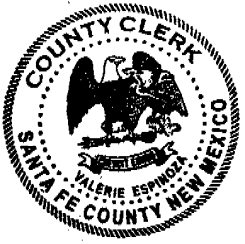


SFC CLERK RECORDED 05/23/2007
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SANTA FE
BOARD OF COUNTY COMMISSIONERS
MEETING
April 10, 2007

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



COUNTY OF SANTA FE) BCC MINUTES
STATE OF NEW MEXICO) ss PAGES: 215

I Hereby Certify That This Instrument Was Filed for
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Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy Brian J. Reddy County Clerk, Santa Fe, NM

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

April 10, 2007

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:37 p.m. by Chair Virginia Vigil, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

[None]

V. INVOCATION

An invocation was given by Stephen Ulibarri from the County Manager's office.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or withdrawn items**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

ROMAN ABEYTA (County Manager): Thank you, Madam Chair, the following amendments have been made to the agenda under IX. Matters from the Commission, which is a resolution establishing a management protocol at the Santa Fe County Adult Detention Facility. We've added an item E, which is a resolution in support of the federal program payments in lieu of taxes. We've added item F, which is a discussion and possible approval for an expenditure of discretionary funding. And we added an item G, which is a

discussion of Santa Fe County fairgrounds improvements and facility needs.

Under XII. Public Hearings, A. 1, we clarified on the agenda that that is a first public hearing for repeal of the Eldorado moratorium ordinance. Continuing with XII. A, item 11, CDRC Case #V 06-5590 has been tabled, and item 12, CDRC Case #V 06-5670 has been tabled. There are no further changes from staff, Madam Chair.

CHAIR VIGIL: Thank you. Any changes from the Commission?

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Consent Calendar.

CHAIR VIGIL: On the Consent Calendar, are there any particular withdrawals that the Commission would like to consider in full hearing? Commissioner Sullivan.

COMMISSIONER SULLIVAN: X. A. 1.

CHAIR VIGIL: X. A. 1 is EZ Case, Valle Serena? That one?

COMMISSIONER SULLIVAN: Yes.

CHAIR VIGIL: Okay. Any other Consent Calendar items to be discussed? Seeing none, Commissioner Anaya, doe your motion include those amendments?

COMMISSIONER ANAYA: Yes.

CHAIR VIGIL: Okay, I have a motion. Was there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Motion and seconded.

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

VII. APPROVAL OF THE MINUTES:

A. March 13, 2007

CHAIR VIGIL: Are there any changes to those minutes?

COMMISSIONER CAMPOS: Move to approve.

COMMISSIONER SULLIVAN: I have changes.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: There's a motion to approve. Commissioner Sullivan has corrections. Does the motion include that?

COMMISSIONER CAMPOS: As long as they're typographical.

COMMISSIONER SULLIVAN: Typographical corrections.

CHAIR VIGIL: Typographical improvements, and second. Any further discussion?

The motion to approve the March 13, 2007 minutes as corrected passed by unanimous [5-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN - NON-ACTION ITEMS

CHAIR VIGIL: This is the part of the Commission that we ask members of the public if any of them are interested in addressing the Commission. This would mean on issues that are not a part of the agenda. If they are part of the agenda we will listen to the public at that part of the Commission meeting.

CAROLYN SIGSTEDT STEVENSON: My name is Carolyn Sigstedt Stevenson. I'm a city and county resident. I just have a question. Usually at this point we are allowed to speak on action items and so I'm wondering - isn't that true? So in other words, can I talk about this resolution a little bit?

CHAIR VIGIL: That will be next on the agenda, Carolyn, so you'll have the opportunity to do that.

COMMISSIONER CAMPOS: Madam Chair, that might not be open to the public. That's a matter for the Commission. I'm not sure that's a public hearing.

MS. STEVENSON: That's why I thought I -

COMMISSIONER CAMPOS: If you want to make comments about that, I have no problem so long as they're very brief.

CHAIR VIGIL: Mr. Ross, this is public hearing or not?

STEVE ROSS (County Attorney): Madam Chair, do you mean IX. A?

CHAIR VIGIL: Correct.

MR. ROSS: It's only a public hearing if you desire it to be so.

MS. STEVENSON: I'm not asking for it to be a public hearing. I'm just asking to speak now, before.

CHAIR VIGIL: Carolyn, if you have a few comments, how much time would it take?

MS. STEVENSON: I think just a minute or two.

CHAIR VIGIL: Okay. Go ahead.

MS. STEVENSON: Well, first of all, I'm sorry that this couldn't have been worked out at the managerial level. I have the highest respect for our County Manager. I've witnessed his work and watched him rise over the years. I also have respect for Greg Solano, who incidentally I think was one of many who worked to get our prisons in the public domain, which was a very important issue to me, rather than having private prisons.

And then I also have the highest regard for Annabelle Romero, who I feel is professional, hard-working is an understatement, and compassionate. And she has the experience that was a gift to our community to take over this rather impossible, difficult task, a task that is never going to be absolutely clean, just because what one is dealing with.

In terms of today's discussion, I feel it's important for Greg to understand - I actually do believe this to be a separation of powers, but it isn't to take power away from Greg, it's actually to give him a different power. When you have - this isn't an executive situation; this is a Commission. And then under Commissions things disperse differently. I also mentioned that it would have been best if this could have been resolved at the managerial level. Since it's

not, it wasn't able to be, it needs to come to the Commission.

My feeling is that in a prison system you have the potential for criminal acts, not just by the prisoners, but also perhaps by the staff, and so you can't have management investigating themselves. And this was your point in the paper as well, Commissioner Vigil, I feel, that it's important to have that separation of powers so that if something on a criminal basis - nothing less - but if it's criminal it should be able to be investigated. If it's a federal prisoner, perhaps by the feds, perhaps by the state or perhaps by the County Sheriff. We have to determine who that outside investigative body is. So that's one point.

I also feel that it's too bad that much of this had to air publicly in the paper the way it did because I want our public prison system to always improve and go forward and I want our community to have confidence in it. And I think when we air many things in public it doesn't lead to that and in fact breaks down the system and makes many people suspicious rather than confident. So that saddens me very much.

CHAIR VIGIL: Carolyn, thank you very much.

XI. Matters from the Commission

- A. **Resolution No. 2007-60. A Resolution Establishing a Management Protocol at the Santa Fe County Adult Detention Facility; Vesting Authority for Operation and Management of the Facility in the Jail Administrator; Clarifying the County Sheriff's Role In Operation and Management of the Facility (Board of County Commissioners) [Exhibit 1: Text of Resolution]**

CHAIR VIGIL: I'm going to turn this resolution over to our County Manager and our County Attorney.

MR. ABEYTA: Thank you, Madam Chair. It's been 18 months since Santa Fe County has taken over operation of the adult jail from MTC. In the last six months the following progress has been made: appointment of Annabelle Romero as the Corrections Department director, the appointment of David Trujillo as the jail administrator, staff additions with substantial corrections experience, salary increases for detention officers, appointment of two new members to the Corrections Advisory Committee, the creation of a subcommittee of the Corrections Advisory Committee and the Health Policy and Planning Committee, recruitment and selection of a medical director, recruitment and selection of a medical doctor, recruitment and selection of a medical administrator.

We also have a contractual agreement now with the University of New Mexico for medical services. We have ongoing discussions with Presbyterian Medical Services for additional medical coverage, and finally, we have seen a substantial reduction in claims filed over the last six months against Santa Fe County.

In regards to the proposed resolution defining management roles at the adult jail, based on the substantial progress made over the last six months with little to no participation from the

County Sheriff, I recommend that the Sheriff be removed from operation and management of the facility. Furthermore, I've contacted Dona Ana County, Bernalillo County and San Juan County and they have taken similar action regarding the management and operation of their facilities.

I've enclosed a letter from the New Mexico Association of Counties to this memorandum. The Multi-Line Pool Board of the Association of Counties has enacted a policy that recommends that County Sheriffs do not participate in the management and operation of jail facilities.

Madam Chair, Steve Ross, the County Attorney, will now provide a brief summary of the proposed resolution.

CHAIR VIGIL: Thank you. Mr. Ross.

MR. ROSS: Madam Chair, I'll try to provide a brief summary of what is a fairly lengthy resolution, I think it's four page. Five pages, actually. It's lengthy because in the resolution we set out the statutory framework that governs the relationship of sheriffs and jail administrators to jails in this state and as the County Manager just stated, it's fairly typical for boards like yourself to vest operation and management of jail facilities in a jail administrator just as you've done. You have appointed a jail administrator. His name is David Trujillo, and placed the adult jail under the general supervisory control of the Corrections Department, which is a new department created I think less than a year and a half ago when we started taking over the privately run juvenile facility and the privately run adult facility.

The guts of the resolution, after numerous whereas that sort of explain to be how we came to be at this point, are as follows. They're on page 5. The first point is basically a statement of state law, which is that the jail administrator, Mr. Trujillo, has sole authority to operate the facility on behalf of you, the Board of County Commissioners. The second point is that the jail administrator of the facility and all the employees therein are to remain a part of the Corrections Department where they are now. The third big point is all authority vested in the jail administrator under the New Mexico statutes are lodged in the jail administrator of the County Detention Facility.

Four clarifies that under state law the County Sheriff has no role in the day-to-day operation and management of the facility, except to conduct investigations of criminal conduct with which the jail administrator shall provide full cooperation. The fifth big point is reflecting the fact that we have a professional investigations unit within the facility that investigates hundreds of incidents each year that occur at the facility. The fifth point says that all those investigations are to be conducted according to protocols established by the jail administrator and matters that meet the criteria set forth in those protocols shall be referred to appropriate law enforcement agency for criminal investigation and prosecution if necessary.

And the sixth point is instructing the County Sheriff to immediately cease the internal investigation that he's conducting of operation and management of the facility because that's inconsistent with his responsibilities vis-à-vis the jail administrator under state law. That's the resolution.

CHAIR VIGIL: Do you have access to the statutory citation on this? I know it's

listed here, but do you actually have the statutory language with you? It seems to me that it's quoted somewhere.

MR. ROSS: Madam Chair, the statutory language is summarized and quoted in numerous paragraphs. I suppose the most relevant is the citation, the 33-3-1.a, a fairly old statute enacted at first in New Mexico in 1865 that specifies that county jails are under control of the respective sheriffs, independent contractors or jail administrators hired by the Board of County Commissioners.

CHAIR VIGIL: Thank you. Any questions from the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya, then Commissioner Montoya.

COMMISSIONER ANAYA: Madam Chair, I'd like to hear the Sheriff's point of view on this.

CHAIR VIGIL: And I think that would be appropriate. Let's take up the staff report first and get questions from the Commission on that. Commissioner Montoya.

COMMISSIONER MONTOYA: That was actually going to be my request as well, Madam Chair.

CHAIR VIGIL: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, I just – I concur that the Sheriff should speak and it should be no more than ten minutes. I think he's been speaking to the press, sharing reports at a press conference. He's had opportunity to express himself. We've seen his reports. We've analyzed them. I just don't want any grandstanding or anything too emotional. I want it to be factual and right to the point.

CHAIR VIGIL: Okay. Hearing that being the wishes of the Commission, Sheriff Solano, if you would come forward. I would just inform you that I think each one of the Commissioners has received a packet of information from you and it's my understanding that they've all had ample opportunity to read it and I think you have received a response to that. Is there anything in addition that you'd like to add to that report?

GREG SOLANO: I have some prepared statements but then I want to answer some things brought up in the resolution. To me this jail reminds me of a passage in the Bible. In the passage Jesus tells his disciples to build their spiritual house on a foundation of rock, for if you build your house on sand it will not withstand the wind, rains and flood. Today you begin rebuilding the foundation of the jail and I ask each of you, will you build that foundation on rock or sand?

The truth of the matter is that those of you, and not all of you, but those of you pushing this resolution want only employees you can control running the jail, only puppets whose strings you can pull. I answer to the citizens and I am not nor will I ever be a puppet. I have tried to warn you of the bad things happening at the jail and like a whistleblower in a company that you want to get rid of you try to push me out and think the problems will go away. I have no doubt that this resolution was a done deal with certain Commissioners way before the gavel on the beginning of this meeting was every struck.

I will not go away because you decide to try and remove me. I will uphold my oath of

office and I will continue to advocate for the community in jail issues. While many state statutes give the power over the jail to a jail administrator or the Sheriff, there is not clear delineation as to who decides which of the two oversee these functions. Today you are asserting that you have that power. That may end up being a matter for the courts to decide. I have done nothing but advocate for a safe and secure and well run Corrections Division. If that makes me your enemy in this issue then so be it.

I hope some of you are really thinking about what's best for the community and not what is best for maintaining yours and the County Manager's power. In the resolution you have a whereas. Whereas in recent years the Santa Fe County Sheriff has purported to assume control over certain operations at the Santa Fe County Adult Detention Facility, including exercising authority over the hiring and firing of employees at the facility, determining which inmates are to be placed on work details, exercising authority over awarding of good time, purporting to exercise control over internal investigations at the facility, and purporting to have supervisory authority over employees at the Corrections Department, including the jail administrator.

Number one, I have never taken part in hiring and firing of employees at the facility, other than when invited by the County Manager and the County to take part in reviews of hiring of high-level Corrections officials, and it's always been at that invitation. Never have I forced myself into that.

As far as good time, internal investigations, supervisory authority over Corrections Department and many other issues that are brought up throughout this document, one of the former sheriffs is sitting right there. This is not in recent years. The Sheriff has always, under MTC, under Cornell and under the County, had signed off on good time letters, done background checks on inmates that are going to go out on work release and approve these inmates. They have always done the background checks on the employees who are to be hired at the Corrections, under MTC, under Cornell and under the County.

You guys are trying to act like, and this document tries to act like I've forced myself into these issues. I am doing nothing different than has been done under previous sheriffs, even when it was privately managed, with the exception that when the County took over this jail and began a Corrections Division, a jail team was implemented under the former County Manager. The current County Attorney sat in on all of those meeting and the current deputy attorney sat in on all those meetings. It was unanimously, unanimously, and I repeat, unanimously agreed upon that the best way to handle this would be to have the Corrections director report to myself the Sheriff - and this isn't just about me, because we're making decisions here that will affect future sheriffs for years and years to come, but that the Corrections director report to the County Sheriff and the County Manager together.

That plan was brought forward and a big power point was right there behind you, and all of you looked on your computers with the exception of some of you that weren't here then, and on that was an organizational chart that clearly delineated that. The County Commission unanimously passed the take-over of the jail and that organizational chart. The previous Corrections director, who is currently the deputy Corrections director, if asked, and I am sure

and I haven't talked to him because employees over there are afraid to talk to me because they may be fired. But I'm sure if asked they would tell you that he was operating at the time he was Corrections director under that clear delineation, that he reported to myself and the County Manager.

And when that was taking place we didn't have these problems that we're having now. It wasn't until a new Corrections director was put in place and she was given here marching orders to ignore the Sheriff, that these problems started to occur. So like I said, my feeling is your minds were made were made up when you walked in here. This resolution was shown on at the last moment so that I would have very little chance to bring anyone in here to oppose this. It was handed out minutes before this meeting so that no one could even research it or look at it or make a decision on it or come in and give input on it. Even the press only received it minutes before you walked in and sat down. I received it minutes before. I believe this was all done on purpose to make sure that you could come in, whiz through this, pass it and receive as little backlash as possible.

So I'll answer any questions that you have. That's my opinion and the things that I've laid forward and many of you said in the press yesterday that you hadn't even read the memos I sent you, so I'm wondering how you can make decisions like this without even looking at the allegations I set forward. But that's what it says in the press, that you guys didn't even look at those memos I've sent. I hope that the County Manager at least briefed you, but you're only getting one side of it. But there are serious allegations going on. You all can make up your mind. I'll answer any questions. But I will continue to advocate for the citizens of this community and for those who are in jail and out of jail.

CHAIR VIGIL: Thank you, Sheriff Solano, and I think on that we're all on the same page. Are there any questions? Commissioner Montoya, then Commissioner Anaya.

COMMISSIONER MONTOYA: Sheriff Solano, in terms of the whereases that delineate what the responsibilities will be, are there any that you have - or is it all of them that you have a problem with?

SHERIFF SOLANO: Well, I was only given this minutes before this meeting so I don't think that I've had adequate time to go through each of them. I've been reading it just as we were doing the Pledge of Allegiance. So I think - I couldn't even answer that question. I haven't been given enough time to study it.

COMMISSIONER MONTOYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, thank you and thank you, Sheriff Solano. I was just handed this resolution myself. I haven't had a chance to go through it. I've just briefly gone through it. I haven't had a chance to read any of the e-mails that you have sent the Commissioners. I was handed a printout of that today. My question to you, Sheriff, is what involvement, and before I get into that I think that this could have been handled with you and the County Manager without having to bring this forward to the Commission. But what, in your mind what involvement do you want to be involved with our new administrator?

SHERIFF SOLANO: I have to be able to, when I get complaints - and one of

the responses given the media was I'm only getting complaints because I put myself out there to get them. Any previous sheriff will tell you that they've always gotten complaints about the jail, that people expect the Sheriff to have something to do with the jail. So when I get complaints I field the calls over there and have those complaints handled and responded to. What happened is once the marching orders were given that the Sheriff wouldn't have any authority over Corrections officials, that stopped.

I wracked my brains all last weekend thinking of some kind of compromise here but the thing is that if I have no authority there's no reason for them to pay any attention to me. So I think - and the jail team spent months and months - and you were here then - the jail team spent months and months going through these issues and they found was the best solution and I still think it's the best solution and I can't come up with a better solution.

COMMISSIONER ANAYA: I remember about two years ago this Commission established the jail team and I know that the Sheriff and his staff was very involved in the jail team. And that was working together with the Commissioners, the Sheriff's staff and to come up with how were we going to take over the detention center in the right way and without any troubles, and that happened. And I think that what we did was a big success. In that success we included the community, and we had those meetings that went on and on, and you guys were very involved in that. I don't think that at this time, I don't feel at this time we should be taking partners away; we should be recruiting partners to help us with the success of this jail.

I think that the Sheriff needs to be involved. If there was an emergency there, the Sheriff is a stone's throw away from that facility. He needs to know what's happening here, what's going on, because he's going to be one of the first responders to go over there. I think that we shouldn't take the responsibilities and just focus them on certain people. We need to spread those responsibilities out, and the Sheriff is definitely one of those people. I have to apologize for not reading the comments, the-mails that have gone back and forth, but to me this makes no sense to eliminate the Sheriff from this. And right now, I would hope that maybe this Commission would postpone this resolution so that we could really take a look at it, and I know that the Sheriff can sit down with the Manager and the jail administrator and work these differences out. It's not like he's asking to take over the jail. He doesn't want to take over the jail. All he wants to do is have a little input and say on what's happening there to try to correct the things that maybe I hear are going wrong. With that, Madam Chair, thank you very much. Thank you, Sheriff.

CHAIR VIGIL: Thank you. Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't have any questions. Are we just doing questions for Sheriff Solano now, or what's your pleasure?

CHAIR VIGIL: We'll take comments or questions, and I think there are some other people that would like to address the Commission. I don't know if you'd like to wait for those. There are people here from the Jail Advisory Board that I think would like to address, and also our new Corrections Director, Annabelle Romero is here. The Commissioners are welcome to ask any questions at this point in time.

COMMISSIONER SULLIVAN: That's fine. I'll wait till they have the

opportunity to speak.

CHAIR VIGIL: Okay. I would just call forth anyone from the Jail Advisory Board that would like to address the Commission on this regard.

JOE JOINER: Good afternoon, Madam Chair. My name's Joe Joiner. I'm the chairman of the Corrections Advisory Committee. By the way we have one of our regular, twice a month meetings tomorrow and all Commissioners, any Commissioners are invited to come and attend. We meet every two weeks and we have a continuing dialogue about problems in the jail. The Sheriff is invited. The County Manager has committed to spending more time with us, which is tremendous, I think.

Our role is to advise this Commission. We are your advisors. We are not here to criticize the Sheriff or the jail, or anything that's going on in particular departments, but in the committee's view you should have a jail administrator that has administrative authority over the jail. That means hiring, firing, reviewing, investigating and so forth. There were many, many problems with the private contractor that I won't belabor because you all know them by heart, I'm sure. When the changeover occurred, we were short personnel to begin with. Twelve more did not reapply for their correction officers jobs, 17 more were found unqualified to be rehired because of the things a background investigation revealed.

I think it's too much for the Sheriff to assume administrative responsibility over something as complex as the jail. Ms. Romero is doing a fine job we think. There have been a lot of changes. There have been some needed and creative reorganization. She's been campaigning for increased pay for the staff to help her recruit. She's still down 40-odd percent in the security area of the jail. That's the officers that are watching the pods, for example, and it's primarily because of difficulty in recruiting. That needs to be addressed. Things happen when pod officers can't see. There's no correcting that without more employees, more staff on the floor.

She has her own internal investigation section now, headed up by the very capable Bob Ortiz, and what this Commission has to decide is at what level is the Sheriff mandated to be involved. Certainly if there's reason to believe a crime has been committed, absolutely and immediately. If there's security problems at the jail, if there's a disturbance, absolutely. The Sheriff is the number one person. But the jail needs close cooperation among many different County agency, not the least is the Sheriff, of course. He should absolutely be closely involved.

We're working now with the County Health Department. We're trying to bring external healthcare into the jail situation so that when these inmates are released and go back into our community they can receive treatment that may have landed them in the jail in the first place. There are many levels of cooperation that we're working on. I would not think for a minute that the Sheriff should be squeezed out or cut out of anything regarding his potential assistance to the jail. But stepping into an administrative job on top of his other duties is frankly a bit too much, I would think.

This is no criticism of the Sheriff. He has I'm sure quite enough on his plate. We just need closer cooperation perhaps between the jail and the jail administrator and the Sheriff's Department, and where that line is drawn is what this Commission has to decide. For example,

there are an awful lot of grievances filed by inmates about the way, the treatment they're receiving or whether their mail is being brought – grievances without number that I'm sure the Sheriff does not want to investigate. There are allegations which upon initial investigation by the jail administrator turn out to be totally unfounded. There are others which might have some merit to them. At some point the Sheriff has to be called and called quickly.

But I don't think the Sheriff wants to send someone over there to monitor the grievance box for example. So again, it's a burden on the Sheriff's Department that it probably can't meet successfully.

A couple of weeks ago at our meeting the committee unanimously gave Ms. Romero a vote of confidence. There was an article in the newspaper about her licensure problems with the bar which I thought was unfair and I wrote a letter to the editor about it. It has nothing to do with her competence to run the jail and she's extremely hardworking and capable. I think you've got a very good team here. It's just, as Ms. Romero remarked early on, it's like turning around a big ship in the ocean. It takes a while. And that's underway. We never got any response out of the private contractor at all. There were tremendous problems when they left and they take some time to solve. In my view they created what I once called a culture of casual cruelty. Our jail was run very poorly by the contractor. That's changing. It just takes a while and it takes a while to replace the staff who have left and the staff who are not willing to work under new rules. Any questions?

CHAIR VIGIL: Questions? None. Thank you very much, Mr. Joiner. We appreciate that, and also appreciate all the volunteer work you provide in that jail advisory. Nanette, do you have any comments?

NANETTE FARRELLY: Yes, Commissioners and chairwoman. I'd just like to say as a member of the Advisory Committee, I feel that the Sheriff has a vital role as well as the administrator and I think you cannot delineate that there's only sole duties. I think they need to work together, and I am concerned about some alleged issues that have been going on at the jail. I think that if there is a crime involved the Sheriff should be investigating it and I'm a little concerned about the resolution where there's some limitations on who has authority. I think it needs to be looked at. I think they both play it by the rules. I know Annabelle Romero has worked hard at reorganizing the jail. I think there's a long way to go and I really am concerned about the level of security as far as staffing at the jail and I was hoping that the raises would help with that.

It does have a long ways to go. There are some big changes going on with medical, which I applaud the administrator. I do feel that both of them should be able to work together on this. Thank you.

CHAIR VIGIL: Thank you, Nanette. Are there any questions? I think at this point in time there are two questions that I have. They may seem insignificant but they're gnawing at me. The resolution was made available to me as early – as late – I know that we've been working on it but I didn't get a final draft but at least a draft was made available to me yesterday and I think that most of those drafts were made available to the press this morning. Is that correct?

MR. ABEYTA: Yes, Madam Chair.

CHAIR VIGIL: Okay. To the press, correct?

MR. ABEYTA: To the press, this morning. Yes.

CHAIR VIGIL: That's correct? Okay. Also I think it's seemingly important to have a delineation of the history of what's gone on because I don't want the impression to go out there that this is an overnight decision. It's been my understanding as we've spoken with management that both the jail administrator and the Sheriff and the Manager's office have been working together to try to make these roles identified and have reached an impasse and this is why we're here. Would someone like to address the history of that? How long has that been occurring?

MR. ABEYTA: Madam Chair, I conducted a meeting between myself, the Sheriff, Annabelle Romero and the County Attorney about a month, a month and a half ago where we could start talking about these issues. And I received – we were supposed to get back together to continue defining roles, but then I received a phone call from the Sheriff on Wednesday the 28th at around 12:30 stating that he was concerned about issues that are happening at the jail and stating his lack of confidence in Annabelle Romero's ability to run the facility and he made it really clear to me that if we didn't define his role immediately with the Commissioners that he was going to get Sheriff's deputies himself and go to the facility and monitor it.

