of that. They do not disclose that the Estancia Basin has serious problems. Continued draw-down of the water table will substantially reduce this area's water resource and hasten its demise. A giant trough or dewatered zone more than 40 miles long runs through the center of the basin from north to south. Its cause: the gradual connecting of giant cones of depression from high-production wells. In effect, this is a huge dry hole from two to five miles wide and ever deepening. All surface runoff and groundwater

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patterns flow towards this trough, their movement accelerated by the mechanically imposed gradients of these cones of depression.

The eventual result will be increased lowering of domestic wells around the perimeter and in elevated areas. At the lower end of this trough lies the 50 playas and saltbeds with a water table historically higher as it is the discharge facility for the closed basin. When saline water begins to backflow into trough, it will mix with all the new water flowing into it, rendering it unpotable.

This is a serious problem that must be addressed without further delay. With regard to Santa Fe County and the San Pedro community, these recent demands have been made upon the best quality of water within the county. Large volumes of groundwater are being pumped from the upper basin and piped out of the basin to serve massive, upscale developments and multiple golf courses for the gentry class. While these homes are in effect consuming three-plus acre-feet per annum per home, our community is being asked to restrict use to a quarter acre-foot per annum. As our Commissioners, are you prepared to address this inordinate exportation and use of the county's water resource while asking residents of the San Pedro community to restrict use of this precious commodity? Who bears the responsibility if or when our wells go dry? Should not the tax base and potential for depreciation of property valuations be considered? While the King interests and Bernalillo County will profit appreciably in the tax base, Santa Fe County will lose sustainability and many county residents may be without water. Better to shut the barn door before all the stock are gone.

In making your decision, it is my hope and prayer that you will honor the interests of this community and restrict unwarranted development. If not, the fragile environment of this quiet, rural community will be destroyed. Thank you for allowing me to give this report. Perhaps I can answer some of the questions that have been asked about water. I'd be happy to.

CHAIRMAN DURAN: Thank you, Mr. Waldron. Next speaker please.

DAVID KING: Mr. Chairman, my name is David King. I'm a resident of the San Pedro area. I strongly endorse the plan. I think you will not have any community in the state or even in the county will be as unanimous as we are behind this plan. I also am chairman of the Edgewood Water Conservation District. This is the northern part of our district. We strongly endorse the planning efforts and try to keep a close liaison. Our watershed project which we invested a lot of time and money and work on borders the San Pedro neighborhood. The water is very scarce there. The comments that Stan Waldron's made, I think it would be very difficult, as Commissioner Sullivan asked that you could ever really fully develop all those lots. There's just not adequate water.

The family that had the land where I live homesteaded there in 1908. They drilled seven or eight wells all in this San Pedro neighborhood area. All seven of them together won't pump a gallon a minute and most of them are over 900 feet deep. So it is very scarce. The 40-acre minimum, because of the scarcity and of the area, the very fragile mountain environment which is much different than the Sandias and some of the Sangre de

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Cristos and those further north, and is a very important watershed area, makes it much more fragile as you look to trails and other things that you might have in other mountain areas.

I think the community's tried to come together to try to answer all those. I think as we get to the public hearings we can fine-tune that, but I hope that we can stay with what the community wishes as much as possible. Thank you.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

MS. GERMAN: Obviously, I'd just like to address a couple of the questions Commissioner Sullivan mentioned and Commissioner Sullivan is the Commissioner for the southern half of our neighborhood. Commissioner Gonzales represents the northern half. First the question regarding the first survey and commercial development. That was the survey that was sent out in 1996 and one of the directions we received from the County at that time in exploring the process was to ask people, if there is commercial development, where should it be. So I don't think that survey should be taken as any indication that people wanted it, but rather that if there had to be commercial development it would be along 344. Subsequent surveys indicated strong preference for not allowing commercial development in the neighborhood.

And throughout all these public hearings we've had or neighborhood meetings, all the newsletters, which included some mailed by the County, some mailed by the neighborhood association and some by the planning group, no one ever objected to the commercial issue.

With regards to the roads question, all but three of the roads in our neighborhood are private roads. Our neighborhood association does not maintain them and we have no intention of doing so. Our dues are \$2.50 a year and that pays for postage and copying of our newsletter. That's not something that anybody ever expressed an interest in. When that issue first came up, I think people were hoping the County would maintain some of those private roads for us and County staff quickly dispelled us of that issue. So maintaining roads is really not something that we are able or prepared to address, other than encouraging people that build roads in the future that they need to be build to Code and in consultation with the hydrologist and so forth. We'd love it if the County would provide snow plows and people to run them on our roads but we realize that's not practical.

With regard to open space and trails question, our neighborhood really is almost pure open space. We live on large lots. There is BLM, there's state land. We have open views and vistas. Many of us enjoy hiking across one another's property but we're not in a position to ask anyone to make it public that anyone can use that trail. We have put in our plan that we would like to explore that, but we definitely do not want to try and put in our plan penciled in areas as to whose land we're going to hike across.

I know Commissioner Sullivan raised that last week when he met with Mr. Clancy and I the possibility that we should try and decide where we wanted them, and at a public meeting this past Sunday we mentioned that to all those present and everyone agreed, no,

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we don't want to do that.

With regard to Mr. Stoltenberg's land—Mr. Stoltenberg did participate in the first few public neighborhood meetings and he has received all of the newsletters. It was not until the day of the CDRC hearing that anyone realized that he wanted his land excluded. Now there is property on both sides of him, which is included in the plan. I spoke to him the day of the CDRC hearing. Mr. Clancy spoke to him yesterday. We both advised him of this meeting tonight. I really can't testify for him but I can report on our conversation. At times he expressed a strong desire to be excluded then at other moments he seemed fine with being included. He said he wants to sell the property and he just didn't want the use limited. So that's what I can report on that property.

Originally, the boundaries we had requested to include went beyond Mr. Stoltenberg's property into King ranch land and the Kings expressed a desire—other than David King who's on the other side of the road—expressed a desire to be excluded, so the boundaries were redrawn and the King ranch is not included.

Finally, with regard to this 40-acre issue, no one—one person at some of our meetings has expressed a desire to be able to subdivide lower than 40 and again, he's gone back and forth on that point. He is here tonight. He can address that if he cares to. But I will point out that on every issue that's in the plan that's presented to you, we have had community consensus on that.

Finally, to clarify the cell towers and so forth on ridgetops. Our original request was that they be prohibited. CDRC asked us to allow them if they were properly screened. We said, Well, okay, if that's what we have to do. We'd rather wait and see what happens at the County. I know that the County's looking into how that can be regulated. Most of the people, or a large part of the people here in the room tonight are from San Pedro. Maybe if you all could raise your hands just so they know. And there were others here tonight who left earlier. Of course we're an hour's drive away and it is 9:30. But I hope the Commission does understand that we do have a tremendous amount of support for the plan.

CHAIRMAN DURAN: Thank you. Next speaker please.

TERRY SHELTON: Commissioners, my name's Terry Shelton and I'm from San Pedro. I have a few concerns with the plan but generally I stand up for the plan. I have a problem with this no-development and there's 370 lots and there's not enough water. Our water feeds the Estancia Basin, it is my understanding and the Estancia Basin, the day we started this project to make this community plan, not this David King but another David King came in and didn't want to be part of our neighborhood's plan. Well, it so happens that they've got wells down in southern Santa Fe County and they're pumping that water over to water golf courses and so I don't think it's right to limit me and what I can do because they say there's not enough water there, when in fact that water that is there is being drawn down to water golf courses.

Number two, and I mean this with all due respect, Santa Fe County does not take care of our roads. When we have snow, there's no snow removal. When we need gravel,

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there's no gravel. We take care of our roads ourselves. We just want you to be aware of that, that we do do it ourselves, that the County doesn't do it and when they do come through with a grader, all they do is take all the gravel off our road and put it in the bar ditch. We've got the most wonderful bar ditches on 112.

And the other thing is I respectfully ask that whatever we decide on this plan that if I so do decide to divide my 40 acres and can prove water, that I not be denied that just because this plan is in here. I do agree with the fact that when the plan is passed, my neighbors have said that they don't want land divided before 40 acres, regardless if I can prove water or not. That's good and fine, but until the day it does pass, I should be able to do that with the blessing of the County. Thank you.

CHAIRMAN DURAN: You mean there's more than one David King? Okay, well this is the first of two hearings, Is there anyone else out there that would like to address this Commission? We are going to have another meeting on this and you'll have an opportunity then to discuss it. Just a second, Paul. I just want to say that this Commission approved the community planning process with the intent of allowing communities to plan their own future for their community and my only concern in all of these community plans is that everyone is notified. And it looks like they have one. So if there's no other comments, Paul—

MR. OLAFSON: Thank you, Mr. Chairman, Commissioner Duran. I just wanted to clarify the question earlier about the Stoltenberg request to have his boundary removed, and this map is dated December 22, 1998 and the planning process was approved in January '99. And based on this, I would guess that his property was included if this was the boundary that went through. And again, I can't give you a definitive answer because I can't reach that document. At the second hearing I will, but it appears that the original boundary did include that property.

CHAIRMAN DURAN: Good. Thank you. Any other questions?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just wanted to comment, Mr. Chairman, that we appreciate the late hour and the folks coming up here. We do understand what your concerns are. We do want to be sure that the community plans are fair and reasonable to those who participate as well as those who come in the future. And we do appreciate the effort, the volunteer time, the concern that you have in putting these plans together. It's important to us to see that support and we thank you for that.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: I also, as being the other representative from the district want to commend the community for this effort. I—the beauty about this public process is that you get to draw on individual's ideas and beliefs and I think that this is an example of that. And I know that serving this community for the last six years, there's been a true commitment by this community to take hold of their future as you've indicated. And they've listened to the County in terms of following a process. They

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followed it. We're here. We're one more public hearing away from it. I hope that this Board does adopt the community plan and allows this community to go forward and begin to prepare the ordinances to support the plan.

But I think that this is a united community. There may be some concerns in there but it is a community, nevertheless, willing to work through those concerns and I think that that's good, and I think that that's healthy. So we just have to allow for that to continue to happen and let them continue to work their way through this process, but never abandon the support that we've offered to them through this community planning process. So I want to thank all of you for your efforts and assure all of you I stand behind the community and certainly the plan that you've worked hard to present before us. So thank you.

CHAIRMAN DURAN: Thank you.

MR. OLAFSON: Thank you.

CHAIRMAN DURAN: There's been a suggestion. What's left on the agenda is the executive session, we have an ordinance relating to the moratorium on the communications towers, we have the ordinance concerning the—and these are the ones that are going to take some time—the Eldorado issue. I guess what I'd like to suggest is that we table the land use items for another day in the next couple days, or if not, do you all want to stay here till 12 or 1:00?

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: If we do postpone the land use items, I'd like to postpone it to next week if possible.

CHAIRMAN DURAN: How about tomorrow?

COMMISSIONER GONZALES: This is not the hearings, the public hearings. We're not talking about talking those.

CHAIRMAN DURAN: Not the public hearings, the land use items.

COMMISSIONER GONZALES: The CDRC cases and the EZC cases, not the public hearings. That's fine. Whenever you guys want to meet. Tomorrow's fine.

CHAIRMAN DURAN: Are you in town tomorrow?

COMMISSIONER GONZALES: No. But in the interests of getting it through, we can do it.

CHAIRMAN DURAN: Okay, I guess we're going to just do it. So next on the agenda, maybe what we'll do is we'll do executive session another day.

MR. KOPELMAN: Actually, Mr. Chairman, we do have one matter that we really do need to get into executive session for. It's five minutes, I think.

CHAIRMAN DURAN: Okay, well let's take care of the public first.

X. B. Emergency Ordinance No. 2001-2. An ordinance relating to utility and communications antennae, towers and other facilities; declaring a

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moratorium on the submission, consideration or approval of applications for wireless communications facilities in Santa Fe County, New Mexico; declaring an emergency

COMMISSIONER GONZALES: Mr. Chairman, I'd just like the record to reflect that I'm recusing myself from this discussion.

MR. ABEYTA: Thank you, Mr. Chairman, Commissioners. This is a request to approve an emergency ordinance declaring a moratorium on the submission, consideration or approval of applications for wireless communications facilities. The process of developing an ordinance regulating this type of development will take several months. In the meantime, applicants could come in for approval under the existing ordinance provisions which may be in conflict with what is attempting to be accomplished in the new ordinance.

The moratorium should be minimally burdensome because County staff is currently working on the regulatory ordinance and will bring that forward for consideration as soon as possible. The legislative declaration of emergency in the ordinance allows its immediate imposition as opposed to a process that may take nearly as long as passage of the regulatory ordinance itself and the imminent threat posed by applicants trying to get in under the wire warrants the declaration.

The Commission should pay particular attention to one, the desired length of the moratorium and two, treatment of currently pending applications. I stand for any questions, Mr. Chairman.

COMMISSIONER TRUJILLO: Mr. Chairman, I have a question.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Excuse me, Roman, have we been in contact with the State Highway Department and the Native American communities to see what their take is regarding the ordinance and how they will participate and/or comply with the dictates of the moratorium to locate cell towers in their lands? Have we been in communication with them?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, we haven't been. We plan on contacting them though and asking them what their position will be. Letting them know that if indeed the Commission chooses to adopt this ordinance this evening we will contact them, let them know that's taken place and ask them if they'd be willing to comply with it. But Steve could probably answer this better than I can but I don't believe that this ordinance takes jurisdiction over state land or Indian land.

COMMISSIONER TRUJILLO: Because I, from my perspective, I can't see a moratorium affecting everybody else and construction of cell towers continuing along highway corridors and on Indian land. A perfect example is the Cuyamungue cell towers.

We tried to regulate those cell towers to make them comply with our County Code. This is the Nambe sovereign reservation tribe, to no avail. Those things went up over 194 feet and the residential area right next to houses. So I don't want to make this moratorium

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become an avenue for the ubiquitous construction of cell towers on highway corridors and on Native American trust land. Because that's what's going to happen.

CHAIRMAN DURAN: I agree completely with you, Commissioner Trujillo. And that's why I think that if it gets passed tonight that the message needs to be sent out that this is something that we're working on diligently and we're trying to come to some conclusion on this. And we do have two members from legal staff, or one member of the Legal Department and for the Land Use Department attending a seminar right now and who actually went there with an ordinance that was drafted to discuss it with other people in that, at that seminar. But I think if we don't act quickly on this that we won't promote the discussion and proliferation of these towers on Indian land and State land because it's an industry that is moving at a very rapid rate and we need to make our decisions as quickly as possible.

I do know that—well, I don't know for sure, but I met Secretary Rahn about a year and a half ago, and he is not interested at all in giving up his jurisdiction on the highway corridors. I think he is interested in working with us on an ordinance that we would adopt concerning the construction and the permitting of them but the final decision is going to be in his hands. So I guess the bottom line is that I think that if we adopt this moratorium tonight, we need to act on it quickly and make a decision.

COMMISSIONER SULLIVAN: Mr. Chairman, I would agree with that. And I think Commissioner Trujillo has a good point. It seems though that on the pueblo lands they'll make those decisions regardless, one way or the other, if they feel it's in their best interests. I did meet, to respond to Commissioner Trujillo' enquiry, I did meet with Secretary Rahn this week on my own and asked him about this and where he thought things were and if he could participate. He said he didn't have anything immediate on the drawing board that he knew of. That doesn't mean that an application won't come tomorrow for a cell tower.

He did give me the name, Lester Sisneros of the head of the right-of-way section who is their cell tower expert and suggested that we coordinate with him. Also another recommendation that we got in a meeting last week from an expert on this that I attended along with Commissioner Campos was that we take the time to also include the cell companies in the dialogue. If we can determine what their needs are throughout the community in terms of general coverage for the near term future, then that gives us a reason to approve certain locations of disapprove other locations because we have bona fide information as to what the needs are. And he said that they're fairly forthcoming in terms of that kind of information.

So I think there's an opportunity here to work with the carriers. There's an opportunity to work with the Highway Department. They seem to be willing to do that. I have not contacted anyone at the pueblos so I can't provide the information on that, and I think there's an opportunity too to do some quick overlays of Santa Fe County-owned land where we might find parcels of land that towers can actually be located on Santa Fe County land and provide some potential revenue to the County. So we can do not only an

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having this thing put together and adopted. I would be willing to—I'd like to see it three months with the understanding that if we don't have it we just extend the moratorium. I think that sends a better message out to the community or to the cellular industry that in three months we plan on adopting this ordinance. And if we say six months, that says something different. Steve.

MR. KOPELMAN: Mr. Chairman, members of the Commission. There are two issues that I think the Commission needs to address if you decide that you're going to go forward with the moratorium. I think they should be addressed expressly in the ordinance. One is how you're going to deal with pending applications. I believe there are two or three applications now that are moving through the process and I think we should expressly state in this ordinance how those are going to be dealt with, whether they can come forward or whether they're going to be subject to the moratorium.

CHAIRMAN DURAN: Steve, if we include them in this moratorium, what kind of legal issues come up?

MR. KOPELMAN: Mr. Chairman, if the moratorium is a short enough period there are no vested rights involved at this stage yet, and I think we can withstand a legal challenge, but again, I think it's a policy consideration as well as a legal one, as to how you want to deal with pending applications.

CHAIRMAN DURAN: And pending applications are those that have not yet received approval from the Commission?

MR. KOPELMAN: Mr. Chairman, that's correct. Those that the application's been filed and they're moving through the process. They may have been through CDRC or—okay, if I could. the second issue, that I think that needs to be expressly addressed, this draft ordinance that you have in front of you is very broadly worded and it involves not only towers but it also involves antennae and other facilities. So I think you need to very seriously consider whether the moratorium should address just the building and applications of new cell towers and we can put in a provision that this ordinance would not apply then to antennas or satellite dishes that would be located on existing towers or on existing facilities with some requirements, for example, compliance with the Code, the fact that they won't exceed the height of the structure.

And they still have to come through the process. But remember, this is an emergency ordinance, this has not—you need to make a finding that there is an emergency and that you have to, as a result of that, put this moratorium in place and I think that preventing the building of new towers would probably, in my opinion, would comply with that requirement in terms of an emergency. I think that it's safer to go on a more narrow approach and again, the issue I think is the building of new cell towers. But that's also a policy decision. I just wanted to lay those two issues out for the Commission.

CHAIRMAN DURAN: Okay, again, what's the emergency?

MR. KOPELMAN: Mr. Chairman, this is being brought forth as an emergency, that there's a health, safety, welfare issue. And so that needs to be a finding if you're going to approve this moratorium ordinance.

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CHAIRMAN DURAN: Otherwise, if it's not an emergency, it has to go to another hearing?

MR. KOPELMAN: Mr. Chairman, if it's not an emergency, then it would need to be brought through the normal process, which would be authorization to publish title and general summary, and then a public hearing down the road. So this was brought forward as an emergency.

CHAIRMAN DURAN: Are we going to be able to substantiate that this is an emergency?

MR. KOPELMAN: Mr. Chairman, I think that's something that you all need to consider and there needs to be some record to support it. I think that there have been similar ordinances that have been passed throughout the country and again, if it's a short enough term, the issue is that right now, for all intents and purposes, we really don't have ordinances that appropriately regulate telecom towers. The problem is, and the way that you would structure this if you go forward on that is that because there's no real regulations in place that effectively regulate them, you're in a situation where you have to grant variances. The Code is just not geared—and you have to do that in cases because of the Federal Telecom Act.

So the idea would be that you need to have an ordinance in place. It's getting to emergency proportions because of the number of applications that have come in and that would be the angle you'd take that it's an aesthetic issue as much as anything else.

CHAIRMAN DURAN: So it sounds like you would be able to defend our position.

MR. KOPELMAN: Mr. Chairman, I always defend your position.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Trujillo.

COMMISSIONER TRUJILLO: I take exception to that. I don't think we can take a position from a health, safety perspective because we can't validate that. We haven't done any environmental impact statements. We don't know what the health and safety impact is on these cell towers. In fact, the judicial process does not accept any demographics or data regarding the impact on health and safety regarding the construction of these cell towers and even electrical substations.

I don't see how we can take a position that we can validate or substantiate health and safety impact without environmental impact statements, full fledged environmental impact statements, not environmental assessments.

CHAIRMAN DURAN: Steve.

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I think that the angle that the Commission would take that it's a general welfare issue. In other words, there's an aesthetic issue with all these cell towers going up without being properly regulated, without having extensive regulation. I think if there's an issue of location possibly causing safety issues, if they're located in areas maybe that are too close to a highway. I think again that you're fighting—you're right in terms of the safety issue. You

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can't argue that because of the electromagnetic fields, there's a safety issue. But I think you've got an issue that this is really impacting the general welfare because again there is not proper regulation. The County needs to have a telecommunications ordinance in place.

And again, I'm not advocating that you adopt it or not adopt it. I'm just stating what may be some of the bases for if you do go forward with it.

COMMISSIONER TRUJILLO: Like I said, I agree wholeheartedly that we need an ordinance, but from a comparable standpoint, I see the Cuyamungue cell towers right smack in the middle of a residential area, 25 feet away from 84/285.

CHAIRMAN DURAN: Okay, if there's no other questions of Roman, this is a public hearing, is there anyone out there that would like to address the Commission concerning this issue? Please step forward and state your name.

MARK BASHAM: Excuse me, Chairman Duran, would that be those proponents first and then the opponents?

CHAIRMAN DURAN: We don't do it that way here, but okay, let's do the opponents first. Or the proponents.

MR. BASHAM: Okay, another question I have is is the Commission required to make, take a vote on a finding of emergency prior to continuing with the public hearing?

CHAIRMAN DURAN: No.

MR. KOPELMAN: Mr. Chairman, I think that after the public hearing, you can make a determination at that stage.

CHAIRMAN DURAN: Okay. So I'm going to hear those that want to speak that are in favor of the ordinance. Please come forward. State your name for the record please.

JANET DEGAN: I'm Janet Degan. Do you need my address? 2125 Paseo Primero, Santa Fe, 87501. I'm a member of the Santa Fe Citizens Task Force on Microwave Antennae and we have over 1000 signatures in support of citizens' rights of choice about where we live, work and study or gather in regard to relationship to tower locations, and we're very pleased with the moratorium. We're in touch with communities across the nation doing the same thing. It's important to take the time to study how to balance the needs of preserving residential communities and residential zoning and still find a way to provide service by placing them outside of residential areas.