I told him I'll do what I can do to schedule a special meeting with the BCC so that we can address that first. So that's, since then things have progressed to this point to where we're before you asking you for definition. Again, it was a result of a phone call that I received from the Sheriff requesting this meeting.

CHAIR VIGIL: With regard to the history of staff working together with the Sheriff and the director, I think that precedes you as the County Manager. I think Mr. Ross, you have possibly been engaged with our previous County Manager in trying to identify these roles and how long has that been?

MR. ROSS: Madam Chair, I don't really remember. It's been since almost the time I arrived here in 2003 that we've been discussing this issue. We discussed it a lot in the context of the jail team. We've had, myself and others, including the former County Manager have had occasional conversations with the Sheriff in an attempt to define his role, clearly delineate it. I've had concerns from quite some time about the potential for conflicts and potential problems with criminal cases that are investigated at the jail by a person who's in the chain of command, essentially investigating himself, and I've conveyed those concerns.

We've enjoyed a pretty smooth working relationship with the existing system until very recently. But we've been discussing it as long as I've been here essentially.

CHAIR VIGIL: Thank you. Are there any other questions at this point in time? Is there anyone that would like to make any comment with regard to this that is part of the jail team or the jail administration? Commissioner Campos.

COMMISSIONER CAMPOS: Just a quick question which was raised about paragraph 5 of the resolution saying investigations of incidents that occur at the facility shall be

conducted according to the protocols established by the jail administrator. If there is a crime at the jail I assume the Sheriff will be involved. Could you expound on that, anybody on staff?

MR. ROSS: Madam Chair, Commissioner Campos, we have a current set of protocols that's being revised at the present time, but the current protocols and the future protocols will all state that all crimes that are discovered at the jail by the internal investigators or otherwise will be reported to the appropriate law enforcement agency immediately.

COMMISSIONER CAMPOS: So that's not really an issue, and this doesn't change that procedure that we're going to talk to law enforcement.

MR. ROSS: This does not change that.

COMMISSIONER CAMPOS: Okay. I have no other questions.

CHAIR VIGIL: Okay. Commissioner Sullivan, you wanted to speak at the end of discussion.

COMMISSIONER SULLIVAN: Madam Chair, I think that some of the points that have been brought up here on both sides are good ones and I just want to emphasize that we're not here I think to take a vote of confidence or no confidence on the role of the Sheriff. I think personally in my experience over six years with the Sheriff is that he's been very adept at law enforcement activities and very reachable and has communicated with me quite well.

I think we're here to clarify statutorily what needs to be done, particularly with a large undertaking such as operating a Corrections Department and operating not only a jail but also a youth detention facility as well. We have had a couple of months of discussion about this. I am concerned about having two entities investigating incidents and I think that that tends to have the inmates play one against the other, that if they don't get a favorable reaction from one they will move to the other until they get the notice or they public attention that they want. I don't think that's a good chain of command. I think that we are clearly saying here that criminal activities will be investigated by the Sheriff with the full cooperation of the jail administrator. I think that's very important.

I think in terms of what we've done in the past, in terms of work release and good time, that perhaps that was not the best way to do it. I think that enforcement and detention operations are two different operations that should be separate. And I think it's important, as was brought our earlier to recognize the fact that the Multi-line Pool Board has specifically addressed this issue and they're the ones that insure us. And if there's one thing we don't want to do it's put ourselves in jeopardy with regard to insurance. And they've clearly said that law enforcement and detention operations are unique and they are uniquely different. And that professional sheriffs should oversee law enforcement functions while professional detention administrators should manage detention operations.

I think that's where we are. I think we've tried everything with the jail and the Corrections Department. We've tried the Sheriff having a very hands-on approach to it. We've tried private contractors - several. All during my term. We've tried private-public management of the facility, and in every single one of these scenarios there have been problems. Nobody thanks the jail administrator when he or she does a good job. Or the Corrections Department director when he or she does a good job. Or even the Sheriff for that

matter. And perhaps we should and should think about that. But nonetheless, we hear about it only when something goes wrong.

It's kind of like your computer. You only curse it when it doesn't work. You never thank it when it works. So we've got to, I think now look at where we're headed under the decision that we did make to make the facility public, operated publicly. I think we're going in the right direction. I do have some concerns. The Sheriff said there were some comments in the paper that some of the Commissioners had not read his materials. I didn't - I read two newspaper articles. One in the *Journal* and one in the *New Mexican*. I didn't see that comment in either one and perhaps the Sheriff is talking about another newspaper. I did see a comment that some of the Commissioners had not had a chance to read the resolution yet. But I've looked at what the Sheriff has put forward, some of those issues and I've discussed them with the County Manager and asked about how they're being resolved, and I'm satisfied with the direction that is being taken to resolve them.

There will always be problems in operating a jail. And I appreciate, by the way, the Corrections Advisory Committee, and I would remind people that not much more than a year ago the big problem that we were talking about was medical issues at the jail. And the Department of Corrections and the feds were coming down hard on us for the lack of medical oversight at the jail. No one has mentioned that today. What does that tell us? Does that tell us anything? That probably tells us that it's not a problem really anymore. Now, I won't go quite as far as to say that. We still have some problems, but we have professional people, medical people, but we are addressing the issues that were brought forward to us and we have that under control. We're going to get other parts of this facility under control as well. And I think we're headed in that direction.

So I see the Sheriff as continuing to be an important part of this team. I think it's useful to define his roles. I think we need him there for investigations. I don't think we want to utilize his personnel for every single incident that occurs at that facility. Some of those incidents are incidents that fall under the provisions of the operating procedures of the jail; they're not criminal incidents and we don't need to have them elevated to criminal incidents to have the Sheriff involved.

So I feel that the intent of this is good. I think we've made progress in not much more than 18 months and I would encourage us to continue on the route that we're going. Thank you.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya, then Commissioner Campos.

COMMISSIONER MONTOYA: Sheriff, could you tell me when was the last time that the team met? The jail team met?

SHERIFF SOLANO: The Chief has just informed me he'd like to speak. But once the Corrections Director was hired and we took it over, we took over the jail, which would have been October of 2006, the last meetings I would say were probably at the end of 2006. I can't think of any in - it's probably even further back than that.

COMMISSIONER MONTOYA: Before October.

SHERIFF SOLANO: But once the decision in October was made to take over the jail, the jail team pretty much ended with the understanding that we were going to go forward with the plan that was approved. And there's one other thing I'd like to point out, and I'm sorry, Roman, but you lied, and if any of you ask the newspaper reporters who are here, if you ask them when they received the resolution, I handed it to them when I got a copy minutes before this meeting. I'm the one who gave them a copy. They were still requesting them right before this meeting.

MR. ABEYTA: Madam Chair, he's correct. We handed them a packet of information and it was brought to my attention by Steve that that wasn't in the package of information.

CHAIR VIGIL: Okay. Also I'm familiar with the fact that faxes were sent to other reporters earlier this morning too, so perhaps maybe the reporters present didn't receive them but I know that I personally requested a fax be sent to one of the television stations. So maybe we're all right with this. Commissioner Campos.

COMMISSIONER CAMPOS: My comments are that this is not a new issue, Sheriff. I've raised this issue for a long time. I've always felt that a jail administrator is the way to go, and it's based on sound public policy and I've always conveyed this to you very directly. The law supports that and it's very clear that we need to have a professional jail administrator who can run a jail. It's a tough job, especially large jails like Santa Fe County. Over 600 beds. It's a tough thing to do. We need people who really know about corrections. That's why we went to Annabelle. That's why we've gone to Dave Trujillo. These are true professionals who've dedicated years of their lives. As far as your role, I'm not sure what it should be, but I do know that the jail administrator should be the person running the show.

And the question is real simple. It's real simple. We have a Sheriff who's elected every four or eight years run a big jail like the one we have and I don't think that's proper, because you don't know who you're going to get. And the County has a huge investment in dollars as far as budget, and it's a County Commission responsibility. That's how I see it and that's how I've told you. I think it's time for you to let go a little bit, to back off. I think we have to move forward. I think we're making progress at the jail. The last six months have been very good. Anybody can nitpick anything to death. That's easy to do. It's a tough job and I think you should give Annabelle some credit and I think you need to apologize to some of our staff because you were awfully tough on them. You were tough on our County Manager, our Attorney. It was I think very unprofessional, the attacks you made. It bordered on intimidation, efforts to intimidate our staff and even the Commission, and I think that's bad. That certainly raises a lot of questions in my mind.

I'm confident that we have to move forward with the jail administrator. That's standard procedure, especially for large jails. It is the way to keep prisoners safer. It is a way to run a jail in a very professional way. It's the right thing to do, and I think you understand that, Sheriff. I think it's time for you to back off a little bit. Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Commissioner Campos. How much time do you need, Chief Johnson?

ERIC JOHNSON (City Police Chief): Just a couple minutes. Madam Chair, members of the Commission, I just wanted to go on record to express my support for Sheriff Solano in his efforts in overseeing the jail. Over the past several months especially we've been experiencing a number of problems as far as getting prisoners booked into the jail because of a medical reason. This is after the prisoner has already been taken to the hospital and received medical clearance. Our officers then take the prisoner to the jail and they've still been refused after being cleared by a doctor.

This is an issue where our officers get tied up for three hours transporting the prisoner back and forth between the hospital and the jail. It's not only a safety concern for our officers, it's a safety concern for the prisoner as well. And it's a safety concern to the community because chances are more likely that an escape can happen if these officers are transporting the prisoner back and forth. It's my belief that the Sheriff has to have some say in how the jail is operated because I personally have had to call him on several occasions to intervene for a simple task of getting a prisoner booked into the jail.

In speaking with other chiefs and other agencies who are contracted with the jail, we're not the only ones that are experiencing this problem and this is something I believe the Sheriff has worked very hard to address and it's definitely something that I cannot afford. I cannot afford to have an officer taken off the street for three hours because the jail staff won't accept our prisoners. Thank you very much.

CHAIR VIGIL: Chief Johnson, I have a question. Does the City Police utilize the CARE Connection and if so, to what extent?

CHIEF JOHNSON: With the new sobering center, as far as taking somebody who's intoxicated to that facility, the person has to be willing to go there. In some cases, a lot of the times when these people are intoxicated they do not want to go there. They'd rather go to the jail. As part of our protocol, whenever somebody is intoxicated or has an injury or whatever the case may be, we have to take them for a medical clearance, and that's my biggest concern. This is something that has been addressed with the jail in the past. Things may get better for a short time but then we start experiencing the same problems again. Like I said, I've had to call and wake up the Sheriff at all hours of the night and different times of the day for the simple task of getting a prisoner booked.

CHAIR VIGIL: Thank you. Any questions for Chief Johnson. Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. I would just like to close by saying I feel uncomfortable right now voting on this resolution, being that I just received it now, and I would suggest that this resolution be given to the Correctional Advisory Committee so that they could come back with recommendations to this Board. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, I'd actually like to hear from Ms. Annabelle Romero in terms of the difficulties, problems, that are being experienced in terms of booking.

CHAIR VIGIL: Ms. Romero, thank you for being with us today.

ANNABELLE ROMERO (Corrections Director): Good afternoon, Madam Chair and Commissioners. We are having difficulties and one of the things that has happened is that we hadn't had a medical director for several months, and because of that, it was my decision as well as the people in medical our decision to err on the side of safety so that we won't have inmates who would die in our facility if they're too intoxicated to be there. We recently got a medical director and we also have a new medical administrator. They are working on the policy that we are planning to distribute to all of the agencies. But it's a difficult situation and various agencies have been unhappy with our rejection of inmates coming into the facility, but I'd rather err on the side of caution.

The new doctor, the new medical director, is also on the staff of St. Vincent's and I believe that that's going to be very helpful to us because he will be able to understand what our facilities are like, what we have available there, how we're able to treat inmates, what our staffing is like and he will be able to convey that to the hospital in a more meaningful way, and I think that we will not encounter clearances that should not have been made. That will improve our relationship both with the hospital as well as with the agencies that have complained. But in my opinion, I'd rather err on the side of caution and I'm very sorry about that in terms of the agencies. I truly am and I understand the difficulty that creates for them. However, we have lives at stake and I think it's very important. We have seen where that hasn't gone well. And I would rather not repeat that.

CHAIR VIGIL: Okay.

COMMISSIONER MONTOYA: Thank you. Madam Chair, I guess based on what I've heard and what I've read, and I did read the packet after the reporter called me last night when I had no comment, because I hadn't read the packet. But I did read everything, Sheriff, that you did send and I was concerned and that's why I asked the question about this in terms of the admissions to our facility. I think it's been mentioned in terms of where we're at, in terms of the growth of the jail from when we first took it over and in terms of where we're at now. I think some of what's occurred has led us to this point today where we do need to determine and delineate what the responsibilities of individuals are within this facility. And that's all I see this as, as the Board of County Commissioners exercising their authority to implement and establish a protocol for the Santa Fe County Adult Detention Facility.

I think what's happened in the past, and we've grown to the point where I think we do need to take that step. I do believe that the Sheriff does need to be involved and other law enforcement agencies that do refer and bring their prisoners to Santa Fe County. So I think overall, Madam Chair, this is a sound, as Commissioner Campos said, public policy decision in terms of our responsibility to our community, to our constituents. And with that, Madam Chair, I would move for approval of this resolution.

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: There's a motion and a second for approval of this resolution.
Any further discussion? Commissioner Campos.

COMMISSIONER CAMPOS: There's conflict now between the County

Commission and the Sheriff's Department. I just want to tell the people who work for the Sheriff that this Commission has been strongly behind them. We have funded the Sheriff's Department like no other Commission. The Commission now has probably a fully staffed group of deputies and sergeants and that's because this Commission has supported you, and we will continue to support you. Despite the conflict with the Sheriff, we're 100 percent behind the Sheriff's Department, the people who do the work every single day.

CHAIR VIGIL: Any further comment? Hearing none, I guess I would make just a few comments. I have to underscore Carolyn Sigstedt's initial comments. It's truly unfortunate because we have two incredible professionals amidst us who I think at some level have personalized this. I actually hope that this had been more professionalized and if there are issues there that they could have been dealt with. But my understanding is that those issues have attempted to be dealt with for some period of time.

I don't look at this resolution in terms of stripping the Sheriff of any kind of authority and I hope that that isn't the perception that's given here. I think we're here before you to identify and clarify roles and delineate those roles. I think that will help with the jail operations and I hope it helps with the Sheriff and his operations.

I also think that amidst all of this there has been some communication problems. I know from reading packets and discussing the issue with many of the participants and the problems that have arisen today I've heard, well, I've called. I didn't receive a return phone call. I think all of those discussions need to be dealt with with a sense of compassion initially and with a sense of understanding. We have huge responsibilities for both the Sheriff and the jail administrator and I know if I were the jail administrator and I was caught between the potential of a problem in my immediate environment and responding to a phone call it would be more prudent of me to deal with the immediate environment. I can only imagine the pressure that's placed on the jail administrator because they are understaffed.

There are problems there that we're trying to address. We're under an audit of the Department of Justice. And I would just say, I did go to the debriefing of that audit and the first and only indictment that they had for us is the medical component and how that needed to be addressed. But I was very, very pleased to hear they see that Santa Fe County is making progress. And there are some areas that they made some incredibly good suggestions, and our jail administrators and our entire jail staff was there to listen to what the DOJ had to say.

So I'm hoping that all of these steps that have come into play so we can move forward in a more positive direction. I feel really uncomfortable in this position because I support the history of Sheriff Solano, what a position he has in our community, how supportive he's been towards public safety, but I also recognize that that public safety in and of itself within our jail is really vulnerable right now. Unless we take a leadership role and delineated responsibilities towards what needs to happen there and that the clarity for those responsibilities are understood, then I think we're going to have this problem and it's going to be ad nauseam. So with that, unless there are any other comments, I guess I'm ready. Any other comments from the Commission?

COMMISSIONER CAMPOS: Madam Chair.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: I would ask the Sheriff to work with us. Let's make this better instead of negative. We need to have confidence in our administration at the jail and I think it merits confidence. How else are we going to run a good operation and attract good people if we have someone just slamming it left and right. There are problems. Things need to be improved. We know that, but we need your help. Thank you.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I hear the Commission talking about wanting to work with the Sheriff but on the last page, number 4, it says the County Sheriff shall have no role in the operations and management of the Santa Fe County Adult Detention Facility. That just pretty much says to me, Greg, Sheriff, step aside. And that's not what we want to do, I don't think. I think we want to include him so that he has - and from what I'm hearing from the Sheriff, he doesn't want to run the jail, he just wants to have some input. And with that in there, it says he will no role in operation - is that what we want to put across to the Sheriff when he reads that?

CHAIR VIGIL: I guess what I would respond to that, Commissioner Anaya, is the distinct definition, at least in my mind, for operations and administration, and I believe the testimony all supported it today, should rest with the jail administrator. The distinct role and definition for a sheriff should rest with criminal investigations and public safety issues. And for me, that's real clear.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR VIGIL: Any other comments. I guess we're ready for a vote.

The motion to approve Resolution 2007-60 passed by 4-1 voice vote with Commissioner Anaya casting the nay vote.

[The Commission recessed from 2:50 to 3:10.]

IX. B. Proclamation Recognizing National County Government Week April 22-28, 2007 (Commissioner Montoya)

CHAIR VIGIL: Commissioner Montoya isn't here. I don't know if he'd mind if we moved ahead, so we'll just go on to item C until he gets back.

IX. C. Discussion of Possible Reschedule of May 8, 2007 Board of County Commission Meeting (Commissioner Anaya)

COMMISSIONER ANAYA: Thank you, Madam Chair. I believe Commissioner Montoya and myself are going to be out of the state on that day. We were

wondering if we could reschedule that meeting.

CHAIR VIGIL: Are there any options, County Manager?

MR. ABEYTA: Madam Chair, we don't have the calendar in front of us right now but I would request that we push it past the 8th instead of before the 8th because that's a land use meeting and we would have already noticed, we could potentially have already noticed for that meeting so it's much better if we push the meeting date back past the 8th instead of in front of the 8th. So it would just depend on the Commission's availability.

CHAIR VIGIL: Any comments? Commissioner Campos.

COMMISSIONER CAMPOS: On the 15th which is the Tuesday next, we have an RPA meeting I think at 4:00 on my calendar.

CHAIR VIGIL: I do too.

COMMISSIONER CAMPOS: And then if we go to the 22nd, that's just a week before the next regular meeting, so we're bunching up everything. I'm assuming there will be at least three Commissioners available for the May 8th BCC meeting, so we can have a meeting if we want to. The only real day is the 22nd, and that's, like I said, right before the last meeting of the month.

CHAIR VIGIL: Does it have to be on a Tuesday, Mr. Ross?

MR. ROSS: Madam Chair, our regular meeting days are Tuesdays but you can have it on any day of the week.

CHAIR VIGIL: Okay.

COMMISSIONER CAMPOS: But keep in mind that there are so many meetings, so much conflict.

CHAIR VIGIL: Right. Okay. Any other comments?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: That was just a suggestion. If you all want to have the meeting, that's fine, it's just that we will be out of town.

CHAIR VIGIL: If we actually moved it earlier, Roman - although I know your request was because it's a land use meeting, what would the problems be for holding it Tuesday May 1st? Although we have an RPA.

MR. ABEYTA: Madam Chair, I think the problem we'd run into is noticing because we've got to do at least 15-day notice.

CHAIR VIGIL: Okay.

COMMISSIONER SULLIVAN: I'll be out of state that day too.

CHAIR VIGIL: Okay.

COMMISSIONER CAMPOS: We have an RPA annexation public hearing on May 1st at 6:30.

CHAIR VIGIL: That's correct. How long will you be gone, Commissioner Anaya? I'm trying to work this out. What days will you be gone?

COMMISSIONER ANAYA: 8th, 9th, 10th, 11th, 12th.

CHAIR VIGIL: And the 15th we have an RPA. What about conducting a

meeting on the 16th, Wednesday?

COMMISSIONER CAMPOS: We have a special BCC presentation at 10:00, on my calendar.

MR. ABEYTA: That's correct, Madam Chair. That's the date of the special BCC presentation.

CHAIR VIGIL: And it's a land use meeting again that we're doing.

MR. ABEYTA: It's a land use meeting, the 8th, so the cases would be scheduled for 5:00 or 6:00 in the evening.

CHAIR VIGIL: Okay, any other suggestions? I've thrown so many out I'm feeling like I don't have any more. The 17th? We would have meetings two days in a row. Does anyone have the 17th free?

MR. ABEYTA: Madam Chair, the 17th we have a CDRC meeting at 4:00 in the chambers. We could look into moving that, but the 17th the CDRC has a meeting.

CHAIR VIGIL: Okay. And there is no other scheduled meeting according to the County Manager's calendar?

MR. ABEYTA: According to our Commission chamber calendar we don't have any other scheduled meetings that week, but I don't see RPA on this calendar yet.

CHAIR VIGIL: What is the feeling of the Commission to move the May 8th meeting to May 17th? That would be a week before the meeting of the 29th? Eleven days before the meeting of the 29th, which is an administrative meeting.

COMMISSIONER ANAYA: I won't be here. On the 17th? You could just keep it on the 8th.

CHAIR VIGIL: Okay. Keeping it on the 8th seems to be –

COMMISSIONER MONTOYA: I'll be here on the 17th. That's one more.

CHAIR VIGIL: Okay. What are the wishes of the Commission with regard to the 17th? Four of us will be here.

COMMISSIONER CAMPOS: Is that an all-day meeting.

CHAIR VIGIL: It starts at 3:00, correct?

COMMISSIONER MONTOYA: It's starts at 3:00. It's land use.

COMMISSIONER SULLIVAN: When's the BDD meeting? Is that the third Thursday?

COMMISSIONER MONTOYA: The BDD should be May 3rd.

CHAIR VIGIL: And actually SWMA meets on the 17th, does it not? The third Thursday of the month? I believe it does.

COMMISSIONER CAMPOS: I think that's right. There's a SWMA meeting at 4:00.

COMMISSIONER MONTOYA: So, Madam Chair, I would suggest you just hold on the meeting on the 8th and if there's some cases that need to be tabled, to table them to a subsequent meeting in June.

CHAIR VIGIL: Okay. That sounds reasonable to me. I'm hearing a consensus that we conduct the meeting on the 8th. Maybe we can do some preliminary review with regard

to some of these cases if any of them need to be tabled, we'll move them. Okay. So the meeting on May 8th will remain the same. Commissioner Montoya, we did call for item IX. B, proclamation recognizing National County Government Week, April 22 through the 28 and wanted you to be here to present it.

IX. B. Proclamation Recognizing National County Government Week April 22-28, 2007 (Commissioner Montoya)

COMMISSIONER MONTOYA: Sure. Thank you, Madam Chair. This is an annual thing. I guess events for the National Association of Counties declaring National County Government Week, and it's for April 22nd through the 28th and a lot of the 3,066 counties in the country participate in this and primarily it's through a resolution and any other activities. I know in the past we've had different activities during that particular week. I don't know that any are planned, other than just simply at this point passing this resolution, Madam Chair. And I would move for approval.

CHAIR VIGIL: There's a motion for approval of the proclamation.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: And a second.

COMMISSIONER CAMPOS: Question.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: Paragraph second of your memo talks about protecting the environment and the proclamation doesn't talk about that issue. Is that what we're trying to coordinate?

COMMISSIONER MONTOYA: Madam Chair, Commissioner Campos, that is one of the many activities I guess. It was kind of listed separately and pulled out. But that is one of the issues that County governments participate in. You would ask me that question.

CHAIR VIGIL: I have a question. This proclamation doesn't have a number. Wouldn't it be more appropriate for us to start numbering our proclamations with regard to filing, and Valerie, you may have a comment on that. Would you feel more comfortable.

VALERIE ESPINOZA (County Clerk): Madam Chair, we could start the numbering with this one.

CHAIR VIGIL: Why don't we do that for this year? I don't know if we've had any other proclamations but if we have maybe we can correct the number if our records indicate that. But should we not have this be 2007-1?

MS. ESPINOZA: Yes.

CHAIR VIGIL: Okay. And if we do need to correct it, would you bring it forth, Ms. Espinoza, please? Thank you. I just know it's a nightmare to try to locate these if you don't have some kind of indexing. There's a motion and second.

The motion to approve a proclamation declaring County Government Week (Proclamation 2007-1) passed by unanimous [5-0] voice vote.

IX. D. Discussion and Possible Approval for an Expenditure of Discretionary Funds in the Amount of \$5000, to be Administered by the Solid Waste Division for an "In-House Materials Recycling Program" for County Maintained Facilities (Commissioner Vigil)

CHAIR VIGIL: That is mine. In your packets, fellow Commissioners, you have a memo from Rita Maes that identifies that this is an in-house materials recycling pilot program. Currently, the only recycling that we focus on is paper recycling. This will improve recycling materials by including aluminum and glass and plastic at some level because this is intended to be pilot project that would help us better evaluate how we can improve on recycling.

The Solid Waste Division will also be receiving some additional funding through grants for this project. The \$5,000 that I wish to allocate will enhance their ability to make this a comprehensive pilot project, inclusive of recycled pickup and delivery and all that's desired by it. And in your packets you do have some of the drafted information that will be circulated in order to provide an educational component for this. With that I stand for questions.

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: There's a motion.

COMMISSIONER CAMPOS: Second.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: So, this is both a study and an actual recycling program?