It requires planning, and that takes time. The over 1000 signatures in support of careful planning is just the beginning of growing public sentiment.

CHAIRMAN DURAN: Thank you very much. Next speaker please, in favor of the ordinance. Are you going to read this whole letter, ma'am? [inaudible]

MARILYN MEYER: Yes, we are in favor of the moratorium. I have just a few short comments here. My name is Marilyn Meyer. I live at #6 Meyer Road in Española, Arroyo Seco. I'm proud to say that I, along with other residents of Arroyo Seco have opposed the cell tower that was imposed upon us by the BCC of 12-12. From the time we first learned of the tower, it was a short 33 days that we had to organize our

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opposition. In that time, we learned a lot.

For instance, we learned that even if Santa Fe County already had existing rules in the Code, they don't necessarily adhere to those Codes and laws. As an example, the Code governing a traditional community such as Arroyo Seco was completely ignored. Now, we tried to argue viewshed, health, safety, welfare and potential impact to neighborhoods. We were told that these could not be considered. In your proposed moratorium, these are the exact words you use to propose the moratorium, declaring it an emergency. After our recent experience, we feel we are uniquely qualified to offer a few suggestions to be considered when you form up the ordinance regulations for the cell towers.

First of all we feel notification should be given to adjacent property owners as soon as the application is filed with the County. In fairness, this will give the opposition equal time to prepare their arguments. As it is, the opposing views are usually presented to the BCC at the meeting, as in tonight, and thusly the Commissioners do not have the time to study them before casting a vote. No one who wants to speak to the issue should be constrained and every view should be heard and every hand should be counted. The Commission should be able to study all arguments before making a decision. Therefore, after all opinions have been entered, the issue should be tabled to the next meeting before making a decision. To do otherwise gives the appearance of a predetermined decision. Every attempt should be made to avoid even the appearance of impropriety or undue process.

The next suggestion: An exact description of the proposed tower site should be in the application with adjacent property listed and a definite description so people can know where it is. We realize this is not required in the Santa Fe County rules as they stand today, but we feel these cell towers require more stringent rules in all fairness to the concerned residents. Accurate maps should be submitted that conform to the County Codes. These maps should be checked for accuracy before granting the application.

This next one is very important because we've experienced a great deal of difficulty with this next one. The course that an application will take through the County system should be clearly spelled out so that the average citizen can know when, where and how to make his views known. That is which hearings are preliminary and which one is the final decision. This also applies to the applicant to make sure that the applicant meets all requirements in a timely way. This goes before the CDRC and this must be done before the BCC hearing, and this must be done before the final decision. And again, someone should check to see that this is done, and on time.

Make it mandatory on the applicant to submit supporting evidence of his claims. For instance, that it will not hurt property values or endanger the health, safety or welfare of the nearby residents. This should not just be on the say-so of the applicant. And if the County is not going to adhere to its own laws, or to the ones that it is proposing to make, then it should give the public an explanation of why it has not done so.

A definition of what constitutes health, safety and welfare danger needs to be made.

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A viewshed also needs to be defined. We are sure that you are aware that according to FCC Rule 704, a government entity does have authority over the placement of a cell tower. We are not sure that you know that FCC Rule 253, which says that the tower must be placed so that it does not affect health, safety or welfare of the community. This is obligatory.

We recommend that cell towers be subject to the most intense scrutiny, as they will affect the lives and property of the people in the area for a long, long time. These applications should not just be walked through the County system. We hope you do pass this moratorium. We thank you for recognizing that there is serious problems in the county. We would appeal to you for a reconsideration of the Gonzales tower but we understand that it is too late to be considered under the proposed moratorium. I thank you for your time and attention.[Exhibit 5]

COMMISSIONER TRUJILLO: Thank you very much Ms. Meyer.

Anybody else wants to speak in favor of the moratorium?

JACK PAULE: Shall I wait until Commissioner Duran returns?

COMMISSIONER TRUJILLO: You can go ahead and get started. He'll be right in.

MR. PAULE: I will address you as Mr. Chairman and the rest of the Board. My name is Jack Paule and I reside at 18479 Highway 285/84, Arroyo Seco. This time I'm here by the more pleasant testimony. Basically, I favor this, but I have one question before I say for sure. Now as I read through here, I see all these whereases and everything else and read these different things here and I say, my, my. Where have I seen this before? This is the exact material we were trying to present to this Commission back in early December. And the CDRC in November and we were ignored.

So we applaud these issues right now. The question I have here is this broad terminology of wireless communications facilities. And I would like to pose this question, what is that definition? What I'm asking is, does this include amateur ham radio antenna systems, before I continue?

COMMISSIONER TRUJILLO: Roman, I think that's a question for you.

MR. KOPELMAN: Mr. Chairman, members of the Commission. Again, I addressed this issue earlier, that I think the way the moratorium is drafted now it may be a little overly broad and one approach that you might want to take is limit it to telecommunications towers, as opposed to antennas, and again, I think the purpose behind this really is not to deal with ham radio antennas, but it's to deal with substantial towers that are being built for telecommunication purposes.

CHAIRMAN DURAN: I have one question. Ham radio operator antennas, we already have an ordinance dealing with that, right?

MR. KOPELMAN: Mr. Chairman, that's correct. That would come in under the Code under "Other development" I believe.

COMMISSIONER TRUJILLO: Mr. Chairman, this would also apply to antennas on the existing cell towers?

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MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, what I'm suggesting is that you might want to consider limiting the scope of the moratorium only to the construction of new towers and not to have it apply to antennas—

COMMISSIONER TRUJILLO: Or dishes.

MR. KOPELMAN: Right.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One clarification that I had to ask in that same vein, would it apply to towers or applications in progress that were for towers 24 feet in height or less?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, the way this ordinance is drafted, it would apply. And again, that's an issue that you can deal with and that's within your purview if you want to again narrow the scope of this even more. But the way it's drafted now I think it would apply to any new tower that came up, even if it was 24 feet or less.

CHAIRMAN DURAN: And that's in the process.

MR. KOPELMAN: Mr. Chairman, that's correct, the way it's drafted.

MR. PAULE: So can I take it, Mr. Chairman, that this does not apply to ham radio antennas, that they go through the normal procedure, because they are mostly controlled by the Federal Communications System.

CHAIRMAN DURAN: Do you have a ham radio?

MR. PAULE: Yes I have. You didn't know that?

CHAIRMAN DURAN: No, I did.

MR. PAULE: I thought everybody knew that from my first time I was here.

CHAIRMAN DURAN: No, I knew that.

MR. PAULE: Yes, I've been licensed since 1947 and I have an extra class license, the highest that is available. And I don't want to go through the whole story again, but we were very much concerned about this before. The idea is that you as the County should do everything that you can to protect your ham radio community because they are the only, they're really the only emergency source of communications you have. They have been called on many times. Unfortunately, not many in New Mexico, but if you will recall the Cerro Grande fire. Not many people know that but it was manned by ham radio operators, not only from New Mexico. Some came from the east coast, west coast and some traveling through the state stayed to help us.

So we're very protective of that and it is necessary we have antenna systems to provide that service. By the way, we buy our own equipment, spend our own money and the state recognizes the value of it because at their emergency operations center south of Santa Fe they have one room set up for us and they bought all the equipment and the equipment very expensive which I can't afford, and that's how they recognize and it was active during that time.

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So I am glad to see that. I will say that I will favor this moratorium then, but I do take issue with Commissioner Trujillo on the fact of safety. It's been documented many times, in fact I gave you information on lightning for you to review and I believe you had a video some time ago on the safety issues. The FCC does recognize this, although they are compelled by 704, which was written into the law. They did generate and I made a copy of it for your Land Use Office, the plain language guideline to follow so that you can determine whether it's safe or not. And every time you add another antenna or another power source or a vertical tower, you increase the danger. That's why it should be computed every time one is added or changed. But I would like to bring that forth.

I want to talk to you on the telephone about this and I never could make contact. So with this in mind then, I do favor this moratorium, and six months has been upheld by the courts. Thank you very much.

CHAIRMAN DURAN: Thank you. Ma'am, you've already spoken. I am now taking—

MS. DEGAN: It's my experience that industry is interested in some times renaming the facility or, to fit their needs or redefine their facility and I thin allowing antennas would encourage location of facilities on rooftops, bell towers, steeples, which would be circumstances that would affect where people live, work, study or pray, and that's one thing that I think the ordinance should address.

CHAIRMAN DURAN: Thank you. Okay those that are opposed to the— go ahead Carolyn.

MS. SIGSTEDT: Well, my name is Carolyn Sigstedt and I 'm in favor of the moratorium. I feel that we should pause and do a master plan as to where these towers belong. I've looked into what other states have done and they have discovered that the only way to control this business, which is growing really fast and the pressure is on you is to do it by zoning. Some very progressive states have realized that in fact if the County takes the power to actually put the towers on their own land, they can make the revenues from this very lucrative business themselves and keep these towers away from schools, churches and residences. That's something that I think we need to look into. People want to feel safe. It's that simple. And we can't talk about safety in front of that and use that as an argument, so we use all these other arguments.

And the other arguments are quite valid as well in terms of landscape. I just drove up from Albuquerque today and I know what it is to see these towers. I also feel that we need a total master plan and so three months, or six months, I feel that it's necessary to take the time to have the full master plan, whatever that amount of time may be. The other thing is that these towers are—well, they affect the highway corridors, so they don't belong there. They don't belong in neighborhoods. In terms of churches, I saw in the EZA that a few churches were denied but actually I feel that even the Gonzaleses should recuse themselves when it comes to churches if towers are used in church areas.

This is a very serious issue and I think the County is wise to come up with a master plan dealing with the entire issue. Thank you.

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CHAIRMAN DURAN: Thank you. Okay, those that are opposed to the ordinance.

TERESA JOHNSON: The ones in favor haven't finished yet. My name is Teresa Johnson. I live at Route 1, Box 214-A, Arroyo Seco, New Mexico. And I would like to say hello to Commissioner Paul Campos and Jack Sullivan, and I welcome you here. And I hope that your opinion will be heard. I hope that you will prove to be a little more attentive than some of our other Commissioners. And I would like to speak to Paul Duran, and I do believe you have proven to be very, very rude in your behavior tonight. I believe that if you need time to leave in the middle of someone speaking, that perhaps you should call a session where you say, excuse us, we need a five-minute break.

CHAIRMAN DURAN: I'm sorry ma'am. Could you please speak to the issue. I'm not here to listen to you attack me. If you're in favor of the ordinance, please address it. If you are not in favor of it, please address that. But if you're going to sit here and attack me, I'm going to call you out of order and ask you to sit down. I think that that's only fair. You're here to discuss the ordinance, not me.

MS. JOHNSON: Okay, we'll discuss the ordinance.

CHAIRMAN DURAN: Thank you.

MS. JOHNSON: I am in favor of a moratorium and I believe that it's an issue that should have been considered before the Arroyo Seco was allowed to be put up. And I think that it's very important that the people have the opportunity to voice what their community chooses and to know that our Commissioners will hear our voice and respond accordingly, rather than giving us an attitude of you have five minutes to speak, or it's too late for you to speak your peace. Please limit what you have to say because we're tired and we don't want to hear it, which is the feeling that we in Arroyo Seco have received.

I am in favor of the moratorium. I would like to have it a limited moratorium so that the people who are already in compliance with what we have as set standards for heights and placement that if it's within the sign, the average height placement of the committee, of the pre-disposed signage that they can no longer go over 28 feet or whatever that is, to allow those to go ahead and operate within boundaries and guidelines that are protective to our communities. But when it come to the decision of placing a 200-foot tower within our communities without ever hearing or truly acknowledging what the community is saying that something definitely be laid down for guidelines that our Commissioners would back up.

CHAIRMAN DURAN: Thank you.

MS. JOHNSON: One more thing.

CHAIRMAN DURAN: Excuse me.

MS. JOHNSON: Sorry. I also believe that if Mr. Paule had truly been heard on the night that the 200-foot tower was approved, everybody here would have known he was a ham operator, if everyone had been paying attention to what our community was saying.

CHAIRMAN DURAN: Thank you. Now we'll hear from those people that

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are opposed to the ordinance.

MR. BASHAM: Chairman Duran, Commissioners, my name is Mark Basham. My office is at 215 Lincoln Avenue, Santa Fe, New Mexico, 87501. I've got to admit to you that I am tired and I hope I can keep my thoughts orderly. I am encouraged by some of the things that were said. I represent Verizon and we do oppose this moratorium.

The first thing I want to talk about, however, is the declaration of an emergency. I just want to share with you, there's a frequent saying by a former traffic engineer at the City of Santa Fe and that saying was that a lack of preparation on your part does not create an emergency on mine. This Telecommunications Act was passed in 1996. Four years have passed and the County has had an opportunity to prepare an ordinance to deal with it. And again, we only have two applications pending so I'd question whether or not there really is sufficient grounds to declare an emergency.

Again, I represent Verizon. Verizon is generally opposed to moratoriums. However, if a moratorium is imposed, if it is of a reasonable length, Verizon is willing to work with the community and the County in order to find a reasonable regulatory framework which accommodates and protects both the community's and Verizon's interests. As you know, many of your constituents do use our service. Now Verizon is of the opinion that a moratorium of six months is too long to get a reasonable ordinance in place. Now perhaps four years ago, that statement might not have been true.

Now, however, Verizon knows of many communities which have ordinances that the County can use as a guide in drafting theirs. Again, Verizon is willing to work with the County and I thank Mr. Sullivan and Ramon for asking us to—I hope they will ask us to help you in drafting that ordinance. Then again, so we're willing to work with you.

So we suggest that the term of the moratorium be shortened to 90 days. We also ask that the placement of antennas on existing structures be exempted from this moratorium. It just makes sense and it meets the intent of the moratorium. The moratorium speaks in terms of preventing proliferation and protecting the viewshed. By exempting the placement of antennae on existing structures from this moratorium, you are in fact de facto encouraging co-siting, which reduces proliferation, which in turn protects the view shed. So it just makes sense. By actually making this exemption, you are actually meeting the intent of this proposed moratorium.

Conversely, if you did not exempt the placement of antennae on existing structures from this moratorium, its effect would be that the wireless providers would have to go to other jurisdictions for that placement. I think this has been mentioned before by the Commissioners, which in turn would lead to proliferation and deterioration of the viewshed.

So again, we're opposed to this. If you're willing to shorten it, we're willing to work with you, and we would ask that you exempt antennas, the placement of antennas on existing structures, make that exempt from this ordinance. Thank you very much.

CHAIRMAN DURAN: Anyone else out there that would like to address

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the Commission?

COMMISSIONER TRUJILLO: Just one thing that I'd like to clarify. By existing structures, we mean those that are already constructed, and/or those that have been approved?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, what we were talking about would be structures that are already existing, that is towers or buildings that are already built, that are there already. It would not—the moratorium would only cover the building of new towers. That's all it would cover.

COMMISSIONER TRUJILLO: What if a tower has been approved? Are we limited the location of other antennas on that tower after it's constructed, if it's gone through the public process, the CDRC, the BCC and essentially approved?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I think the key is whether you're going to exempt antennas or not. If antennas are covered by this, unless they are built already, the way this is drafted now, they would not be able to come forward until after the moratorium. That's why we had suggested considering language to make this only applicable to cell towers and not antennas.

COMMISSIONER TRUJILLO: Okay. Thanks.

CHAIRMAN DURAN: Please state your name for the record, sir.

JOHN SALAZAR: Yes, sir. Mr. Chairman, members of the Commission, my name is John Salazar. I'm with the Rodey Law Firm and my address is P.O. Box 1888, Albuquerque, 87103. I'm here tonight representing AT&T Wireless and Mr. Rick Sullivan and Mr. A.J. Nuñez are here with me. They're both with AT&T. And first of all, I'd like to thank you all for sticking this out with us. I know the hour's late, but this is obviously a very important issue and it's very, very important to AT&T because of the circumstances with which we find ourselves at this point in time.

AT&T's request is very modest in scope, but we do have two pending applications with the County. Now I believe that those are the only two applications pending and they're AT&T's. So this moratorium is going to catch one carrier, AT&T, when there's like six carriers in place in Santa Fe, and there's a lot of concern there's going to be a disproportionate effect on one carrier. And I believe it's correct there are only two applications pending and they're both AT&T's. I believe that's correct. I think Mr. Kopelman said there were two or three applications pending. My understanding is there's only two. I could be wrong. Maybe there's three.

But even if there's three, it's still pretty modest in scope. It's not like there's an avalanche of applications that are coming through the doors that you've just got to slam the gate shut. Now, as to our applications, they are very modest in scope. They're both within the height limits of the County ordinance. We are not asking for any variance, modification or waiver of the ordinance. There's a 24-foot tower proposed in a non-commercial area. That's at Cochiti, near La Bajada. There is a tower presently there that's 36 feet tall; we're asking for a 24-foot tower.

And then our other application is for a 36-foot tower in a commercial area, which is

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where TV Channel 11 is on I-25. And there are towers there presently. So both of these towers, which are within the existing height ordinance of the County, are being placed where there are towers. We're not asking to create any new sites and we believe that the request is modest in scope as I indicated. If we could, I'd like to give you some exhibits just to show you what we're talking about here. Mr. Nuñez is handing out what are exhibits 1 through 4. [Exhibit 6]

Exhibit 1 is a photo-sim that shows—and this is not from I-25. This is taken from a road that's closer to the hill. So from I-25 you would not see the towers as you do from this picture. But what you're looking at is a photo-sim showing the existing tower, which is on the left of the tower as you look at it, and then our proposed tower to the right. That tower is not there. There's one tower in place. That tower is 36 feet tall. It has two carriers. You can see the double antennas on it, and then to the right of it, if our pending application were approved, there would be a second tower 24 feet high or 2/3 as tall as the first one.

Now this application has been heard by CDRC. And we had a discussion about the tower, and then CDRC said, well maybe you should explore some alternatives and maybe get back from the ridge a little bit and see what that would do and then give us some results of a study. Well at CDRC's request, and at staff's recommendation, we're doing that. We've been doing that for two weeks, three weeks, working on showing alternatives to a 24-foot tower at the ridge.

Now we can tell you what happens because the technology is such you need line of sight from tower to tower. If we step back from the ridge, we can do that, but then the tower has to be taller because you still have to be able to see over the ridge to get to the next tower. And going south along I-25, the next tower would be at the Budaghers exit. So it has to get there line of sight communication by the radio frequency. So we're doing what CDRC asked us. We're well into the process and we think the study will provide the basis for a decision.

Now the Channel 11 site, there's two photos there. Exhibit 2 show the existing situation, and you can see the towers in the air. Then Exhibit 3 shows the photo-sim and the new tower would be the tower to the right. It would be the tower to the right as you look at the picture. And you can see, it's already in an area in which there are towers. There are no residences around there, as I understand it, on either of these sites, which was one of the concerns that was raised earlier.

Now both applications comply with the Santa Fe County Development Code. Now, let me tell you these two sites are very, very important to AT&T and I'd like you to look at Exhibit 4, and what this does, it shows you the AT&T system going, coming from the south, heading towards Santa Fe and you can see that the cell sites are inside the green and they're numbered. And site 201, and that's where the tower would be, the best coverage would be right around the tower. 201 is at Bernalillo, 202 is at Algodones coming north. 203 is the tower at the Budaghers exit. 204 is Cochiti. 205 is La Cienega, which this Commission approved. And then 206 is our Channel 11 site. 207 is the outlet

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center and 208 is the Dawson tower.

Now, all of these sites have been approved except for Cochiti, that's 204 and Channel 11, that's 206. Two pending applications. They've been pending for some time, and they're both set for hearing the last Thursday of this month. We're already set for hearing. We've got to have those towers because you can see, otherwise we're going to have a gap in our system between Bernalillo and Santa Fe. And AT&T can't go on air. It's not on air in this area because the system is not complete. It's close, but it's not there.

And we believe we've fully complied with the Santa Fe County ordinance as to height and all the requirements. So we think that these are good candidates to be approved and that's why the moratorium would be so devastating to AT&T.

As I mentioned earlier, there are other carriers in the Santa Fe area. Now these are carriers whose systems are up, are operating. It's Voicestream, Verizon, which is also known as 360 Communications. Alltel, possibly sometime called Boomerang or maybe Boomerang Sprint, and US West Qwest and Cricket. So there's six carriers that have got their systems in. AT&T needs two sites to get its system going. This moratorium would stop AT&T from being able to get its system to be able to compete. And all AT&T wants is an opportunity to go on air, but they've got to have coverage in the area without that gap or they can't go on. Customers would not appreciate that if their calls were dropped.

Now the importance of that is the Telecommunications Act, and as Mr. Kopelman has pointed out, the ordinary land use situation, you do have questions of vested rights. But this is different because of the 1996 Federal Telecommunications Act. It's a new ballgame when you're dealing with telecommunications because the Congress has decided as a matter of national policy, this technology should be made available to the country. And the best way to make it available to the country was to get a bunch of carriers out there competing to get their systems in place which would do two things. It would get the technology available to people, and two, it would drive down costs because of competition.

So what the Telecommunications Act does is it does recognize local zoning authority, but there are limitations in the federal act. One is that the regulation of the placement of personal wireless service facilities by any state or local government shall not unreasonably discriminate among providers of functionally equivalent service. We say here to just pick on AT&T totally discriminates against one carrier. And shall not prohibit or have the effect of prohibiting the provision of personal wireless services. Because AT&T's got a gap, by enacting the moratorium, you preclude AT&T from completing its system and from going on air.

So this moratorium in the case of AT&T would also have the effect of prohibiting the provision of personal wireless services. And then there's another provision in the Federal Telecommunications Act that says local governments shall act on any request for authorization to place wireless facilities within a reasonable period of time after the request is duly filed. These requests, these two requests, there's only two, have been filed, they've been evaluated, they're set for hearing. At this point in time to stop them right now would be an unreasonable delay in the consideration of those two applications,

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particularly when they meet all requirements of your own ordinances.

We're not asking for variances and we're not asking for any special treatment. I think even some of the proponents of the ordinance said, well maybe you could let applications go forward that comply with all of our codes and ordinances. That's us. Let us go forward. The case law is consistent with the Federal Telecommunications Act and have in effect, echoed the provisions of the act. I won't, because of the hour, I won't go through these now, but I can tell you that the case law is very strong in supporting the act.

But there is one case that I would like to bring to the Commission's attention, because I believe it's right on point and would be instructive. It's *Sprint Spectrum LP v. Jefferson County*. It's a federal case, 968-Fed sub. 1457. And in this case, the county, Jefferson County imposed a moratorium, and in that case there were a bunch of applications coming in. There was a flood of applications. And they got worried about the towers, and so they put a moratorium on and the federal court said the moratorium was invalid and set it aside.

And again it talked about the Federal Telecommunications Act of 1996. It said the act is designed to foster competition in the communications industry as the best means of promoting rapid deployment of advanced information technology by the private sector rather than the government. And then in this case, it went on to note that Congress clearly intended that the Telecommunications Act intensify competition in the communications industry. To that end, Congress commanded that local governments shall not utilize zoning powers to unreasonably discriminate among providers of functionally equivalent service and shall not enforce their zoning ordinance in a matter that prohibits or has the effect of prohibiting the provision of personal wireless services.

The Jefferson County Commission violated both substantive provisions. And it went on to say, First, the Commission unreasonably discriminated among providers of functionally equivalent services, and it said this, which is the Santa Fe situation, because in this case it was Sprint. But they said there, what happened, in that case, Providers entering the market several years ago were not subjected to the same barrier. Indeed earlier entrants have benefited most from the moratoria in that they have been sheltered from the competitive forces of the free market while late entrants, offering superior technology, have been burdened in their attempts to fill gaps in their broadcast pattern and thereby to compete.

That's our situation exactly, with six carriers already in Santa Fe and AT&T trying to get in the market. The moratorium picks on one carrier. This case says that's illegal. And then it says, The County Commission in that case also violated the act's requirement that local regulation shall not prohibit, or have the effect of prohibiting the provision of personal wireless services. Plaintiffs seek to deploy digital technology in the Jefferson County market. The delay created by the Commission's moratoria has the effect of denying the provisions of this new technology and its advantages to consumers. In this case, AT&T wants to provide digital service, whereas the earlier service was analog. It does want to provide new service. It wants to provide wireless internet connections. It

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wants to provide digital service, which is a superior service.

And also it said that Jefferson County violated the procedural limitation that the county shall act on any request for authorization to place personal wireless service facilities within a reasonable period of time after the request is filed. Our request has been pending. It's been reviewed. It's set for hearing. To do it now would be to unreasonably deny it.

It said it is unreasonable for the Commission to refuse to accept or process applications under current regulations. It said they had regulations in place by which they could process these applications, just as Santa Fe County does, which are very limiting. The height of the towers are 24 feet or 36 max. We can live with that. So the point is, that court threw out the moratoria and we believe that's a situation very similar to Santa Fe County.

Now, we have looked at the ordinance, and if the Commission does want to enact a moratorium, we would suggest an amendment. And if I can hand you a copy of the ordinance. [Exhibit 7] I've shared the proposed amendment with your counsel. I don't know if you've seen it. But before I actually get to the exception we would suggest, I would like to note that I think there is some question as to whether this is really an emergency and whether the County can substantiate that it's an emergency. And that's because first of all, there's only two applications pending that comply with the ordinance now. That doesn't sound like an emergency. But then look at the language of the ordinance itself.

Look at the fourth whereas, and this I think is the heart of it. Whereas the Board of County Commissioners is concerned, concerned, that pending or proposed applications that would otherwise require action before a comprehensive ordinance can be passed, may, may not conform with the proposed ordinance. They're not saying they will not conform. They're not saying there's any danger. But we're concerned as a County Commission there may be a problem, therefore we have to declare an emergency and enact this ordinance. That is not grounds for declaring an emergency because there may be a problem. And if that did happen it would cause irreparable injury to the viewshed.

Then it says, whereas the Board of County Commissioners finds this a matter that presents and immediate danger—but there's no evidence. There's been no evidence presented to this Commission as what the danger is. It talks about the proliferation of towers. There's two applications, both consistent with your ordinance. It talks about potential, potential impacts to neighborhoods. That's not an emergency. Lack of an applicable growth and development management plan. That's not an emergency. Lack of appropriate provisions in the current Land Development Code. That's not an emergency. And plus, we can live with your Code. And your Code will work. You're going to have short towers but your Code will work.

You do have the authority to grant variances if you want to, but you don't have to. Your present Code does provide the County protection and it gives this Commission authority as to how you want to handle towers in Santa Fe County. And there are concerns over compliance with the 1996 Telecommunications Act. Well, that cuts the other way.

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That means that you really shouldn't enact the moratorium.

So if you look at the face of what you're being asked to consider, there's no emergency. But if you want to adopt this ordinance, we would ask for an exception to the provisions of the ordinance and it's stated, on page 2, it's underlined. We would ask that if you're going to have a prohibition that you have an exception that provides this ordinance shall not apply to applications for wireless communications facilities pending on the effective date of this ordinance which meet the following criteria: The application does not request or require any variance, modification or waiver of any provision of the Santa Fe County Land Development Code and otherwise complies with 1) the height limitations, and 2) all other applicable provisions of the Santa Fe County Land Development Code.

So we would ask that if you're going to adopt this moratorium that you please amend it to adopt this exception. We've indicated the reasons why we feel it should be done if that is the wish of the Commission. And with that, Mr. Chairman, that concludes our presentation unless the Commission has any questions of either myself, or Mr. Sullivan or Mr. Nuñez.

CHAIRMAN DURAN: Any questions?

COMMISSIONER CAMPOS: I have a question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: What is your time line, Mr. Salazar, as far as developing your plan for the towers 201 through Santa Fe?

MR. SALAZAR: Well, as soon as possible. Because AT&T is behind the eight-ball because there's already all these other carriers in place, AT&T is rushing as quickly as it can to get into position to compete. So I mean they're trying to get it done immediately.

COMMISSIONER CAMPOS: Immediately, does that mean three months, four months down the road?

MR. SALAZAR: Let me—could I ask Mr. Sullivan and Mr. Nuñez. Mr. Nuñez will address that question further, Mr. Chairman, if that's all right.

ARTHUR NUÑEZ: Hello, my name is Arthur Nuñez. I reside in El Paso Texas, 7652 El Paso, Texas. Mr. Chairman, Commissioners, the time line, we've been working on the Santa Fe build for approximately a year and a half now. And what we've done is we've done everything to make it, to do it right. We haven't—we've met the height limitations, the requirements, everything to do it right in order to build a rapport with the City of Santa Fe and with the County and everybody.

We're hoping to get the network on within the October's time frame is what we're trying to do. But these two sites are very vital to our network. They're going to cut off our corridor coverage and that's not going to allow us to compete.

COMMISSIONER CAMPOS: What about site 204? Is there anyway of relocating it away from the ridge, away from the La Bajada area?

MR. NUÑEZ: Commissioners, Mr. Chairman, what we're trying to do is we've done some initial propagation studies on this and if we have to locate from the ridge

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as you see in the photo-sims, what happens to us is we're going to have to come in and ask for a variance of height because at 24 feet, that location where we're located, is the only way we're going to be able to get into line of sight to our next site, which is 203, the southern portion towards Albuquerque. If we're required to go back, we're giving the planners some different scenarios and I've already done some preliminary studies on it, one of the—we're going to have to go to 130 foot. That's the only way we can gain the coverage.

COMMISSIONER CAMPOS: And at that site, move back from the ridge—

MR. NUÑEZ: If that site moves back to where the 360 location is, we're going to have to come in for a variance of 130 foot. If we give another scenario and we come forward a little bit, we're going to have to be at about 75 feet which is going to create more of an impact from what I'm seeing in what a 24-foot tower is going to be there now.

COMMISSIONER CAMPOS: So what you're saying is that 204 has to be where it is or it won't work without modifications?

MR. NUÑEZ: I don't want to say that. I want to make sure and I want to do—we're scheduled to do the drive test studies on Thursday of next week, where we actually send up a transmitter up into a man basket on to a boom truck and we test it for elevations. Because we're trying to do everything right. But from our initial calculations, we're going to need about 130 feet of tower if we have to move back to where the 360 site is. And it will lessen as we move forward, the height will lessen as you come closer to the ridge.

COMMISSIONER CAMPOS: What about south, south of the point where you are?

MR. NUÑEZ: South of it and off of the hilltop?

COMMISSIONER CAMPOS: Well, let's say south, further south, on the hilltop

MR. NUÑEZ: Well see what you have sir, you have—you're causing us to have a shadowing effect is what's happening and the original reason that we went to that location was because we'd done a lot of RF studies already and that's the best location that would work for us and we wanted to meet all the requirements of the planners, of the Commission, of the Code and that's basically why we initially asked for that one spot.

COMMISSIONER CAMPOS: Well, can you remedy the shadowing problem?

MR. NUÑEZ: No sir, I can't.

COMMISSIONER CAMPOS: You cannot?

MR. NUÑEZ: Cannot remedy it.

COMMISSIONER CAMPOS: So you're basically pretty much fixed on 204 as—

MR. NUÑEZ: What we're going to have to do, and I don't want to say that, sir. I want to make sure to give you adequate data. I don't want to guess and I want

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to see it and I want to be able to present it to you guys in the sense that it's actually there. You can see it in black and white. I don't want to—right now, we've done initial preliminary RF studies and it shows how much stick we're going to need or how much tower we're going to need. I don't want to say—I want to give you some good data. We've done some preliminary work, but the computer models that we have are showing how much we need but we want to get out there. We want to do it right and do an actual drive test of it to—let's say it works at 110 feet. We'll come to you guys and say, We found out that it works at 110. Or if it works at 120 or maybe even 90. I want to give you that good, accurate data. So that's' what we're working on now and that's scheduled to take place on Thursday.

COMMISSIONER CAMPOS: Thank you. Question for Mr. Salazar. The Jefferson County case, did you provide that to our attorney?

MR. SALAZAR: I'm sorry, Commissioner.

COMMISSIONER CAMPOS: The Jefferson County case that you cited, have you supplied a copy to our attorney?

MR. SALAZAR: No, I have not. I saw that case today. I did him, I gave the cite here on the record, the citation to the case. But I'm happy to make a copy for Mr. Kopelman. That would be my pleasure.

COMMISSIONER CAMPOS: Mr. Kopelman, do you have any comments on the citation of Jefferson County case?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I personally haven't seen that case. I believe that Chris is familiar with it and at least looked at it in terms of this particular matter. But I have not seen it myself.

COMMISSIONER CAMPOS: Do you have any problems with that case as presented by Mr. Salazar?

MR. KOPELMAN: Mr. Chairman, Commissioner, I'd sure like to see it real quickly if I could before I answer that. It's hard for me to tell.

COMMISSIONER CAMPOS: Would that be possible to present him with a copy?

MR. SALAZAR: Of course. I'd be glad to let him have my copy or look at my copy.

COMMISSIONER CAMPOS: Just for a few minutes.

COMMISSIONER TRUJILLO: Mr. Salazar, Mr. Chairman, on this first exhibit I see a road there. What is that? Is that a state road?

MR. SALAZAR: That's the road off I-25. Is that the road that goes to the—I think somebody told me it goes to the mine.

CHAIRMAN DURAN: The Waldo—I think it's the Waldo turn-off. They call it something else though.

MR. SALAZAR: It would be off to the south of I-25. It would be over, if you're going up I-25 it would be to your right.

COMMISSIONER TRUJILLO: So I'm just conjecturing here,

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hypothetically this is a situation that's probably appropriate or not. If you were denied, hypothetically, to situate a tower where you want to situate it at 24 feet, and you were forced—this is a highway corridor—to go down underneath the shadow of that mountain, because this is a strategic location for your communication infrastructure, that tower next to that highway corridor would have to be over 200 feet. Is that right?

MR. SALAZAR: It would definitely have to get taller, because the thing is we have to get the line of sight over the ridge and from this location we're shooting down to Budaghers exist where those two tall towers are at the Budaghers exit. So the tower has to be able to see the other tower. So at 24 feet, you can be short if you're close to the edge. And this is not at the edge; it's back from the edge. But if you step back, and AT&T's exploring that at CDRC's request. The further back you get, the taller the tower has to get so it can still, as you're stepping back, so you can still see over the ridge. And as Mr. Nuñez testified, if you got back, there's a telecommunications operation that's further north, that's what he's called 360. If you went back to that one, I think Mr. Nuñez said the tower would have to be 130 feet tall.

And then the other thing about this location is that you're shooting not only towards Budaghers exit but also trying to shoot down toward I-25, where it's going up La Bajada Hill. So that's another problem with moving it further south. I'm not sure if that's what Mr. Nuñez was referring to as the shadowing effect, but I've been told if you go south, then that hurts the coverage of I-25 as it's going up La Bajada.

COMMISSIONER TRUJILLO: The point is that this is a strategic location for your infrastructure.

MR. SALAZAR: Oh, it absolutely is.

COMMISSIONER TRUJILLO: You need to construct a tower in this area.

If it was Indian land or Native American land neighboring this site here, you would negotiate with them to get a tower there and the County would not have any regulation, any control whatsoever, if you had to go to the highway corridor, you'd go to the highway corridor. And the County would not have any control or any regulation. The same situation with the Arroyo Seco tower. That's a strategic location. If that tower is not located where it's been approved by this Commission, it will go to the corridor. And then, you wouldn't get one tower but you might get three or four towers in a traditional community in Arroyo Seco. So these are strategic locations that if you implement a moratorium the carriers are going to go somewhere else and they're going to get their towers located on Native American land or on highway corridor land and we don't have any control over that.

MR. SALAZAR: Mr. Chairman, Commissioner Trujillo, you're right. We have to get our system up. If we can't, we've got to—we need coverage in this area, somewhere in this area. This location works very well but we've got to have coverage in this area.

CHAIRMAN DURAN: Thank you. We have five more cases in front of us and a lot of people waiting for us to hear their cases. Just bear that in mind as we move on

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this thing. I think we need to make a decision what we're going to do with this ordinance.
Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Nuñez. What about repeaters to overcome the shadowing?

MR. NUÑEZ: Commissioner, I don't understand the question that you're asking.

COMMISSIONER CAMPOS: Well, you're saying there's a shadowing effect. You can't access part of the highway. Could you use a repeater?

MR. NUÑEZ: All a repeater does is amplify the signal. The signal still isn't going to shoot down over. You still don't have a line of sight. All that does is it will hit the ground and bounce upward into the atmosphere.

COMMISSIONER CAMPOS: So you don't think that's a solution?

MR. NUÑEZ: No, it's not going to be a solution for us, a repeater. A in-line amplifier or any type of repeater system, we still need to have a location where we have a line of sight. So all a repeater does is amplifies the signal and makes it stronger. That's all it does. You have an in-line amplifier or a repeater or something like that.

COMMISSIONER CAMPOS: Can't they be used to add a little more coverage?

MR. NUÑEZ: They can if you have the line of sight. You have to have the line of sight first. What that could do is that if we put a repeater on our site, it could shoot a farther distance, but it won't correct the shadowing or the line of sight situation that we're in.

COMMISSIONER CAMPOS: Okay. Mr. Kopelman, any ideas?

MR. KOPELMAN: Mr. Chairman, Commissioner, I'm just about finished reading the case. I can see that there certainly are some distinctions. I think in the case, this was the third moratorium that the county had adopted. But there clearly are some similarities also. It's the northern district of Alabama. So I'm not sure how much precedential value it would have. But I think again, my legal advice would be generally that if you're going to adopt the moratorium here, I would do it as narrowly as you reasonably can. I think that's the safest way to go. And again, I know that County legal staff and Land Use staff are working very—expediting the adoption, the drafting of the ordinance so we're hoping to have something much sooner than later also. We know that it's a high priority for the Commission.

COMMISSIONER CAMPOS: Mr. Chairman, I'd like to make a motion for adoption of Ordinance No. 2001-02.

CHAIRMAN DURAN: In which form?

COMMISSIONER CAMPOS: Well, basically, what I'm going to suggest, Mr. Chairman, is that we do it generally, and then separately consider the issue of pending applications, time and the exclusion of antennas so we can vote on them separately. Maybe make a general vote that we do want a moratorium on towers and then separately vote on the issue of time, pending applications and application to antennas.

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CHAIRMAN DURAN: I don't think we can adopt the ordinance as submitted without—if we adopt this ordinance as Commissioner Campos is suggesting, do we then have the right to come back and amend it? Wouldn't it be better to include any changes. You can move to approve it and then we can either amend it, and if you don't agree to the amendments to it, we vote on it. I have a problem with the six months and I have a problem with the antennas. And before I would even vote for the moratorium ordinance, I would only do so if those were changed to three months and the antennas were removed.

COMMISSIONER CAMPOS: Well, my motion would include only the towers on the first vote and then we could vote separately right now after that on how much time. Does this apply to pending applications and the third issue was—we already pretty much need some language for the antennas. That's about it.

CHAIRMAN DURAN: Well, I heard AT&T say that they wouldn't be opposed to the ordinance if it happened quickly and I think if we changed it to three then we wouldn't have to apply their exception, because we would be acting quickly. What is the procedure, Steve.

MR. KOPELMAN: Mr. Chairman, the state statute does require that the Board of County Commissioners as part of adoption of this ordinance would have to declare that there is an emergency. Okay? That's required. An immediate danger to either the public health, safety or welfare. So that's a prerequisite also. That could be part of the motion. That would be your first part. Then I think you really can deal with the three issues that have been raised. You need to deal with the time element. Assuming you get past the issue of the emergency, the time issue, pending applications, and then whether it's only going to be applicable to towers or antennas.

CHAIRMAN DURAN: Shouldn't we do that all in one motion?

MR. KOPELMAN: Mr. Chairman, that's probably the best way to do it. Again, the emergency could be done separately, but you can bring them all into, you can have one motion dealing with all of those issues.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One clarification to the counsel for AT&T and this is to follow up on some concerns of Commissioner Trujillo. If in your particular instance, if this exception or language similar to that, that you're proposing here, were adopted into a reasonably timed moratorium, be it for [inaudible] Would it be necessary for you to go to any pueblo lands or to the State Highway Department—again, you being AT&T—or would this satisfy your concerns?

MR. SALAZAR: If the exception were incorporated into the ordinance, that would, we would want to proceed along those lines, proceed along getting those sites for our system.

COMMISSIONER SULLIVAN: I know you can't speak for other carriers but as far as AT&T, they wouldn't be applying within this moratorium period for facilities on State Highway lands or on pueblo lands.

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MR. SALAZAR: No, our first thrust would be to get these two sites approved. Of course we also realize they still have to get approved. And that's all we're asking for now is the opportunity to be considered and approved. But yes, we would follow through on that.

COMMISSIONER SULLIVAN: Okay. Thank you sir. So Mr. Chairman, I tend to agree with you. I think we should put this all into one package if we're going to do it and pick a time period. I think this exception makes sense, that's the 24 or 36-foot.

CHAIRMAN DURAN: We're in the middle of a motion here, Carolyn. I'm sorry.

COMMISSIONER SULLIVAN: That's the 24 and 36-foot issue. The time period, I was going to suggest four months. If you feel three months, I think the staff can get it done in three months. They're already working on it.

CHAIRMAN DURAN: We could do three and if it takes more we'll bring it up for more.

COMMISSIONER SULLIVAN: Right. But I think we've put the word to the staff that this has a priority and we don't want other applications going on pueblo land. We don't want them going to the highway, on the highway right-of-way. And so we need to move quickly.

COMMISSIONER TRUJILLO: And that's exactly the point. I'm a little perplexed that we're implementing this moratorium on the basis of an emergency situation. But we're taking an emergency situation in Santa Fe County and ostensibly it's going to go somewhere else. It's going to go into highway corridor land or it's going to go into trust land. So what are we doing with this emergency, perceived emergency situation that we're trying to take care of. It's going to happen. So I don't see the value of this moratorium at this time. I see the value of an ordinance that controls and regulates and makes this County more accountable and the carriers more accountable for cell towers. But I don't see the value of a moratorium because we're going to take an emergency situation from one place and we're going to locate it somewhere else.

COMMISSIONER SULLIVAN: Mr. Chairman, in terms of time, Steve, if this were to go forward, does this require two hearings or one? Is this a land use matter?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, the way it's been brought forward, because it's an emergency ordinance, it would take effect immediately.

COMMISSIONER SULLIVAN: No, I'm talking about the ordinance that we're generating as a result of the emergency ordinance.

MR. KOPELMAN: Mr. Chairman, Commissioner, the resolution is a Commission resolution that's a land use matters. It's totally within your discretion. My guess is it's going to have a lot of public interest and in all likelihood you're probably going to want to have more than one public hearing. But again, it's totally within your discretion. The ordinance says land use matters should have two public hearings but I think a majority vote of the Commission could establish either one or two or more if you

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wanted to.

COMMISSIONER SULLIVAN: But we've already approved to publish title and summary and that's for an ordinance, correct?

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

COMMISSIONER SULLIVAN: So what we're generating here is not a resolution, it's an ordinance.

MR. KOPELMAN: Mr. Chairman, what I'm saying though is that the requirement to have two public hearings for an ordinance was done by resolution, so it's not binding on the Commission is what I'm saying. The two public hearing requirement.

COMMISSIONER SULLIVAN: I was just asking that because whether we consider three months or four months would seem to be a function of how many hearings. Whether we needed one or two hearings. So if we wanted to do this in three months, we'd probably have to limit it to one hearing.

CHAIRMAN DURAN: And under an emergency basis, we could do that, right?

MR. KOPELMAN: Mr. Chairman, this is an emergency. This is just one hearing. But when staff has drafted the Telecom Ordinance, there's no reason that it needs to be two hearings unless you want to make it two hearings. You can schedule it for adoption at one public hearing before the Commission.

CHAIRMAN DURAN: And if we need more, we'll just go for more. So do you want to shape—

COMMISSIONER SULLIVAN: Well, I think Commissioner Campos had a motion that we were—

COMMISSIONER CAMPOS: Is it consensus that you just want to go with just one motion? Vote on one motion?