CHAIR VIGIL: Actually, not so much a study as a recycling and gathering of data for the recycling. It's a pilot program. I think there have been some preliminary studies already done and that's what drew me to provide some assistance and funding for this.

COMMISSIONER MONTOYA: Which of the nine facilities are going to be targeted?

CHAIR VIGIL: Do we have someone from Solid Waste here? Would you please come forward? The question was which of the nine facilities will be targeted?

GREG SALOPEK (Solid Waste): At this time we're targeting all the facilities that are within the City of Santa Fe and there are nine facilities that are managed by Santa Fe County and that are within the city limits. The purpose for picking the nine in-city facilities is that we plan to use the City of Santa Fe collection service, and in that they only collect within the city we thought we'd start there. We're going to start with a pilot project at the Anacon and the Territorial building, and then after two to three months of reviewing that pilot project we're going to extend it throughout the city. There are nine facilities, and then after running it for about a year within the city, we're going to also develop a program for County facilities that are

maintained that are outside the City of Santa Fe. So that would include fire stations and community centers, etc.

COMMISSIONER MONTOYA: Thank you.

CHAIR VIGIL: Thank you, Mr. Salopek. Any further questions?

The motion to approve the discretionary funding for the recycling pilot project passed by unanimous [5-0] voice vote.

IX. E. Resolution No. 2007-61. A Resolution in Support of the Federal Program – Payments in Lieu of Taxes (“PILT”) (Commissioner Vigil, Commissioner Montoya, Commissioner Campos, Commissioner Sullivan, Commissioner Anaya)

CHAIR VIGIL: This is brought forth by everyone. Would anyone like to address it in particular?

COMMISSIONER SULLIVAN: Where is it?

CHAIR VIGIL: Commissioner Sullivan is asking where is the resolution?

MR. ABEYTA: Madam Chair, we’re distributing copies of the resolution now, but this is in response to the presentation that we had at the last meeting by Pablo Sedillo from Senator Bingaman’s office. Mr. Sedillo is here again today. The Commission did direct us to put together a formal resolution supporting the federal PILT program and funding that we receive. And I apologize for it not being in your packet. Naomi has the resolution, Madam Chair. There are several whereases regarding the PILT program and the Therefore be it resolved that the BCC strongly supports legislation that will provide Santa Fe County and the state of New Mexico with full payment of PILT monies, and therefore be it further resolved that the BCC urges the governor, the New Mexico State Legislature, and all counties in the great state of New Mexico to work together to support funding for the Payment in Lieu of Taxes program.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and seconded. Any further discussion?

COMMISSIONER ANAYA: Madam Chair, Roman, I’d like to get a copy of that so I can take it to the Association of Counties.

MR. ABEYTA: We’ll do that.

COMMISSIONER ANAYA: Thank you, Madam Chair.

The motion to approve Resolution 2007-61 passed by unanimous [5-0] voice vote.

IX. F. Discussion and Possible Approval for an Expenditure of Discretionary Funds in the Amount of \$2,000 to be Used for the Santa Fe County Fair Books (Commission Anaya)

COMMISSIONER ANAYA: Thank you, Madam Chair, and I just want to thank Pablo Sedillo for being here and helping us with that resolution. I'll stand for any questions.

CHAIR VIGIL: Thank you, Mr. Sedillo. I didn't even see you in the audience. I appreciate your being here. We're on the County Fairgrounds?

COMMISSIONER ANAYA: Yes. I stand for questions.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Perhaps Commissioner Anaya could explain to everyone what fair books are.

COMMISSIONER ANAYA: Thank you, Madam Chair, Commissioner Sullivan. I'll have Pat Torres come forward and explain what the fair book is.

CHAIR VIGIL: Those are the brochures that identify the schedule of meetings, awards, everything that's going on for the fair, aren't they?

PATRICK TORRES (County Extension Service): Good afternoon, Madam Chair, members of the Commission, the fair books are the books that contain the information as to what classes are available to enter the various exhibits into. It contains other information, the County Fair schedule, all the activities that are going to be going on throughout the course of the week in which the County Fair's conducted. It also of course recognizes previous fairs, the previous fairs' supporters and of course it certainly recognizes the Santa Fe County Commission.

But we do print two separate books. We print one specifically for 4-H exhibitors and basically we just print the amount that are needed for those families involved in 4-H, and we print what is called the open fair book, and that one is the one that's distributed to the public at large. This will be where the rest of the public can enter their exhibits in.

CHAIR VIGIL: Thank you. Any questions for Mr. Torres? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Patrick, does this normally come in your annual budget? Because this is the first time I've seen it as a discretionary fund item. Are you running short?

MR. TORRES: Madam Chair, Commissioner Sullivan, yes, we do seem to be running a little short. I speculate one of the reasons we're running short is one, of course utility costs over the course of the winters have come to force some of our expenditures to go up, not to mention even this last year the cost of doing business for the fair itself went up a bit as well.

COMMISSIONER SULLIVAN: So you think you'll be a little in the red this year, this fiscal year?

MR. TORRES: A little bit. We're certainly trying to manage those finances to where we stay within the black, to having a balanced budget. Nevertheless it helps to be able to

bring – it's easier.

COMMISSIONER SULLIVAN: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Further questions? Patrick, have you ever applied or does this qualify for lodgers' tax?

MR. TORRES: That's a good question, Madam Chair. We haven't explored that possibility but that might be something that might qualify. In the meantime we are coming here pretty close to a point where we're going to have to send those books to print so we can actually reach some of the schools before they let out for the summer.

CHAIR VIGIL: Any further questions? Is there a motion?

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: Motion. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second. Any further discussion?

The motion to approve discretionary funding for fair books passed by unanimous [5-0] voice vote.

IX. G. Discussion of the Santa Fe County Fairground Improvements and Facility Needs (Commissioner Anaya) [Exhibit 2: Information Sheet]

COMMISSIONER ANAYA: Thank you, Madam Chair. As you know, the County Fair always seems to come around faster than we'd like and I don't want to get caught again like we did last year, kind of running around at the last minute trying to get things done for our County Fair. And it always turns out to be a success. I was just kind of wanting to put this on the agenda and then maybe Joseph can kind of brief me on what's happening. I know we have the chairman and the president of the fair here, Gary Runner and a lot of his staff, so that we can brief the Commission on what we're doing so that we're not caught running around like we did last year. Thank you.

JOSEPH GUTIERREZ (Community Services Director): Madam Chair, Commissioners, Rudy Garcia has passed out a little information sheet and update in terms of the fairgrounds. This sheet basically addresses the capital dollars that the County has received on behalf of the fairgrounds. To date we've received with the appropriation that we'll get in August, probably, July or August this year, approximately about \$950,000, of which we've spent about \$45,000 on updates to the fair.

Currently, the Housing staff, because the fair board is under the Housing Department is working with maintenance staff there to prepare an RFP to go out for A&E services for the design, for basically the design of new County extension building. They're looking at about 6200 square feet. We expect an RFP to go out very soon. Right now, the funding that they have, the \$900,000 will not be sufficient enough to build a new extension building. If you're looking at 6200 square feet you're looking at about \$1.5, \$1.6 million. The architect will also

look at the size. Maybe it can be smaller and maybe we can balance the funds with our needs and those types of things. But that's what's going on.

We expect to have an architect on board, definitely within the next probably 90 days or so to start the design. That's the capital dollars. The second part of the fairgrounds is obviously the fair that's going to be coming up in August. The Housing maintenance staff is, along with Community Projects building staff, we'll be working on a punchlist that the fair board provided to me last night. They've identified a person to be a go-to person to make decisions. We started this process last year in July, so we're way ahead of the process this year and they have several items on that. Some of these capital dollars that the legislature has given us will be used to address this punchlist and improvements that we make for the long term. So we expect that to get started here within the next few weeks and we'll be real prepared for that.

The third aspect of the County Fair and under the direction is the Stanley Fairgrounds. To date, with current appropriations that we'll receive in August, we received approximately about \$360,000 for the Stanley Fairgrounds. In addition to that, Commissioner Anaya has provided about \$23,000 for purchase of the land. So we have staff looking at land in Stanley for potential purchase to erect some kind of fair or horse facility. I'm kind of a layman to the terms so I can't give you the exact terms.

CHAIR VIGIL: Equestrian?

MR. GUTIERREZ: Possibly.

CHAIR VIGIL: Sounds good?

MR. GUTIERREZ: Something that's not to the extent that's at the Santa Fe Fairgrounds, and probably there will be sufficient monies to be able to construct something like that, once we make the land purchase. And once we identify a site we will come to the Commission for their approval to move forward on the purchase of that land. So we basically have three things. We have extension building going on. We have improvements to the fairgrounds for the new upcoming fair, and we're also working on the Stanley facility also and a land purchase on that.

In addition, I know the chairman of the board wanted to address this Commission in terms of support that has happened in the past.

CHAIR VIGIL: Actually, we'd like to meet all the members of the board. Can you introduce them to us?

MR. GUTIERREZ: Sure. The chairman of the County Fair Board is Gary Runner.

CHAIR VIGIL: Thanks for being here, Gary.

MR. GUTIERREZ: The vice chair is Sean Thompson.

CHAIR VIGIL: Thank you, Sean.

MR. GUTIERREZ: We have a member, T.J. Malloy.

CHAIR VIGIL: Mr. Malloy, thank you.

MR. GUTIERREZ: Another member, David Howard.

CHAIR VIGIL: Mr. Howard.

MR. GUTIERREZ: And another member and a familiar face, Greg Smith.

CHAIR VIGIL: Greg.

MR. GUTIERREZ: In addition to the fair board we also have Pat Torres who's with the County Extension Office.

CHAIR VIGIL: Thank you, Pat, for being here. And if you'd like to address the Commission, please feel free to. Just state your name for the record.

GARY RUNNER: Hi. I'm Gary Runner. I am Santa Fe County Fair Board Chairman, five years running. I'll mention it's one of those jobs that is - you don't not take the job, they'd just as soon have me doing it. And I do appreciate them putting me in charge five years running.

First off, Madam Chair, I would like to thank the Commission for years of support. We've been getting a lot of things happening. I feel that the County Fair is growing and it seems like here lately, especially with Mr. Gutierrez and Mr. Garcia on board we're now doing leaps and bounds. Again, we'd just like to thank all of you for your support through the years and look forward to working with you of completing this master plan. The facility in the southern part of the county is to be a practice arena so that the kids down there don't have to travel all the way to Santa Fe to have an arena to practice. So a support building would be nice if the money's available at that time, for club meetings, restroom facilities, etc.

Imelda, our Santa Fe County Extension Service home economist, she wanted me to present this to you guys, if you get hungry this evening.

CHAIR VIGIL: We may pass it around right now. Is there anyone else on the board that would like to address the Commission? We rarely see you. This is a good opportunity if you'd like to address us. Please come forward.

T.J. MALLOY: My name is T.J. Malloy. I reside in the Edgewood area. I've been on the fair board for - I think this might be my fourth year. I would like to than the County for the help we're really received. In the last two years it's really stepped up. When people come to the fair we have really something for them to come and see and do and the facilities to hold the animals, if you ever would like to come and see a tour some day we could do that. There is a lot of facility that's taken place, a lot of volunteerism with the kids, adults, and they come from all over the county - the north, the south. The Stanley area, it's going to be really beneficial due to the fact a lot of people do commute. There's two of us here today that commute from Edgewood and we do that quite often. I think the Stanley area, which is very close to Moriarty, Stanley and Edgewood - a lot of people participate and come up to this area, so it's not just the Santa Fe area and it's not just the southern part. It's the northern part too. There's a lot of people who do come and the actions I've seen lately are really pro-active and I'd just like to say thank you.

CHAIR VIGIL: Thank you very much. Is there anything else?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya, and I see Mr. Torres wanting to address us again.

COMMISSIONER ANAYA: So Joseph, you are going to address the needs. I know there are more steers that are going to be shown this year, were tagged out last week and

we're going to need to build new pens. Are those going to be addressed?

MR. GUTIERREZ: Madam Chair, Commissioner Anaya, yes. We received basically a four-page punchlist last night from the fair board and we're going to address that. Frank will meet with T.J. and Victor and they'll organize that. We'll look at the procurement process and help facilitate most of this. I don't know that we'll be able to address every single item but we'll definitely address the majority. Again, I stress that we're starting this in early April. Last year we didn't do this until July so we're ahead of the game this year. And there's dollars to do that so we don't expect any major issues along this process.

COMMISSIONER ANAYA: Okay, good. And I just wanted to thank the president and the vice president and all the parents that are on the board that help out. I know you all do a lot and the fair wouldn't operate if it weren't for you all, so thank you very much.

CHAIR VIGIL: Did you have a question, Commissioner Sullivan, for Mr. Torres?

COMMISSIONER SULLIVAN: No. Go ahead.

MR. TORRES: Just real quick, I do want to echo the appreciation we've been receiving from the Santa Fe County Commission and all the Santa Fe County staff. And in addition, I too want to express not only the appreciation of the Extension Service but that of the fair board in keeping that complex or area on your radar screen as a legislative priority. We look forward to keeping this working relationship going and it's not only serving the youth but the greater community as well. It's incredible how many folks walk into our office on a daily basis, wanting or inquiring about renting the facilities. So it is being used by the greater community as well. So with that, thank you for keeping us as a legislative priority.

CHAIR VIGIL: Thank you, Mr. Torres. Commissioner Sullivan, then Commissioner Montoya.

COMMISSIONER MONTOYA: Yes, Madam Chair. I'm glad to see the board here. As you say, we don't get an opportunity to say hi to them too often. I really am glad to see that the funding is finally beginning to come forward. Right after I first took office I was quite enthusiastic about the potential that the fairgrounds had, but I also knew that if we didn't have a master plan that the funding agencies, the legislative council service and the entities that look at these funding requests usually are not too enthusiastic about any major types of funding. So I felt that getting that master plan was a first priority and we hired Ellis Browning to do that and worked real closely with the fair board.

So I think that was a good start and we can see then - and we got some fencing done and some other things done out there, but we can see in 2006 and 2007 it really began to pay off. We got \$300,000 from the legislature in 2006 and \$525,000 in 2007. So we're really, I think, seeing the benefits of having that master plan out there so that we've got a guide document. The only other thing I would suggest is I imagine it's probably, Joseph, on that punchlist but we're still not connected to the City sewer, are we?

COMMISSIONER MONTOYA: Or water.

COMMISSIONER SULLIVAN: Or water, but I'm more concerned about the sewer.

MR. GUTIERREZ: Madam Chair, Commissioner Sullivan, approximately, I'd say maybe about 30 days ago, I sent a letter to the City asking them for the opportunity to look into hooking us up to the City sewer and water yet. I haven't received a response yet.

COMMISSIONER SULLIVAN: Okay. Sometimes they're more amenable on the sewer because they can utilize the effluent for re-use, as part of their re-use calculation. So if we - it says here that there's been a lack of response time from the City on that. So if we do run into delays with regard to the water problem, at least let's focus on the sewer, because that seems to be easier to deal with with the City. And it's more of a health issue than the water is. We do have a well out there. It's not a great producer and it's only on a domestic permit, so as we expand the facility we're not going to be able to use that well forever. But it does work for now. I'd certainly like to see us pursue it at a minimum. Both is fine, obviously, but Pat will have to factor in the City's water charges into his budget once we do that. We have to give him enough advance notice so that he can do that, but in the meantime, the sewer is a capital cost and there is a fairly small fee, monthly fee for the sewer and if you don't have a water hook up then they calculate it on an average estimated usage. So I'd like to see us do that, put a priority on that if we can. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, that was part of the concern that I had as well, because as part of the Regional Planning Authority and our annexation plan, this was not really discussed as a priority. It was discussed in the whole realm of do we hook this up? Do we not? But never seriously. I didn't know we were actually looking at hooking into the City utilities. I think I would have probably maybe advocated a little bit stronger had I know this in terms of trying to get water and sewer from the City. I don't know if we need to - at least I'll bring this up in our discussion that we're having because part of the discussion was what do we with the County facility and I think the discussion was, well, we'll just leave it alone. I didn't know we were looking at doing this though. Thank you, Madam Chair.

CHAIR VIGIL: Thanks. Do you want to address that Mr. Torres?

MR. TORRES: Pretty much the newer parts of - the new buildings are hooked up to City sewer. The Extension office, which was built back in 1958, is still on a septic system but everything else is on City sewer.

COMMISSIONER MONTOYA: Not water, though.

MR. TORRES: Not water.

CHAIR VIGIL: Okay. Gentleman, I believe if there's no further questions or discussion this is just an update and I too want to chime in on thanking the members of the County fair board for their volunteer work, for their commitment to the 4-H and the Extension services that are provided to our community. I have participated in some of the educational training and some of the youth component training that's out there, and gosh, I wish we could interface with so many other youths because the services that are provided out there are so valuable. And thank you so much for your dedication and volunteerism to this service.

IX. OTHER MATTERS FROM THE COMMISSION

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: I'll pass for now.

CHAIR VIGIL: Commissioner Campos.

COMMISSIONER CAMPOS: I'll pass for now.

CHAIR VIGIL: Two passes. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one item, Madam Chair. There's been an announcement in the paper and on the e-mail but I just wanted to bring up an event that scheduled this Saturday from 1:00 to 3:00 at Franklin Miles Park. It's being supported by the City of Santa Fe, the Sierra Club, Public Service Company of New Mexico and the Interfaith Alliance. And what they're doing is they're trading in light bulbs. If you have some incandescent light bulbs in your house that you would like to replace and should replace with the new, energy efficient fluorescent bulbs, if you show up at Franklin Miles this Saturday, which will be the 14th, they will give you a free one of these new bulbs, which cost between \$2 and \$4 apiece, for each one of your cheap-o old ones that you bring in. That's a pretty good deal. We just bought a few at Home Depot and they were like two for \$3.99.

So I would suggest that everybody think about doing that and in addition to that, for every five that you bring in they will issue you a free pass to the Genoveva Chavez Community Center. So that's not a bad deal. For five light bulbs, everybody can go around their house and find five light bulbs of the incandescent type. So I just thought that would be a good way for people to get a good start on energy efficiency. Those bulbs use about a quarter of what the incandescent bulbs do. For example, a 17-watt fluorescent bulb will burn with the same brightness as a 75-watt incandescent bulb. So it's a pretty good deal. They fit right into the sockets of your lamps. You don't need to worry about that. And they light up right away and they are I think a good way to reduce your energy bill. So if everyone would like to show up Saturday and mob them they will provide you with light bulbs.

CHAIR VIGIL: Do you know the exact location in Franklin Miles?

COMMISSIONER SULLIVAN: They didn't say where in Franklin Miles.

CHAIR VIGIL: Would the Sierra Club be a good reference?

COMMISSIONER SULLIVAN: Yes, probably if you go to their website and catch a hold of them. Franklin Miles is a pretty big park, but I think they'll probably have signs there and just follow the cars with truckloads of light bulbs in the back and you'll locate them.

CHAIR VIGIL: Okay. Anything further, Commissioner Sullivan?

COMMISSIONER SULLIVAN: That's all. Commissioner Anaya, we are under Matters from the Commission. Anything?

COMMISSIONER ANAYA: Madam Chair, at this time I don't think I have anything.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: I just wanted to let people know that the

Aamodt negotiations continue to be an ongoing hearing process, and as part of that, a contingent of people that are involved in it will be traveling to Washington, DC next week to discuss this case with some of the federal officials at the Department of the Interior, Bureau of Reclamation, as well as our congressional delegation. My understanding is that Secretary Kempthorne has put this as one of his priorities in terms of a settlement, so part of what the individuals and the parties involved in this case need to know is what does that mean, because right now, the federal share is looked at as a pretty significant contribution as part of that overall settlement. So we will be going out there. I will be one of the individuals that will be going along with members from the various pueblos. I believe the City of Santa Fe as well.

And then just to let the Commission know, we were successful this past legislative session getting the DWI percentage of the distribution increased from 34 to 41 percent for DWI prevention and treatment. It includes law enforcement, our Sheriff's office, City of Santa Fe Police, a number of different law enforcement agencies benefit from it as well. I'm on the statewide DWI Planning Council and Santa Fe County will be receiving about an additional \$600,000 for these efforts. So I just wanted to let you all know that as part of the efforts of the Association of Counties and people in Santa Fe County that the efforts paid off and hopefully we'll be seeing some significant programs coming in the very near future. That's all I have.

CHAIR VIGIL: Thank you. Commissioner Campos.

COMMISSIONER CAMPOS: I have nothing.

CHAIR VIGIL: Okay. I believe that next Saturday is Santa Fe Beautiful Day, April 21st. That is Santa Fe Beautiful clean-up day. I just wanted to get that announcement out for anyone who's interested in participating. It actually is a fun activity. I believe about 8:00 in the morning everybody meets at the Siler Road location to pick up trash bags and gloves and pick sites and goes out and does trash pick-up. I'll check into that date specifically before the end of the meeting. And that is all I have.

X. Consent Calendar

A. Findings of Fact

1. **EZ Case #S 03-4832 Valle Serena Subdivision Phase II ISOLATED FOR DISCUSSION**
2. **CDRC Case #V 06-5610 Vigil Variance**
3. **CDRC Case #S/V 06-5240 The Cliffs at Padre Springs Subdivision**

B. Miscellaneous

1. **Electric Utility Right of Way Easement for Section 1, Township 20 North, Range 9 East, NMPM Santa Fe County, for the Chimayo Water System in the Chimayo Area in Santa Fe County, New Mexico (Community Services)**
2. **Telephone Utility Right of Way Easement for Section 1, Township 20 North, Range 9 East, NMPM, Santa Fe County, New Mexico (Community Services)**

COMMISSIONER ANAYA: Move for approval.

CHAIR VIGIL: We have a motion to approve the Consent Calendar.

COMMISSIONER CAMPOS: Second.

The motion to approve the Consent Calendar with the exception of item X. A. 1 passed by unanimous [5-0] voice vote.

X. A. 1. EZ Case #S 03-4832 Valle Serena Subdivision Phase II

COMMISSIONER SULLIVAN: Right, Madam Chair, and the only think I wanted to get corrected on this was on page 5, the wherefore indicates approval subject to staff recommended conditions, and there was an additional condition that was developed during the hearing and that's included in the minutes which are made a part of that also. And that was, the applicant agreed to connect in to either the Rancho Viejo or the Route 14 sewer system - Thornburg utility sewer system. That was in the motion for approval so I just felt that that should be in the order as well. I discussed it with Mr. Ross and I think he had some recommended language.

CHAIR VIGIL: Do you, Mr. Ross?

MR. ROSS: Madam Chair, that was an omission. I have some recommended language. I would recommend that after the wherefore we have the following: It is therefore ordered that the application for final development plan and plat approval and the requested variance from Section 3.5.F.2.b of the Extraterritorial Subdivision Regulations is granted subject to staff's recommended conditions, and subject to the special condition that wastewater service be provide by the Rancho Viejo sewer system, or the Thornburg/Santa Fe system.

CHAIR VIGIL: Okay. And that is reflected in the minutes?

MR. ROSS: They are reflected in the minutes of the meeting and it was an omission on the part of the drafters of the order.

COMMISSIONER MONTROYA: Move for approval with the addition.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second.

The motion to approve X. A. 1 with the change listed above passed by unanimous [5-0] voice vote.

XI. Staff and Elected Officials' Items

A. Matters from the County Manager

- 1. Consideration and Possible Action on Resolution No. 2007-62 . A Resolution Pledging A Two Million Dollar Payment to the City of Santa Fe as Project Manager and Fiscal Agent for the Buckman Direct Diversion Projects, Upon Final Execution of the Project Management and Fiscal Services Agreement (PMFSA)**

MR. ABEYTA: Thank you, Madam Chair. As the Commission is aware we are working with the City of Santa Fe. We have been having meetings and the City of Santa Fe is requesting \$2 million towards the Buckman Direct Diversion project. We have let the City know that as soon as the PMFSA agreement is adopted by the Buckman Direct Diversion Board we will immediately contribute \$2 million to the Buckman Direct Diversion project. And this resolution just makes that clear to the City of Santa Fe that we will contribute the \$2 million, once this agreement has been executed by the City and County.

CHAIR VIGIL: Thank you. Are there any questions of Mr. Abeyta?

COMMISSIONER MONTOYA: Move for approval.

CHAIR VIGIL: There's a motion. Is there a second? We can take discussion.

COMMISSIONER SULLIVAN: Second.

CHAIR VIGIL: Motion and second. Discussion. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I just had some wording suggestions on the fourth whereas. The fourth whereas says "Whereas the City of Santa Fe has borne most of the costs of developing the project to date, but funds to continue to develop from present City revenue sources are scarce;" I believe the majority of the funds that the City has used for the project they haven't used from City funds have been state and federal grant funds and those monies have been granted to the City for that purpose. I was just going to drop a suggestion that that whereas read "Whereas the City of Santa Fe, utilizing state and federal grants, has borne most of the costs of developing the project to date." And then the rest as written, indicating that that's where the bulk of the money has come from to date. Several million dollars has come from state and federal to this point.

MR. ABEYTA: Madam Chair, we'll make those changes because that's right.

CHAIR VIGIL: State that language again, Commissioner Sullivan.

COMMISSIONER SULLIVAN: My recommended language was on the fourth whereas to say "Whereas the City of Santa Fe, utilizing state and federal grants, has borne most of the costs of developing the project to date."

CHAIR VIGIL: Thank you.

COMMISSIONER MONTOYA: That's fine.

COMMISSIONER SULLIVAN: Does that sound okay with the maker?

COMMISSIONER MONTOYA: That's accurate.

CHAIR VIGIL: And it's accurate. Okay.

COMMISSIONER CAMPOS: Why not delete it, Commissioner Sullivan? It

doesn't add anything to it.

CHAIR VIGIL: There's a motion and a second that we adopt this resolution with a suggested amendment in language. Any further discussion?

The motion to approve Resolution 2007-62 passed by unanimous [5-0] voice vote.

XI. A. 2. Update on various issues

MR. ABEYTA: I have none, Madam Chair, but I will check and see what time the land use cases were noticed for, because it looks like we might be able to get to them before 6:00. But I'll find that out.

XI. B. Matters from the County Attorney

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

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

[The Commission met in executive session from 4:00 to 5:25.]

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

CHAIR VIGIL: I've received a request. Many of the items that we're actually hearing tonight were tabled from our last meeting. As you know, that meeting went on a little longer than we had hoped and so we tabled some of the items. One of those items is item 10, BCC Case # S 06-5290, the Colinas del Sol Subdivision. The request is to move that item after the item #6, the Gerard A. Martinez Variance. Is there any objection to that from any of the Commissioners? It seems only fair that that should be a part of the first part of our hearing.

COMMISSIONER CAMPOS: Well, that would depend, Madam Chair, on how the order is done. Is there a practice of selecting an order? I don't know.

CHAIR VIGIL: And the request - the order in my understanding is items 3, 4, 5 and 6 were items that were tabled from last week.

SHELLEY COBAU (Review Division Director): Madam Chair, members of the Commission, item 6 was not heard last month. We would request that item 10 be placed in front of item 6.

CHAIR VIGIL: I see. So items 3, 4, and 5 were supposed to be heard and so was item 10?

MS. COBAU: That's correct.

CHAIR VIGIL: So the request is that we put it in the same order that we would have heard it last time.

COMMISSIONER CAMPOS: That should have been done before today.

CHAIR VIGIL: Why wasn't it done before today, Shelley? Do we know?

MS. COBAU: When we initially prepare our agenda captions, we inadvertently stacked it in the wrong order, Madam Chair, and this item ended up - there were other items that it should have been in front of, and that's my fault.

CHAIR VIGIL: Okay. Are there any objections?

COMMISSIONER ANAYA: What are we doing, Madam Chair?

CHAIR VIGIL: We're moving item 10 to after item 5 based on the reason that this item was supposed to have been heard along with items 3, 4, and 5 last land use meeting and we had to table them because we had ongoing discussion on other issues. If there are no objections, I'm going to go ahead and rule that we move it up to after item 5. So we'll go ahead and have item 10 after item 5.

XII. PUBLIC HEARINGS

A. Growth Management - Land Use Department

1. An Ordinance Repealing Ordinance No. 2007-4, An Ordinance Declaring a Moratorium for Six Months on New Subdivisions, Land Divisions and Master Plans Within the Area Served by the Eldorado Area Water and Sanitation District, to Establish Procedures for Review as Necessary of This Ordinance, Providing for Automatic Repeal (1st Public Hearing)

MR. ROSS: Madam Chair, I can say a few things about this.

CHAIR VIGIL: Thank you, Mr. Ross. Please proceed.

MR. ROSS: During the last BCC meeting you authorized a publication of title and general summary of this proposed ordinance, which repeals the ordinance recently passed that imposes a six-month moratorium on essentially subdivisions and land divisions within the area served by the Eldorado Area Water and Sanitation District. That ordinance is not quite in effect yet but it will be soon. This ordinance would repeal that. This would be the first public hearing. It needs one additional public hearing at which time you can take action. We're planning on having it on the May land use agenda.

CHAIR VIGIL: Clarify this for me. We took action on it. When is the effective

date of the six-month moratorium if we previously took action on it? And does this stay it in any way?

MR. ROSS: No. Ordinances take effect 30 days after they're recorded in the office of the County Clerk unless they contain an emergency clause which this did not. So I think it's almost been 30 days since it was recorded. In addition, ordinances like this need to be published following adoption and I think actually that is delaying the effective date of this ordinance is that there was a SNAFU at the newspaper and one of the required publications was not done and we're redoing that one. So I think it's set to take effect in a few days. Once it does, then it's in effect for six months, pursuant to the ordinance itself, and then it sunsets.

CHAIR VIGIL: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Madam Chair, I had asked for reconsideration on this case. That will be coming up, when? At the next land use meeting or the administrative meeting?

MR. ROSS: The second public hearing is scheduled to come up at the next land use meeting but of course it could be advertised for the next administrative meeting should you choose.

COMMISSIONER MONTOYA: Madam Chair, I would maybe ask that we reconsider it for the next administrative meeting, being that I will not be here for the next land use meeting.

CHAIR VIGIL: I don't have a problem with that. Is there any opposition to that?

COMMISSIONER SULLIVAN: I do.

CHAIR VIGIL: You do? Commissioner Sullivan opposes.

COMMISSIONER CAMPOS: I do too. I have objection to it.

CHAIR VIGIL: Commissioner Campos does. Commissioner Anaya, do you have any opposition to having the second public hearing on this at the next administrative meeting as requested by Commissioner Montoya?

COMMISSIONER MONTOYA: Madam Chair, I wasn't asking for the next public hearing but just reconsideration of the original vote at the next administrative hearing.

CHAIR VIGIL: Okay.

COMMISSIONER CAMPOS: Madam Chair, I don't think we're reconsidering. It's not a reconsideration issue. It's basically an issue of canceling or abrogating the ordinance, which is a separate action from reconsideration. The ordinance is in effect or will be in effect shortly. All I think you can do is cancel it and that's what you suggested.

COMMISSIONER MONTOYA: That's the administrative meeting.

COMMISSIONER CAMPOS: The May 8th meeting?

COMMISSIONER MONTOYA: No.

COMMISSIONER CAMPOS: It would be the second hearing, right? This is the first hearing.

COMMISSIONER MONTOYA: Can you have the second hearing at the next administrative meeting?

MR. ROSS: Yes. We can get it advertised for that.

CHAIR VIGIL: That's what I thought your question was.

COMMISSIONER MONTOYA: Okay. So that's consistent with -

CHAIR VIGIL: I don't have any objection to that and I know that you would like to be here for that.

COMMISSIONER MONTOYA: Yes.

CHAIR VIGIL: So you and I are in agreement. Commissioner Anaya is too. I think we have sufficient direction.

COMMISSIONER CAMPOS: I haven't heard anything from Commissioner Anaya.

CHAIR VIGIL: He said yes. He nodded yes.

COMMISSIONER SULLIVAN: Madam Chair, I think all our procedures, our policies have always been that ordinances are heard at land use hearings. Not at the administrative hearings which occur during the day when the public can't participate if they're working. So if Commissioner Anaya or Commissioner Montoya can't make it on the 8th, then it should be scheduled for the June land use meeting.

COMMISSIONER ANAYA: The 12th.

COMMISSIONER SULLIVAN: Whatever the date is.

CHAIR VIGIL: I think I have a consensus that it be scheduled for the next administrative meeting and what date is that? Does anyone have a calendar in front of them? And of course if it's a public hearing we can always schedule it for after 5:00, correct? So that the public can participate?

MR. ROSS: Madam Chair, we can do that. It's the 24th. We'll advertise that the public hearing will occur at 5:00.

CHAIR VIGIL: Okay. In the meantime, is there any further discussion on repealing the ordinance from the Commission at this point? Seeing, hearing none, this is a public hearing. Is there anyone from the public that would like to address the Commission? Please come forward. I see two hands. Anyone else? Please raise your hands if you'd like to address the Commission on this item.

FRANK COPPLER: Madam Chair, members of the Commission, Frank Coppler. I'm the attorney for the Eldorado Area Water and Sanitation District, 645 Don Gaspar Avenue, Santa Fe, New Mexico. I'm sure that you've received a copy of our lawsuit that we filed with respect to the ordinance that's being reconsidered and had a chance to discuss it so I won't go into that. But I do want to extend a thank you to Commissioner Montoya for making the motion to reconsider on this matter. By no means are we trying to judge which way you're going to go, but we would like to see this matter settled in an amicable fashion, short of litigation. The reason we filed the lawsuit is to bring to the attention of the County some issues that I brought to the attention of the Commission the night that you voted to adopt the ordinance and this is simply meant to bring that to a head.

We want to thank Commissioner Montoya for making the motion and we understand there will be a public hearing on the question of repealing the ordinance on the 24th of this

month, and we'll have a chance to speak to the new ordinance that would repeal the ordinance that was put into effect. That's our understanding of the procedure. Is that correct?

CHAIR VIGIL: I think to further clarify that, we're having a first public hearing on the issue tonight. Is that not correct, Mr. Ross? We're required to have two public hearings. And so the next public hearing will be the second public hearing, upon which time we will take action.

MR. COPPLER: Okay. So let me just summarize very briefly the position of the Eldorado Area Water and Sanitation District, without going into the claims that we made in our case because I know that your counsel has had an opportunity to discuss those with you. But very briefly, we contend that the Eldorado Area Water and Sanitation District is an independent political subdivision of the state, and it's not a dependent political subdivision of the County. That was settled with the water and sanitation district was formed. We went through that process. We went through a number of years in which various representatives of Eldorado requested the County to participate in the acquisition of the water system. We went through a number of years of negotiation with regard to that. The County declined to do that.

We see this ordinance as an indirect method of achieving something that the County could not achieve directly. And again, we would hope that the County would respect the position of the district as being an independent political subdivision governed by an elected board to make the decisions that are being made, attempted to be made through implementation of the ordinance. Basically what this ordinance does is it puts a moratorium on applications for new development in the Eldorado area and there is no evidence in the record for a continuing need for a moratorium.

We contend that – we disagree strongly with the position that nothing has changed since the beginning of this moratorium eleven years ago. As a matter of fact, a great deal has changed. The water company is no longer owned by a private, for-profit company. It's owned by an independent political subdivision of the state with all of the ramifications for being able to raise public funds and focus public resources on the issue of providing water in Eldorado. And that is a sea change, a total change from the situation that existed under the former ownership of the private water company.

Now that we have a water and sanitation district we have the power to tax, the power to get grants, the power to get loans, low-interest loans. All of those ability are focused upon the question of getting water and producing water. And with that power comes the responsibility of the water and sanitation district and the water and sanitation district board to provide water connections to people who own land within the boundaries of the district, and that is their responsibility.

Now we know that the County has the responsibility to review development and comment on water availability under the state subdivision laws. We know that, and we expect that you will exercise that power in the future. We're not asking for any pass in Eldorado with respect to that issue. But our quarrel is with the way the ordinance goes about prohibiting new development during a moratorium from even requesting an approval if they propose to hook up to the water and sanitation district. Now, if they propose to hook up to any other organization

providing water, the ordinance says it does not provide such a moratorium. We see that as clearly discriminatory with regard to the district. The County has no policy of that type with regard to any other water supplier.

We see that as clearly discriminatory with respect to people who own land in the district that wish to develop their land, and wish to apply for water service with the district. Those folks pay taxes and they pay taxes to support the water and sanitation district just like all of the other people in Eldorado that are receiving water. And it is not fair and it is discriminatory against them to tell them that their applications are continuing to be on hold under a moratorium that is now 11 years long. So for those reasons we're urging you to continue to push forth and come forth with a vote on repealing that ordinance, and again, I want to express my gratitude to Commissioner Montoya for reraising this issue.

CHAIR VIGIL: Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Madam Chair. So is it your client's position then that they fully acknowledge the County's authority with regard to land use decisions?

MR. COPPLER: Of course not.

COMMISSIONER SULLIVAN: Of course they don't acknowledge it or they do acknowledge it?

MR. COPPLER: Of course that's not our position.

COMMISSIONER SULLIVAN: It's not your position that they - let me restate the question, trying not to make it a negative. You client does or does not acknowledge that Santa Fe County has the authority to make land use decisions within the Eldorado Area Water and Sanitation District?

MR. COPPLER: Land use decisions? Yes, sir. We acknowledge that authority.

COMMISSIONER SULLIVAN: You acknowledge that. Now, if an applicant comes forward in a period when there's not a moratorium, and Santa Fe County, based on the information available to it, decides that the Eldorado Area Water and Sanitation District cannot provide a 100-year water supply, what will your position be?

MR. COPPLER: Our position will be that as long as you're applying those rules equally to all water providers in the county you have the authority to make that decision. But the question is are you applying those rules equally? Are you applying those same rules in an equal fashion if someone is proposing to get a water supply from the City of Santa Fe, from Santa Fe County, or from some other water provider in the city? If you are applying those rules equally to all of the providers in the county, then the Eldorado Area Water and Sanitation District has no quarrel with that. But if you are not applying those rules equally, we do take issue with that.

COMMISSIONER SULLIVAN: Are you finished?

MR. COPPLER: Yes, I am.

COMMISSIONER SULLIVAN: Okay. Thank you. And as of right now, what is the position of the district in that regard?

MR. COPPLER: I just stated it.

COMMISSIONER SULLIVAN: I want you to tell me if you, representing the district now feel that we are applying those rules equally outside the moratorium? The condition that we're talking about here now is that there is not a moratorium. We've made it clear, I think in the public meetings and in the testimony, that the staff does not feel at this point in time that there is sufficient evidence to prove at this juncture that Eldorado can provide a 100-year supply. Now, does the district disagree with that?

MR. COPPLER: The district contends that it is an independent political subdivision of the state with an elected board, and it has the responsibility to make those decisions with respect to water supply. You the County have a responsibility under the Subdivision Act, and we acknowledge that, to pass on a case-by-case basis on the issue of a water supply and make that recommendation under the Land Use Code. And you have the full power to do that. It is not the district's position that you don't have that power. It is the district's position that you do not have the power, however, to pass an ordinance or enforce an ordinance that is the subject of this discussion that provides for a moratorium that has been in effect for 11 years now that basically says that people cannot come in to Santa Fe County with a proposal for water service from Eldorado Area Water and Sanitation District and get it heard.

COMMISSIONER SULLIVAN: That's not my question.

MR. COPPLER: It's our position that that ordinance is illegal.

COMMISSIONER SULLIVAN: My question addresses the issue of if the current ordinance that will be in place shortly is repealed, what will happen? And let's assume that it gets repealed and the day after it's repealed, which could be shortly after the end of the month, that an applicant comes forward. Based on the staff information that we have so far - hydrologic studies, geohydrologic studies done by John Shomaker and Associates, which has projected roughly a 40-year water supply in the Eldorado area, of water, the Santa Fe County Commission does not currently have, nor does the staff, any real good warm and fuzzy feeling that there's a 100-year water supply.

So if an application came forward shortly, and there were no further information provided to the Commission in this regard, would it then be the district's position that it is they who decide who should be connected to the water system, or that that should be the County Commission's decision?

MR. COPPLER: It is the County's decision to determine under the Land Use Code whether or not the applicant for a land use permit has proven a sufficient water supply. It is Eldorado Area Water and Sanitation District's issue that so long as you are applying those rules equally, with regard to every supplier then we have no quarrel with that. But if you're going to apply those rules unequally, against Eldorado, then we have a quarrel with that. I don't know how I can make it any plainer.

COMMISSIONER SULLIVAN: Just one final thought, Madam Chair, was that as I recall, your testimony last time, it was something to the effect that Santa Fe County did not have the authority to make that decision with respect to water supply, and that Eldorado was a political subdivision, a separate entity, and that Eldorado Area Water and Sanitation District would be the final and only determinant if there is sufficient water. Is that not your position?

Am I reading your position or the district's position to be that they're fine with Santa Fe County determining if Eldorado does or does not have a 100-year water supply, they just don't want Santa Fe County to impose a moratorium on the district that they are not imposing on somebody else. Would that be a fair summary of your client's position?

MR. COPPLER: Good question.

COMMISSIONER SULLIVAN: It's a serious question.

MR. COPPLER: I don't know how we can be any more clear with respect between differentiating between the ordinance and your authority to pass on applications for land use and availability of water. Our position is you don't have the authority to impose the ordinance and you do have the authority to pass on land use and individual applications for water. You do have that authority. And we will not challenge that authority as long as you apply it equally as between water providers in the county.

COMMISSIONER SULLIVAN: Does the Eldorado Area Water and Sanitation District feel at this point right now that they have a 100-year water supply?

MR. COPPLER: The Eldorado Area Water and Sanitation District as I understand it, and I can ask our board chairman to respond further, we're in the process of studying that. We are in the process of drilling wells and inquiring with respect to that question. I don't think anybody knows, Commissioner Sullivan, from my limited understanding of water issues in terms of 100-year supply, I don't think anyone knows whether or not there's a 100-year supply in Edgewood or in Agua Fria or indeed in the City of Santa Fe. I don't anyone that would say that there's a 100-year supply in any particular area with total confidence in this county.

COMMISSIONER SULLIVAN: I don't think the question is does the district have total confidence, and certainly it's a half-art and half-science, but we do have computations and ordinances that lay out how we determine whether, at least mathematically there is a 100-year water supply. So again, if I can paraphrase I think what you're saying is that right at this juncture, the district doesn't know; it's doing studies to determine if it has a 100-year water supply.

MR. COPPLER: Mr. Commissioner, I would only disagree slightly with your assumption. I think it's about one third art, one third science and one third politics. That politics is the point we're making, and that is we do not have any quarrel with the application of the rules of the County in the subdivision and land use practices as long as the application is equal with respect to all water providers within the county.

COMMISSIONER SULLIVAN: I think everybody understands that. There's no need to repeat that. So if you conclude these wells that you're drilling and I've only seen one but maybe there's more than one, and in your judgment, in the district's judgment, they have a 100-year water supply, based on studies from that well, but that Santa Fe County disagrees with that, utilizing a format that they use for all applicants. We're not discriminating against the water and sanitation district. We don't discriminate against anybody. If that situation occurred, would you then be willing to accept Santa Fe County's determination in that regard?

MR. COPPLER: If Santa Fe County accepts a representation of the City of

Santa Fe for example, as a water provider in this county, that they have a 100-year water supply, if an applicant comes into Santa Fe County and they say we have a supply contract with the City of Santa Fe, and the City of Santa Fe says they have a 100-year water supply – if that's the end of the inquiry with respect to the City of Santa Fe, then if you apply that same test to Eldorado we have no problem with that.

COMMISSIONER SULLIVAN: I see.

MR. COPPLER: The same with respect to the County water system. If someone comes in to Santa Fe County and says I want to connect to the Santa Fe County water system, and here's the statement from the County water manager that says the County has a 100-year supply, and your land use people accept that statement on its face, if you do the same with respect to Eldorado, then we are perfectly content with the process.

COMMISSIONER SULLIVAN: So the process that you're agreeing to is one where all that Eldorado will need to do, the water and sanitation district, is provide the applicant with a service letter the way you've done in the past and said we are agreeable to provide you with service in accordance with our regulations?

MR. COPPLER: Isn't that what you do with the City of Santa Fe?

COMMISSIONER SULLIVAN: Not really. No, it's not. And here's why.

MR. COPPLER: That's my understanding.

COMMISSIONER SULLIVAN: Here's why. Because number one, we've undertaken joint hydrologic studies with the City of Santa Fe for two years, so those studies are on the same database as each other, and we've shared information on those studies, and we know what is available in each other's aquifers so to speak, although of course it's one big aquifer. So that's one point. Another point is that the City of Santa Fe, through the Buckman Diversion, is going to be getting water from a surface water source, for which the Eldorado Area Water and Sanitation District has absolutely no plans whatsoever.

So that's an effort that we're participating in to the tune of \$171 million with the City of Santa Fe. So we have a great deal of not only hydrologic data but political data and scientific data with regard to Santa Fe's water supply that we don't have with regard to Eldorado. So I think that the letter from Eldorado has nowhere near the database backup that a letter from the City of Santa Fe does.

MR. COPPLER: I would suggest to you, Commissioner, that that may well be true but we're not at that point of the discussion yet. Right now what we're discussing is, as I understand I, Mr. Montoya's motion to bring forth an ordinance repealing that earlier ordinance. Down the line, after that ordinance is repealed and people, landowners in Eldorado come forth with a development to the County, and the County has the chance to look at it and say what is required in terms of going ahead with permission from the County to let the subdivision hook up to the Eldorado Area Water and Sanitation District. At that point, then we can have the discussion that we're having right now. It seems to me all of this stuff is hypothetical with regard to supply. We are primarily going to be interested in is the County applying the rules equally with respect to water providers? At that point we would like to have that discussion.

COMMISSIONER SULLIVAN: Okay. I was just asking because you were saying that if we just repeal this ordinance and all the litigation will go away and I'm hearing in your testimony that it will not go away, that you will want the same status as the City of Santa Fe, and you have one year of history and fairly much no data to provide to the County. The City of Santa Fe has many decades of water history and a great deal more data that's available for the County. So I see the two as totally opposite and you would have us provide - go on the basis of a letter with any political subdivision, which would be any water and sanitation district, which would be any municipality, and without us checking into it. There's my concern. If we're not eliminating litigation, that we're just moving into the next phase. That's my concern.

CHAIR VIGIL: Let me get to some of the other Commissioners' questions.
Commissioner Campos.

COMMISSIONER CAMPOS: No questions at this time.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: I don't have any.

CHAIR VIGIL: Commissioner Anaya? Okay. Was there anyone else that was wanting to testify on this? This is the first of two hearings. Please come forward.

MR. COPPLER: Commissioner, I just want to make one statement. One year of history - we would respectfully disagree with that. The system has been in place and providing customers for 35 years and that data is available.

CHAIR VIGIL: Thank you. And Mr. Coppler, before you leave I do have a question for you. Is there something impractical about filing a lawsuit when there's only a six-month term on a moratorium, and after six months that moratorium can be lifted? It seems to me that motions and any kind of pre-trial work that's necessary wouldn't even be completed in six months.

MR. COPPLER: Well, let me answer it in two ways. With respect to the civil rights claim, as you probably know being an attorney, if there is a civil rights violation it simply doesn't go away with the expiration of the moratorium. The civil rights violation continues -

CHAIR VIGIL: Is this a Title VII claim? I haven't seen the lawsuit? Is it a Title VII claim?

MR. COPPLER: Equal protection. And so - but more important, what the Eldorado Area Water and Sanitation District board considered when they - they understood that this was a six-month moratorium. It is an issue of principle that they are more interested in resolving. They felt like this particular ordinance raised a basic question of independent powers as between two political subdivisions that had to be resolved. The board felt like that we needed to have a declaratory judgment from a district court setting forth what the powers of the district are as respects County government s as to settle this argument once and for all, what can and cannot the Coutny do in terms of indirectly running the operations of the district. And so we recognize the moratorium is only going to be six months, but there's a matter of principle and there's a question that we felt like we should have the court's answer, and that question, depending on the answer of the courts, can of course govern the future relations and future

discussions between the County and the district.

CHAIR VIGIL: And it seems to me that those questions could be answered without litigation. I just feel it's unfortunate that the litigation had to get involved in this because indeed, having a working relationship between governments and quasi-governments is the best way to go and litigation only tends to alienate that kind of working relation. So it's unfortunate because adversarial positions just take longer to get things done.

MR. COPPLER: We came to your public hearings and tried to express this as carefully as possible, our position, and that was not sufficient.

CHAIR VIGIL: To that I would just say that you did, Mr. Coppler. We also hear from constituents and other residents in Eldorado. So this picture is broader than what is represented by you here tonight.

MR. COPPLER: Are you saying that -

CHAIR VIGIL: I'm not going to explain that any further. What I'm going to ask right now is that we have anyone else who'd like to speak to the Commission please come forward. Freemont, do you mind if we give you a time limit? How much time do you need?

FREEMONT ELLIS: I prefer it myself. I'm always a bit nervous up here.

CHAIR VIGIL: Well, you do a fine job but you know we've got a huge agenda tonight. How much time do you think you need?

MR. ELLIS: Well, first of all, I think maybe I ought to defer to Mr. Coppler. He mentioned a little while ago he was hoping his chairperson would come up to speak.

CHAIR VIGIL: I'm sorry. Would you state that again?

MR. ELLIS: I believe Mr. Coppler mentioned just a minute ago that he was hoping this chairperson would come up and speak, so I'm willing to defer my time a little bit for that.

CHAIR VIGIL: Why don't you just go ahead and speak and let's give you no more than ten minutes at the most.

MR. ELLIS: I hope to God I don't go that long.

CHAIR VIGIL: Me too.

MR. ELLIS: I'd like to discuss actually the anti-climax first, number two on the agenda so I don't have to come back up again and that's the 12.5-acre limitation.

COMMISSIONER SULLIVAN: Point of order, Madam Chair.

CHAIR VIGIL: No. We're not on that item yet.

MR. ELLIS: You don't want to discuss that now? Okay. All right. Considering the pertinent suggested repeal of the six-month extension on the moratorium, I think there are a couple of things that are quite important. First of all, this entire area here for the last several years has been plagued by false rhetorical, hypocrisy and some bizarre positions of propaganda and equivocation. And I think I would understand if the County and County staff were a little bit confused by the flip-flopping that seems to be going on by the sanitation district and its board members, etc.

I would mention that there are a number of things on public record, one for example where a number of them have been screaming for years that nobody should be sinking a bunch

of wells into the aquifer and they don't want them to do that anymore, and yet they're doing that themselves right now as we speak. And they hope to get as many in there as they possibly can.