COMMISSIONER SULLIVAN: That would be my feeling.

CHAIRMAN DURAN: It would be to pass--well why don't you go ahead and say what you wanted.

COMMISSIONER SULLIVAN: It was to declare an emergency and then put those three things in.

COMMISSIONER CAMPOS: Well, I would move for the adoption of Ordinance No. 2001-02. I would amend the caption to read, "An ordinance relating to utility and communication towers declaring a moratorium, consideration or approval of applications and declaring an emergency," that we find that there is an emergency as outlined in the document presented to us because a delay in a moratorium could result in irreparable injury to the viewshed in the county and to the bringing about of many applications while we do draft the ordinance. I would, as part of the motion, move that it apply to pending applications and as far as antennas, this would not apply to the placement of antennas or dishes on approved and existing towers or to dishes or antennas on existing structures provided that antennae or the dishes do not exceed the height of the structure and otherwise meet all other Code requirements.

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As far as the time issue, I would suggest that it be four months extendible by resolution of the Board to a greater period if more time is needed to adopt an ordinance.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER TRUJILLO: I think we need to address Mr. Salazar's exception if—

CHAIRMAN DURAN: I think there's a motion. Is there a second?

COMMISSIONER SULLIVAN: Mr. Chairman, let me clarify here. What Commissioner Campos is saying is that he is not, that this motion does not include the exception of current applications. Is that right?

COMMISSIONER CAMPOS: That's right.

COMMISSIONER SULLIVAN: I think we need to put that in so I can't second that one. That's my only issue is that I think we need to let those that comply with Code go forward.

CHAIRMAN DURAN: I have an issue with that too.

COMMISSIONER TRUJILLO: That comply with Code, right.

COMMISSIONER SULLIVAN: To go forward.

COMMISSIONER TRUJILLO: To go forward.

CHAIRMAN DURAN: Would you consider making your motion with the exception?

COMMISSIONER CAMPOS: Well, under the circumstances, I guess I would.

COMMISSIONER SULLIVAN: Not to pressure you of course.

CHAIRMAN DURAN: Okay. So there's a motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: And that is, it excludes the exception?

MR. KOPELMAN: Excuse me, Mr. Chairman, Commissioner Campos, on the motion, I think that extension of the moratorium would have to be done by ordinance as opposed to resolution though.

CHAIRMAN DURAN: Okay.

MR. KOPELMAN: If it's extended.

COMMISSIONER CAMPOS: Even though we give ourselves power in this ordinance to extend by resolution?

MR. KOPELMAN: Mr. Chairman, Commissioner, my research on moratoria have indicated they're usually very stringently interpreted and generally speaking, they have to be for a time definite. So if you set it for four months, that's what it is unless you come in and extend it, you have to do it by ordinance, I believe.

CHAIRMAN DURAN: And it would be an emergency ordinance again?

MR. KOPELMAN: Mr. Chairman, I think we'd have to wait and see what the circumstances are at the time. We're real hopeful that we will have an ordinance ready within the next three to four weeks, hopefully. At least the first draft.

CHAIRMAN DURAN: I think we run into problems with the

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Telecommunications Act in opening the County up for some liability if we don't act quickly.

COMMISSIONER CAMPOS: I agree. We have to act quickly. As far as the pending application issue, I think we need independent, expert evaluation. I think there's probably a way for AT&T to solve its problem without 204, but we at this point don't have the technical expertise to dispute what they're saying.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't think we're ruling on AT&T's application now. Commissioner Campos may be right. We may feel, based on the testimony that site 204 does have alternatives. But this simply—I wouldn't want my vote to indicate that this is approval of those two sites. This simply allows them to proceed forward on the application process. I would wait, obviously, until we heard the testimony before we ruled on whether that site was approvable regardless of whether it's 36 or 24 feet. So I think we still have that opportunity to get that technical input you want.

COMMISSIONER CAMPOS: In order to correct the motion, I would delete the idea that we could extend this moratorium by resolution.

CHAIRMAN DURAN: Would you agree with that?

COMMISSIONER SULLIVAN: Seconded agrees.

CHAIRMAN DURAN: Okay. Any further discussion? Those in favor of the motion—

The motion passed by majority [3-1] roll call vote with Commissioners Duran, Campos and Sullivan voting in favor, Commissioner Trujillo voting against, and Commissioner Gonzales abstaining.

MR. KOPELMAN: Excuse me, Mr. Chairman, members of the Commission, if I could just get authority then, I will redraft this in accordance with the directive, and if I could just have authority to make whatever technical language changes that would need to be made in order to make sure that the ordinance reads properly.

COMMISSIONER CAMPOS: I would so move.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: You have consensus.

MR. KOPELMAN: Thank you.

X. D. Ordinance No. 2001-03. An ordinance amending Santa Fe County Commission chairperson election Ordinance No. 1990-7 to provide for one-year terms for the chairperson and that the chairperson serves at the will of the Commission (one public hearing required)

CHAIRMAN DURAN: I thought we already did this. Three times now.

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MR. KOPELMAN: Mr. Chairman, members of the Commission, this was brought forward and you tabled it until this meeting in order for some changes to be made. And if you look on the memorandum that Chris Graeser did, I believe that this ordinance does deal with the issues that were raised at the public hearing. Again, just to reiterate very quickly, the term of office for the chair will be twelve months at a minimum. The term of office of a sitting chair could be ended, a new chair could be elected at any time by a majority vote of the Board of County Commissioners. The chair is elected in January of each year and in December an outgoing Board, in its discretion, may elect an interim chair. And then the balance of Ordinance 1990-7 will remain in full force and effect.

CHAIRMAN DURAN: This is a public hearing. Anybody who would like to speak for or against this ordinance? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion, there's a second. Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Just one point. On line 26, the word "served." I think we need to delete the d, to serve until the next regular election.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: This is as amended.

The motion to approve Ordinance No. 2001-03 passed by unanimous [5-0] roll call vote, with Commissioners Duran, Campos, Gonzales, Sullivan and Trujillo voting in favor.

X. E. Ordinance No. 2001-04. An ordinance amending and replacing Santa Fe County Ordinance No. 2000-14 and declaring a moratorium on new subdivisions, land divisions, and master plans for projects served by Eldorado Utilities, Inc., and encouraging conservation measures within the Eldorado Utilities, Inc. service area which prohibits transfer of water from residential lots to commercial lots (second public hearing)

MS. YUHAS: Thank you, Mr. Chairman, Commissioners, since this is the second public hearing on this I wasn't planning on making a presentation unless of course you'd like me to, but I'll stand for questions.

CHAIRMAN DURAN: No, I think we're fine.

COMMISSIONER GONZALES: Mr. Chairman, just a quick question. I understand there's a report called the Shomaker report that's out that addresses water issues in the Eldorado area. Have you had a chance to address this report and include it as part of your recommendation?

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MS. YUHAS: Mr. Chairman, Commissioner Gonzales, that report has not been finalized. A draft executive report was circulated for comment. The State Engineer reviewed it. I met with Shomaker with the State Engineer and the State Engineer had many questions about the report and it's being revised. So a finalized form on that is not actually available and may not be for maybe a month or two.

COMMISSIONER GONZALES: Does it appear that the report in what it's attempting to address with adequately spell out a picture of what's happening in the Eldorado community in terms of water availability?

MS. YUHAS: Commissioner Gonzales, I'm not sure that it will. I think some of the State Engineer's concerns were about specifically those issues.

COMMISSIONER GONZALES: Okay. Thank you.

CHAIRMAN DURAN: What if it does turn out to provide information that would alter the decision tonight? Or then we can lift the moratorium all together.

MS. YUHAS: Chairman Duran, I think that if the report contained enough information it might contain information that would allow us to lift the moratorium. I think some of the purpose of having that work done was to provide us information on how much water would ultimately be available to the utility so we could make an evaluation about the 100-year water supply. *

CHAIRMAN DURAN: Any questions of Katherine?

COMMISSIONER TRUJILLO: If I remember correctly, Katherine, the State Engineer does not give a lot of credence the information on the Shomaker report. That's my conjecture. I think we had him here during the water summit and that's what he articulated.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, I think you're correct in your remembrance of what Mr. Turney had to say. I would hesitate to offer an opinion about their exact ideas on the report, but I know that they have had considerable question about the scope of what it addresses and things like that.

CHAIRMAN DURAN: Okay, is there anyone out in the audience that would like to speak for this ordinance? How about against the ordinance. Please step forward and give us your name for the record.

MATTHEW SPANGLER: Mr. Chairman, members of the Commission, my name is Matthew Spangler, P.O. Box 15698, Rio Rancho, New Mexico, 87174. I'm here on behalf of Eldorado Utilities and I'm taking this opportunity to present you with information regarding the activities of the utility to increase water supply during the previous year. I spoke to you last year at approximately this time to give you a similar update. I thought that this would be—not knowing that the meeting would go this long—I thought this would be a good time to give you an update on what's been happening this year.

I'm also here to request that you do not renew this moratorium. We don't feel it's necessary.

CHAIRMAN DURAN: So you're going to give us an update on what, Mr. Spangler?

MR. SPANGLER: I'm giving you an update on what the utility has done,

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primarily in the year 2000 and totally since the moratorium was enacted in 1995 so that you'll have information that's more current than the information contained in the proposed ordinance.

CHAIRMAN DURAN: And you think that it's appropriate for us to know that before we make a decision on this? I mean is it applicable to the decision we're asked to make tonight?

MR. SPANGLER: I think it is. I think much of the information is contrary to the findings that are contained in the ordinance.

CHAIRMAN DURAN: Okay. Thank you. Go ahead. I hope you can do better than I did.

MR. SPANGLER: I want to report to you that in the year 2000, the utility ended the year with 2,518 customers. This is an increase of 109 customers over the end of the previous year. This, just so you'll know, this indicates that the number of utility customers during this year is less than the increases during the previous three years. So the number of customers tying on to the utility is declining, or did decline during the year 2000. That's contrary to one of the facts contained in the proposed ordinance.

The amount of acre-feet of water used during 2000 was 486 acre-feet by those customers. This is an increase over the previous year but the acre-feet per year average per customer has remained very constant. The average acre-feet per year of water use per customer is .197 which it's averaged a little under .2 for the past four or five years.

The utility estimates in its plan that the full build-out of all of the franchise area will include 3,740 units. The utility estimates based on the numbers that it has that this will occur after the year 2010 sometime. Based on this experience and these numbers, just doing mathematical calculations, it's estimated that at full build-out, when everything in the utility franchise area is built out that the utility will require approximately 890 acre-feet per year of water. This figure is based on .227 acre-feet per year usage per customer, which is approximately 10 percent higher than what's currently occurring.

Now this figure is not simply the utility's figure. There have been other studies that have been commissioned by independent groups to figure out the demand that will be required at build-out. Molsen-Corbin did a study and as one of the Commissioners referred to, John Shomaker did a study as well. These were done by, for independent organizations, not for the utility. These studies came out with substantially similar demand figures at full build-out. You can see the Shomaker report on page 13 and it lists these things and essentially the figures are between 890, which is our figure and 1000, which is the Molsen-Corbin figure, acre-feet per year.

So it appears that demand is pretty much agreed upon by all the experts. I'd like to move to water supply, how we propose to meet that demand. The utility currently has 15 wells that are either in use or being prepared for use in the system. The important fact there is that this is an increase of five wells over the number that were available when the moratorium was begun in 1996. I wanted to explain to you the status of these five wells so you'll understand what the new additions are and how they will help the system.

The utility wells #10, #13, and #14 are currently in use and pumping water into the

system. Tests indicate that these wells can produce 80 acre-feet, 165 acre-feet, and 350 acre-feet respectively on a sustained basis. Well #13 was added in 1998. Well #14 was added to this system in 1999 and Well #10 was added last year in 2000. Wells #13 and #14 are supplemental wells as approved by the State Engineer. Well #10 represents new water that's available to the system.

I think it is important to note, to be fair on the record that currently both wells #13 and #14 are limited as to water right usage by the State Engineer. They've limited the water right usage that we can make of those two wells to other wells in the system. However, the utility is in the appeal process on those limitations and is working to remove those.

Now the fourth well is Well #11 and it's currently not connected but is available to be connected to the system. The utility is planning on connecting Well #11 during 2001. During the year 2000, we did make progress on this well in that the litigation regarding the ownership of the well was finally resolved. So that well is available for use. It's projected that Well #11 can pump 40 acre-feet of water per year. This well also has some water rights limitations by the State Engineer which are under appeal.

The last well that is available for the system is what we call Well #15. During 1999, that well was drilled and tested. Last year the utility equipped that well and applied for its inclusion in the system with the State Engineer. That application is still currently pending. The well tests indicate that this well can pump approximately 480 acre-feet per year on a sustained basis. After approval by the State Engineer, the utility plans to add this well to the system.

In summary then, the water supply capacity is as follows: Wells 1 through 8 and 12 can supply approximately 490 acre-feet. These wells are approved; there's no dispute about these wells and they're in use. Wells 9, 10, and 11 have the ability to produce 690 acre-feet of water, however I do want to note for you that both the County and the State Engineer term these wells drought-sensitive. So there has been some dispute about that acre-feet being used in the system.

Wells 13 and 14 have the capacity to produce 515 acre-feet per year together on a sustained basis and I've already spoken about the water rights arguments that we're having before the State Engineer. Well #15 also appears to have a capacity of 480 acre-feet per year of water on a sustained basis.

If you add all these up the utility currently has a pumping capacity of about 1695 acre-feet, not including Well #15 because that hasn't been approved at all.

CHAIRMAN DURAN: What does Well #15 pump? 698?

MR. SPANGLER: No, Well #15 is 480.

CHAIRMAN DURAN: So you're including the 698 well, which is drought-sensitive.

MR. SPANGLER: That's correct, but I think we should take that out at this time for just to talk because the County's taken the position that it's drought-sensitive so I think we should take that out.

CHAIRMAN DURAN: So you roughly have 1000 acre-feet.

MR. SPANGLER: That's correct. A thousand acre-feet is essentially what we

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would need under the scenarios for the full build-out demand. Of course, even though the County and the State Engineer term 9, 10, and 11 drought-sensitive, they still produce water. It's not as though they don't produce anything. There's just a question as to how much water they can produce. Whatever that figure would be you would add it to that capacity.

CHAIRMAN DURAN: So Matt, would that translate into 4,000 hook-ups, 4,000 residential hook-ups? If you had 1,000 acre-feet and it was a quarter acre-foot per house.

MR. SPANGLER: Right. Yes.

CHAIRMAN DURAN: And what's the build-out right now?

MR. SPANGLER: Our projection show build-out as 3,740.

CHAIRMAN DURAN: How many are existing?

MR. SPANGLER: Existing, we have 2,518 on the system now. So our conclusion is that the water supply is available for the build-out of the subdivision. We do have some, we do have disputes with the State Engineer with regard to water rights to pull that full amount of water from the ground. So the bottom line is we believe that the water supply capacity is there and it's available in the wells that are currently approved and available.

CHAIRMAN DURAN: When do you think the State Engineer will come around to your way of thinking, if at all?

MR. SPANGLER: Well, that's a tough question.

CHAIRMAN DURAN: Because I think we'd have a hard time doing anything that didn't have his blessing.

MR. SPANGLER: I understand that and we are working, I won't say with, but we're working on getting the State Engineer to a point where we can agree on an amount that will allow us to meet the full build-out. And we feel we have the current right to do that. So that really is the status of supply and the bottom line on it is as we see it, we have the ability to meet the full build-out of the system.

I also want to address, in the original ordinance, there were several areas of concern to the Commission, and I wanted to just address those areas quickly so you can see the full progress that we've made. With regard to storage capacity, since 1998, the utility has built all the storage capacity that will be required for the full build-out of the system. Currently we have 2.5 million gallons of storage capacity. This storage represents three to five days of demand, even if there were no pumping going on at all in any well. The storage capacity the utility currently has is doubled the capacity required by the AWWA standards, which is the custom in the industry.

Another area of concern during the initial moratorium was fire protection. During 1997 and 1998 all fire hydrants were tested and retested until each passed the required inspection. During 1999, the utility tested specific T-hydrants to ensure proper pressure at all fire hydrants. The utility, in 2000, we actually contracted with the Eldorado Fire Chief to test all the fire hydrants, who is actually now doing the testing to ensure that it's all being done properly.

Also, we know that the County Fire Department is working to increase the ISO rating in the area and we're trying to cooperate with the County Fire Department to do that, which will benefit the residents.

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Finally, there was a concern with water loss. Since 1996, the water loss of the system has been less than 11 percent. In the year 2000, the water loss, this past year, the water loss was approximately nine percent. The industry average is 15 percent so the utility is actually doing better than the industry average. Based on all of this, we would ask you to understand that we believe the utility has made significant improvements to the system during the past years. The utility has added a new well to the system in each of the last three years. This year, the utility intends to add two new wells. In 2001, if needed, the utility has another well it could begin to develop.

Based on these facts, we'd ask you not to renew this subdivision moratorium. And I also did want to mention that if any of you are interested, the Shomaker report, which was a preliminary report, I have available if you would like to look at that and see what it says. I'd be happy to make that available to each of you. It was a comprehensive, system-wide report which is in a preliminary form and will be coming out finally, I think in a couple of months. Thank you.

CHAIRMAN DURAN: Thank you. Anyone else out there that would like to address the Commission?

MR. MERRILL: Mr. Chairman, members of the Commission, I'm sorry, when you asked before if there was anybody that wanted to speak for, that just didn't register. It's a little late. That this was to speak for the new ordinance to cancel the old ordinance. It's late. I'll make it very quickly. Believe it or not, I can do that.

If you remember, when the first ordinance was passed 2000-14, there was tremendous opposition to having any water right transfers. The major consideration at the time was the Monte Alto project. Since that time, Monte Alto has now drilled a new well. I think they decided not to use the Eldorado water, and I'm not aware of any other applications to transfer water rights so it's almost like this cell phone type situation. If there's no other pending applications, I can't see any reason to allow this to happen when the moratorium still states that you have to show 100 years use of water and so on. So I would encourage that we pass this ordinance that allows, that does not allow the transfer of water rights from residential to commercial. There's no need. Nobody's asking for it and it just goes right around the moratorium provisions that are trying to protect the water that we have there.

Again, I'll make it quick. We had the vast number of people that spoke that night said that they were in favor of not allowing the water transfer rights. By passing this ordinance, we will again go back to what the community wanted, basically, and that is that we don't allow any transfer of the water rights from residential to commercial.

CHAIRMAN DURAN: Thank you. Okay. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, I would, unless there's further questions from the Board, I would move for approval of Ordinance 2001-04.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: I'll second that.

CHAIRMAN DURAN: There's a motion. There's a second. Any further discussion?

COMMISSIONER GONZALES: Mr. Chairman, just a quick question of the staff. Is there any point where we are going to determine an end to this moratorium, whether the community plan, what the community plan's done, at the point that the State Engineer has given—I mean, is that an ending point now or are we just saying we're going to revisit it on an annual basis to determine whether the need for the moratorium still exists?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, staff is already discussing what could be done as an alternative to the moratorium and what the end point could be for this, whether it would be a favorable opinion from the State Engineer and from I guess myself on that Shomaker report. All of those things are being discussed because I think it is a critical issue that we address how this is going to be resolved. It just can't go on forever.

COMMISSIONER GONZALES: So at what point does the staff feel that they'll be ready to come back to the County Commission for some type of time line where this issue will be addressed? Estevan?

MR. ABEYTA: Mr. Chairman, Commissioner Gonzales, right now the current moratorium requires that we come before this body every 180 days, or every six months. If the Board would like to have a report before that then they can direct us to come before them within say, 90 days. But I would have to ask the hydrologist, we'd have to talk to her about what kind of information she has and how much time she would need to review that.

COMMISSIONER GONZALES: I'm not asking that it be revisited in 90 days, what I'm asking is when will there be some type of definitive process laid before this Board as to when there's going to be a conclusion to this moratorium, either through means of what the State Engineer says or we find another valid source of water, maybe the community plan, until that's done. When will we have something in front of us saying this is what the staff is going to begin to do to conclude this moratorium process.

MR. LOPEZ: Mr. Chairman, Commissioner Gonzales, I'm not sure that I can give you a very definitive date or anything like that but I think that certainly it seems like very shortly we're going to have some additional information that could at least be considered in this. I think Mr. Shomaker's report is—I spoke to him a few days ago and I believe that he thinks it's now in final form. As a matter of fact, he wants to come before the County Commission and give a presentation of what that report shows. So that will give us some additional information as to what the aquifer contains. Certainly if we can analyze the information that's being, that was presented tonight by Mr. Spangler in terms of water rights and so forth, that's another piece of information that we have to factor into this whole thing.

I think that Eldorado Utilities has been diligent in terms of improving its production capacity, improving its storage capacity and so forth. Water rights have to be addressed but it looks like they're dealing with those issues. So I think as we get additional information we can certainly try to formulate a position that's defensible and supportable in terms of ending a moratorium.

COMMISSIONER GONZALES: I guess, Mr. Chairman, what I'd like to know is exactly that. What needs to happen for this moratorium to end. I'm kind of—after six years I've kind of gotten lost in all of it, other than the fact that we know that there's not a

sustainable, or we believe that there's not a sustainable, continuous source of adequate water in that area to support the community. So would it be appropriate, Mr. Chairman, to ask that maybe within a 60- to 90-day period that you at least present something in writing to the Commission that says this is what the staff believes needs to happen prior to even any type of consideration for the Board to remove the moratorium. Is that appropriate, Mr. Chairman, to ask that we see something like that?

CHAIRMAN DURAN: I think it is, but I think just as this amendment to the ordinance was brought before us by Commissioner Sullivan, if new information comes before, is presented to the Land Use Department and any of us feel that it's adequate to bring this back here for reconsideration, we could do it at any time. We just passed that ordinance last meeting, didn't we?

COMMISSIONER GONZALES: I understand that, but if in the event until that occurrence takes place, I think it would be helpful for me to understand.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, I think we could certainly do that within 60 days. We could probably do that much sooner than that for you. As a brief answer, what I would say needs to happen in order to lift the moratorium at this point is we need to identify the two key elements that the actual water exists in the ground for them to take out, and that they have the water rights for that.