Now, that aside, I think there are three things that are at issue here in the repeal as well as in the ordinance and in my limited understanding I believe it's very important for the sanitation district to actually set and put in public record its service boundaries, put them on the map. That's not to say that if they get a developer who provides a 100-year water proof and wants to hook up to their system they can't expand; they could expand after that. They need to set their boundary on the map, in public record, as it exists now so that people know where they can be provided water from if they want to hook up to the sanitation district.

Now these other two things are directly hooked up to that. The other thing is that they're quite capable now with their database from 80 years as well as their database from OMI that's been filed in the Engineer's Office, because I have a copy of it, they're quite capable of establishing just exactly how many acre-feet of water they actually have now. Not what they would like to get, or what they thought they used to have, but what they have now. According to the State Engineer, the water rights that they have according to adjudication is regulated according to the number of gallons per minute that each well produces, and you add all of those figures up and there are over 127 wells out there for the EASWD. You add all those figures up and divide it by 325,900 gallons, and that's the actual acre-feet that they're allotted.

Also from the Engineer's Office I've been given to understanding that the State Engineer has a cap on the amount of water that they can use, and that there's a flex zone in that cap where they can go above it or below it and not interfere with their water rights. But they - I think it's very important for them with their current database, which I have a copy of for the last three years right here, if I can go down to the State Engineer's Office and pick up copies of this that they've provided themselves, why don't they just do the math, get off the chair, and admit exactly how many acre-feet of water they've got. Once they do that and they set their boundaries, then they can easily do a 100-year proof on every well that they use. My understanding from the State Engineer's Office they use 14 looped wells but when you look at one well, for example, it includes a string of seven or ten wells.

So there are a number of wells that they use. Not all 127 do they use. Some are exploratory. Some have no water rights, and it's listed in the State Engineer's Office. But my contention is that why do they bother getting so adversarial when for years they've been screaming that they don't want anybody sinking any more wells out there, and yet they haven't tried to provide to the people in the Eldorado area those developers or private property owners who have had promissory notes, who have had verbal agreements from the EDU that the EASWD automatically took over legally when they assumed legal responsibility for all of that, they should be obligated to provide water to the people that they know they can provide water to and define just exactly what those boundaries and water rights are so that they can provide water to the people that they keep promising they're going to provide water to.

Now, my understanding for the 100-year water supply - I think that's a crucial issue for the County because, quite frankly, it's also a crucial issue for the State Engineer's Office.

They don't look at what the County is trying to do in terms of 100-year water proof as something insignificant. Any small developer or private property owner who would like to divide up 12.5-acre lots or larger and have wells put in is going to have to do a 100-year proof. I think you just heard a demonstration that the County has tried significantly to be equal and fair-handed about this 100-year water proof. I think that's important.

Now, in relation to the repeal, I think there are two ways you can go. Possibly, there's some way to craft an ordinance that requires the EASWD to just finally come down within three weeks or a month and set their boundary provisions for water that they can provide now, based on their actual water rights and based on a 100-year water proof. If they've got 14 grouped wells or 14 major groups of wells, they can easily do a 100-year proof just like any other well driller would have to do to get a 100-year proof, run the well for a number of days, get it proven, get it registered, get it certified, and within 30 days they would have their proof. And that would be their current status.

From there, if they want to expand, fine. Let them expand as long as they can prove 100-year water proof. I think that's very important. The only other way I can look at this, other than somehow crafting language that gets rid of the six-month extension, that somehow crafts language that requests that they come to the table in a friendly fashion, without all of this adversarial nonsense that puts a burden on the taxpayer, including the taxpayers of Eldorado, instead of being adversarial they could easily come with you and negotiate with you over the next month or so, prove their boundaries, prove their water rights, prove their 100-year water supply, and get rid of all this other rigmarole.

Now, if the County can craft an ordinance that would set that up significantly so that the County taxpayer and the Commission and Land Use Department wouldn't be obligated to deal with this kind of litigious nonsense, then that's one alternative I can think of. The only other alternative I can think of is that somehow this six-month extension be repealed, that the slings and arrows of legal action from that repeal are laid as a burden on the sanitation district by private property owners and developers who want to hook up to the sanitation district but they can't prove their water and they're not doing it in time, or they've had promissory notes in the past that are not being honored, or they've been given verbal agreements or written agreements that they're going to provide water, then if you drop this whole six-month extension and repeal it all together, then possibly that would alleviate the County from having to deal with litigiousness from the sanitation district and whatever litigation is going to occur will happen directly from private property owners and developers, directly at the sanitation district. Those are the only two ways I can see to resolve this, from my point of view.

I'm sure the Hydrology Department and Land Use staff and Legal Department know a lot more about this than I do and can advise accordingly. Thank you.

CHAIR VIGIL: Thank you. Is there anyone else out there who would like to address. Please come forward.

MARY RAYNARD: My name is Mary Raynard. I live at 15 Moya Loop in Eldorado and I'm the president of the Eldorado Area Water and Sanitation District board of directors. I just want to comment on two things. One is I'd like to comment, Chairman Vigil,

about your concerns about the adversarial nature of the litigation. I want you to know that the board considered long and hard whether to take any action on this issue for exactly that reason. I think that this board for the 2 ½ years that I've been on the board anyway, has worked quite hard at developing good working relationships with the County Commissioners and the County staff. We have initiated multiple meetings with individual Commissioners, with Commissioners as a group, with staff members, with staff and Commissioners, and it's all been to try and develop a good and collegial working relationship.

So we don't take an action like this lightly and we certainly don't want to waste time and money and energy and focus on unnecessary litigation. As Mr. Coppler stated, the question of whether the County can take the action that it has on the ordinance is partly a question of principle, it's partly a question of precedent, and the board of directors decided to go ahead and challenge what the Board of County Commissioners had done, after very careful consideration and deliberation. We do not believe that that undoes any of the work that we're trying to do in terms of trying to work together with the County. We have a lot to do together and we need to work together and we all recognize that.

The question about the 100-year supply, as Mr. Coppler pointed out we're doing a hydrology study. As we told each and every one of you the study should be done by the end of May. We'll know a whole lot more then. And we will share out data. We're not going to hold that data separate. We're not going to hide it. We're not going to protect it. Commissioner Sullivan talks about the work that the County and the City have done together, sharing data, sharing databases, we would like to be a part of that and we are trying to make inroads so that we can participate in those kinds of activities. I think we all agree that the need to manage water regionally is something that has to come to this state and I think we're all trying to move in that direction.

So I understand your concerns but I do not want you to think that the board of directors in Eldorado is simply capriciously taking action and trying to be adversarial because we are not.

CHAIR VIGIL: Thank you, Ms. Raynard. Is there anyone else that would like to address the Commission? Seeing none, this is the first public hearing and we'll have the next public hearing on this item at our next meeting. It's an administrative meeting, and that is scheduled for – what date did we say?

MR. ROSS: Madam Chair, that would be April 24th at 5:00 pm.

CHAIR VIGIL: Okay. We will have a next hearing and action will taken on April 24th.

XII. A. 2. Ordinance No. 2007-6. An Ordinance Restricting the Use of Domestic Wells For Land Divisions and Subdivisions Within the Eldorado Area (3rd Public Hearing)

JACK KOLKMEYER (Land Use Administrator): Madam Chair, on January 9, 2006 [sic] the Board of County Commissioners authorized the publication of title and general

summary of an ordinance restricting use of domestic wells for subdivisions and land division within the Eldorado area. The proposed ordinance would require any residential land division or subdivision which utilizes domestic wells to meet the minimum lot size in the Land Development Code, 12.5 acres in the Basin Fringe, 20 acres within the Mountain Zone and 40 acres within the Homestead Zone.

The existing Code allows a developer to create smaller lots with proof of long-term water availability. Further to discussions at the March 13, 2007 BCC meeting, the proposed ordinance has been modified to include a map of the area to be included. This staff report was put together by Penny Ellis-Green. She's on vacation and I'm handling this for her. I believe the map that was included for you is the same map that was part of Ordinance 2001-14, for your information. The ordinance was tabled at the March 13, 2007 BCC meeting and the draft ordinance is attached in your BCC packet.

CHAIR VIGIL: Thank you, Mr. Kolkmeier. Is there any questions for him?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Jack, this particular ordinance as I understand it, with our current Code in existence, doesn't this create some redundancy. We're saying that we're going to do what we're supposed to do that's already in the Code.

MR. KOLKMEYER: Madam Chair, Commissioner Montoya, I believe the difference in the ordinance that is before you is that in the Code, you can create lots smaller than 12.5 acres.

COMMISSIONER MONTOYA: With a proof of a 100-year water supply.

MR. KOLKMEYER: Yes. The way I read this draft of this ordinance is 12.5 acres is the minimum.

COMMISSIONER MONTOYA: Still having to prove water availability.

MR. KOLKMEYER: No. This is with water restrictions, because again, the actual hydrologic zoning for these districts is the Basin Fringe is 50 acres, Mountain Zone is 80 and the Homestead is 160. So with water restrictions you get to these designations of 12.5 acres, 20 and 40. That's with water restrictions.

COMMISSIONER MONTOYA: Okay.

MR. KOLKMEYER: And that's the minimum that you can go to.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIR VIGIL: Further questions? Commissioner Sullivan, do you have a question?

COMMISSIONER SULLIVAN: No, I think just as a follow-up to Commissioner Montoya's question, I think that's right. Mr. Kolkmeier says we have a provision that goes down from the hydrological zoning with water restrictions such as low-flow toilets and so forth, which gets you to this point. But in order to – you could build within the parameters of this ordinance, you would not need to prove a 100-year water supply. You would not have to drill wells or do a water supply analysis, as long as it was on a 12.5-acre parcel.

COMMISSIONER MONTOYA: But that's in existing Code.

COMMISSIONER SULLIVAN: That's in existing Code. The difference between this and the existing Code is in these water-short areas that's as far as you could go, unless you hook up to a public water system or create a public water system. Under the current Code the problem is with a small domestic well including a 100-year supply on a small, isolated domestic well, you can then go way below this. You can then go down to 2.5-acre lot sizes. And those small wells, that proliferation of those small wells is what we're trying to avoid. We're trying to get a regional public water system process going, so that we can have more efficient development. We're not really proposing 12.5-acre lots. We're proposing that there be an alternative which is the 12.5-acre lot but we're really proposing that the water systems be the preferred alternative.

And once you connect those public water systems or create one you then can have a reduced lot size. But if you want to go strictly by this ordinance, and you want a 12.5-acre lot, and you're in the Basin Fringe Hydrologic Zone, you can have it. You're okay. You don't have to provide a water study.

COMMISSIONER MONTOYA: But if you do provide a water study you can still go smaller.

COMMISSIONER SULLIVAN: Not under this. Not with this ordinance. You can now. And that's the problem that we're trying to correct in these peripheral areas where we're getting these small domestic wells that are only going a couple hundred feet in depth and they're all going to the same depth and they're not constructed to municipal standards and they're not evaluated in a regional or municipal context. So it's just again more of those little straws being put in, surrounding the Eldorado area and surrounding the Eldorado Area Water and Sanitation District. And I think that that was one of the reasons the water and sanitation district spoke in favor of this ordinance is that they wanted to prevent that kind of depletion from occurring, that kind of impairment.

So it is different in that that alternative to go to a smaller lot size using a domestic well is precluded. You still can go to a smaller lot size with a public water system. Thank you, Madam Chair.

CHAIR VIGIL: Okay. Very good. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, so if somebody has a 12.5-acre lot they can drill a well and use it. Without a study. But if they got a study they still can't reduce it if they use the well and it produces a 100-year water supply, they still can't break it down.

COMMISSIONER SULLIVAN: That's correct, unless they're on a public water system. And it's because small wells is not an efficient way to manage the aquifer.

COMMISSIONER ANAYA: So if this were to pass then the lot sizes there would be 12.5 acres. Period.

COMMISSIONER SULLIVAN: Madam Chair, in response, no, I don't think so. I think what would happen is land is becoming so expensive everywhere that what would happen is we would see public water systems, either constructed by developers or tied into the Eldorado Area Water and Sanitation District system. That's the incentive that I think is important to provide.

COMMISSIONER ANAYA: And then on the map that we have here, all I see is yellow, and that is the boundary of the sanitation district. Correct?

COMMISSIONER SULLIVAN: Madam Chair, not really. We're not certain, and Penny and Judy couldn't really get a handle on what the boundary of the water and sanitation district was. But this was the boundary as Mr. Kolkmeier said in the ordinance 2001-14, which was one of the Eldorado moratorium ordinances. So this is in essence the Eldorado moratorium area that was defined in the water shortage.

COMMISSIONER ANAYA: Okay. Okay. But this map does not show me which is the Basin Fringe and the Mountain Zone and the Homestead.

COMMISSIONER SULLIVAN: No. We could show you that fairly easily. The majority of this yellow area is in the Basin Fringe. There's a very small amount that's in those other areas. It's a little piece, and that could be shown on the map. They didn't put those lines on there. The majority of it is in the 12.5-acre.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Further questions? I have some. It seems like 12.5 - I don't have a rationale for it. It's an arbitrary number. Do we know what the lot sizes are on the average in Eldorado? And I guess I have a concern I'm getting sort of into a compound question here. Overriding this question is has staff had sufficient time to evaluate this? Do we know what the average lot size there? Has staff had the appropriate time to evaluate the 12.5-acre component to this. We can start with those three.

MR. KOLKMEYER: Madam Chair, there were three or two?

CHAIR VIGIL: Three.

MR. KOLKMEYER: The first question, do we know the average lot size? The answer to that question is no, we do not. We have not done that research.

CHAIR VIGIL: Okay.

MR. KOLKMEYER: And your second question?

CHAIR VIGIL: Is that 12.5, is that reasonable? What's the justification for that?

MR. KOLKMEYER: Well, 12.5 again is the way - and this goes back to the eighties when the hydrologic zoning was created for Santa Fe County. And again, as I pointed out to you, the Basin Fringe is the actual hydrologic zoning recommendation is one dwelling unit per 50 acres. That's how that was derived. So by having water restrictions then they were allowed to divide by four. So that 50 divided by four, that's where the 12.5-acre lots come from.

CHAIR VIGIL: Okay.

MR. KOLKMEYER: Now, whether that's reasonable or not and if we know the average lot sizes, because the lot sizes vary throughout this area from very large lots to smaller lots. One could argue that if we're going to consider setting minimum lot sizes that maybe we should consider doing it through a very comprehensive study of this area. I can see the point of - related to how the moratorium ordinance came forward and the discussion that we might need to arrive at a minimum lot size there's certainly justification for that thinking but we haven't done it in a comprehensive way. We've only looked at this small ordinance as staff

and we don't know the average lot sizes, for example.

CHAIR VIGIL: Okay. Has staff had sufficient time to make a determination that they fully recommend and endorse this resolution?

MR. KOLKMEYER: In our discussions at staff, because of the moratorium and the restrictions that there are, if you were to argue recently what the average minimum lot size is it's probably 12.5 acres because of the size of the lots that we're getting in right now. So we could probably argue that if we're in agreement of this as a lot size right now for the time being, given what we've seen come through development review, we'd probably be in agreement with it. But my earlier point was if this is what we really want to see as the minimum lot size for this area we're simply basing that on how things have evolved from that division of the Basin Fringe 50 lot by four, we're not entirely certain whether that's the best way to arrive at a minimum lot size. I'm kind of giving you a dualistic answer.

CHAIR VIGIL: Right.

MR. KOLKMEYER: But in part from what we've investigated that for this ordinance we're in agreement with what it says, yes.

CHAIR VIGIL: Okay.

MR. KOLKMEYER: But if that's overall the best way to do it for the future and over time, we're not certain.

CHAIR VIGIL: My concern for this community would be that we're sort of piecemeal planning for them. And unfortunately the community was unable to come to an ability to plan for themselves. And I don't know if there's any other community in Santa Fe County that hit that impasse. Perhaps there is. I'm just not familiar with them. And that's unfortunate because what that does is it redistributes the authority to the County Commission to start planning for the future of this community with regard to zoning and regulations and for me, the community planning process is the best tool for that. So because we're at this place and we're looking at 12.5 minimum lot acres, I'm not at a point now where I really feel confident that the boundary that we've identified in the area is appropriate for 12.5 acres, nor am I comfortable with the fact that 12.5 acres is the appropriate lot size for this. I think that staff probably has sufficient information and data to give us further analysis and that's how I'd like to see we move forward on this.

In addition to that, not knowing what the outcome is going to be of the reconsideration on the moratorium, I think we might be reviewing this recommendation a little too early. I'm not too sure it's appropriately timed. Do you have a response, Mr. Kolkmeier?

MR. KOLKMEYER: Yes, Madam Chair. We're - the Planning Division right now as a result of the strategic plan that we've recently accomplished that has resulted in reorganization and a number of other things that are going on, we want to take a look at what we think is really the appropriate way to start looking at this area as a watershed. I know this has come up before because wells that are drilled in this area affect wells further downstream and we'd like to come forward to the Board probably some time in May or in June with a concept and an idea that we have for a much broader area including Eldorado, its relationship to the Community College District, the Galisteo Basin and the existing communities who have all

done plans to try to come up with a comprehensive approach to where growth should occur and a recommendation on lot sizes.

CHAIR VIGIL: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I think your point is a good one, and the issue is not simply what's the right lot size. For this area it's kind of an [inaudible] way to start looking at this area as a watershed. I know this has come up before because wells that are drilled in this area affect wells further downstream and we'd like to come forward to the Board probably some time in May or in June with a concept and an idea that we have for a much broader area including Eldorado, its relationship to the Community College District, the Galisteo Basin and the existing communities who have all done plans to try to come up with a comprehensive approach to where growth should occur and a recommendation on lot sizes.

CHAIR VIGIL: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I think your point is a good one, and the issue is not simply what's the right lot size. For this area it's kind of an Extraterritorial Zoning area of the Eldorado Area Water and Sanitation District, if you will. I think practically, we don't want to advocate for 12.5 or 20-acre lots. The problem is from a water supply, from the other side of the coin, if we keep in place an ordinance in this water-short area that allows these domestic wells to be drilled with no offsetting water rights, which is how they will be drilled without these restrictions, then we're robbing Peter to pay Paul. Then we're saying, It's okay. You can have 2.5-acre lots. All you need is a domestic well and a five dollar bill in front of the State Engineer's Office. You don't need offsetting water rights to do that.

Now, if they connect to the Eldorado Area Water and Sanitation District and they have a 100-year water supply, then the water and sanitation district requires them to have water rights moved to the district. We don't. So if we want to go to smaller lot sizes, we're saying go home. Drill those small domestic wells, get the free water and don't worry about any impairment that you might cause to, say, the well that they're drilling right in front of the Agora Center right now. Don't worry about it. You can drill as many of those wells as you want as long as you have a five dollar bill for each one. So that's the problem.

I think the issue is two-fold. One is what's a reasonable water? What's a reasonable lot size? We don't know that. We don't think large lot sizes are economical for the development of this area. But number two, what's a reasonable supply of water? I don't think impairing other people's water rights is good policy, and that's what our current ordinance does in this water-short area.

So that's my concern. I wouldn't disagree with you at all that 12.5-acre lots are not the road to the future in Eldorado. But I would say we have to have a mechanism for managing the water and being sure that if they're going to use water that they have a supply, water rights transfer, that enables them to bring water to their well and not impair others in doing that. So that's the second part of this ordinance that I think is very important as this area continues to develop. Thank you.

CHAIR VIGIL: Okay. Dr. Wust, do you want to chime in with any comments

on this?

STEPHEN WUST (Water Resources Director): Madam Chair, I'm not quite sure what part you want me to chime in on. I'll approach it first from a water resources management perspective. I think the perspective is exactly what Commissioner Sullivan just mentioned. Instead of focusing on lot size, I looked at it as a water resource management issue and that is that the whole idea of water rights transfers is to keep the basin whole, and that's why the State Engineer requires them. Domestic wells don't need water rights transfers and therefore they're basically outside the control and management capabilities for managing the water resources in the basin.

Hence, that's why the State Engineer has been trying to get legislation passed to be able to change the rules on domestic wells so he can get a better handle on managing those things. So looking at it from the perspective of not just what the lot size is but where are we going to allow well that have basically no control over how they're affecting the basin and where should we allow those? Is an important way to look at this. As I tell the public many times, the most damaging thing for your domestic well if you have one, is not a production well, it's 100 other domestic wells right in your neighborhood at the same depth you are. Even if we meter them we really have very little control and there are no water rights, as Commissioner Sullivan said. That's a very important issue on this particular ordinance to look at.

Also from a water management standpoint, however, the one area I have some concern on is it's only apply to one very specific area. It's one of those things you could say if it's good, and I think it's good for the basin, it really should be applied basin-wide. And again, as Mr. Kolkmeier pointed out, the 12.5 acres is not just an arbitrary number; it comes from the hydrologic zoning, and it would change zone to zone if you applied it over a large area. So I believe from a water management perspective it's a good idea. It's a policy decision obviously, because it does have to do with the County having some control over the types of wells and water supply the various developments can have. It's also a policy decision about applying it to one specific area versus a larger area and whether that might be viewed as targeting certain areas for special privilege.

But just from the idea of looking at having people use water rights in order to keep the basin whole, that's an approach the State Engineer is trying to get a better handle on and from the water resource perspective that's just a better idea over all.

CHAIR VIGIL: It would make sense to me, Dr. Wust, that if we looked at the goal here, that is to protect the aquifer - let's just look at that as the basis of our conversation, that in fact we should do something that staff is recommending and that is look at the basin as a whole instead of specific boundaries, limited by whether or not a service area can be provided. Do you disagree?

DR. WUST: Madam Chair, I agree. I would also add to that not only from an aquifer protection standpoint but a public health perspective. Public water systems are required under the state Drinking Water Act to look at contamination, to provide treatment if necessary. If there's a bacteriological problem they have to take care of it and all these other rules. They have to provide fire storage, things like that. When you have individual domestic wells the

public health is not as protected because basically each person who has a domestic well is on their own. We've seen it up in the Pojoaque Valley where there's naturally occurring uranium, not even a contamination from a human-caused source, in a lot of domestic wells and there's no one there to work like a public water system does to make sure there's treatment, to make sure there's proper operation and there's no public health risk. So from that perspective too, it's good and applied across the basin, just as you said.

CHAIR VIGIL: Okay. Thank you, Dr. Wust. And we do need to take action on this, do we not, Mr. Ross? This is the third public hearing.

MR. ROSS: Madam Chair, you can take action if you choose to.

CHAIR VIGIL: Okay. I guess, Commissioner Sullivan, with all due respect – because I think we have a credible perspective in trying to protect the residents and the community as a whole but one of the proposals I heard tonight coming from staff is that perhaps a more comprehensive way of dealing with the problem here, and a more fair and equitable way would be to assign staff the opportunity to look at planning in this community with regard to the basin. What is your response to that?

COMMISSIONER SULLIVAN: Well, Madam Chair, I think that's a good idea and I think this could be the first phase. The problem is we have good intentions and we have good hopes of doing basin-wide planning. If it's basin-wide land use planning that usually excludes water. We're talking about lot sizes and transportation and trails and things like that and usually those plans say shall not use more than a quarter acre-foot and we argue about that for a little bit, and that's kind of the extent of it. A basin-wide hydrologic study would be good; we don't have that. And we would be getting rural areas where there are still agricultural interests and so forth, and I think in the long run we're going to need to do that,

This is the critical area. This is the impacted area that's going to be developed very rapidly with the lifting of the moratorium, whether that comes in a month or six months, and this is the area that's going to impact Eldorado Area Water and Sanitation District wells, particularly the older ones that are on their last gasps, dying breaths anyway. So I think that's a good long-term strategy. I don't think we should put this ordinance off for that strategy because I think it will be years before we get to that point, and this is where the problems are. This is where the rubber meets the road and I think we need to either put some reasonable controls that encourage the use of public water systems, or we just let it fly and the first guy in gets the water and the last guy in doesn't get it and if you already have a well and it's too shallow you're out of luck. That's kind of the Wild West approach and we can do that. I certainly don't recommend it.

CHAIR VIGIL: Okay. Thank you. Any further discussion? Is there anyone from the public that would like to address the Commission on this issue? Anyone else? Could you raise your hand? I see three people. How much time do you think you'll need?

MR. COPPLER: Frank Coppler, Eldorado Area Water and Sanitation District. How about one minute?

CHAIR VIGIL: One minute sounds good.

MR. COPPLER: It's going to take only one minute for me to say we agree fully

with Commissioner Sullivan in terms of the reasons for this ordinance. It makes sense in terms of the way he put it. It incentivizes developers to steer their development towards a public water supply system for reasons of aquifer management and public health, and simply controlling the number of straws in the basin so as to minimize interference with other wells and other water rights. For that reason the water and sanitation district supports it.

CHAIR VIGIL: Thank you, Mr. Coppler. Mr. Ellis, did you want to address the Commission and how much time do you need?

COMMISSIONER ANAYA: Give him one minute.

CHAIR VIGIL: Commissioner Anaya asks that I give you one minute.

MR. ELLIS: One minute? Okay. Let me see if I can do that. Madam Chair, Commissioners, I think there are a couple of things that are quite strange and perverse about this ordinance, particularly the 12.5-acre limitation at the bottom end. It sounds to me not so much where the rubber meets the road but where the money meets the channel. This sounds very much to me like they're trying to channel lot sizes so that they're obligated to hook up to the public water service company that still has not given us a 100-year proof, set its standards and set its acre-feet of water rights. I think there's something quite perverse and wrong about requiring somebody with 12.5 acres, 25 acres, 50 acres, to be obligated through this ordinance because of its power to hook up to the Eldorado Area Water and Sanitation District in order to get smaller lot sizes. What do you do with a family that's got 12.5 acres and they want to split their 12.5 acres up into three or four parts?

What are you going to do when they drill a well and they can give you 100-year proof? I think at the most, as Mr. Kolkmeyer mentioned and I agree to a large degree with Dr. Wust, I think a much larger study needs to be done about this, quite frankly, and I would contend with Attorney Coppler and the Eldorado Area Water and Sanitation District that they are generating more false rhetoric once again, suggesting that domestic well users or domestic property owners are just running around willy-nilly sinking straws in the aquifer without any regard to what's going on around them in their environment and the aquifer beneath them. And I think that's exactly wrong, because in the Engineer's statements that I have here and public record from OMR and EAWSD, a huge number of wells only go down to 300 feet, which is nothing but a shallow aquifer and their submersible pumps go as far as 100 to 124 feet. What is going on?

I think there's some serious hypocrisy here. I think you need to reconsider this 12.5 acre limitation because if the ordinance would unduly and not fair-handedly restrict people to a 12.5 acre lot size. If somebody's 80 acres out there and they don't want to be part of the sanitation district, but they want to form their own sanitation district, their own public system for all the lots that they want to put in 80 acres. With this it sounds to me like they'd be obligated to hook up to EAWSD whether they wanted to or not. I don't think that's appropriate. Thank you.

CHAIR VIGIL: Thank you, Mr. Ellis. Ms. Raynard, did you want to address the Commission? Please come forward and state your name.

MS. RAYNARD: Madam Chair, Commissioners, Mary Raynard from Eldorado Area Water and Sanitation District board. I just want to say that the board is in support of this ordinance. We agree with Commissioner Sullivan that restricting the lot size and

trying to reduce the number of domestic well we also believe is a better way to manage to the aquifer and to reinforce Dr. Wust's point, we believe it's a better public health result because we do have to abide by all of the Clean Drinking Water Act and all of the EPA regulations. So we think that we are trying to encourage developers to work with us so that we can manage the aquifer and so that we can manage the way the water is used in the area. So we do support this. Thank you.

CHAIR VIGIL: Thank you, Ms. Raynard. Anyone else? This public hearing is then closed. What is the pleasure of the board?

COMMISSIONER SULLIVAN: Madam Chair, since I brought it forward, and if there are any other questions, either staff or I can certainly to answer them but I think this is a necessary first step into aquifer management, which in this area has been an issue for all eleven years of the moratorium. It's a logical sensible step and I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: There's a motion and a second to approve this. Is there any further discussion? I'm not sure where the vote is going to go. I actually think it's really prudent of us to move forward with aquifer management but I don't know this is the appropriate way to do it for this particular area. I don't know that we have sufficient information. I'm concerned that this limits the area in which we're dealing with aquifer management, but in fact there's larger communities out there that are going to be impacted by this. And I also feel very strongly that this is premature. We're dealing with an issue that has to do with a moratorium right now. In my mind, I can draw the analysis that to some extent there's some authority being established over Eldorado again through restrictive legislation. So I don't feel comfortable in moving forward with this. But we do have a motion and a second.

The motion to approve Ordinance 2007-6 passed by 4-1 voice vote with Commissioners Anaya, Campos, Montoya and Sullivan voting in favor and Commissioner Vigil voting against.

- XII. A. 3. **LCDRC Case #V 06-5640 Leon Variance, Alvaro Leon Requests a Variance of Article 902.2.2.6 of the Uniform Fire Code 1997 Edition to Allow the Grade of a Driveway to Exceed the Required 11%, and a Variance of Article VII, Section 3.4.1 (Slope and Buildable Areas) to Allow Slope Disturbance in an Area Where Slope Exceeds 30%. The Property is Located at 98-B Camino San Jose, Via the West Frontage Road, Within Section 32, Township 16 North, Range 8 East (Commission District 3)**

JOSE LARRAÑAGA (Review Specialist): Thank you, Madam Chair. On January 3, 2007 the La Cienega Development Review Committee met and acted on this case. The decision of the LCDRC was to recommend denial of the applicant's request. The

applicant was issued a notice of violation on April 11, 2006 for unpermitted development. The applicant disturbed slopes of over 30 percent and created a driveway with a grade of over 11 percent on the property without a permit. The applicant has constructed a 90-foot long driveway where slopes are between 20 and above 30 percent. The finished grade of the driveway exceeds the required 11 percent grade.

The Uniform Fire Code, 1997 Edition in Article 9, Section 902.2.2.6, Grade, states: "the gradient for a fire apparatus access road shall not exceed the maximum approved", and the National Fire Protection Association (NFPA) guidelines Subsection 5-2.3 states: "Grades on roadways shall be no greater than 10 percent, except that the AHJ (Authority Having Jurisdiction) shall be permitted to allow steeper grades where it can agree upon mitigation measures."

The applicant is requesting that he be allowed to utilize this driveway to access approximately 4200 square feet where slope exceeding 30 percent has been disturbed to park vehicles and store tools. The applicant is proposing to build a retaining wall on this site.

Article VII, Section 3.4.1.b (Slope and Buildable Areas) states: "Each lot shall have a build-able area which shall meet the following criteria: 1) The natural slope is less than thirty percent, and 4) Contain a site with slope of less than fifteen percent."

Article VII Section 3.4.1.c (No-Build Areas) states that exception may be approved by the Code Administrator for: "access corridors, utility corridors, and landscape areas proposed on natural slopes in excess of thirty percent that disturb no more than three separate areas of no more than one thousand square feet each provided the applicant demonstrates that no alternative development location is available."

The applicant's recorded plat was certified by the surveyor as having buildable area that does not exceed 20 percent. The disturbance of slope which the applicant is proposing is within the recorded building envelope.

Recommendation: The lot is a legal lot of record and recognized by the County with a designated buildable area of slopes less than 20 percent on the plat. Field visits have revealed that the slopes within the building envelope are 20 to 30 percent. The request to allow the disturbance of the slopes of approximately 3800 square feet that exceeds 30 percent can be considered a minimal easing of the Code. The request to exceed an 11 percent grade of the driveway is not in accordance with Article 902.2.2.6 of the Uniform Fire Code, 1997 Edition, but an alternative location may not be possible due to site topography. The development that is being requested is within the platted buildable area, therefore the staff recommends approval of this request with the following conditions. Madam Chair, may I enter the conditions into the record?

[The conditions are as follows:]

1. A special warranty deed releasing Santa Fe County of all liability of emergency and fire liability, signed by the applicant and notarized, must be recorded with the County Clerk and referred to on the plat of record. This document must disclose this information to any future property owner.
2. The applicant shall address all Fire Marshal requirements.

3. The applicant shall complete the required building permit application process and pay all required permit fees.
4. Cut slopes which exceed a 2:1 ratio must be re-graded to a 3:1 slope per Code, or a slope retaining system provided.
5. All disturbed areas must be re-vegetated with native seed, and further disturbance to slopes in excess of 30 percent shall be avoided.
6. Terrain management and other Code requirements must be fulfilled where possible, such as detention of storm water and rainwater harvesting.
7. On site road shall be in compliance with minimum road standards or submit a financial surety. On site roads shall have a minimum 38-foot road easement.
8. The applicant must comply with all conditions within six months of approval. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be submitted to ensure the completion of all conditions.

CHAIR VIGIL: Are there any questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Jose, did they pull a permit to do all the grading?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, no they didn't.

They have a notice of violation for doing the grade without a permit.

COMMISSIONER ANAYA: So what do they have on their now and what did they do?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, currently he has a dwelling that he did get permitted for that didn't disturb the slopes. It's right up against an easement and his porch actually encroaches on the easement. And then he graded -

COMMISSIONER ANAYA: What easement?

MR. LARRAÑAGA: An easement to the other properties, an easement to the subdivision of the properties there. He graded up above his home and that's where the driveway is exceeding 11 percent and he went into slopes of over 30 percent to grade to utilize his property. It's a small lot and there's a recorded plat in there and there's a small lot. They're all small lots in there.

COMMISSIONER ANAYA: And there's an existing concrete pad, or what is that?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, there is an existing concrete pad and there's an old mine there up above, on his property right above his home.

COMMISSIONER ANAYA: Okay. Thank you. Thank you, Madam Chair.

CHAIR VIGIL: Thank you, Commissioner. Any further questions?

Commissioner Sullivan, are you drawing alternatives? I have a question while we move forward. It seems to me that part of the recommendation here with regard to the request for granting a variance has to do with the fact that there are no other alternative ways to grade and create access to this location, because the topography itself does not allow that. Is that an

accurate statement?

MR. LARRAÑAGA: Madam Chair, that is correct. Where he's grading right now on the current plat and recorded plat, where's he grading is where the surveyor certified as buildable area of 20 percent and less, of slopes of 20 percent and less.

CHAIR VIGIL: And his neighbor has asked – is he encroaching on an easement that the neighbor has not granted or have they discussed that at all?

MR. LARRAÑAGA: Madam Chair, he is encroaching on a platted easement.

CHAIR VIGIL: Okay. Further questions?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: What do you do about that? It's already there. It seems like a utility easement.

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, it is a platted easement to other lots there. Right after this case we'll have a lot right next to it that's in the same situation and it access that lot and another lot up above the neighbor. There's another property owner at the end of that easement that owns that property that that his porch is on the easement.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Further questions for staff? Seeing none, is the applicant here? Mr. Leon, do you understand everything that you've gone through right now to request this variance.

ALVARO LEON: Most of them, yes.

CHAIR VIGIL: Do you have any questions at this point in time?

MR. LEON: No, my question is if they're going to give me a permit to do that.

CHAIR VIGIL: Okay. And do you have anything to add to the report that's been given by Mr. Larrañaga?

MR. LEON: No.

CHAIR VIGIL: And do you understand what is being recommended by staff?

MR. LEON: Yes.

CHAIR VIGIL: Okay. Are there any questions for the applicant? Thank you, Mr. Leon. This is a public hearing. Is there anyone out there who would like to address the Commission on this matter? Seeing, hearing none, what's the pleasure of the Commission.

COMMISSIONER SULLIVAN: I have a question.

CHAIR VIGIL: Question, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a question for staff. Can all of these things be complied with, all these conditions? Well, first of all, who checks compliance in conditions 4, 5, and 6, the 2:1 slopes or a slope retaining system, the revegetation, the terrain management – who checks that?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, the applicant would have to come in for a permit with probably a plan with an engineer's stamp on how this is going to be done.

COMMISSIONER SULLIVAN: And then once he gets a permit who checks that these things are done?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, since this came in as a notice of violation the follow-up would be the responsibility of staff or Code enforcement.

COMMISSIONER SULLIVAN: Item 7 says the onsite road shall be in compliance with the minimum road standards, but he can't be in compliance, can he? He exceeds the slope requirements.

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, I believe that one is directed to the easement itself where he's going to have to relocate the easement and probably a replatting of his plat since he's already encroaching on the easement.

COMMISSIONER SULLIVAN: So is condition 7 requiring then that he relocate the road around his house to a new 38-foot easement? Is that what this recommendation is?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, I believe that was what we intended. We just didn't write it out completely.

COMMISSIONER SULLIVAN: Okay. But on Exhibit C there's a notation of existing dirt road, which seems to go around the front of his house. So is that the idea is for him to replat that as a 38-foot easement so that the people behind him can have legal access to their lots? Is that the thinking?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, that is correct. Currently that is the road being used on that Exhibit C, you can clearly see where the platted easement is encroached by his portal and residence.

COMMISSIONER SULLIVAN: Yes, I see where that goes right through the residence and the portal. I'm just wondering how that can be done because the width of that is 20 feet and we should have a 38-foot easement, but the top of the slope is right there, indicated by the dashed lines. It looks like it's maybe only 20 feet at best until you start down the slope. I guess you can have an easement on the sloped area. The road would be on the top, I guess is the way you would do that.

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, we have been out on the site several times where the existing dirt road is pretty flat. It sits like in a kind of canyon area. Where the disturbance occurred was up on one side of the canyon and goes up the other side and the road kind of runs down the middle. So it's comparatively flat.

COMMISSIONER SULLIVAN: So this fits at 38 feet.

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: All right. Thank you.

CHAIR VIGIL: Further questions? The LCDRC recommended denial on this. I guess the question I have with regard to this particular case – let me put it in this framework: Is there other alternative slope disturbances that would better meet the requirements for access to this buildable area?

MR. LARRAÑAGA: Madam Chair, the actual access to this, to get that lower he would end up probably not having anything on top as far as storing materials or building an

accessory structure at a later date.

CHAIR VIGIL: So he would not have a buildable area.

MR. LARRAÑAGA: That is correct.

CHAIR VIGIL: Okay. What's the pleasure of the Commission? I do believe I asked for public hearing. I'll ask it again just to make sure. Is there anyone out there who would like to address the Commission on this, Seeing, hearing none, what is the pleasure of the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: It seems like in the area of La Cienega that we tend to get a lot of situations like this where people kind of ignore the County and they don't - they come in after the fact. I took a drive through there the other day and I kind of noticed things that are happening, the buildings, the things that are going up. I think we really have to send a clear message that if you're going to construct a home in Santa Fe County you're going to need to follow the rules that we have and not be after the fact.

So we have to start sending a clear message that if you're going to do business or you want to live in Santa Fe County you're going to have to follow our rules. We've got an issue here where it was unpermitted and we're just - did he get a grading permit?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, no, he did not.

COMMISSIONER ANAYA: Those are the things we need to stop.

MR. LARRAÑAGA: He did get a permit for the residence.

COMMISSIONER ANAYA: The residence is okay. I'm not talking about his residence. But the unpermitted for the driveway. We've got to somehow send a message to the people that are selling these properties to people that don't know what Santa Fe County is requiring them to do because somebody purchases a property and they say, oh, yes, you can build wherever you want and then they start building and it's probably not their fault. Then they get cited and here we are. I notice that there's a few of these cases before us. So with that, these are tough decisions but I'm going to move for denial of this permit.

CHAIR VIGIL: There's a motion for denial. Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: Motion and second for denial. Is there any further discussion?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, I tend to agree with Commissioner Anaya. We've got to draw the line somewhere. Let me just ask, what are the alternatives here? Let me ask staff, given denial, which I think is the appropriate action here tonight. We continually have applicants that come forward and so something and say it's easier to ask for forgiveness than it is for a permit. And what would occur with a denial decision here this evening?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, this disturbance that the applicant did was to expand the use of his property. He already has a home there so it's not going to really affect his living area. We could make him reclaim the hillside and get it back

to the original state.

CHAIR VIGIL: What does that mean?

COMMISSIONER SULLIVAN: Does that solve – Commissioner Vigil says, what does that mean? So that's one question. And does that solve the easement issue, where we have the easement running through his portal right now?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, no, that does not. He's still going to have to take care of the easement issue, the replatting of his property and replatting of the easement.

COMMISSIONER SULLIVAN: That's going to occur anyway through the notice of violation.

MR. LARRAÑAGA: That is correct.

COMMISSIONER SULLIVAN: So he's got to address that issue regardless.

MR. LARRAÑAGA: That is correct.

COMMISSIONER SULLIVAN: Then with a denial – let me rephrase the question. What are the public benefits of a denial versus an approval? Is the public served better by an approval? Is he going to do more things and are we going to check his compliance of those actions with an approval of the variance or not? What works better in the public interest here?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, we fought with that same question, bringing it forward to you because the damage has been done. He's already dug into the hillside and however he got caught, whether a report or somebody reported him and he was issued a notice of violation. We're forced to bring these to you because we can't make that decision administratively to iron them out and if he gets denied then and he doesn't do anything, I don't know if we would take him – maybe Steve Ross can answer this – if he has a notice of violation right now while he's working with us – do we file him into court? I don't know. And then the court system tells him if he has to fix what he's done already.

MS. COBAU: Madam Chair, if I may add also just for clarification on this case. Mr. Leon had, when he initially came to County, he'd indicated that he had wanted to park his vehicles below his house in the area below the roadway and his neighbors complained. So in order to address his neighbors' complaints is when he performed the illegal grading. A message has been sent in this case because the surveyor who platted these lots subsequently has lost his license to practice surveying in the state of New Mexico. Because the people who are on these lots were under the impression that they were abiding by County law because the area that they were building in is a platted buildable area on a plat that's been signed off on by a previous Land Use Administrator. I believe a large portion of the blame in this case lies squarely on the shoulders of the surveyor who misled both the County and the people who were purchasing these lots into believing that they had buildable area when in fact they do not.

I believe that the easement issue can be rectified through a replat. However, we have to ensure that the plat and the roadway leaves Mr. Leon's property at the exact point that it does historically or he's going to have to get permission of his neighbors to relocate that road and relocate that easement.

So he'll have to meet the existing easement on either end of his property, although the one across his property will be wider because the ones on adjacent properties are 20 feet in width. But I do feel that Mr. Leon, while he did not attain a grading permit, I think there may be language barrier here and perhaps Mr. Leon was not fully aware of County law. But the surveyor most certainly was.

CHAIR VIGIL: Thank you, Shelley. We have a motion on the floor. We're going to need to move forward with this. Commissioner Anaya, is this with regard to your motion?

COMMISSIONER ANAYA: Discussion. I know we need to move forward. I'm with you on that. I kind of understand where Commissioner Sullivan is going and that is, what do we do now? The damage is already done, but we want to send a message and how do we get the message out? And if he were to come in and get a grading permit would he have done the same thing or would we have guided him in a better direction? Or is there room to do a better driveway? What?

MS. COBAU: Had he come forward to us with a proposal to grade in a driveway where he currently has it graded he would have had to come to this Commission with a variance request.

COMMISSIONER ANAYA: To do exactly what he's doing now.

MS. COBAU: To do exactly what he's doing now. It would have required a variance. However, as stated in Article V, Section 3.4.1, you can have three areas of disturbed slope of over 30 percent as long as they're not over 1000 square feet, for access. So whether we may have supported his request for a variance, based on the fact that he was in a platted, buildable area and he had no other really good options, hard to say. But he is only disturbing or he has only disturbed a little over that 3000 square feet, which is why the staff recommendation was we felt it was a minimal easing of the Code, and in fact in asking for a variance from you with our staff recommendation, a variance after the fact, unfortunately.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Thank you. We have a motion to deny the request for variance with a second. No further discussion.

The motion to deny LCDRC Case #V 06-5640 failed by 1-4 voice vote with Commissioner Anaya casting the sole affirmative vote.

CHAIR VIGIL: Another motion?

COMMISSIONER SULLIVAN: Madam Chair, question. The request for Mr. Leon indicates that he's requesting it for a retaining wall for parking and tool storage. Now, it seems like we want to rectify what was improperly done here but we certainly don't want to provide a variance to further enlarge the damage. Perhaps the staff could explain to me, where's this wall going?

MS. COBAU: Commissioner Sullivan, if you look on Exhibit D, he has

proposed a six-foot high retaining wall in the area where he's already graded. At this point he has nearly vertical cut slopes at that location and that would be slope stabilization. That retaining wall would serve as slope stabilization.

COMMISSIONER SULLIVAN: And where is the wall?

MS. COBAU: If you look - see where it says Lot 9-B? Immediately below that there's a note that says existing toe of slope and then there's a very thin line, a double line, that shows the location of the proposed retaining wall. And he's proposing a six-foot high retaining wall, which is in compliance with Code criteria regarding retaining wall heights.

COMMISSIONER SULLIVAN: Then where would the tool storage be?

MS. COBAU: The tool storage would be, I believe at the northerly end of that, toward me on the detail, so he could pull a car in and then have a little place to store his tools, which his neighbors have been complaining about being able to see his tools. So he was trying to hide them, is what he told us.

COMMISSIONER SULLIVAN: And so the parking is also there?

MS. COBAU: Right. The parking would be between the retaining wall and the residence. So that would allow him to go off the access road up by the front door of his modular home, park his car and be able to access his residence. Otherwise he would have to park - if you look at the map it also shows where the slope drops off relatively quickly as you pointed out earlier, he would only be able to park near the northeast corner of this property. And I'm hoping I have my directions oriented correctly. Where the slope drops off.

COMMISSIONER SULLIVAN: There wouldn't be any more disturbance on the west side.

MS. COBAU: No, Commissioner Sullivan, members of the Commission, the disturbance has already occurred and there would be no more disturbance if you were to approve this request. There would be no additional disturbance permitted. He would just have to remediate what he's already done, and one of our conditions is that no further disturbance occur.

COMMISSIONER SULLIVAN: He'd have to cut back into the slope behind his house and construct that wall.

MS. COBAU: Correct. He's already cut it though. And if you look on Exhibit L, there's a photograph that really shows where he's already cut it and you can see it's a vertical slope. There's some trees in the center of the photograph and you can see the shadow of the trees, and if you look immediately to the right of the tree you can see that relatively steep cut slope. It looks like it's well over a 1:1 grade there.

COMMISSIONER SULLIVAN: Isn't that his trailer to the left down there? Or is that the neighbor's? Whose mobile home is that?

MR. LARRAÑAGA: Madam Chair, Commissioner Sullivan, the trailer that you see directly to the left is the neighbor's. the one where the pickup truck is on that photo, that's his mobile home. This picture was taken from his other neighbor's property

looking towards it and the proposed driveway or the existing driveway where he's already cut in is between his mobile home and the other, yellow mobile home that's down there, the single-wide.

COMMISSIONER SULLIVAN: Are we looking at his site here in this picture?

MR. LARRAÑAGA: Yes.

COMMISSIONER SULLIVAN: Because I don't see his house? Where's his house?

MS. COBAU: His house is outside the photograph. You can just see a shadow of it on the left side of the photograph.

COMMISSIONER SULLIVAN: Oh, on the left side. Okay. Thank you, Madam Chair. That looks like quite an operation.

CHAIR VIGIL: I think we've had enough discussion on this. Is there another motion? I'll go ahead and make a motion then. I will move that we move forward in approving this with regard to a variance in compliance with staff's recommendation and all of the conditions necessary.

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: There's a second. Any further discussion.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: What about an extra condition on there that no home will be constructed there.

CHAIR VIGIL: That no home would be constructed? Isn't there currently a residence there?

COMMISSIONER ANAYA: Yes, but they could put another one.

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, the density would not allow another dwelling on it.

CHAIR VIGIL: It's only 20 percent buildable.

MR. LARRAÑAGA: This lot is only .83 acres so with one home that's all that's going to be allowed there. One home.

CHAIR VIGIL: Okay. I'm happy to include that condition, Commissioner Anaya, if it gives you any further sense of security but it seems like they would be -

COMMISSIONER ANAYA: They could always come back, Madam Chair, for a variance.

CHAIR VIGIL: But they would be not in compliance with the Code, correct? There's a motion and second that we move forward with staff's recommendation on this case.

The motion to approve LCDRC Case #V 06-5640 passed by 3-2 voice vote with Commissioners Anaya and Sullivan voting against.

XII. A. 4. LCDRC Case #V 06-5630 Enriquez Variance. Suleika Enriquez Requests A Variance of Article 902.2.2.6 of the Uniform Fire Code 1997 Edition to Allow the Grade of a Driveway to Exceed the Required 11% and Variance of Article VII, Section 3.4.1 (Slope and Buildable Areas) to Allow Slope Disturbance in an Area Where Slope Exceeds 30%. The Property is Located at 98-D Camino San Jose, Via the West Frontage Road, Within Section 32, Township 16 North, Range 8 East (Commission District 3)

MR. LARRAÑAGA: Thank you, Madam Chair. On January 3, 2007 the La Cienega Development Review Committee met and acted on this case. The decision of the LCDRC was to recommend approval of the applicant's request with staff conditions. The applicant was issued a notice of violation on April 11, 2006 for unpermitted development. The applicant disturbed slopes of over 30 percent, created a driveway with a grade of over 11 percent and placed a mobile home on the property without a permit.

The applicant has constructed a driveway where slopes are between 20 and above 30 percent. The finished graded of the driveway exceeds the required 11 percent grade.

The applicant has disturbed slopes of over 30 percent where a mobile home was placed and an area for parking was created. The total slope disturbance is approximately 3150 square feet.

Article VII, Section 3.4.1.b states: "Each lot shall have a buildable area which shall meet the following criteria: The natural slope is less than thirty percent, and contain a site with slope of less than fifteen percent."

Article VII Section 3.4.1.c states that exception may be approved by the Code Administrator for: "access corridors, utility corridors, and landscape areas proposed on natural slopes in excess of thirty percent that disturb no more than three separate areas of no more than one thousand square feet each provided the applicant demonstrates that no alternative development location is available."

The applicant's recorded plat was certified by the surveyor as having buildable area that does not exceed 20 percent. The disturbance of slope is within the recorded building envelope. There is limited buildable area on this site. The entire lot has slopes of 20 percent or greater as shown on the slope analysis map.

Recommendation: The lot is a legal lot of record and recognized by the County with a designated buildable area of slopes less than 20 percent on the plat. Field visits have revealed that the slopes within the building envelope are 20 to 30 percent. The request is to allow the disturbance of the slopes of approximately 3800 square feet that exceeds 30 percent can be considered a minimal easing of the Code. The request to exceed an 11 percent grade of the driveway is not in accordance with Article 902.2.2.6 of the Uniform Fire Code, 1997 Edition, but an alternative location may not be possible due to site topography. The development that is being requested is within the platted buildable area, therefore the staff recommends approval of

this request with the following conditions. Madam Chair, may I enter the conditions into the record?