COMMISSIONER GONZALES: And I think that's fine, because that's what you guys have said, so what I want to know is what's being done out there to address those two issues. Okay? And what we expect time lines on to know whether they're going to valid or not.

CHAIRMAN DURAN: So that would be a direction to you, to staff?

MS. YUHAS: Mr. Chairman, Commissioners, would it be acceptable if I brought that back to you within say, 30 days?

COMMISSIONER GONZALES: Whatever's reasonable for you. I don't want to put a burden on you that's not—

MS. YUHAS: Do you think we can do that in 30 days? Or should I be asking for 60?

COMMISSIONER GONZALES: Well, why don't we give you 60 and if you can bring it back in 30, that would be great.

CHAIRMAN DURAN: Okay. There's a motion and there's a second. Is there any other discussion?

The motion to approve Ordinance 2001-4 passed by majority [4-1] vote with Commissioners Duran, Campos, Sullivan and Trujillo voting in favor of the motion and Commissioner Gonzales casting the sole nay vote.

X. F. Land Use Department Items

- 1. EZ Case #S 01-4060. Las Campanas Santa Fe. Las Campanas**

Limited Partnership, applicant, requests authorization to allow submittal of a master plan for a portion of a subdivision phase to permit administrative approval of a specified number of lots for the purpose of providing flexibility for the seller and buyer based on market condition and demand. The property is located off Camino La Tierra/Las Campanas Drive, within the Five-mile Extraterritorial District, Section 11, Township 17 North, Range 8 East

MR. ABEYTA: Thank you, Mr. Chairman. I don't know if the Commission wants—I'm not going to read staff's report. I'd like you to enter it into the record as written, if that's okay. [Exhibit 8] What I'd rather do is just explain to the Commission that all that is before the Board this evening is a request from Las Campanas to proceed with preparing a master plat in which they will bring forward to the EZC and then to the Board. What the master plat does is it allows Las Campanas with staff's help to develop or to designate a lot layout in the future when they're ready to do that. So the only request before the Board this evening is whether or not the Board will allow them to bring forward a master plat for you to consider within the next two or three months for 44 lots in one of their subdivision phases.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One question, Roman. My understanding from what you say here, if they go this master plan mechanism, or master plat mechanism, then there's no Commission review of the development plan. Is that correct?

MR. ABEYTA: That's correct. The Commission though would review the master plat itself and questions such as infrastructure, a general road layout, where the utilities are coming from, that would be brought forward to you at the master plat stage so that you will have some detail at the master plat. What you're not going to have is a specific lot layout.

COMMISSIONER SULLIVAN: So we don't get then preliminary or final plat review.

MR. ABEYTA: That's correct. That would be administrative. Is this the first one of these the County has done in Las Campanas?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I'm not sure if Las Campanas has utilized this before but I know that Rancho Viejo has utilized this option. The Board has approved that in the past.

CHAIRMAN DURAN: The land use engineers are shaking their head they've done it before.

MR. ABEYTA: In Las Campanas, maybe we have.

COMMISSIONER GONZALES: Mr. Chairman, Roman, so have you guys taken a position on this? Did you say you're okay with this process, all the safeguards?

MR. ABEYTA: Mr. Chairman, Commissioner Gonzales, again, all this will do is allow them to come forward with a master plat. If staff or the BCC doesn't like the master plat then you could always deny it and say no, bring in the—we want more information. Bring in an actual subdivision plat and development plan before us.

COMMISSIONER GONZALES: Usually, the reason why there's a—why we require master plan approval to come before the Commission and then preliminary and final is because there's a series of conditions that are attached to the master plan process like being able to prove up adequate water and dealing with the traffic and all those types of things. Are you saying that those will all be done administratively and reviewed administratively?

MR. ABEYTA: Mr. Chairman, that will actually be done as part of the master plat.

COMMISSIONER GONZALES: So a lot of the safeguards that we would see in other types of developments are going to come up at the master plan level.

MR. ABEYTA: They will come up. What you won't have is a specific lot layout.

COMMISSIONER GONZALES: And that's the only thing—

MR. ABEYTA: But that's the only thing. That will allow us to work with the developer to determine lot layout and actually file a plat at a later date.

COMMISSIONER GONZALES: And these are lots within the subdivision, so they wouldn't affect surrounding residences or residential communities outside of Las Campanas. Is that right?

MR. ABEYTA: That's right.

COMMISSIONER TRUJILLO: Mr. Chairman, I don't mean to be facetious, but are we going to divert some of the potable water that's being used to irrigate the golf courses to serve this community? Or maybe I should reword it. What's the status of trying to irrigate those golf courses with graywater or effluent?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, I'll go ahead and defer to Estevan on that question.

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, Las Campanas currently doesn't produce enough effluent from its development to offset to any great extent of potable water supply for that irrigation. Absent an additional source of treated effluent, as in effluent from the City or something like that, they don't have other alternatives so they'll continue to use potable water, presumably. The City, at their last PUC, Public Utility Committee meeting, sent forward a recommendation to the Council that they reopen discussions to see about getting treated effluent and get irrigation off of potable water supply. But that's as much as I can tell you right now.

COMMISSIONER TRUJILLO: In the meantime, development is taking place and the golf courses are being irrigated with potable water and we're mining the water table. We're depleting a source of limited water supply. Just a comment.

CHAIRMAN DURAN: Okay. Any other questions of Roman?

COMMISSIONER CAMPOS: I have a question.

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CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Abeyta, how many potential lots do we have at Las Campanas?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I don't know the exact number. I don't know if anyone else—

COMMISSIONER CAMPOS: Just roughly.

MR. ABEYTA: The applicant's here.

[Response away from microphone.]

COMMISSIONER CAMPOS: How many of these lots actually have a home?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, again I'd have to ask the applicant to answer that.

[Response away from microphone.]

COMMISSIONER CAMPOS: So we have 300 built or under construction and about 1400 approved? In the master plan?

[Response away from microphone.]

COMMISSIONER CAMPOS: Is there a particular rush to get more platted at this point?

[Response away from microphone.]

COMMISSIONER CAMPOS: Mr. Abeyta, once a subdivision lies approved, they have a legal right to sell that, correct?

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

COMMISSIONER CAMPOS: What if a problem developed with diversion of the San Juan-Chama water? They didn't have it by 2004?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it's my understanding, and Estevan or Steve could jump in at any time, but it's my understanding that Las Campanas proved up and met their requirements for water availability when the subdivision master plan was approved. So really, as far as—and I think the County accepted and acknowledged that and in fact issued a letter. Not this administration, but a past administration, acknowledging that they've done everything that they've been required to do as far as their water supply is concerned for their entire master plan. So I think, as far as your question if a diversion doesn't take place, I think that was the reason for a financial surety to get a facility constructed. I think that was the rationale behind that, back when the master plan was approved.

COMMISSIONER CAMPOS: Mr. Lopez, could you address that issue?

MR. LOPEZ: Mr. Chairman, Commissioner Campos, if I understood your question, you asked what happens if the San Juan-Chama diversion is not available by 2004. Is that correct?

COMMISSIONER CAMPOS: Yes.

MR LOPEZ: Las Campanas right now has a facility lease agreement with the City under which they have a right to a certain portion of the capacity of certain Buckman wells and also of the Buckman line. I believe that that facility's lease agreement with all extensions

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could be extended up to 2027 at this point. The facility's replacement agreement that Roman talked about, that we have a surety, a financial surety for it, requires that absent some other supply arrangement, long term supply arrangement, Las Campanas begin construction of their own diversion site.

However, that would be a diversion site that would just access their water rights. They don't actually use San Juan-Chama rights for their development. They do use some leased San Juan-Chama water rights, I believe, for the golf courses, but if those go away, well perhaps the golf courses dry out but they actually own water rights for the residential developments.

COMMISSIONER CAMPOS: Did the water rights have to be diverted from the river?

MR. LOPEZ: I believe that the water rights that they own are on the main stem of the Rio Grande.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: Any other questions of Roman?

COMMISSIONER GONZALES: Roman, let me ask, Mr. Chairman, a question. So the request for this approval of the master plat, to allow for there to be a master plat approval with administrative approvals to follow up. Is this already in an area of Las Campanas that's been master planned?

MR. ABEYTA: Yes, Mr. Chairman, it's a phase of Las Campanas that consists of 125 residential lots and they want the ability to master plat 44 lots.

COMMISSIONER GONZALES: So these 125 lots already have a vested interest? They've been master planned?

MR. ABEYTA: Well, they've been master planned and they've been approved as part of the overall master plan for Las Campanas.

COMMISSIONER GONZALES: So, basically what they want to do is come in and say on this area, we want you to approve the next phase which is 125 lots, and we want to have the flexibility to work with the staff in the configuration of those lots.

MR. ABEYTA: Of 40 of those lots.

COMMISSIONER GONZALES: Of 40 of those lots, administratively, without having to come back before the Board just to look at the lots.

COMMISSIONER GONZALES: Is it strictly only the lot configuration that we're looking at?

MR. ABEYTA: A master plat, it would strictly be the lot configuration.

COMMISSIONER GONZALES: That you would be looking at.

MR. ABEYTA: That we would be looking at. Infrastructure, the development plan would come in as part of this overall phase for 125 lots. And again, all you're doing this evening is authorizing them to go ahead and prepare this master plat. You could always turn down the master plat if you don't like certain aspects to it or if they're missing submittals or don't address concerns you might have with that.

COMMISSIONER GONZALES: Could the Commission at that hearing also determine that they want to see those 40 lots come back?

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MR. ABEYTA: Yes, they can. The Code is clear. They can at that time say, no, we don't want to allow this master plat anymore for whatever reason and they'll have to come forward with a preliminary development plan.

COMMISSIONER GONZALES: Okay. Mr. Chairman, I don't know, do we have to have public comment on this.

CHAIRMAN DURAN: Is there anyone out there that would like to speak for or against this case? if not, what's the pleasure of the Board?

COMMISSIONER GONZALES: Mr. Chairman, it seems like a reasonable request that they're asking. And certainly at the point that the master plat is presented, if the Commission determines that they want to see the preliminary and final development as Roman indicated, we could bring them back. So I make a motion to approve EZ Case 01-4060.

CHAIRMAN DURAN: There's a motion. Is there a second? I'll second that. Any further discussion? Those in favor of the motion, signify by saying "aye."
[Commissioners Duran, Gonzales and Sullivan voted with the motion.] Opposed?
[Commissioners Trujillo and Campos voted against.] Motion carries. [3-2]

I'm going to turn the chairmanship over to Commissioner Trujillo. I have to recuse myself from this matter.

- X. F. 2. **CDRC Case #V 00-5431. Catherine Ducaj Variance. Catherine Ducaj, applicant, requests a variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to allow for a family transfer of two lots; one consisting of a house and guest house on .65 acres, and one 1.32-acre vacant lot. The property is located at the southwest corner of the intersection of US 84/285 and Santa Fe County Road 84E within the traditional community of Pojoaque, within Section 7, Township 19 North, Range 7 East**

FRANK WHITE (Review Specialist): Thank you, Mr. Chairman, Commissioners. The applicant states that prior approvals have rendered significant portions of the land unusable. The applicant requests that one lot consist of a home and guest house on .65 acres, and one vacant lot consisting of 1.32 acres be created, which is the original request that came before the BCC October 10, 2000. The applicant also requests that each of the lots have its own well.

Recommendation: Staff recommends that this variance be denied based on Article III, Section 10 of the Land Development Code which requires $\frac{3}{4}$ of an acre of land per dwelling unit within traditional communities. Staff recommends that the BCC deny this request for a variance and uphold their decision of the October 10, 2000 meeting. The decision of the CDRC was to deny this request for a variance.

COMMISSIONER TRUJILLO: Thank you, Frank. Any questions of Frank.
COMMISSIONER GONZALES: Mr. Chairman.

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COMMISSIONER TRUJILLO: Commissioner Gonzales.

COMMISSIONER GONZALES: Frank, so the variance is to request two lots? Is that right? Or was that already created by the Commission?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, this is a request for a family transfer land division to divide two acres into two lots, one lot consisting of a home and a guest house on .65 acres and one vacant lot consisting of 1.32 acres.

COMMISSIONER GONZALES: So on October 10 of 2000, the Board had granted the variance. Is that right?

MR. WHITE: Correct. They granted a variance and they adjusted the lot sizes. So at that time, they adjusted the lot size for 1.25 acres for house and guest house and a .75-acre tract that was vacant.

COMMISSIONER GONZALES: So is the variance to modify—all the applicant is asking is that we modify the lot lines, is that right?

MR. WHITE: Mr. Chairman, Commissioner Gonzales, the applicant is stating that prior approvals have rendered the lots unusable.

COMMISSIONER GONZALES: Okay.

MR. WHITE: And she will elaborate on that.

COMMISSIONER GONZALES: So she's asking though to adjust the lot lines?

MR. WHITE: Right. Not adjusting the lot line. To divide the property. So it's not a lot line adjustment.

COMMISSIONER GONZALES: She wants to divide which property?

MR. WHITE: If you take a look at the site plan—

MR. ABEYTA: Mr. Chairman, Commissioner Gonzales, that's really what it is going to amount to. Ultimately, the line's going to be adjusted.

COMMISSIONER GONZALES: So still, there's going to be two lots.

MR. ABEYTA: It's still going to just be two lots. It's just going to go back. She's requesting that her original request be granted for the lot sizes. So that's what it does, it moves the lot line.

COMMISSIONER GONZALES: Okay, so in the end, it's still going to be two lots, whether we approve or deny this request.

MR. ABEYTA: Right.

COMMISSIONER GONZALES: Is the applicant asking for any additional dwellings than have already been approved by the Commission?

MR. WHITE: No. No additional dwellings.

COMMISSIONER GONZALES: So the issue right here is just whether the Commission wants to allow for a lot line adjustment to take place, basically.

MR. ABEYTA: Mr. Chairman, yes, but I believe one of the lots will be vacant, so eventually there will be a dwelling allowed on that lot. So it will result in an additional dwelling, which she's got any way.

COMMISSIONER GONZALES: She's already got the approval for it.

MR. ABEYTA: Right. She's got the approval, but the lot size would change.

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COMMISSIONER GONZALES: This is just going to make it where it's more usable for an actual dwelling to go on as opposed to the way it exists today.

MR. ABEYTA: According to the applicant. Right.

COMMISSIONER GONZALES: Okay. Thank you.

COMMISSIONER TRUJILLO: Any other questions of Frank? Is the applicant here? Step forward please.

[Duly sworn, Catherine Ducaj testified as follows:]

CATHERINE DUCAJ: My name is Catherine Ducaj and, did you need my address? Route 5, Box 209-A, Santa Fe.

COMMISSIONER TRUJILLO: Okay, Catherine, go ahead.

MS. DUCAJ: Well, as you can see, what I just handed out to you is a picture of the unusable land. That land there, that sliver of land it dips down, and what I was doing is asking to have the lower lot—I'm not sure, the terminology I was using is moving the lot line, so that the lower lot would have more usable land. The upper lot, since that land dips down is unusable. And it doesn't intensify anything on the land. I'm not asking to build anything on it, I'm just making the bottom part a little larger. My brother's buying that. And then, if you notice, that second proposal, the first plat there is the one that you have approved. The second one, the second picture of the plat is what I'm proposing and bringing in the original easement that I had.

The first one I sort of had it, they moved it over by the fence. I have a fence and additional land and that was actually going through the ditch of my neighbor. I'm just asking use of the road that I already have and to move the line up.

COMMISSIONER TRUJILLO: Catherine, I think I'm familiar with this lot. The southwestern portion of this lot abuts the Tesuque River, right?

MS. DUCAJ: Well, I'm near it.

COMMISSIONER TRUJILLO: Next to the baseball fields there in Pojoaque?

MS. DUCAJ: Right.

COMMISSIONER TRUJILLO: So I conjecture that there's a shallow water table there and there's a lot of springs in that area and it's not conducive to the location of a septic tank and leach field and things like that. So the buildable part of that lot is further northeast.

MS. DUCAJ: Yes.

COMMISSIONER TRUJILLO: So that's the reason that you want to make that lot bigger, to afford a buildable site, if you will.

MS. DUCAJ: Right. And I had a percolation test done and it came out excellent, probably because of the shallowness of the water. On my septic tank. That was one of your requirements.

COMMISSIONER TRUJILLO: This used to be the old Papay property?

MS. DUCAJ: Yes. It's a well known home. Everybody seems to know that house, that property.

COMMISSIONER TRUJILLO: Anything else?

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MS. DUCAJ: The second thing I was asking you, you asked if—one of my stipulations was that my original well, that Papay property drilled, that I only have one well. If a home is built below, that I connect to this well and I was asking to be released of that. Because that well is only 90 feet and I don't think that well has enough capacity to run the guest house, the main house and then another home below.

COMMISSIONER TRUJILLO: Oh yes. If this is recognized as a legal lot of record, you qualify for drilling a new well through permits from the State Engineer. So you would qualify.

MS. DUCAJ: The stipulation that was sent to me after it was approved, I had to do five things or four things and one of them was a shared well.

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER TRUJILLO: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'm a little confused on this. Your original request was the .67 and the 1.33 and you wanted the .67 to be where the existing house was. Is that correct? The .67 acres?

MS. DUCAJ: Well, I understand that if I adjust this line I would have—I can't understand what you're saying. I'd have the upper lot would be .75 and the bottom lot would be an acre, 1.13. Is that correct? I don't have the paper in front of me.

COMMISSIONER SULLIVAN: Let me try to rephrase it, if I'm being a little unclear at this hour. My understanding is that you're requesting it to be two lots, one of which is .67 acres in size, and the other which is 1.33 acres in size. Is that correct?

MS. DUCAJ: I thought it was .75 and 1.13 on the bottom.

COMMISSIONER SULLIVAN: Well that doesn't add up to two.

MS. DUCAJ: I think it's two plus something.

COMMISSIONER SULLIVAN: Well, now you've got me confused.

MR. WHITE: Mr. Chairman, Commissioner Sullivan, under the issue, you could take a look at it. The request is for a home and guest house on .65 acres, and one vacant lot consisting of 1.32 acres. That has always been the original request.

COMMISSIONER SULLIVAN: Okay. And one problem is that the minimum lot requirement is .75 acres. Is that correct?

MR. WHITE: Per dwelling unit, that is correct in traditional communities.

COMMISSIONER SULLIVAN: So now, when your lot sizes were changed around by the CDRC, what was it that they recommended?

MR. WHITE: Commissioner Sullivan, they recommended a house and guest house on 1.25 acres, which they consider more of a minimal easing of a Code because it's closer to 1.5 acres, which would be required for two dwelling units. And one vacant lot of .75 acres. That the way they were adjusted at CDRC and given approval through the Board. That's the approval that stands for the applicant at this point.

COMMISSIONER SULLIVAN: Okay, leaving aside the fact that those numbers don't add up to the other numbers, the reason they did that was because there's two residences, one's a guest house, is that correct?

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MR. WHITE: That's correct. They're recognized as two dwellings.

COMMISSIONER SULLIVAN: It's recognized as two dwellings. And the requirement for that in a traditional community is 1.5 acres.

MR. WHITE: Three-quarter acre per dwelling unit.

COMMISSIONER SULLIVAN: Per dwelling unit. So that's why they manipulated that. And the applicant here is saying I'd like to reverse that and make it .65 and the rest be in the vacant area.

MR. WHITE: That's correct.

COMMISSIONER TRUJILLO: And if I understand correctly, the reason for that is that a lot of the 1.32 acreage is non-buildable because of the shallow water table and things like that. Is that correct?

MS. DUCAJ: Right. That's correct.

COMMISSIONER CAMPOS: Could you repeat that again, your question, Mr. Chairman.

COMMISSIONER TRUJILLO: I was just trying to clarify the applicant's position on why they want 1.32 acres and .65 acres, .65 being the two dwellings, the two residences, and 1.3-whatever being on the lot split, a family transfer, because a lot of that 1.32 acres is non-usable because of the shallow—that probably, what would you say, half of that is non-usable because of the shallow water table and not conducive to locating a house and or a leach field and septic tank. So that would probably never situate, never have a well even in that area.

MS. DUCAJ: Right. That's correct.

COMMISSIONER TRUJILLO: Any other questions of the applicant? This is a public hearing. Is there anybody for or against this proposal? If not, what is the pleasure of the Commission? Commissioner Gonzales.

COMMISSIONER GONZALES: Mr. Chairman, I'd like to move to approve the applicant's request to allow for there to be an adjustment of the previous lots that were created by the County Commission on October 10, 2000, and the applicant's request is that the dwelling, the home and the guest house would sit on .65 acres and the vacant lot would be on 1.32 acres. And also that we remove the condition that requires there to be a shared well on both these lots.

COMMISSIONER TRUJILLO: We've got a motion. I'll second that motion.

MR. ABEYTA: Mr. Chairman, for clarification, staff wants to know if you're including the four other original conditions?

COMMISSIONER GONZALES: Yes. It does include them.

COMMISSIONER TRUJILLO: Okay. There's a motion duly seconded. All those in favor?

COMMISSIONER SULLIVAN: Mr. Chairman, I have a question.

COMMISSIONER TRUJILLO: For discussion, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions. First, Roman, if it was, if the upper parcel was .75 instead of .65, would that make any difference in terms of Code

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compliance?

MR. ABEYTA: Mr. Chairman, it wouldn't. Both lots, well, with the two dwelling units it would still be non-conforming as far as the Code is concerned.

COMMISSIONER SULLIVAN: Because it has to be 1.5.

MR. ABEYTA: It has to be 1.5.

COMMISSIONER SULLIVAN: Okay. Then my other concern is the lower area, in terms of keeping total density, what assurance do we have that there would not be more than one unit in that lower tract?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, the minimum lot size would be the same. She would need 1.5 for a second dwelling unit on that lower tract. And she would only have 1.32, so she would not be allowed a second dwelling unit, because she would still be short by whatever 1.5 minus 1.32 comes out to.