[The conditions are as follows:]

1. A special warranty deed releasing Santa Fe County of all liability of emergency and fire liability, signed by the applicant and notarized, must be recorded with the County Clerk and referred to on the plat of record. This document must disclose this information to any future property owner.
2. The applicant shall address all Fire Marshal requirements.
3. The applicant shall complete the required building permit application process and pay all required permit fees.
4. Cut slopes which exceed a 2:1 ratio must be re-graded to a 3:1 slope per Code, or a slope retaining system provided.
5. All disturbed areas must be re-vegetated with native seed, and further disturbance to slopes in excess of 30 percent shall be avoided.
6. Terrain management and other Code requirements must be fulfilled where possible, such as detention of storm water and rainwater harvesting.
7. On site road shall be in compliance with minimum road standards or submit a financial surety. On site roads shall have a minimum 38-foot road easement.
8. The applicant must comply with all conditions within six months of approval. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be submitted to ensure the completion of all conditions.

CHAIR VIGIL: You may. Are there any questions of Mr. Larrañaga?
Commissioner Anaya.

COMMISSIONER ANAYA: So, here we go again. Another building not permitted, do whatever you want to do. Who was the surveyor?

MR. LARRAÑAGA: Madam Chair, Commissioner Anaya, as stated in the report it was Cipriano Martinez.

COMMISSIONER ANAYA: So he said that these lots were buildable?

MR. LARRAÑAGA: On the plat of record, which is Exhibit F, and this is a small one. So on the squared area over by the notes by the dedication and affidavit, right there, it states that buildable areas have slopes of less than 20 percent.

COMMISSIONER ANAYA: But it doesn't.

MR. LARRAÑAGA: They do not.

COMMISSIONER ANAYA: So, he lied.

MR. LARRAÑAGA: Commissioner Anaya, he certified that this was correct.

COMMISSIONER ANAYA: And what about – who sold them the property?

MR. LARRAÑAGA: The survey was done as a family transfer for a

Richard and Chantal Montano. I don't have the warranty in front of me so I don't know if they bought it directly from them.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Other questions?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Larranaga, a couple of these photos look similar to the ones on the previous case. Does this road go right past the previous case's house up to the next level?

MR. LARRAÑAGA: Madam Chair, Commissioner Montoya, the lots are right next to each other.

CHAIR VIGIL: Any further questions from the Commission? Okay. Thank you, Mr. Larranaga. Is the applicant here? Ms. Enriquez, is there anything you'd like to address the Commission with? First of all, do you understand the proceedings thus far? Do you have any questions?

SULEIKA ENRIQUEZ: Well, no. At this point I know that I was in violation when I spoke to the inspector, Mike Romero. He's the one who actually brought it to my attention. It's been about a year. He never gave me any citations. That's when I started the procedure on this. What I'm going for now is trying to get everything in order. The driveway that I have there, it's about 15 percent where the slope is and there's no other place for me to have put the home. On one side I have the arroyo, and then I have the easement on the other side. There's just nothing but a big hill. There's no other way for me to get to my home unless I have that driveway. The driveway isn't as steep as the rest of the area.

All of the area there exceeds 20 percent. The slopes are 20 percent or greater on all the property there. I guess I'm just hoping that you can work with me in some way to fix this issue. It is my home. I have no other place to go and I'm trying to make this better.

CHAIR VIGIL: Thank you, Ms. Enriquez. Is there any other buildable area that would require the same variance here? Is that what we're caught up in, which is similar to the last case?

MS. COBAU: Commissioner Vigil, it's nearly exactly the same situation. It's the same surveyor. His license was revoked. I would like to tell you that staff is - we're treating these a little differently than we have in the past. We're requiring that buildable area is horizontally dimensioned and tied to a property line. We are trying to gain access to the County's two-foot contours so that we can check the slope ourselves because due to our workload we're not able to get out on every single one of these projects that comes forward. We have to trust the surveyor that he values his registration enough to be telling the truth. Unfortunately, it's evident that that's not always the case. And we are working to rectify the situation so these types of cases aren't brought to you in the future.

CHAIR VIGIL: Thank you. This is a public hearing. First of all, does anyone from the Commission have questions thus far? Commissioner Montoya.

COMMISSIONER MONTOYA: Yes, I guess the thing that's kind of disturbing I guess is that on one, it was approved by the LCDRC, this one, and then the previous one wasn't. What was the rationale behind it?

MS. COBAU: Madam Chair, Commissioner Montoya, I believe the rationale of the LCDRC was that Suleika Enriquez needed her home in order to be able to have a place to live. She's currently living in that home on a generator. She doesn't have a permit. She hasn't been able to get an electric hookup to this home. They felt that perhaps her situation was a little more dire than Mr. Leon's because he just needed a place to access his home. His home was in fact permitted.

So I don't know. I didn't understand exactly why but I believe that that's why they viewed the two cases differently.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIR VIGIL: Further questions. Seeing, hearing none, this is a public hearing and Chief Holden, did you want to address the Commission with regard to this case or anything in particular? We're open.

STAN HOLDEN (Fire Chief): Madam Chair, our concern, obviously, is access to the site in case of life safety or a fire on the property. We have conditions that are very general. In the event that the Commission does approve the variance, we will work with the applicant to try to make road improvements so we can gain access to the property. The driveway width is sufficient. It's very narrow but it's sufficient. The problem is once you get on top to the property itself there's no place to turn around, so any fire truck would have to back back down the driveway if we had to respond there. But we'll work with the applicant based on the action of the Commission.

CHAIR VIGIL: Thank you, Chief Holden. This is a public hearing. Would anyone like to address the Commission on this matter? Seeing, hearing none, what's the pleasure of the Commission?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Maybe the volunteer firemen can just drag that hose up there and the truck won't have to go up. Being that this case is a little different from the other one, Madam Chair, I'll make a motion to approve this with the conditions.

CHAIR VIGIL: Motion.

COMMISSIONER ANAYA: But I would like to stress that somehow we need to as a County figure out a way to prevent this from happening. Maybe Ms. Enriquez didn't know the procedures but we need to do something so that this doesn't happen again. Thank you, Madam Chair.

CHAIR VIGIL: Thank you. There's a motion. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIR VIGIL: Motion and second. Further discussion?

The motion to approve LCDRC Case #V 06-5330 passed by unanimous [5-0]

voice vote.

- XII. A. 5. LCDRC Case #V/DP 06-5540 PNM State Pen 12 Feeder. Public Services Company of New Mexico, Applicant, Laurie Moye, Agent Request Development Plan Approval to Upgrade 5,800 Feet of Single-Phase Line from the Frontage Road Along Interstate 25 Northeast of Los Pinos Road in Order to Provide More Reliable Service to the Customers of La Cienega and Within the Santa Fe Area. This Request also Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to Allow Electric Line Poles to Exceed 24-Feet and a Variance of Article III, Section 8.3.8 of the Land Development Code to Allow the Placement of Overhead Utility Lines. The Property is Along Interstate 25 Northeast in La Cienega, Within Section 33, Township 16 North, Range 8 East (Commission District 3) [Exhibit 3: LCVA Meeting Minutes]**

MS. COBAU: Thank you, Madam Chair. On January 9, 2007, the LCDRC met, heard and subsequently tabled this case. The applicant was instructed by the BCC to conduct a community meeting and develop alternatives. The BCC meeting minutes have been attached as Exhibit J. The applicant conducted a community meeting on March 5, 2007 and I've distributed the minutes from that meeting for your review, and have identified alternatives but have indicated they wish to pursue their request for a variance of Article III, Section 2.3.6.b of the Land Development Code to allow electric line poles to exceed 24 feet, and a variance of Article III, Section 8.3.8 of the Land Development Code to allow the placement of overhead utility lines.

Because you've heard this case before I'll go directly to the recommendation. Staff recommends approval of the development plan and various requests for the State Pen 12 Feeder. Staff recommendation is based on the presence of utilities in this alignment and because the proposed development will not introduce new overhead utilities to this area. Staff believes that the addition of five new poles over a distance of 5,800 feet and replacement of the existing 35-foot poles with 39 ½-foot poles will have a minimum visual impact over this distance.

Staff feels that it is important to note that PNM has stated that the overhead lines in this location will not be abandoned or removed but will remain in the existing condition because the line provides individual service connections to private residences in the area. If the decision of the BCC is to approve the development plan and variance request, staff recommends the following conditions:

1. That PNM submit detailed plans for review by staff and other applicable agency

- which depict pole and/or trench locations for the entire length of the project.
2. That the applicant shall contact the Corps of Engineers to determine if a Section 404 permit is required, because we're dealing with the La Cienega wetlands.
 3. Compliance with applicable review comments from"
 - a. State Department of Transportation
 - b. County Fire Marshal
 - c. County Public Works
 - d. County Technical Review
 - e. Army Corps of Engineers.

And I would like to add to the staff report that we do have a new ordinance regarding PNM and utilities that allows the placement of transmission lines overhead. And it just requires that distribution lines such as this would remain underground unless there were extenuating circumstances such as wetlands. So I believe the staff recommendation would be in accordance also with the new ordinance once it were adopted into law.

CHAIR VIGIL: Thank you. Any questions of Shelley?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Tell me the staff recommendations again.

MS. COBAU: We're recommending approval of the PNM request, because they're just placing a few additional poles over a pretty long length and they would be replacing the existing poles along that same length with poles that were slightly higher.

COMMISSIONER ANAYA: Slightly meaning -

MS. COBAU: Four feet.

COMMISSIONER ANAYA: Okay. Thank you.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: With staff approval, LCRDC still recommended denial. Can you tell me why?

MS. COBAU: Madam Chair, Commissioner Montoya, the LCDRC heard this case twice. They heard it initially and tabled it and requested a community meeting. PNM conducted a community meeting before they were taken back to the LCDRC. There were members of the LCDRC and also members of the public present who felt as you did when you initially heard the case that a viable alternative could perhaps be located somewhere else. I think it's important to note that those overhead lines that exist in that area are going to remain because there are people taking service. If we have them go underground we're still going to have those poles there so we're not going to be improving anyone's view. They're still going to be looking at those poles because people take service and according to PNM, in order for people to take a service connection underground on lots that size it would cost each individual approximately \$10,000.

So PNM has a presentation for you. I believe they've identified and done cost

estimates on alternatives and PNM would like to present those alternatives to you.

CHAIR VIGIL: Any further questions? PNM, Ms. Moye, would you state your name for the record.

[Duly sworn, Laurie Moye testified as follows:]

LAURIE MOYE: Laurie Moye.

CHAIR VIGIL: Ms. Moye, I'm trying to budget our time. How much time do you need for your presentation?

MS. MOYE: Ten minutes.

CHAIR VIGIL: Ten minutes. Thank you.

MS. MOYE: Madam Chair, members of the Commission, Laurie Moye before you again. Perhaps I should just sort of recap. At the direction of Commissioner Anaya, PNM met with the community to explore alternative routes. At the meeting we discussed four routes - the original overhead route, the original proposed underground route, a route involving Camino San Jose and a route involving Camino San Jose with basically a split. Tonight, however, PNM is bringing three options for your considerations. The one option is upgrade of the existing line in an existing easement. As you aware, we're only slightly raising the pole at 4.5 feet higher. That's not significant to the human eye.

The existing easement is on private land. The rebuild of this is less disturbing for the area, and we do have the ability to environmentally safely rebuild the line even with the wetlands. We've had numerous meetings with the landowners and a neighborhood association.

When we looked for the original route, which I believe is in your packet, and the original route goes from the frontage road along an existing easement to Los Pinos and then to a connection. And this is to provide service, to be able to split the service in the La Cienega area. And these are pictures of what it would look like. And then the original underground route - this is on private land.

CHAIR VIGIL: What alternative is that? Are you identifying them?

MS. MOYE: This is number one. This was the one - this was the overhead alternative. Then our original underground route that we came in with, we were under the impression that it was a County road, 252. It was not a County Road 252; it is a private road and it cuts through J. J. Gonzales' property and then on to Susan Simon's property. And the road does connect from the frontage road to Los Pinos. We would have to get a private easement to put this line underground here.

When I talk about undergrounding you're aware of the Rate 22 Rider where if you deny this variance and you require PNM to place it underground we would go to the PRC for rate recovery on these projects.

The original underground option, crossing private easements, the cost difference is \$861,000 that we would ask cost recovery on.

The next one goes up Camino San Jose. And we have shared these maps and theses numbers with community members that are here also. The next one goes up Camino San

Jose, turns, goes down Los Pinos, back to our original starting point, and the cost difference is \$1.38 million on that one. The third alternative which I did not bring tonight because I thought it was excessive. Camino San Jose and then the split goes this way and that way, and that was over in excess of \$2 million. So this underground option also includes La Entrada La Cienega underground, and then underground of this portion. So I hope when you vote tonight, if you vote to deny, that you direct PNM to put La Entrada La Cienega underground and this underground option right here.

This option also includes La Entrada La Cienega, \$1.38 million, and if you would like this option, I hope that again you vote to include both of these routes.

CHAIR VIGIL: Laurie, for clarification for the record, the one on the left, is that the third option?

MS. MOYE: This is the third option. Yes.

CHAIR VIGIL: And so the one on the right is -

MS. MOYE: The second option.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Laurie, you talked here about upgrade, 5,800 feet of single-phase line.

MS. MOYE: That's correct.

COMMISSIONER ANAYA: On the frontage road to the Interstate 25. Point to that.

MS. MOYE: Frontage road to I-25, from right here, this is a single-phase line that goes all the way over to Los Pinos now. It's an existing line.

COMMISSIONER ANAYA: That's 5,800 feet?

MS. MOYE: Right. It goes right there.

COMMISSIONER ANAYA: So you're asking us to include that Entrada de la Cienega which -

MS. MOYE: Is not part of the original application. That's correct. The community has asked PNM to include that in our presentations to you. I explained that's not what I applied for and they said include it. So, I'm following the community wishes.

COMMISSIONER ANAYA: Who asked you to include that?

MS. MOYE: That would be the La Cienega Valley Association, because they know that this is another project that I'll be bringing in shortly.

COMMISSIONER ANAYA: I don't know if we can act on that but go ahead with your presentation.

MS. MOYE: Okay. Well, actually, at this point I think I'll stand for any questions if you have questions on cost recovery or questions on the route.

CHAIR VIGIL: Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a quick one. Why do you need this? You're only replacing a single-phase with a single phase. You're not going three-phase?

MS. MOYE: Commissioner Vigil, Commissioner Sullivan, we are replacing

a single-phase with three-phase.

COMMISSIONER SULLIVAN: It says single-phase here.

MS. MOYE: Three-phase.

COMMISSIONER SULLIVAN: It says my name is Laurie Moye. I'm the agent for PNM. To repeat the staff report, 5,800 feet of single-phase line. I'm looking at page 90 of the BCC meeting, January 19th.

MS. MOYE: Perhaps I misspoke.

COMMISSIONER SULLIVAN: You just said single-phase now also.

MS. MOYE: Did I? I'm sorry. We have an existing single-phase. What we'd like to do is rebuild it to a three-phase line and that's what my application says.

COMMISSIONER SULLIVAN: Okay. All right. Because it says here single-phase and you just said single-phase and I was thinking why are we doing this?

MS. MOYE: We're rebuilding a single-phase.

COMMISSIONER SULLIVAN: To a three-phase.

MS. MOYE: To a three-phase line. Yes.

COMMISSIONER SULLIVAN: Okay. That makes more sense. Thank you.

CHAIR VIGIL: Okay. Any further questions of Ms. Moye. Seeing, hearing none, this is a public hearing. Is there anyone out there who would like to address the Commission? Please come forward.

[Duly sworn, Carl Dickens testified as follows:]

CARL DICKENS: I'm Carl Dickens at 27347 West Frontage Road, president of the La Cienega Valley Association. We did meet with PNM as we have done before and we find them to be a nice group to meet with. We continue to oppose the granting of this variance and part of it has to do with the fact that we're a traditional historical community, it tends to work against us, because there are a lot of newer communities that have the ability to put their lines underground. And I cite both Rancho Viejo and Eldorado as examples. And really, if you look at our community, this is the oldest part of the community that is stuck with above ground lines that are aging.

So one of the things I would like to do is to offer you a very amateur attempt to take some of the - take pictures of where lines are located now. So I'd like to hand that out to the Commission if I could.

CHAIR VIGIL: You may.

MR. DICKENS: This is an attempt to demonstrate the kind of issues that we're facing. Again, I apologize for the amateur quality and they aren't in sequence. I'd like to start with number one though. That is a view from the frontage road to the west of the replacement line. As you will note, there's no access road, there's no ability to get to those lines without going across country on private people's land. So that's number one. Number two which is at the bottom of the second page is an eastern view of the line that is to be replaced, and again, there is no access to those lines.

I also want to remind everyone that this is the northern border of what we believe to be the most beautiful living museum in New Mexico, and that's El Rancho de las

Golondrinas. And we think that's important to take into consideration. Number three, which is on the third page is just another view going down across Rancho de las Golondrinas land. Now, I can kind of go into sequence. Number four is actually on Camino Capilla Vieja. That is the home of David C de Baca, and as you'll note, the power pole is in the middle of his front yard.

Number five is just a view of Entrada La Cienega, actually near Camino San Jose, and you can see how close the pole is to traffic. Number six is an example of what happens when we keep adding lines to a particular pole. This is on Camino Capilla Vieja. We don't think that looks too good. Number seven is another picture of poles that are located close to Camino Capilla Vieja. Number eight and nine are Paseo C de Baca, again with poles that are very close to the road. Number ten is an interesting one. That is along Paseo C de Baca and I think you can see that it's up on top of a hill and fairly difficult to get to. Number 11 is at the corner of Sunrise Springs and it really looks as if the pole is right on the road. Number 12 and 13 are just views along Los Pinos. The lower one is probably a little bit better, but you can see the whole number of poles that are just right on the road.

So we have continued to oppose the granting of this variance and we want some clarification. One of the things we did, Madam Chair, is during our meeting one of the options that we discussed with PNM was the possibility of coming along the Gonzales and Simons property. It was my responsibility to talk to the Simons. I did so the next day, and after some discussion they were amenable to the idea of granting an easement along that road. So they are in support of this proposed route. Also, one of the things that was a little confusing tonight. We were quoted that this new route was going to cost \$800,000. In our meeting on March 5, it was quoted as being \$650,000. And we also, as it was broken down, we understand this is a cost that is at present shared, if it's approved by the Public Regulatory Commission. If it's approved then it is shared among ratepayers within the Santa Fe County with the exception of the Santa Fe people of the City of Santa Fe.

At our meeting, Ms. Moyer said that the per-month would be about \$1.15 residential, \$2.09 for small power. General power would be \$59.60. Large power would be \$530.03 and water and sewer would be \$58.02. This would be a per-month cost for other parts of the community to help a traditional historical community get their lines put underground. And we think those are reasonable costs and we ask if PNM could identify any large power users. At that meeting they were not able to do that.

So we continue to hold that position. We are a traditional historical area and we take great pride in that. Our views are important to us. One of the things that we would like to do, rather than go – we realize that this is the beginning of a sequence of a number of variances requests as they continue to replace the aging lines in our community. On some level we think it's a little silly to come before you each time. What we would like to propose, and we discussed it at our board meeting last night, what we would like to propose is developing a five or ten-year plan that we would work with PNM and the County to allow us the same privilege or right that other communities have, new communities have, to get all our lines placed underground.

And we really feel that we understand that the Public Regulatory Commission has, Madam Chair, we understand that the PRC is concerned about the burden of other ratepayers to pay for placing lines underground, and we appreciate that. We don't think the PRC, our elected representatives are to determine what a traditional historical community can do and we turn to you for that. So I stand for questions. Thank you.

CHAIR VIGIL: Thank you, Mr. Dickens. Is there anyone - Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Madam Chair. Carl, which plan do you go with? This one here?

MR. DICKENS: It's the one to the Gonzales' and Simons' property.

COMMISSIONER ANAYA: You said that Laurie said at the meeting that that was supposed to be \$650,000 and not \$861,000?

MR. DICKENS: That's what the minutes of the meeting reflect. Yes.

COMMISSIONER ANAYA: Okay. And these pictures that you show me, they're not all of this line.

MR. DICKENS: No, they're not.

COMMISSIONER ANAYA: You're just taking pictures throughout the community and some of the pictures are in here.

MR. DICKENS: Correct.

COMMISSIONER ANAYA: And how many - I don't know if you know this, but how many secondary lines come off of that primary line?

MR. DICKENS: You know, honestly, I'm not sure. And that's one of the things that we keep hearing, that regardless, these poles are going to remain. That does us a disservice. We as a community certainly would initiate some effort to try and get those lines put underground as well, whether through an ICIP request or through some special funding. We certainly would like to take the initiative to see if there's a way to get those lines and the poles taken out completely.

COMMISSIONER ANAYA: Maybe I'll ask Laurie about that. That's all I have, Carl.

CHAIR VIGIL: Thank you. Any other questions from the Commission?

COMMISSIONER ANAYA: I have a question of Laurie. Laurie, how many secondary lines are tapped off of that?

MS. MOYE: Madam Chair, Commissioner Anaya, I don't know if you can see this, but the line comes up and it goes here, and that's the house that Mr. Gonzales owns. Then the line comes down here and feeds - it looks like six or seven homes off this line. Then it also feeds four homes this way. The line also goes all the way over to here and feeds this development over here.

COMMISSIONER ANAYA: Those are overhead, right?

MS. MOYE: All of these lines are overhead. Yes. Everything here is overhead. And then this line goes down here, four it looks like. It fingers into the community and feeds the community, and it goes this way also.

COMMISSIONER ANAYA: So if it goes underground then you would have to set a transformer there and then go up the pole and feed those lines.

MS. MOYE: We wouldn't put this line underground. This line would go underground. This line would stay overhead.

COMMISSIONER ANAYA: Right.

MS. MOYE: This line would just be underground with nothing being fed off of it until Mr. Gonzales develops his property or Ms. Simons develops her property.

COMMISSIONER ANAYA: Okay. Thank you.

MS. MOYE: Did I answer your question?

CHAIR VIGIL: Yes. Next speaker.

[Duly sworn, J.J. Gonzales testified as follows:]

J.J. GONZALES: J.J. Gonzales, 54 Entrada La Cienega. Madam Chair, Commissioners, we look at this as one of the first of many projects to be placed out in La Cienega. This is just one of the first areas. I don't know why they chose this area. I guess to upgrade the system. What we talked about, we had several meetings with PNM. We had several meetings in the community and I think we all agreed that we wanted underground placement, begin with this project and do an underground system. The Land Use Code requires that these types of lines be placed underground. The La Cienega Development Review Committee heard this case and I think they were unanimous in their decision to have these lines placed underground. The La Cienega Valley Association met several times. They agreed that they wanted these lines to be placed underground.

Also, they recommended that PNM try to place these lines in a public easement. Try to remove many of these lines that are cross-country now on people's private land. They're inaccessible. This last winter we had very bad weather and it would have been impossible to work any of those lines, to get any equipment in to work on any of those lines. So the access is a big problem. One of the biggest problems with rebuilding the line across the museum, it's a living museum. It's been there probably 30 years and the lines that are down in the valley are very close to the historic section of the museum. They have exhibits there. They have everything from the 1600s, 1700s. The way things are done back then, they have their exhibits. All of a sudden, you look up, there's these utility lines. That kind of interferes with the concept that the museum wants to show everybody that they had areas there, they're doing things that really go back before they had any kind of electricity or any kind of modern equipment and the old fashioned way of doing things, the historic way of doing things.

Allowing that throughout to continue, even though they say they're not going to take down any of their lines, I think the museum at some point would like to do a lot of undergrounding of their utilities. Allowing this museum route, the Los Pinos route from the frontage road to Los Pinos to be rebuilt, that would mean that the poles would be there for the next 50 years or longer, because this system was first built in the 40s and allowing this to be rebuilt with taller poles, that means that the museum will just completely be not able to afford to replace these lines. There will be a bigger line. Right now there's the

single-phase. It serves mostly museum property, the Simons' property and our property. Allowing this to be rebuilt, that would be a big expense for the museum to try to do anything.

We did offer PNM a route to cross our property along with the Simons' property. We talked about that option and I think that is a piece of property that basically has no structures on it. I think it's a very easy route to build on. There's no wetlands in that area. There's a couple of creek crossing or the arroyo crossing or a little stream, La Cienega Creek. I think it's very possible to do that. I think that was the route that we wanted PNM to find. Also, we wanted a route that was maybe not such an expensive route that the people of La Cienega would have to pay an exorbitant amount of money. I think they - I don't know how they calculate their costs but some of their estimates seem to be very high, and we're kind of concerned about that.

The other thing that we talked about - they also have to do an Entrada La Cienega project, because going across from the museum they can connect most of La Cienega, but also at the lower end of La Cienega they had the Entrada La Cienega project, and that's a relatively short project which allows them to bring three-phase into the valley at the lower end of La Cienega. That eliminates a lot of the Los Pinos route, which is in the middle of the La Cienega, which eliminates maybe a mile of their development of their proposed project. And I think the combination of the Entrada route along with the Gonzales-Simons route would be the most reasonable and least expensive alternative.