COMMISSIONER SULLIVAN: Okay. So then, it's a potential that the applicant would be back for a variance to site a dwelling. But I thought you said the minimum was .75 for one unit.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, it's .75 for one unit, so she would be allowed one unit on that 1.32.

COMMISSIONER SULLIVAN: On the lower lot?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Okay. And she would have been allowed one unit on the lower lot the way the CDRC reconfigured it.

MR. ABEYTA: Anyways, yes.

COMMISSIONER SULLIVAN: Also, .75.

MR. ABEYTA: That's correct.

COMMISSIONER SULLIVAN: So the total number of units the applicant could put on the total property is three.

MR. ABEYTA: With a variance. Right. Whether we use the variance that was already granted or this one, the result would have been the same three dwelling units.

COMMISSIONER GONZALES: So when the BCC approved this for October of 2000, she would have been eligible for three dwellings at that point.

MR. ABEYTA: Right. The result would have been the same. She was being allowed one dwelling on that vacant tract, regardless if there was a .75-acre tract or a 1.32 acre tract.

COMMISSIONER GONZALES: So the net effect, as Commissioner Trujillo indicated is that with the adjustments, you're moving, according to the applicant, away from some of the shallow areas so they can make use of a buildable area. I think Commissioner Sullivan's point though is on the 1.32-acre lot if the board approves it, she's only allowed to have one lot for .75, which means that's all she get is one lot.

MR. ABEYTA: One dwelling.

COMMISSIONER GONZALES: If she wants to take it to two lots on the 1.32, you're saying she'd have to come in and ask for a variance.

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MR. ABEYTA: Yes.

COMMISSIONER GONZALES: Which she would have to do anyway on the 1.25 acre lot that was existing prior to this. Right?

MR. ABEYTA: Right.

COMMISSIONER GONZALES: If she wanted two lots.

MR. ABEYTA: That's right. That's correct. Or two dwelling units.

COMMISSIONER GONZALES: Two dwelling. I'm sorry.

MS. DUCAJ: I promise I'll never be back.

COMMISSIONER TRUJILLO: Very good. Any other questions. We have a motion and a second. Any other discussion. Those in favor of the motion, signify by saying "aye." [Commissioners Trujillo and Gonzales voted in favor.] Opposed? [Commissioner Campos voted against and Commissioner Sullivan abstained.]

COMMISSIONER SULLIVAN: Mr. Chairman, I'm just too confused to vote.

CHAIRMAN DURAN: Mr. Chairman, could I just make one point of clarification?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: I recused myself because I represented her. The plat that you have in front of you is .75 acres for the upper lot. It's the second plat that you have. So what the applicant is requesting is that the main house and the guest house be approved as it's shown on that proposal number 2, which is .75 acres. The balance of the property would be the lower part. If you see in proposal number 2, there's a little section cut out of the lower part and that was done so that the upper lot would have .75 acres, which is the minimum size out there. Obviously, you need to have .75 for two properties but the logic is that there are already two existing residences on this .75-acre piece and that allowing her to have a more usable lot down at the bottom doesn't necessarily intensify the already existing use and she would even agree to some kind of a note on the plat that it would only be used as a single family residence on the lower lot.

So that would do away with your concern that she might come in for a variance for another one. If she deed restricted that bottom lot to only one residence, then the use as has already been approved would not be increased at all.

COMMISSIONER SULLIVAN: Okay, then I'm a little clearer there on that, Mr. Chairman. That was a concern to me and if the maker of the motion would include the condition that that have a deed restriction to no more than one unit on that lower lot.

COMMISSIONER GONZALES: I agree.

MS. DUCAJ: Well, that's where I got the .75 from. Everyone kept telling me the .75, the configuration was cut as you see that on—

COMMISSIONER SULLIVAN: We're talking on the lower lot, the 1.2-acre lot.

MS. DUCAJ: Right. But the top is .75.

COMMISSIONER SULLIVAN: Okay. I understand it's .75.

MS. DUCAJ: Right. And I would agree to have that stipulation put on the plat

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that only one unit would be built on it.

COMMISSIONER TRUJILLO: The maker of the motion agrees and so does the second. With that change, well take another vote. Those in favor ?[Commissioners Gonzales, Trujillo and Sullivan voted with the motion.] Opposed? [Commissioner Campos voted against.] It passes. [3-1]

CHAIRMAN DURAN: The County Attorney mentioned that I should have had myself sworn in. I'm Paul Duran.

[Chairman Duran was retroactively sworn in at this point.]

- X. F. 3. CDRC Case #A 01-5021. Baxter Brings Accessory Structure Appeal. Baxter Brings, applicant, is appealing a condition imposed by the County Development Review Committee allowing only four horses on the property at one time. The property is located off East Haozous Road, within Section 1, Township 14 North, Range 8 East**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman, Commissioners. On January 25, 2001, the CDRC approved a 2,880 square foot accessory structure for the use of an eight-stall horse stable, tackroom and hay storage on 12.5 acres with the condition that the applicant have no more than four horses on the property at one time. The applicant owns two 12.5-acre tracts of land. Each tract is restricted to a quarter acre-foot of water per year. In January 2001 the applicant was issued a building permit for a residence on the property. Staff feels that a residence and eight horses on the property would exceed the quarter acre foot water restriction.

Recommendation: Staff recommends approval of the appeal given that one of the following is performed prior to having more than four horses on the property:

1. Complete a geo-hydro report to the satisfaction of the County Hydrologist that proves a minimum of 0.38 acre-feet of water is available per year on the single lot to serve a residence and eight horses.
2. Complete a lot-line adjustment such that the barn and home are on separate lots, each of which will have a water restriction of a quarter acre-foot per lot per year.
3. Consolidate the two lots into one, with a half-acre-foot per year water restriction.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: So is staff actually proposing to us that we regulate the number of horses that people have on their property? Because we think that they might drink more than the .25 acre-feet?

MR. DALTON: Mr. Chairman, Commissioner Gonzales, staff felt that a residence and eight horses on the property would exceed the quarter acre-foot water restriction.

COMMISSIONER GONZALES: Based on what? Are there studies on how much a horse will drink? And I'm not doing it to be facetious. I'm actually perplexed that we're actually dealing with this issue. Katherine's anxious to answer. You know how much a

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horse drinks a year. I'm actually interested in that.

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, the State Engineer has a report out that I use as a reference and it gives, I think, 12 gallons per horse per day. And so what I did with Oralynn, we sat down and we figured out eight horses, and I think we actually upped it to 15 gallons per horse per day, just to give us a little wiggle room, and then we figured how much extra water they would need over that quarter acre-foot. And I think it was .38 or .36 is what we came up with.

COMMISSIONER GONZALES: So the .25 acre-feet per year, the property's restricted to that amount because why?

MS. YUHAS: I believe the property's restricted to that amount due to previous water restriction covenants placed on the property when the lot was divided to—what size is it now? I'm sorry. To the 12.5-acre lot. So that was just probably the standard condition. I'm using a quarter acre-foot because there was not a well on the property.

COMMISSIONER GONZALES: It appears to me that we're asking the owner to take on a lot of onerous issues. I mean, completing the geo-hydro report for four additional horses. That's pretty expensive or the lot line adjustment for the barns. Wouldn't there, isn't there like an opportunity to get them to meter their wells, and if they metered it, determine at that point what the actual usage is as opposed to some standard the State Engineer set for how much water a horse will drink?

MS. YUHAS: Mr. Chairman, Commissioner Gonzales, we could of course do that. That would be fine. One of the options we talked about with them was that they don't actually have to do a pumping test on their well. They could do a reconnaissance geo-hydro report, which would allow them to bring us the well log from their own property, and they need to drill a well anyway, and then a pumping test report from within a mile of that well.

COMMISSIONER GONZALES: I just don't want to get into regulating the number of horses or animals that are going into the county area. That's part of the rural life style in the county which people enjoy.

MS. YUHAS: I certainly don't think we want to appear to be regulating the number of animals that someone can have on their property. But it has been standard practice for us to say that if you have a quarter acre-foot restriction on your property, you don't have enough water to have more than a couple horses, probably.

COMMISSIONER TRUJILLO: I have nine sheep. How does that affect—

COMMISSIONER GONZALES: You're in big trouble, Buddy.

COMMISSIONER TRUJILLO: But I take them to the river.

CHAIRMAN DURAN: I have a question. Is there a structure on both 12.5-acre lots?

MR. DALTON: Mr. Chairman, there's one tract that's vacant and the applicant has proposed the residence and the barn on what will be tract D, tract C.

CHAIRMAN DURAN: So each lot has a quarter acre-foot of water.

MR. DALTON: That's correct.

CHAIRMAN DURAN: So what would be wrong with restricting any residence

1899624

on the lot that's not going to have the structure on it—

COMMISSIONER GONZALES: Maybe we could hear from the applicant.

CHAIRMAN DURAN: That's fine. I was having a hard time with it anyway.

I was thinking that maybe we could just restrict it and as long as they had the horses there they could have that number of horses there and once they left or if they built on that lot they'd have to remove the horses.

MR. ABEYTA: Mr. Chairman, if I may, this was a condition imposed by the CDRC. It's staff's position that the bottom line is there's a quarter acre-foot water restriction. If the applicant thinks they could make it with both the residence and these horses or sheep or whatever they want to put on their property, then as long as they're meeting the quarter acre-foot requirement, they're not in any violations of our Code. So this was a condition placed by the CDRC. Staff would not object to the Board removing it. But we would just ask that we have the metering to assure that the quarter acre-foot, which was previously imposed is met.

CHAIRMAN DURAN: Well, it sounds to me that as we move along in time here we're going to have some kind of mechanism in place for people to report. We don't have that right now, right?

MR. ABEYTA: Mr. Chairman, we don't but we're actually developing that with the hydrologist.

CHAIRMAN DURAN: Okay. Is the applicant here? Any other questions of staff? Is the applicant here? Could you please state your name for the record.

[Duly sworn, Orallynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: I'm Orallynn Guerrerortiz. I'm with Design Ingenuity and my P.O. Box is 2758, Santa Fe, New Mexico. An usual situation. Baxter Brings owns eight horses. He searched the county for the perfect location. In this area there is a covenant restricting each lot to four horses. He purchased two lots so he could have all eight horses. The front lot, which closer to the road is a little higher up. He chose to build his home and his barn a little lower so he couldn't see the other homes around him and they couldn't see him. But as a result, by tucking those in a little more, the barn and the home are on one single lot.

Between the two lots he has .5 acre-feet, more than enough, staff agrees for this home and his horses. He doesn't have a family; he has horses. He doesn't have children. He doesn't do the load of diapers I do or something like that. I think he probably could have his home and his horses on a quarter acre-foot. I would love him to have that opportunity to prove that to you through meter readings, and if there was a problem, he does have another quarter acre-foot associated with a lot that he intends to leave vacant and maybe just have it corrals and allow his horses to run on that land. Hopefully, you would allow us to do that if that's unagreeable.

COMMISSIONER TRUJILLO: I think that's reasonable.

CHAIRMAN DURAN: Okay. Any questions of the applicant? Anyone out there that would like to speak for or against this case? What's the pleasure of the Board?

COMMISSIONER GONZALES: Mr. Chairman, I make a motion that we

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removed the condition imposed by the CDRC. Is that what you indicated, Roman? And ask that Mr. Baxter create a meter and provide readings as such that they hydrologist requires that those readings come in to determine the usage on an annual basis. That's my motion.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: There's a motion. There's a second. Any further discussion?

COMMISSIONER SULLIVAN: One question, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On that he so he now, Orallynn, has everything on the one lot.

MS. GUERRERORTIZ: That is correct.

COMMISSIONER SULLIVAN: And the restrictions that are not County restrictions, that are obviously deed restrictions, only allow him to have four horses on the one—

MS. GUERRERORTIZ: But by owning two lots he is allowed to have eight horses.

COMMISSIONER SULLIVAN: Okay. So that if he were to sell the other lot, then what happens?

MS. GUERRERORTIZ: He would be restricted to four horses on his property by his deed restriction.

COMMISSIONER SULLIVAN: By deed restrictions, not by County requirements.

MS. GUERRERORTIZ: That's correct.

COMMISSIONER SULLIVAN: So he doesn't have to physically have the horses on one lot or the other, he just has to own enough property to accumulate eight horses. Is that your understanding?

MS. GUERRERORTIZ: That's correct, sir.

COMMISSIONER SULLIVAN: Okay. No further questions, Mr. Chairman.

CHAIRMAN DURAN: Is there a motion? Okay. Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

MS. GUERRERORTIZ: Thank you, gentlemen.

- X. F. 5. **CDRC Case #Z 00-5900. International Pond Supply. Charles and Tavo Kelty, applicants, Lorn Tryk, agent, requests approval of a master plan amendment for two 5,000 square foot warehouse buildings, a 3,500 square foot warehouse building, a 2,500 square foot cold frame and a 3,000 square foot greenhouse and a 12-space parking area on a 3.78 acres. The property is located on the I-25 frontage road, east of I-25 at the La Cienega exit, within Section 4, Township 15 North, Range 8 East**

1899626

MR. WHITE: Thank you, Mr. Chairman, Commissioners.

Recommendation: It is staff's position that this application is in accordance with Article V, Section 5.2 (Master plans) of the County Land Development Code. The decision of the CDRC was to grant the requested master plan amendment subject to the following conditions. And Mr. Chairman, may I enter the conditions into the record, if I may.

CHAIRMAN DURAN: Sure.

[The conditions are as follows:]

1. All redline comments will be addressed. Original redlines will be returned.
2. The applicant shall comply with Fire Marshal review comments at preliminary and final development plan stage.
3. No outdoor storage is permitted.
4. An onsite dumpster is required. It shall be screened on all four sides by a solid wall/fence and gate with mesh on top to prevent flying debris.
5. Cisterns and retention ponds are to be designed and stamped by a professional engineer. A grading and drainage plan stamped by a professional engineer shall be submitted at preliminary development plan stage.
6. All existing and proposed lighting shall be shielded. All proposed lighting shall be in accordance with Article III, Section 4.4.4h of the Code and the La Cienega Corridor standards for lighting at preliminary development stage. Applicant shall provide cut-sheets for all lighting at final development stage.
7. All utilities shall be placed underground.
8. Additional landscaping may be required at final development plan stage.
9. An approved septic permit will be required from the State Environment Department at final development plan stage.
10. Water usage on the site is to be restricted to 1.35 acre-feet of water per year and the well is to be metered. The applicants shall submit meter readings to the County Hydrologist by January 31st of each year.
11. The applicant shall provide floor plans/sections/elevations (to scale) at final development stage.
12. An approved septic permit from the State Environment Department will be required.
13. All proposed signage shall be in accordance with the County Code requirements and in accordance with the La Cienega Corridor standards for signage.
14. The applicant shall meet as many La Cienega Corridor design standards for the project as possible a final development stage to include the following:
 - a. Buildings to be designed with a minimum of three distinct masses to be defined by a four-foot change in both vertical and horizontal direction
 - b. Building height shall not exceed 24 feet
 - c. No offsite advertising, internally lit signs, billboards, roof-mounted or pole-mounted signs are permitted. On five-foot high monument sign only per building not to exceed 20 square feet or one flush wall mounted sign only

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- d. per building a maximum of 25 square feet
 - d. Outdoor lighting shall be minimized. All lighting, including signs, shall be fully shielded and directed down
 - e. No façade lighting
 - f. All rooftop structures shall be screened
 - g. Screen parking from adjacent residential property by a stucco wall (minimum four feet; maximum six feet) and landscaping or naturalistic berm
15. Compliance with the applicable review comments from the following:
- a. State Engineers Office
 - b. State Environment Department
 - c. State Highway Department
 - d. County Development Review Director
 - e. County Fire Marshal
 - f. County Public Works
16. The applicant shall submit a financial guarantee, in an amount acceptable to the County for all improvements including fire protection, driveway, retention ponding and landscaping prior to grading or construction.

CHAIRMAN DURAN: Frank, does this fall within the highway corridor?

MR. WHITE: Mr. Chairman, it does fall into the highway corridor. It's the La Cienega Highway Corridor, which refers back to the scenic corridor. The applicant has agreed to comply with as many highway corridor conditions as possible. The are in the conditions of the report.

CHAIRMAN DURAN: What do you mean, as possible? Don't they have to comply with all the conditions of the highway corridor?

MR. WHITE: Well, the highway corridor is just a plan. It hasn't gone through ordinance at this point so I don't know if there's any legal grounds to stand on here. I may defer that to Steve.

MR. KOPELMAN: Mr. Chairman, Commissioners, I believe that the conditions that were set forth—let me just take a look at that real quickly. I believe that they do have to comply with the highway corridor plan, and that certainly is a condition you can impose.

CHAIRMAN DURAN: Okay. Any questions of Frank. Okay, Frank, is the applicant here?
Could you please come up, state your name for the record and let the recorder swear you in.

[Duly sworn, Lorn Tryk testified as follows:]

LORN TRYK: Lorn Tryk.

CHAIRMAN DURAN: Mr. Tryk, is the applicant in agreement with all the requirements set out by the Land Use Department?

MR. TRYK: Yes.

CHAIRMAN DURAN: Would you like to add anything to the—

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MR. TRYK: Not unless you'd like to see a presentation, which you probably don't.

CHAIRMAN DURAN: Well, let's see. Are there any questions of the applicant?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: My understanding then is based on the recommendation from the State Engineer and the staff that you will not be increasing the current water budget of 1.35 acre-feet, even though you are in fact increasing the square footage of the development.

MR TRYK: Mr. Chairman, Commissioner Sullivan, we're actually increasing the usage of the water slightly, but it's still within the budget that was previously approved.

COMMISSIONER SULLIVAN: So you're not requesting a change in the previously approved water budget?

MR. TRYK: Right.

COMMISSIONER SULLIVAN: Has there been, Mr. Tryk, any opposition from the neighbors to this proposed expansion? I mean, there are none here tonight, but I don't blame them.

MR. TRYK: No, we didn't wear them out. We actually had no opposition. There was no opposition at the CDRC either.

CHAIRMAN DURAN: Any what time did you guys meet?

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Sullivan, this business actually resides in my district and has been so for about six years and it's been one of the cleanest businesses in the district, no Code violations that I remember. No complaints from any of my constituents in the La Cienega area and I would just personally testify that I think they've been very good citizens of that community and I think continue to want to be good citizens.

COMMISSIONER SULLIVAN: It certainly appears, and I don't know the business and I appreciate that background, to be the type of business we like to see expand. We like to see grow and we want to support, certainly. No further questions, Mr. Chairman.

CHAIRMAN DURAN: Okay, if there are no other questions of the applicant, is there anyone out there opposed or in favor of this? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman, move for approval.

COMMISSIONER GONZALES: Second.

COMMISSIONER CAMPOS: With conditions?

COMMISSIONER TRUJILLO: With conditions, and the new condition of compliance with the highway corridor.

CHAIRMAN DURAN: Great. There's a motion and a second. Any other

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discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed?
Motion carries.

MR. KOPELMAN: Excuse me, Mr. Chairman. We have one matter for executive session after this is we could.

CHAIRMAN DURAN: Sure. Why not?

MR. KOPELMAN: Just to remind you. Thanks.

- X. F. 6. **CDRC Case #Z 00-5960. Michelle Sanchez Commercial Zoning.** Michelle Sanchez, applicant, Dolores Vigil, agent request the creation of a community center commercial district at the intersection of 285 and State Road 503, and master plan zoning approval for an art gallery. The property is located at the northeast corner of the intersection of US 84/285 and State Road 503 within Section 6, Township 19 North, Range 9 East

MR. WHITE: Thank you, Mr. Chairman, Commissioners.

Recommendation: Land Use staff has reviewed this application and believes that this location is appropriate for this type of commercial development. It is staff's position that this application is in accordance with Article III, Section 4.2.5 (Criteria for establishing commercial districts) Exhibit H, of the County Land Development Code. Therefore staff recommends approval of this project. The decision of the CDRC was to recommend approval for the creation of a community center commercial district and master plan zoning for an artist's gallery to be operated within an existing 1,400 square foot residence on .22 acres, subject to conditions, and if you, Mr. Chairman, I can enter 20 conditions into the record.

[The conditions are as follows:]

1. All redline comments must be addressed. Redlines must be returned with development plan submittal.
2. The master plan will be recorded with the County Clerk. Relevant conditions shall be noted on the master plan.
3. The master plan is valid for a period of five years. If development has not proceeded within five years the master plan will be null and void.
4. Retention ponding will be required for stormwater management at preliminary development plan stage.
5. No parking shall be allowed along US 84/285.
6. Handicap spaces shall be labeled and building handicap access must be approved by the State Construction Industries Division.
7. All lighting shall be shielded and shall comply with Article III, Section 4.4.4h of the Code.
8. The proposed wall shall be earth tone in color.

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9. The applicant shall comply with Fire Marshal review comments at preliminary and development plan stage.
10. An approved septic permit will be required from the State Environment Department at preliminary development plan stage.
11. The applicant must obtain an approved access permit from the NMSH&TD in order to use the current access onto the property.
12. No outdoor storage is permitted.
13. All proposed signage shall be in accordance with County Code requirements.
14. The applicant shall provide floor plans/sections/elevations (to scale) and all other necessary submittals at preliminary development plan stage.
15. The applicant shall provide a water budget for the art gallery and all other users of the well. If the water budget exceeds .25 acre-feet per year for the gallery a reconnaissance geohydrological report for the property is required
16. The applicant shall install a water meter on each water line being served by the well and the applicant shall submit a commitment to submit water meter readings from each water line to the County Hydrologist by March 31st of each year.
17. The applicant shall provide water rights associated with the well which will supply the property.
18. Compliance with applicable review comments from the following:
 - a. State Engineer
 - b. State Environment Department
 - c. State Highway
 - d. County Development Review Division Director
 - e. County Hydrologist
 - f. County Fire Marshal
 - g. County Public Works
19. A landscape plan meeting Code requirements shall be submitted at preliminary development stage.
20. If liquid waste flows exceed 200-300 gallons per day the State Environment Department must make a determination if a nitrate removal system is required.

CHAIRMAN DURAN: Any questions of Frank?

COMMISSIONER SULLIVAN: Mr. Chairman, I have two questions.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Normally, in creating a commercial district, Frank, do we not require a traffic report?

MR. WHITE: Mr. Chairman, Commissioner Sullivan, in this case the creation of a commercial district, this is a very small development. It's for an artist's gallery. I believe it's going to be owner occupied and one employee. So at this point, the traffic generation is almost nothing.

COMMISSIONER SULLIVAN: Okay, then my second question would be,

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one of the permitted uses that they've listed is liquor sales and would the applicant be agreeable to removing that as a permitted use?

MR. WHITE: Mr. Chairman, Commissioner Sullivan, what you're taking a look at is the master plan report and the letter or intent. Those are existing uses within the node. This is not within the applicant's use list. The only use that the applicant is proposing is an artist's gallery. The list that you see within this area is the current uses already located. There's Al's Liquors, Pablo's Jerky, etc.

COMMISSIONER SULLIVAN: So the applicant is not proposing—

MR. WHITE: No, it's solely for an art gallery.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Okay. Any other questions of staff?

COMMISSIONER CAMPOS: A quick question for Mr. White.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: If the ownership changes, the use changes, do they have to come back and get approval for a use change? If someone decides not to use it as an artist's gallery?

MR. WHITE: Mr. Chairman, Commissioner Campos, that would be correct. If there's any type of other proposals for a use change, that would come before the CDRC and of course to the Board.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Okay, any other questions of Frank? Is the applicant here? Would you please come up and state your name for the record and let the recorder swear you in.

[Duly sworn, Michelle Sanchez testified as follows:]

MICHELLE SANCHEZ: My name is Michelle Sanchez and I live on Route 11, Box 210-A, Santa Fe, New Mexico, 87501.

CHAIRMAN DURAN: Ms. Sanchez, are you in agreement with all the recommendations of staff and CDRC?

MS. SANCHEZ: Yes.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER TRUJILLO: Just a comment.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Michelle, this year you were the first place winner, I understand, in the Santa Fe Fiesta Poster Contest?

MS. SANCHEZ: The City of Santa Fe.

COMMISSIONER TRUJILLO: For los matachines. Congratulations.

MS. SANCHEZ: Thank you.

COMMISSIONER GONZALES: Where do we get to see it? Where's the poster?

MS. SANCHEZ: All the dancers have one. I had a poster signing for them. Family, friends, I made it available for them. I believe they're selling somewhere

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here in Santa Fe and I'm not quite sure where.

COMMISSIONER GONZALES: Congratulations.

MS. SANCHEZ: Thank you.

CHAIRMAN DURAN: Okay, are there any other questions of the applicant? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Public hearing? No public hearing?

CHAIRMAN DURAN: Is there anyone out there who would like to speak for or against this case?

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: There's a motion to approve, seconded by Commissioner Trujillo. Any further discussion? Those in favor of the motion, signify by saying "aye." [Unanimous] Opposed? Motion carries.

MS. SANCHEZ: Thank you and good night.

IX. F. Matters from the County Attorney

1. Executive session

- a. Possible acquisition of real property or water rights**
- b. Pending or threatened litigation**

CHAIRMAN DURAN: I'll entertain a motion to go into executive session where we're going to discuss pending or threatened litigation, Steve?

MR. KOPELMAN: Mr. Chairman, we have one matter that's essential that has to deal with possible acquisition of real property or water rights.

CHAIRMAN DURAN: Okay. So that's what we're going to talk about.

MR. KOPELMAN: And that's in relation to pending and threatened litigation too so--

COMMISSIONER TRUJILLO: Move to go into executive session.

COMMISSIONER CAMPOS: Second.

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

The motion passed by unanimous roll call vote with Commissioners Sullivan, Campos, Duran, Trujillo and Gonzales all voting in the affirmative.

[The Commission met in executive session from 12:55 to 1:10.]

Commissioner Sullivan moved to come back into regular session and stated the only items discussed were those noted in the agenda. His motion was seconded by Commissioner Campos. The motion passed by unanimous voice vote.

ADJOURNMENT

1899633

Chairman Duran declared this meeting adjourned at approximately 1:10 a.m.

Approved by:



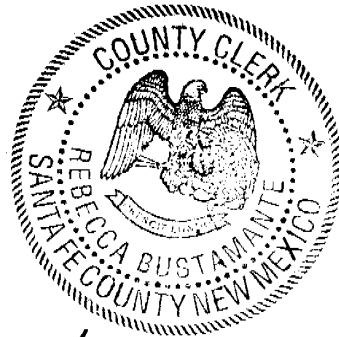
Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter

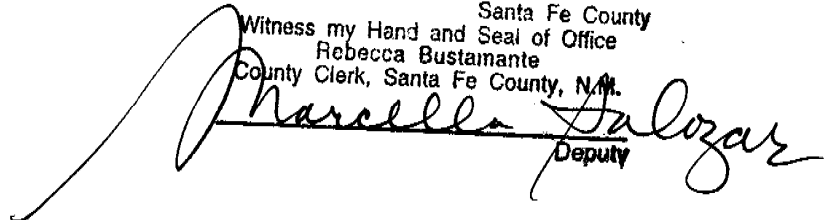
ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1154 867
COUNTY OF SANTA FE } SS
STATE OF NEW MEXICO
I hereby certify that this instrument was filed
for record on the 7 day of May A.D.
20 01 at 8:37 o'clock a.m.
and was duly recorded in book 1899
page 485 - 651 of the records of

Santa Fe County
Witness my Hand and Seal of Office
Rebecca Bustamante
County Clerk, Santa Fe County, N.M.


Deputy

DESIGN ENGINEUTY



P. O. Box 275B, Santa Fe, New Mexico 87504
(505) 989-3557 FAX (505) 989-4740
E-mail DESIGNENGINEUTY@prodigy.net

RECORDER RECORDING 08/13/2004

March 13, 2001

1899634

Board of County Commissioners
Santa Fe County

Re: Proposed Santa Fe County Ordinance on Urban-Wildland Interface Suggested Modifications

Dear Commissioners,

We have reviewed the proposed Urban-Wildland Interface Code and in general believe that this Code will be beneficial to the County. But we do have some concerns with regards to the potential negative outcome of some of the requirements. These concerns focus primarily on the requirements to clear the forest of nonfire-resistive vegetation to provide defensible space and access roads for emergency equipment. In general the proscribed clearing requirements are large, generally 1/3 to 1½ acres for an average home development. The resultant removal of significant trees, soil destabilization and removal of vegetation on steep (>30%) slopes are all poor terrain management practices. While we understand the desire to provide extensive defensible space, we also recognize the community's and the Commission's desire to protect our beautiful mountain by limiting and screening development. We therefore recommend the following modifications to the proposed ordinance.

1. Section 403.3 Fire Apparatus Access Road. When required, fire apparatus access roads shall be all-weather roads with a minimum width of (20) **14** feet...
The Land Use codes will require anything but a driveway to be 20 feet or wider. Driveways should be allowed to be of a minimum width for emergency equipment to minimize disturbance and scarring in mountainous terrain.
2. Section 403.2 Driveways. ... Driveway turnarounds shall have inside turning radii of not less than 30 feet and outside turning radii of not less than 50 feet **or have a hammerhead turnaround or other Fire Marshal approved design.**
At many building sites it will be impossible to construct a relatively flat, 7850 square foot turnaround. There are other options which should be allowed.
3. (Appendix I-A Section 2.2 Clearance of Brush or Vegetative Growth from Roadways. The code official is authorized to require areas within 10 feet on each side of portions of fire apparatus access roads and driveways to be cleared of non-fire-resistive vegetation growth.)

San Pedro Community

Date: 03/12/2001 12:03:02 PM Mountain Standard Time

From: JHCrotty

To: jsullivan@co.santa-fe.nm.us

1899636



RECORDER RECORDING 08/13/2004

Dear Commissioner Sullivan,

As residents of the San Pedro area for over 18 years, my husband and I have worked hard along with our friends and neighbors to preserve the peaceful rural qualities that first drew us to this community. In past years we attended many meetings on mining issues that threatened our way of life prior to the passage of the Santa Fe County Mining Ordinance. We have also worked with the Board of County Commissioners and the Edgewood Volunteer Fire Department to assure fire protection for our area. Most recently, we have attended many meetings with Alina Bokde to draw up a development plan that we feel will help to preserve what we most value here. The plan has the virtually universal support of area residents, who feel it will help to assure the continuation of the way of life that we cherish here.

We hope we can count on your support for the San Pedro Community Plan when it comes before your Board tomorrow.

Jay and Helen Crotty

Staff Supported Amendments to the San Pedro Community Plan

*Prepared for the Santa Fe County – Board of County Commissioners
First Public Hearing of the San Pedro Community Plan – 13 March 2001*

The following amendments were suggested by community members and Community Planning Committee members to help clarify language within the San Pedro Community Plan.

1899637

AMENDMENT 1:

Page 9 – First paragraph at the top of the page, first sentence:

Due to the highly variable and complex geology of the San Pedro area, it is imperative that on-site geohydrological studies be conducted whenever a property is to be subdivided developed.

AMENDMENT 2:

Page 15 – Item N:

Home businesses may use up one-quarter (.25) acre foot of water per year (approximately 81,400 gallons) for business related activities. Business water uses shall be calculated separately from residential uses will limit water consumption to one-quarter (.25) acre foot of water per year (approximately 81,400 gallons), unless the property on which a home business is located has existing water use covenants applied. In such cases, the home business will not be allowed to use more than the amount of water restricted by such covenants.

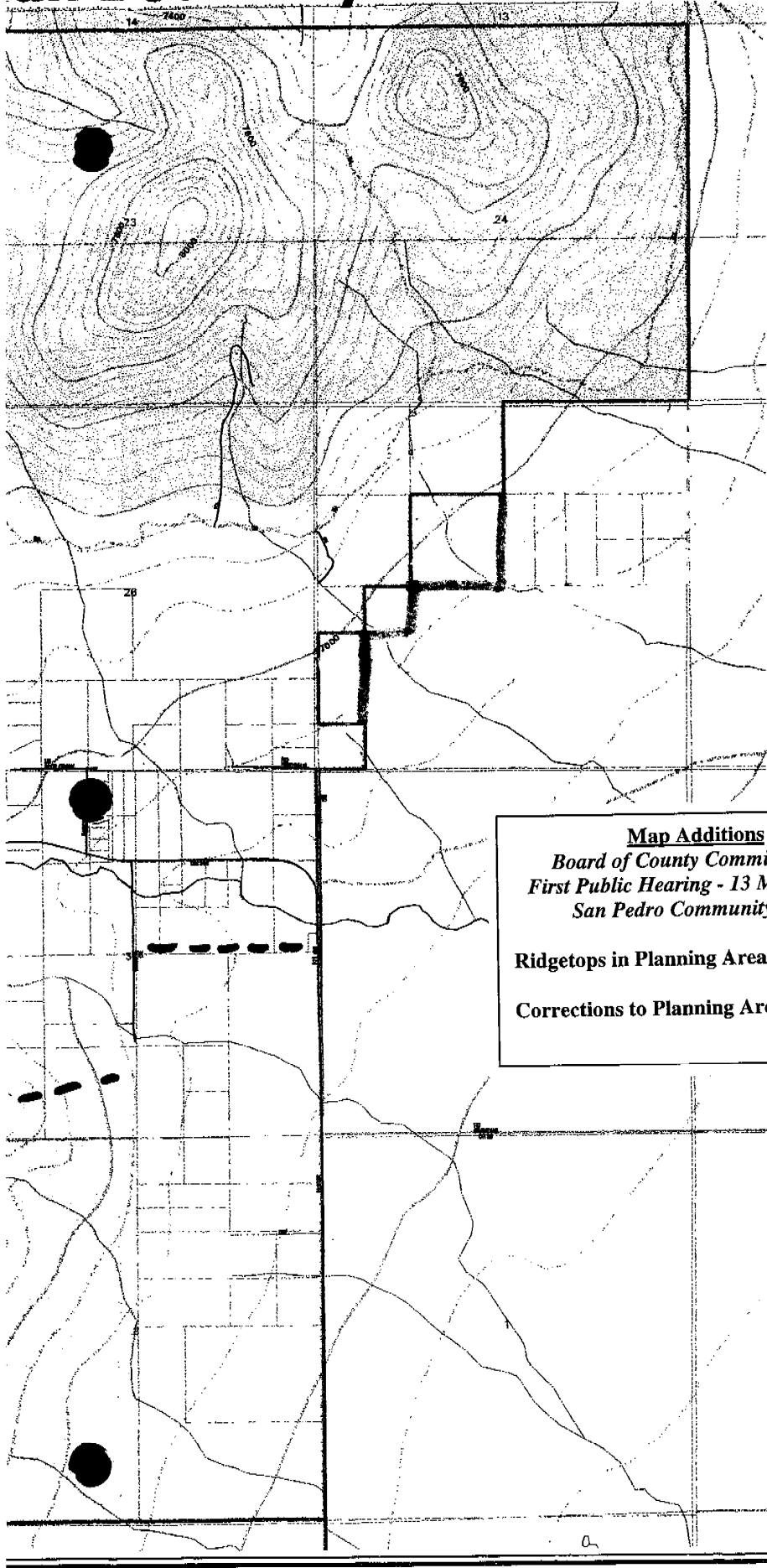
AMENDMENT 3:

Page 24 – Second paragraph, last sentence

Without formal access agreements, such lots may block direct access to publicly owned land so that the only **legal access alternative is for individuals to negotiate with land owners for permission to cross their land.** ~~access alternatives are for individuals to negotiate with landowners for permission to cross their land, or to trespass.~~

an Boundary Area

SFC CLERK RECORDING 08/13/2004



LEGEND

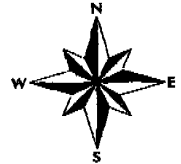
- Proposed San Pedro Community Planning Boundary
- Parcel Boundaries -DRAFT STATUS-
- PLSS Section Lines and Grant Boundaries
- Major Streams and Arroyos
- Other Streams and Arroyos
- County Maintained Roads
- Roads Maintained by Other Entities
- Dirt 2-Track
- Driveways (where available)
- BLM Lands
- State Lands
- Land Grants

Map Additions
 Board of County Commissioners
 First Public Hearing - 13 March 2001
 San Pedro Community Plan

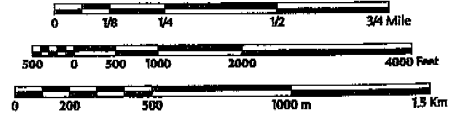
Ridgetops in Planning Area

Corrections to Planning Area

DRAFT



Scale 1:12,000
 1 inch represents 1000 feet



Contour Interval: 50 feet

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



October 11, 2000

THE CODE AND LAWS IT ALREADY HAS, OR TO THE ONES IT IS PROPOSING TO MAKE, THEN IT SHOULD GIVE THE PUBLIC AN EXPLANATION OF WHY IS HAS NOT DONE SO.

A DEFINITION OF WHAT CONSTITUTES A HEALTH, SAFETY, OR WELFARE DANGER NEEDS TO BE MADE. A 'VIEWSHED' ALSO NEEDS TO BE DEFINED.

WE ARE SURE THAT YOU ARE AWARE THAT ACCORDING TO FCC RULE 704 A GOVERNMENT ENTITY DOES HAVE AUTHORITY OVER THE PLACEMENT OF A CELL TOWER. WE ARE NOT SURE THAT YOU KNOW FCC RULE 253 WHICH SAYS THAT THE TOWER MUST BE PLACED SO THAT IT DOES NOT EFFECT HEALTH SAFETY OR WELFARE OF THE COMMUNITY. THIS IS OBLIGATORY .

1899643

WE RECOMMEND THAT APPLICATIONS FOR CELL TOWERS BE SUBJECT TO THE MOST INTENSE SCRUTINY AS THEY WILL AFFECT THE LIVES AND PROPERTY OF THE PEOPLE IN THE AREA FOR A LONG, LONG TIME. THESE APPLICATIONS SHOULD NOT BE JUST 'WALKED' THROUGH THE COUNTY SYSTEM.

WE HOPE YOU DO PASS THIS MORATORIUM ORDINANCE FOR CELL TOWERS . WE THANK YOU FOR RECOGNIZING THAT THERE IS A SERIOUS PROBLEM IN THE COUNTY. WE WOULD APPEAL TO YOU FOR A RECONSIDERATION OF THE GONZALES TOWER, BUT WE UNDERSTAND THAT IT IS TOO LATE TO BE CONSIDERED UNDER THE PROPOSED MORATORIUM.

THANK YOU FOR YOUR TIME AND ATTENTION. MARILYN MEYER.

Santa Fe County
Board of Commissioners

March 13, 2001

Re: Draft presentation of San Pedro Community Plan to the CDRC for review.

Subject: "Water Availability in San Pedro Planning Area." (V. Residential Development.)

Honorable Commissioners.
Mr. Chairman:

1899639

My name is Stanley Waldron. I live on County Road 112, and have been a resident of the San Pedro Community for 25 years. For a greater portion of that period I was involved with others of our community, as a public citizen, in environmental concerns, primarily devoted to New Mexico's water resource, and the imperative need to protect and preserve this finite resource. The outcome of this involvement has been the unsought role as a water research analyst.

Residing in the so-called "fringe aquifer" of the Estancia Basin, the later years have been directed in research as to the condition of the Estancia Basin and the potential for serious, negative impacts on the domestic wells within the San Pedro Community, as well as the drawdown effects in the perimeter of this closed basin.

After a careful review of the most recent data from the USGS/SEO reports, some Shomaker Studies, the Stephens and Associates Report, and others, it became clear that this area, comprising the valuable watersheds of the San Pedro/ Greater South Mountain Group of ranges, had not been given adequate study. Because of this I prepared an independent study to reflect the Hydrologic Connection Between The Greater South Mountain Group and the Estancia Basin, including some data on the San Pedro's negative impacts as a result of destabilization due to reoccurring mining activity.

With this background, I would like to make some comments on the two hydrological studies that are referenced in the Community Draft Plan to the CDRC, February 22, 2001, and submit some conclusions.

First, I would like to commend the County staff, and former County Hydrologist, Jack Frost for the objective study that touches upon the particular hydrological problems related to this area in which we live. I am in agreement with this report to the extent that it described and defined the area. Much more could be added as to the negative impacts of mining, and the potential for loss of sustainability due to the drawdown impacts upon the Estancia Basin.

Public appreciation and thanks is also due to the many from our community who gave of their time and talents in the long process leading to this session. All those from your staff who served to assist them were greatly appreciated.

However, in all respect to Dr. Bill Turner, of American Groundwater Consultants, I cannot agree with their evaluation, based upon the pump-test of one well, and some in-house applications of general geohydrological assumptions.

With the recognition that Hydrology is an imperfect science, a number of reasons to invalidate their conclusions are quite obvious. Our knowledge of "the underground and the unseen" is understandably limited. The following are some valid reasons:

1.) This area has been geologically affected by two forces of great magnitude; the Tijeras-Canoncito Regional Fault System, and the extended string of volcanic intrusives. In combination, these occurrences have both created this topography, and contributed to its highly variable water resource. For the most part the community is situated upon the highly-fractured and tilted Madera Limestone Group. This has both pluses and minuses. Precipitation percolates more rapidly, but also leaves more rapidly.

2.) Situated between two steeply sloping mountain fronts, this high valley receives more precipitation than in surrounding areas. At 7100' elevation I registered over 25 inches in 2000. This past January the snowfall was 41 inches. That is the plus side. The Madera Limestone strata slopes generally from 15 to 30 % to the east, and the Estancia Basin. As a result the underground water movement is accelerated by the relatively steep and narrow gradients, as is the surface flow from storm runoff. Water has a preference to go downhill.

3.) Due to the eastern boundary tilt of the Regional Fault System and the sudden increases in elevation of the mountain fronts groundwater movement is not only rapid, but it follows a historic pattern in the San Pedro Community. The Canada de las Narrias not only drains the surface runoff of the area, it becomes the discharge potential for groundwater movement into the Estancia Basin. Groundwater in the discharge mode is convexed upward, conversely, downward in the recharge mode. Recent wells drilled adjacent to the Canada are more shallow. The water table rises. Well drillers affirm this. Greater gpm's, production is common.. This is standard hydrological understanding, reliable field observation and confirmation, based on well log records.

This tells us that while we have water in some areas, the best quality water is in rapid movement. In addition, this observation is one explanation why there are so many dry holes, and so many extremely low producing wells. I repeat, it is but one explanation. The evidence of dikes and other geological obstructions can readily prevent the possibility of obtaining water.

4.) Based on this somewhat sketchy analysis, it is my considered opinion that there is not adequate water available for 320 homes, or for much less than that which the Turner study suggests. Besides, a great majority of the undeveloped lots are situated in areas where no one has been successful in obtaining water, and the terrain is not conducive for development.

5.) One further analysis must be considered before approval of extensive residential development in the San Pedro Community. In hydrological terms, this community is intimately connected to the Estancia Basin. This closed Basin has been classified as a "mined" basin since 1965. Most of us are aware of the greatly increased demands upon the Basin's already depleted resource. Current withdrawal is at such a rate that any appreciable recharge of the aquifer no longer applies.

1899641

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Consultants are for the most part paid to render favorable reports. They do not disclose that the Estancia Basin has serious problems. Continued drawdown of the water table will substantially reduce this areas water resource, and hasten its demise. A giant trough or dewatered zone, more than 40 miles long, runs through the center of the Basin, from north to south. Its cause; the gradual connecting of giant "cones of depression" from high production wells. In effect this is a huge dry hole from two to five miles wide and ever deepening. All surface runoff and groundwater patterns flow toward this trough, their movement accelerated by the mechanically-imposed gradients of these "cones of depression."

The eventual result will be increased lowering of domestic wells around the perimeter, and in elevated areas. At the lower end of this trough lies the 50 playas and salt beds, with a water table historically higher, as the discharge facility for the closed basin. When saline water begins to back-flow into this trough, it will mix with all the new water flowing into it, rendering it unpotable.

This is a serious problem that must be addressed, without further delay. With regard to Santa Fe County and the San Pedro Community, these recent demands have been made upon the best quality water within the county. Large volumes of groundwater are being pumped from the upper basin, and piped out of the Basin to serve massive up-scale developments and multiple golf courses for the gentry class. While these homes are, in effect, consuming 3-plus acre feet per annum. Our community is being asked to restrict use to a quarter acre foot per annum. As our Commissioners, are you prepared to address this inordinate exportation and use of the County's water resource, while asking residents of the San Pedro Community to restrict use of this precious commodity? Who bears the responsibility if, or when, our wells go dry? Should not the tax base and the potential for depreciation of property valuations be considered? While the King interests and Bernalillo County will profit appreciably in their tax base, Santa Fe County will lose sustainability, and many county residents may be without water. "Better to shut the barn door before all the stock are gone."

In making your decision it is my hope and prayer that you will honor the interests of this community and restrict unwarranted development. If not, the fragile environment of this quiet rural community will be destroyed.

Respectfully,


Stanley Waldron.

TO SANTA FE COUNTY BOARD OF COUNTY COMMISSIONERS
MARCH 13, 2001

MR. CHAIRMAN, COMMISSIONERS,

1899642

MY NAME IS MARILYN MEYER. I AM A RESIDENT OF ARROYO SECO, AND I AM PROUD TO SAY THAT I, ALONG WITH THE OTHER RESIDENTS OF ARROYO SECO HAVE OPPOSED THE CELL TOWER, IMPOSED UPON US BY THE BCC, FROM THE TIME WE FIRST LEARNED ABOUT IT, UNTIL THE BCC MADE IT FINAL ON 12/12/2000. THIS WAS A SHORT 33 DAYS! IN THAT TIME WE LEARNED A LOT. FOR INSTANCE, WE LEARNED THAT EVEN IF SANTA FE COUNTY ALREADY HAS EXISTING RULES IN THE CODE, THEY DON'T NECESSARILY ADHERE TO THOSE CODES AND LAWS. AS AN EXAMPLE—THE CODE GOVERNING A TRADITIONAL COMMUNITY, SUCH AS ARROYO SECO, WAS COMPLETELY IGNORED!

.WE TRIED TO ARGUE ' VIEWSHED, HEALTH,SAFTY, WELFARE AND POTENTIAL IMPACT TO NEIGHBORHOODS,' AND WERE TOLD THESE COULD NOT BE CONSIDERED IN YOUR PROPOSED MORATORIUM THOSE ARE THE EXACT WORDS YOU USE TO PROPOSE THE MORITORIUM—DECLARING IT AN EMERGENCY!

AFTER OUR RECENT EXPERIENCE WE FEEL WE ARE UNIQIUKLY QUALFIED TO OFFER A FEW SUGGESTIONS TO BE CONSIDERED WHEN YOU FORM-UP THE ORDINANCE REGULATIONS FOR CELL TOWERS

NOTIFICATION SHOUL BE GIVEN TO ADJACENT PROPERTY OWNERS AS SOON AS THE APPLICATION IS FILED WITH THE COUNTY. IN FAIRNESS, THIS WILL GIVE THE OPPOSITION EQUAL TIME TO PREPARE THEIR ARGUMENTS. AS IT IS, THE OPPOSING VIEWS ARE USUALLY PRESENTED TO THE BCC AT THE MEETING—AND THUSLY, THE COMMISSIONERS DO NOT HAVE THE TIME TO STUDY THEM BEFORE CASTING A VOTE. NO ONE WHO WANTS TO SPEAK TO THE ISSUE SHOULD BE CONSTRAINED IN ANY WAY. EVERY VIEW SHOULD BE HEARD AND EVERY HAND COUNTED. THE BCC SHOULD BE ABLE TO STUDY ALL ARGUMENTS BEFORE MAKING A DECISION, THEREFORE AFTER ALL OPINIONS HAVE BEEN ENTERED, THE ISSUE SHOULD BE TABLED TO THE NEXT MEETING BEFORE MAKING A DECISION. TO DO OTHERWISE GIVES THE APPEARANCE OF A PREDETERMINED DECISION. EVERY ATTEMPT SHOULD BE MADE TO AVOID EVEN THE APPEARANCE OF IMPROPRIETY OR UNDUE PROCESS.

AN EXACT DESCRIPTION OF THE PROPOSED TOWER SITE SHOULD BE IN THE APPLICATION WITH ADJACENT PROPERTY LISTED AND DEFINITE DESCRIPTION SO PEOPLE CAN KNOW WHERE IT IS. WE REALIZE THIS IS NOT REQUIRED IN S.F.CO. RULES AS THEY STAND TODAY, BUT WE FEEL THESE CELL TOWERS REQUIRE MORE STRINGENT RULES IN ALL FAIRNESS TO THE CONCERNED RESIDENTS. ACURATE MAPS SHOULD BE SUBMITTED THAT CONFORM TO THE COUNTY CODES THESE MAPS SHOULD BE CHECKED FOR ACCURACY BEFORE GRANTING THE APPLICATION

THE COURSE THAT THIS APPLICATION WILL TAKE THROUGH THE COUNTY SYSTEM SHOULD BE CLEARLY SPELLED OUT SO THAT THE AVERAGE CITIZEN CAN KNOW WHEN, WHERE, AND HOW TO MAKE HIS VIEWS KNOWN—WHICH HEARING ARE PRELIMINARY AND WHICH ONE IS THE FINAL DECISION. THIS ALSO APPLIES TO THE APPLICANT—TO MAKE SURE THAT ALL REQUIREMENTS ARE MET —IE—THIS BEFORE THE CDRC HEARING—THIS BEFORE THE BCC MEETING AND THIS BEFORE THE FINAL DECISION. AGAIN, SOMEONE SHOULD CHECK TO SEE THAT THIS IS DONE AND ON TIME.

MAKE IT MANDATORY ON THE APPLICANT TO SUBMIT SUPPORTING EVIDENCE OF HIS CLAIMS—FOR INSTANCE, THAT IT WILL NOT HURT PROPERTY VALUES OR ENDANGER THE HEALTH, SAFETY OR WELFARE OF THE NEARBY RESIDENTS. THIS SHOULD NOT BE JUST ON THE 'SAY SO' OF THE APPLICANT. IF THE COUNTY IS NOT GOING TO ADHERE TO

RECORDING 08/13/2004

1899644

REC'D CLERK RECORDING 08/13/2004



EXHIBIT
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Before

1899645

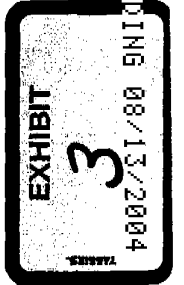


EXHIBIT

SFC CLERK RECORDING 08/13/2004

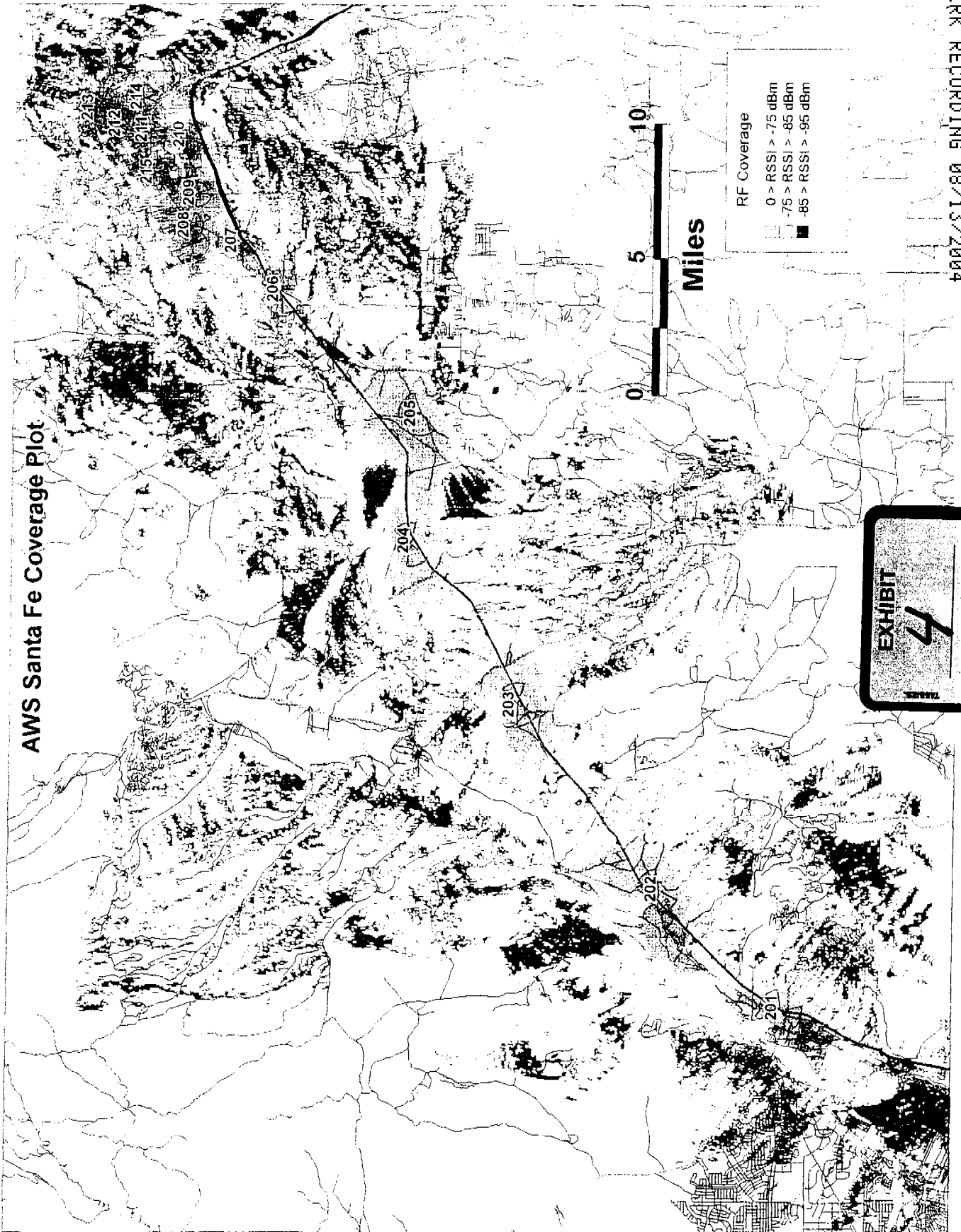
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SFC CLERK RECORDING 08/13/2004



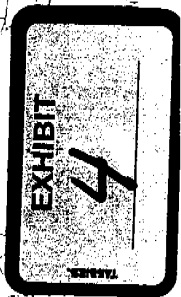
1899647

AWS Santa Fe Coverage Plot



RF Coverage

- 0 > RSSI > -75 dBm
- 75 > RSSI > -85 dBm
- 85 > RSSI > -95 dBm



SANTA FE COUNTY
ORDINANCE NO. 2001-_____



RECORDER RECORDING 08/13/2004

1899648

Sally

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AN ORDINANCE RELATING TO UTILITY AND COMMUNICATIONS ANTENNAE,
TOWERS AND OTHER FACILITIES; DECLARING A MORATORIUM ON THE
SUBMISSION, CONSIDERATION OR APPROVAL OF APPLICATIONS FOR
WIRELESS COMMUNICATIONS FACILITIES IN SANTA FE COUNTY, NEW
MEXICO; DECLARING AN EMERGENCY

WHEREAS, the Board of County Commissioners has directed county staff to draft an ordinance regulating wireless communications facilities in the county; and

WHEREAS, The proposed ordinance will facilitate the placement of wireless communications facilities in the county; and

WHEREAS, the proposed ordinance will protect the county's unique and beautiful viewshed; and

WHEREAS, the Board of County Commissioners is concerned that pending or proposed applications that would otherwise require action before a comprehensive ordinance can be passed may not conform with the proposed ordinance and would cause irreparable injury to the viewshed in the county; and

WHEREAS, the Board of County Commissioners hereby finds that this is a matter that presents an immediate danger to the public health, safety and welfare due in part to the

1 proliferation in the county of communications towers, potential impacts to neighborhoods,
2 the lack of an applicable facility growth and development management plan, the lack of
3 appropriate provisions in the current land development code and concerns over compliance
4 with the 1996 Telecommunications Act.

5
6 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY
7 COMMISSIONERS THAT:

1899619

8 PROHIBITION. For a period of six (6) months following the effective date of this
9 ordinance, or until the county has adopted an ordinance regulating wireless
10 communications facilities, whichever comes first, no application for wireless
11 communications facilities shall be accepted or considered for approval.

12 EXCEPTION. This ordinance shall not apply to applications for wireless
13 communications facilities pending on the effective date of this ordinance which meet
14 the following criteria: the application does not request or require any variance,
15 modification or waiver of any provision of the Santa Fe County Land Development
16 Code (Santa Fe County Ordinance 1996-10) and otherwise complies with (1) the
17 height limitations and (2) all other applicable provisions of the Santa Fe County Land
18 Development Code.

19 EFFECTIVE DATE. This ordinance shall become effective immediately upon its
20 adoption and filing in the office of the Clerk.

21
22 PASSED, APPROVED AND ADOPTED this ____ day of _____, 2001, in open
23 session in Santa Fe, New Mexico.

24
25 BOARD OF COUNTY COMMISSIONERS,
26 SANTA FE COUNTY

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29 _____
Paul Duran,

Chairperson

Attest:

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Rebecca "Becky" Bustamante,
County Clerk

1899650

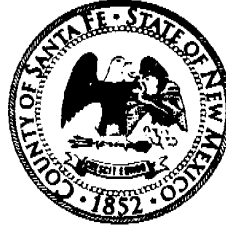
Approved as to legal form and sufficiency:

Steven Kopelman,
County Attorney

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Richard D. Anaya
Commissioner, District 4

Joe S. Griñé, Jr.
Commissioner, District 5

Samuel O. Montoya
County Manager

SFC CLERK RECORDING 08/13/2004

MEMORANDUM

1899651

DATE: March 13, 2001

TO: Board Of County Commissioners

FROM: Joe Catanach, Development Review Specialist III

VIA: Estevan Lopez, Land Use Administrator

RE: EZ Case S 01-4060 Las Campanas Santa Fe

ISSUE:

Las Campanas Limited Partnership (Michael Baird, Vice President) is requesting authorization to proceed with a master plat procedure which would allow submittal of a master plat for a portion of a subdivision phase, to permit administrative approval of a specified number of lots for the purpose of providing flexibility for the seller and buyer based on market conditions and demand.

SUMMARY:

The Extraterritorial Subdivision Regulations provide a procedure that allows an applicant the option of submitting a master plat instead of a standard subdivision plat that specifically defines the lot and road layout. The master plat would show a conceptual lot and road layout and establishes the maximum number of lots. A seller and potential buyer would then have the opportunity to select a specific lot and road layout based on market conditions and demand. Once a lot and road layout is selected, a subdivision plat is submitted to the administrative staff for approval and recording with the County Clerk. This procedure provides flexibility for the seller and buyer.

A development plan in conformance with applicable regulations would also be required for review and approval by staff, for construction of required improvements and infrastructure.

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)

March 13, 2001 - 4:00 P.M.

Amended Agenda

SFC CLERK RECORDING 08/13/2004

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
- VI. Approval of Minutes
- VII. Consent Calendar
 - A. Request Ratification of Actual Travel Expenses for the County Clerk
- VIII. Presentations and Awards
 - A. *Don't need* Presentation Regarding a Technology Dedicated to Converting Solid Waste into Value Added Products While Solving Environmental Problems, by Donn G. Duncan with Waste Technology Transfer Inc.
 - B. *Don't need* Appreciation Award Given to Public Works Department for their Exceptional Work During the Emergency Declaration in Southern Santa Fe County
- IX. Staff and Elected Officials' Items:
 - A. Finance Department
 1. *Don't need* Financial Report - Report on Year-to-Date Revenues and Expenditures and Mid-Year Budget Reviews
 - B. Land Use Department
 1. *Don't need* Request Authorization to Publish the Title and a General Summary of an Ordinance Relating to Utility and Communications Antennae, Towers and other Facilities; Encouraging the Development of Wireless Communications Infrastructure; Prescribing Regulations for Location, Placement, Appearance and Design; Requiring Compliance with the 1996 Telecommunications Act

labeled
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Resolution No. 2001- A Resolution Certifying and Accepting a Franchise Transfer from Communication Services, Inc. to Broadband Broadrange Inc. to Operate a Cable System in Santa Fe County

3. Resolution No. 2001- A Resolution Certifying and Accepting a Franchise Transfer from Santa Fe Cable Vision Company to United Cable Television of Eastern Shore, Inc. to Operate a Cable System in Santa Fe County

4. Resolution No. 2001-³⁶ A Resolution Adopting the "Santa Fe County Water Utility Water Supply Action Plan"
OK

C. Matters from the County Manager, Samuel O. Montoya

1. Resolution No. 2001-³⁷ An Emergency Declaration for the Santa Fe County Solid Waste Department to Purchase Certain Equipment
OK

2. Communications/Announcements

D. Matters of Public Concern - NON-ACTION ITEM

E. Matters from the Commission

1. Request Ratification of Appointments to the Santa Fe Regional Juvenile Justice Board

F. Matters from the County Attorney, Steven Kopelman

1. Executive Session

a. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

b. Discussion of Pending or Threatened Litigation

X. Public Hearings:

A. Resolution No. 2001- A Resolution Amending Resolution No. 1999-137, The Santa Fe County Growth Management Plan, as Amended, to Adopt and Incorporate the San Pedro Community Land Use Plan (First Public Hearing)
Don't need

B. Emergency Ordinance 2001-³ An Ordinance Relating to Utility and Communications Antennae, Towers and Other Facilities; Declaring a Moratorium on the Submission, Consideration or Approval of Applications for Wireless Communications Facilities in Santa Fe County, New Mexico; Declaring an Emergency
need

C. Ordinance No. 2001- An Ordinance Adopting the Santa Fe County Urban-Wildland Interface Code (Second Public Hearing) *will get another hearing*
Don't need

D. Ordinance No. 2001-³ An Ordinance Amending Santa Fe County Commission Chairperson Election Ordinance No. 1990-7, to Provide for One Year Terms for the Chairperson and that the Chairperson Serves at the Will of the Commission (One Public Hearing Required)
need

OK
 E. Ordinance No. 2001-⁴ An Ordinance Amending and Replacing Santa Fe County Ordinance 2000-14 and Declaring a Moratorium on New Subdivisions, Land Divisions and Master Plans for Projects Served by El Dorado Utilities, Inc. and Encouraging Conservation Measures within the El Dorado Utilities, Inc. Service Area which Prohibits Transfer of Water from Residential Lots to Commercial Lots (Second Public Hearing)

F. Land Use Department Items:

1. EZ CASE #S 01-4060. Las Campanas Santa Fe. Las Campanas Limited Partnership, applicant, requests authorization to allow submittal of a master plat for a portion of a subdivision phase, to permit administrative approval of a specified number of lots for the purpose of providing flexibility for the seller and buyer based on market conditions and demand. The property is located off Camino La Tierra/Las Campanas Drive within the five mile Extraterritorial District, Section 11, Township 17 North, Range 8 East (Commission District 1). Joe Catanach
2. CDRC CASE #V 00-5431. Catherine Ducaj Variance. Catherine Ducaj, applicant, requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow for a family transfer land division of 2 acres into two lots: one lot consisting of a house and guesthouse on 0.65 acres; and one 1.32 acre vacant lot. The property is located at the southwest corner of the intersection of US 84/285 and Santa Fe County Road 84E, within the Traditional Community of Pojoaque, within Section 7, Township 19 North, Range 7 East (Commission District 1). Frank White
3. CDRC CASE #A 01-5021. Baxter Brings' Accessory Structure Appeal. Baxter Brings, applicant, is appealing a condition imposed by the County Development Review Committee allowing only four horses on the property at one time. The property is located off East Haozous Road, within Section 1, Township 14 North, Range 8 East (Commission District 3). Wayne Dalton
4. CDRC CASE #A/V 00-5951. Alan Weiss Appeal/Variance. Dr. Alan Weiss, applicant, Rosanna Vasquez, agent, is appealing the County Development Review Committee's decision to uphold the Land Use Administrator's decision to deny a lot split of 3.28 acres into two lots: one lot consisting of 2.525 acres and one lot consisting of 0.75 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 141 Sombrillo Road in Sombrillo, within Section 12, Township 20 North, Range 8 East (Commission District 1). Wayne Dalton (Tabled)

5. **CDRC CASE #Z 00-5900.** International Pond Supply. Charles and Tavo Kelty, applicants, Lorn Tryk, agent, request approval of a master plan amendment for two 5,000 square foot warehouse buildings, a 3,500 square foot warehouse building, a 2,500 square foot cold frame, a 3,000 square foot greenhouse and a 12 space parking area on 3.78 acres. The property is located on the I-25 Frontage Road, East of I-25 at the La Cienega exit, within Section 4, Township 15 North, Range 8 East (Commission District 3). Frank White
6. **CDRC CASE #Z 00-5960.** Michelle Sanchez Commercial Zoning. Michelle Sanchez, applicant, Dolores Vigil, agent, request the creation of a Community Center Commercial District at the intersection of US 285 and State Road 503 and Master Plan Zoning approval for an art gallery. The property is located at the northeast corner of the intersection of US 84/285 and State Road 503, within Section 6, Township 19 North, Range 9 East (Commission District 1). Frank White
7. **CDRC CASE #Z 00-5760.** Rancho Encantado Master Plan Amendment. Rancho Del Monte LLC, applicant, Sam Brown and Company, agent, request approval for a master plan zoning amendment for an expansion and remodeling of a resort-type use. This application also includes a variance of Article V, section 8.2.7 of the Land Development Code to allow for a grade of approximately 8.5% for the first 100 linear foot of an access road and a variance of Article III, Section 6.3.3 of the Land Development Code to allow for a wall to be constructed within 50 feet of the property line. The property is located south of State Road 592, north of Tesuque, within Section 7, Township 18 North, Range 10 East (Commission District 1). Penny Ellis-Green (Tabled)

XI. ADJOURNMENT

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

1899485

SANTA FE
BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

March 13, 2001

Paul Duran, Chairman
Paul Campos
Javier Gonzales
Jack Sullivan
Marcos Trujillo