And also the museum would kind of like to see some of the lines on their property eventually get eliminated. By you allowing this route along the museum property I think that would be a very remote possibility of having in the future. So I kind of would encourage you to choose a route that I think is the most reasonable, and that would be rebuilding the Entrada La Cienega, that short extension, and also encourage and vote for the Gonzales and the Simons route. And I think we can work with PNM on that.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: J.J., are you talking about this one right here?
This plan right here?

MR. GONZALES: This particular route right here. Yes. That would be the alternative we were talking about.

COMMISSIONER ANAYA: Okay. Thank you, Madam Chair.

CHAIR VIGIL: Is that not the \$1.38 million alternative?

MR. GONZALES: I didn't get the number that Laurie mentioned, but that was very possible that that was that amount.

CHAIR VIGIL: Okay. Does anyone have any questions for Mr. Gonzales?

MR. GONZALES: Thank you.

CHAIR VIGIL: Thank you. Is there anyone else who would like to address the Commission with regard to this? Please come forward.

[Duly sworn, Mary Dickson testified as follows:]

MARY DICKSON: My name is Mary Dickson. I'm at 48-A Paseo C de Baca in La Cienega. I just feel that it's time to get the overheads in La Cienega out of the irrigation fields, off of impassable hills and off of the side of the roads. PNM needs to start this process by putting this project underground. So I feel that this variance should be denied.

CHAIR VIGIL: Thank you, Ms. Dickson. Anyone else out there. Seeing none, this public hearing is closed. Ms. Moye, did you want to address?

MS. MOYE: Madam Chair, if I could just address some of the points that were made in the public hearing. First of all, all of the existing lines are going to remain overhead. There will be no existing overhead lines that will be taken down. Mr. Dickson's pictures were wonderful but none of those lines are going to be placed underground. Also, I think you are very well aware that the federal government requires PNM to allow Comcast and Qwest and other providers to attach to the lines, and some of the pictures showed not just electric lines but the other providers.

We do have to get a private easement from Simons and Gonzales. We do have an existing easement now. I'd also like to point out - I have three more points to make. Number one, these are not aging lines. This is a growing community. There are more homes out there and they're plugging more things into the wall. And it's not a matter of the lines are aging, it's a matter of being able to safely and reliably serve the customers. The other thing is, PNM tries to avoid disturbing the previous communities that were in this area, and when we trench we disturb the previous communities, as opposed to disturbing the community today.

And my final point is that the customer can at any time come to PNM and ask that their service be placed underground or that their lines be placed underground at their cost. And they can do that any time. PNM prefers the overhead the overhead alternative for this particular project; however, if the Commission will deny us and select a route to direct us for an underground alternative, PNM is very willing to build that alternative.

CHAIR VIGIL: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Laurie, could you address the \$650,000 figure compared to the \$861,000?

MS. MOYE: Madam Chair, Commissioner Anaya, I don't know where that number came from. It's always been in the \$800,000s. This line was the original underground line that we brought to you in our hearing in January and I think if you look in the minutes it's always been in the \$800,000s.

COMMISSIONER ANAYA: Okay, and tell me about - if we decide to go underground with this option here, you're telling me that you're not going to eliminate the overhead line that is existing now?

MS. MOYE: Madam Chair, Commissioner Anaya, if you require us to build this underground, this line is going to stay overhead. Yes.

COMMISSIONER ANAYA: Why is that?

MS. MOYE: Because it serves all of these people off of this overhead line.

It has to stay.

COMMISSIONER ANAYA: Can't you tap off that red line and back-feed all the residents?

MS. MOYE: They still have to have a line to get to their house. They still have to have a line to get to their house. And so the lines have to stay overhead. This line has to stay overhead.

COMMISSIONER ANAYA: I guess I need to bring Carl and the community back up because if that's the case, why are you wanting it underground if the other lines are going to stay? That's why I'm confused.

MR. DICKENS: Madam Chair, Commissioner Anaya, we believe that it will cost money, obviously, to place those lines underground, to do the feeder from. If the underground goes through the Simons-Gonzales property, we believe we would want to go forward to figure out a way to fund some way to run those feeder lines off there to meet the needs of those houses and take the poles out.

COMMISSIONER ANAYA: Eventually, somewhere down the line you would like to eliminate those poles.

MR. DICKENS: Exactly.

COMMISSIONER ANAYA: I gottcha. I just wanted to make clear that you understood that, that they're still staying.

MR. DICKENS: For now. Yes, we understand.

COMMISSIONER ANAYA: For now. They're not going anywhere.

MR. DICKENS: Right.

COMMISSIONER ANAYA: Thank you.

CHAIR VIGIL: Further questions. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a clarification from Ms. Moye again. In looking at the minutes of the January meeting, and I'm quoting you, Ms. Moye. The overhead route cost is \$224,493, and the underground cost is \$649,040. And when we get into one-year recovery - you go then into the various rates. So at that time you said that the overhead route was roughly \$224,000 and the underground was \$649,000, and then - that's on page 92 for the Commission, then a little later on I asked you, when you go to the PRC, do you request the entire \$600,000 or do you request the difference between \$600,000 and \$200,000? And your response was we request the difference. So the difference between \$224,000 and \$649,000 would be \$425,000. So now I'm really confused because in January the difference was \$425,000 and today it's \$861,000, so I'm seeing double the number and although inflation has been high and we won't say who's responsible for that, I don't know that it's been quite that high in Santa Fe. But I've never bought any power lines so I could be wrong.

MS. MOYE: Commissioner Sullivan, I would like to have our engineer who provides those numbers address this question, but I'd first like to say that the community asked us to add in the Entrada La Cienega route in, and that number does reflect the Entrada La Cienega being added in.

COMMISSIONER SULLIVAN: Okay. But we're not -

MS. MOYE: But I'd like to have the engineer address the question.

COMMISSIONER SULLIVAN: But your application and what we're hearing tonight is the other route. Are those numbers - the \$629,000 and the \$224,000 - are those still operative?

MS. MOYE: She has to be sworn in and then she can answer your question.

[Duly sworn, Sherri Compton testified as follows:]

SHERRI COMPTON: The difference between the \$600,000 and the \$800,000 is because the community - we need both of these projects. So rather than go through all this process again, that's why we're presenting both of them for you today, in order to appropriately serve this community, we need both of these projects done, so we combined them. So that's why the minimum underground cost you're looking at is \$800,000, because it includes that route along Entrada La Cienega. The total overhead cost is a little over \$240,000 for both projects. So what we're trying to do is build both of them. So that's why those cost differences reflect both projects. Do you understand?

COMMISSIONER SULLIVAN: Yes, but no, because the board that we're seeing in front of us says that the cost difference is \$861,000.

MS. COMPTON: That's correct. The cost difference is - it says \$861,000 is the cost difference between building overhead along Entrada La Cienega and rebuilding the line across the museum, and putting the line underground along Entrada La Cienega and going across that private easement. So we combined both projects. There was some inflation. Also material costs have gone up, but the biggest - that's the reason - the total underground cost of that project is around, it's a little over a million dollars.

COMMISSIONER SULLIVAN: What is the overhead cost? See the problem is that we're now talking about Entrada La Cienega, and we haven't seen pictures of that. We haven't had a chance to look at it in the field. What is the overhead cost of Entrada La Cienega?

MS. MOYE: Would you like to not have this discussion, since that's not what our application is? We were just trying to be responsive to the community, based on the directive of the Commission. Would you like to just talk about what we applied for?

COMMISSIONER SULLIVAN: That's up to the chair, Ms. Moyer. I'm just trying to understand the numbers, because in January they were \$400,000, now they're \$861,000.

MS. COMPTON: Did you want to know the overhead cost?

COMMISSIONER SULLIVAN: Yes. What was the overhead cost?

MS. COMPTON: It's around \$40,000.

COMMISSIONER SULLIVAN: Only \$40,000?

MS. COMPTON: To build it overhead along Entrada La Cienega.

COMMISSIONER SULLIVAN: Okay. And the underground would be what?

MS. COMPTON: I don't know the specific cost allocation between those

both projects. It was a little over \$200,000.

MS. MOYE: I agree. I think this is very confusing.

COMMISSIONER SULLIVAN: I'm not seeing the difference of \$861,000.

MS. MOYE: Okay, the difference is that we had two - when I came in and I said the difference was \$600,000, and that was for just the route that I originally applied for.

COMMISSIONER SULLIVAN: You said the underground cost was \$600,000.

MS. MOYE: And the overhead was \$243,000.

COMMISSIONER SULLIVAN: \$224,000.

MS. MOYE: \$224,000.

COMMISSIONER SULLIVAN: So the difference would have been \$425,000, as of January. Let's forget about Entrada La Cienega for the moment. Now is that still operative? Give or take a few percent?

MS. MOYE: Yes.

COMMISSIONER SULLIVAN: Inflation or -

MS. MOYE: Yes. And equipment, material costs, yes.

COMMISSIONER SULLIVAN: Okay. So the red line, if we went through Mr. Gonzales' property would engender a request to PRC for a rate reimbursement of roughly \$425,000.

MS. COMPTON: The original cost is going to be more than - the cost difference is more than \$400,000 because the original engineer did not estimate rock and the trench prices and also did not require conduit system, which upon further review we decided that we would require the line to be put in conduit.

MS. MOYE: So there have been design changes from the original estimate, from the original engineer. This is engineer number two. Engineer number one did not adequately estimate the underground cost of the original route, which is through Mr. Gonzales and Ms. Simons' property. So because of the conditions there, we will have to put two runs in and have to put it in a conduit, as opposed to just direct burying it. We have to bore under a couple of different creeks and material costs have gone up.

COMMISSIONER SULLIVAN: So the estimates have doubled, from \$425,000 to \$861,000.

MS. MOYE: Almost doubled. No, the \$861,000 includes La Entrada.

COMMISSIONER SULLIVAN: Oh, that's right. That includes La Entrada.

MS. MOYE: Right. So it's probably gone up by another \$200,000 from \$425,000.

COMMISSIONER SULLIVAN: Thank you, Madam Chair.

CHAIR VIGIL: Further questions.

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: This was the preferred route for the

individuals who attended the community meeting? The Gonzales-Simons-Entrada La Cienega-Los Pinos? Carl said, yes, that is correct. Okay. Thank you.

CHAIR VIGIL: I have some questions. Let me first start with Mr. Ross. Mr. Ross, we've just amended our underground ordinance. Does this request and application comply with the amended ordinance?

MR. ROSS: Madam Chair, that ordinance is not actually in effect yet, but it should be within a few days. As you recall, that ordinance requires all distribution lines to be underground.

CHAIR VIGIL: And these lines, are they distribution?

MR. ROSS: They are apparently distribution lines.

CHAIR VIGIL: Then Ms. Moye, how does PNM choose areas to upgrade their system?

MS. MOYE: What I'd like to do, I have our distribution planner for Santa Fe and this is his territory. He can talk about why we're having to upgrade this area, if I could bring him up.

CHAIR VIGIL: Okay. That would be fine. Why was La Cienega chosen to upgrade the PNM system, whoever your person is.

[Duly sworn, Robert Broderick testified as follows:]

ROBERT BRODERICK: My name is Robert Broderick. Madam Chair, Commissioners, the answer to that question is two-fold. The La Cienega area is on a very long feeder that comes out of our state pen substation, and that feeder has significant load growth due to the La Cienega area, and it also has significant single-phase distribution of load. And this is causing two problems. The first problem it's causing is we are unable to maintain the service voltages that we need in the area and we are required by the regulatory commission and by electrical standards to maintain certain voltage parameters. We are unable to do that with the existing load and the projected load going forward.

So when we have that driver, that is what we have to look at is what is the existing area and how are we going to solve that problem. The solution that we came from, to go from point A, which is along the frontage road, to point B, which is along Los Pinos, is the most direct route. It is the most effective route to solve those voltage problems. The other issue that we're dealing with as this area continues to grow is we have to provide service in case we lose a feeder and can back it up. This area is backed up by another substation which is much further away, and voltages are even worse in that case. So we have those two issues to deal with - immediate voltage issues, due to load growth, and also the ability to back up this area to provide reliable service.

CHAIR VIGIL: Okay. Thank you very much. A question I have perhaps for you, Ms. Moye. Of the alternatives that we have - which I've identified at least three of them, which alternative do you get the greatest benefit for this community with regard to current customer service and future customer service? It seems to me, and let me just sort of preface that, it seems to me that if you go with the route to Gonzales and Susan Simons that what in effect you're doing is concentrating on new development. And if you go

through the alternative route, you're concentrating on current service, plus new development. Is that accurate, or how would you explain it?

MS. MOYE: Madam Chair, I think what I would say to you is that the preferred route overhead solves the immediate problem and the future problems of voltage and being able to split the load in this area, as Mr. Broderick indicated. The underground route along the Gonzales-Simons allows PNM to do the same thing. The underground route, which is much more expensive, allows PNM to do the same thing. The three alternatives all do the same thing. Certainly, if we put an underground like through Mr. Gonzales' property and he chose to develop, there's a line there for him to develop, or Ms. Simons. That's not our intent. Our intent is to solve the electrical issues that are in this community and that's what we're mandated to do, and we've tried to work with the community to find routes that were acceptable to them and these are the routes that we were directed to by the community. Did I answer your question?

CHAIR VIGIL: Let me put it in this way. Would it be more difficult for new development to be served if you did the overhead lines on Los Pinos Road versus the alternative? Or each one of these scenarios as you have testified will meet whatever needs are available?

MR. BRODERICK: Madam Chair, the option that is being proposed first as an overhead will allow all the development in the museum area. If there was subdivided land they would be able to attach to that overhead line and provide service to their property. If instead we went with alternative two, and we went underground along the same route, the difference would be that they would be able to have underground service also. So that would be a slight advantage to having underground. But in terms of the economics, there wouldn't be that much difference, because we have a minimum service, whether we're serving it from an overhead line or an underground line.

CHAIR VIGIL: Thank you. No further questions.

MS. MOYE: Madam Chair, if I could.

CHAIR VIGIL: Yes.

MS. MOYE: I'm sorry, I misunderstood your question. If your question was if the underground line was not there through Mr. Gonzales' and Ms. Simons' property, would it be more difficult for them to develop. It most likely, they would have to come from the overhead line along the frontage road, as opposed to having a line through the property. It would be more expensive. If that was your question.

CHAIR VIGIL: Along those lines. Thank you. Any further questions? What's the pleasure of the Commission? Public hearing - anyone else needing to address?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: I think if there's no one else, I'll close the public hearing. Commissioner Anaya.

COMMISSIONER ANAYA: It seems that what I'm hearing from my constituents is that I make a motion to deny PNM's request to overhead, and put it underground. This option right here, and exclude the Entrada La Cienega because that's

not what we have posted here. This one, yes. And that hopefully next time PNM comes before the Commission they have their numbers figured out better, because you lost me on that one.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: There's a motion and a second to select – we're looking at Alternative 2, less the Entrada La Cienega. So this is the Susan Simons-Gonzales route. Correct? Everyone on the same page on that? Motion and second on that. Any further discussion? This would require PNM to underground those easements of that area and obviously go to the PRC for rate #22.

The motion to deny the variance in LCDRC Case #V/DP 06-5540 passed by unanimous [5-0] voice vote.

CHAIR VIGIL: I'm going to go to item 10 because this is also a previous request, and then we're going to take a break after that.

XII. A. 10. BCC Case #S 06-5290 Colinas del Sol Subdivision. High Desert Partnership LLC (Russ McMillan, President) Applicant, Jim Siebert, Agent, Request Preliminary and Final Development Plan and Plat Approval for a 16-Lot Residential Subdivision on 202.03 Acres. The Property is Located in Eldorado, South of Avenida Eldorado on Spur Ranch Road, Within Section 25, Township 15 North, Range 9 East (Commission District 5)

MS. COBAU: Thank you, Madam Chair. The applicant is requesting final development plan and plat approval for a 16-lot residential subdivision on 202.03 acres. The lot sizes range from 12.5 acres to 13.03 acres, with an average gross density of 12.5 acres per dwelling unit. The property is in the Basin Fringe Hydrologic Zone where the minimum lot size is 12.5 acres per dwelling unit with a quarter acre-foot per year per lot water restriction. This site is within the eee Area Water and Sanitation District service area.

The applicant is also requesting payment-in-lieu as an alternative means of compliance with Ordinance 2006-2, Affordable housing, rather than providing three affordable housing units on site. The applicant has addressed the criteria established by Ordinance 2006-2 and is proposing payment of a fee-in-lieu amount of \$393,100. In response to concerns expressed by the Santa Fe Southern Railway, the applicant has agreed to remit a sum of \$84,708.81 – which is corrected from the staff report that you have in front of you, based on a letter we received from Mr. Siebert's office late last week. The amount has been agreed to between the applicant and the Santa Fe Southern Railway and the County had not received the correspondence. So that number is corrected to

\$84,708.81.

This amount will cover construction costs associated with rebuilding the at-grade rail crossing at Spur Ranch Road in order to reduce the current hazard to motorists and train traffic at this location.

The application has been reviewed for the following: existing conditions, roads and access, water, the Eldorado moratorium, fire protection, liquid and solid waste, terrain management, archeology, signage and lighting, homeowners association documentation, and affordable housing.

Staff's recommendation is as follows In response to the applicant's request to provide a cash payment in lieu of construction affordable housing units, staff refers to Section 16.A.2 of Ordinance 2006-02; which states that a project may alternatively meet all or a portion of its obligation to provide Affordable Housing by: "making a cash payment that is equal to or greater value than would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing regulations"; and further states in Section 16.A.1. F: "that in deciding whether to accept a proposed alternative means of compliance pursuant to Sections 16 A.2, or A.3, the County shall consider the following where applicable. Now, I've addressed these conditions or these portions of the Affordable Housing Ordinance in much the same manner as a variance request, so I'll read this into the record:

1. Whether the proposed cash payment is equal to or greater than the cost of constructing equivalent Affordable Units within the Project, applying the methodology set forth in the Affordable Housing Regulations;
 - i. The applicant states "the formula for the payment was provided by the County Housing staff and it is assumed that the payment is made in compliance with the provision of Ordinance 2006-02."
 - The County Land Use Administrator concurs with the amount of payment identified by the applicant.
2. Whether a proposed cash payment or dedication of property creates a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose;
 - i. The applicant states "Very few if any cash payments have been made to Santa Fe County. The money to be provided to the Housing Fund would be available for underwriting a portion of the cost of the monthly mortgage, allowing a person to own a home with the assistance of a mortgage subsidy".
 - The County Land Use Administrator concurs that the fees collected with this project can be utilized to provide affordable housing in a more appropriate area that has wider services available to residents, and can be utilized to enable to Housing Authority to target specific locations where higher density development can be integrated in areas such as Village centers.

3. This section refers to appraised value of the property to be dedicated and is therefore not applicable in this case;
4. Whether a cash payment or property provides a greater overall public benefit than if the affordable units were constructed within the project or minor project that would have otherwise provide for mixed income development;
 - i. The applicant states "The payment of a fee in-lieu-of for this Minor Project allows for the affordable housing unit to be located in closer proximity to a variety of urban services, including grocery stores, employment, recreation and bus service. The commute to Santa Fe requires a car and all the costs associated with the maintenance and insurance for the vehicle and the gas to commute the approximate 30 miles to and from Santa Fe."
 - The County Land Use Administrator concurs that in this case, due to the large size of the lots, distance of the project from community services, and maintenance costs associated with large lots on private roadways, septic systems, and shared wells, that an alternate means of compliance is more appropriate than constructing three affordable units at this location. In addition, it is important to note that a Code compliant four-lot subdivision can be created at this location administratively, precluding compliance with the Affordable Housing Ordinance and Subdivision criteria in the Code. The four lots could subsequently be divided by family transfer, ultimately resulting in the same density without the benefit of the infrastructure included in this proposal.

Staff's position is that the Colinas del Sol subdivision is in accordance with Article III, IV and VII of the Land Use Code for Final Development Plan and Plat submittals. Staff recommends acceptance of the payment of \$393,100.00 as an alternative means of compliance with Ordinance 2006-14 (Affordable Housing), and recommends approval of the application for Preliminary and Final Development Plan and Plat for a 16-lot subdivision on 202.03-acres based on the following conditions.

Madam Chair, I need to revise condition #3. The amount in condition #3 should be corrected to \$84,708.81. And I need to add a new condition 16, as the applicant has requested some clarification. Condition 16 would read as follows:

16. The applicant shall construct Avenida de los Compadres from Spur Ranch Road to the northerly property line to County standards for a local sub-collector.

And Madam Chair, with those corrections, may I add the remaining conditions to the record?

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:

- a) State Engineer
 - b) State Environment Department
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) County Fire Marshal
 - f) County Public Works
 - g) County Housing Administrator
 - h) Santa Fe-Pojoaque Soil and Water Conservation District
 - i) County Technical Review
 - j) State Historic Preservation Division
2. Approval by the BCC of the payment of a fee of \$393,100.00 to provide an alternative means of compliance with affordable housing criteria. Payment of the \$393,100.00 fee in-lieu must be made prior to or concurrent with Final Plat recordation.
 3. Payment of \$50,000 \$84,708.81 to the Santa Fe Southern Railway for improvements to the Spur Ranch Road crossing, along with a reimbursement agreement to be signed by Santa Fe County, Santa Fe Southern Railway, and High Desert LLC. This agreement shall be referenced on the Plat, and recorded in the Office of the County Clerk. [Modified at motion.]
 4. The developer's engineer must establish the base flood elevation in the Federal Emergency Management Agency (FEMA), Zone A Special Flood Hazard Area (SFHA), and this information along with a minimum finished floor elevation for lots adjacent to the floodplain shall be included on the Final Plat per 44CFR Subsection 60.3, Ordinance 1988-1, and Article VII, Section 1.2.3. No structures (including fences) or placement of fill will be permitted in the FEMA floodplain without prior analysis to determine the effects of such obstructions on the computed water surface elevation, flow velocity, and conveyance capacity of the floodplain. Residential structures must be setback 25' from the floodplain as established by the engineer, and this setback must be clearly depicted on the Final Plat. Water supply systems shall be designed to minimize infiltration of flood waters.
 5. Each lot owner must comply with County water harvesting requirements set forth in Ordinance 2003-6.
 6. The applicant shall submit a cost estimate and financial surety for the completion of required improvements as approved by staff prior to Final Plat recordation.
 7. A liquid waste permit must be obtained from the Environment Department for the proposed septic systems prior to issuance of building permits.
 8. Road names and rural addressing must be approved by the County prior to recording the Final Plat.
 9. Water use on this property will be restricted to 0.25- .20 acre-foot per year per lot. Water restrictive covenants must be recorded with the Final Plat. A water meter must be installed for each lot and annual readings must be submitted to the County

- Hydrologist by January 31st of each year. [Modified at motion.]
10. The Subdivision Restrictive Covenants, Subdivision Disclosure Statement, and Shared Well Agreements must be recorded with the final plat.
 11. All archeological sites, drainage courses, trails, utility easements, stormwater management facilities, and well sites must be placed within easements and recorded on the Final Plat.
 12. No further division of this land will be allowed; this shall be noted on the Final Plat and in the Subdivision Disclosure Statement.
 13. Solid waste fees in the amount of \$624.16 shall be paid prior to recording the Final Plat.
 14. Wells shall be tested for water quality, water quality tests shall be submitted to the County Hydrologist and water treatment systems installed at the well head if water quality is outside acceptable standards. This shall be noted on the Final Plat.
 15. All redline comments must be addressed, and original redlines must be returned.

CHAIR VIGIL: Thank you. Are there any questions for staff? Commissioner Sullivan, please.

COMMISSIONER SULLIVAN: Starting off with condition 16, what are the standards for a local sub-collector? What are they?

MS. COBAU: Local sub-collector is for 31 to 60 lots, 301 to 660 trips per day. It's much the same as a place lane or cul-de-sac. It has to have two driving lanes. The minimum right-of-way is 50 feet. The design speed is 25 miles per hour. The maximum slope is 11 percent, and it has to have a 6" minimum aggregate basecourse. It differs from the local lane place or cul-de-sac in that the design speed of the local lane place or cul-de-sac would be 10 miles per hour.

COMMISSIONER SULLIVAN: And how many vehicles per day traffic?

MS. COBAU: This is 16 lots and this Appendix 5A of the County Code is based on an assumption of ten trips per day per lot. So this subdivision of 16 lots would generate 160 trips per day, which would just require a place lane or a cul-de-sac. However, in the Spur Ranch Road area there are other lots that we'd be taking access to Avenida de los Compadres in the future, which is why I wanted to increase it to local sub-collector standards and have that additional design speed for the future.

There's also other criteria, Commissioner Sullivan. A local sub-collector has to comply with AASHTO criteria and a number of other conditions that a local lane place or cul-de-sac does not have to comply with.

COMMISSIONER SULLIVAN: Okay, I could express one concern and we could discuss it later about only six inches of basecourse on a road like that that's becoming a main thoroughfare. We can talk about that later. The other question that I had is in the staff report, about the Santa Fe Southern Railway crossing, which of course before development occurred did not need to be as safe as it needs to be now. It says the applicant has agreed to remit a sum, which is now \$84,708.81, to the Santa Fe Southern Railway to

cover the construction costs associated with rebuilding the at-grade rail crossing at Spur Ranch Road. But then in the conditions it says that they're going to make this payment along with a reimbursement agreement signed by Santa Fe County. Why should Santa Fe County reimburse a private developer for an improvement that's necessitated by virtue of constructing a for-profit development and then the second part of that question would be what is this reimbursement agreement and how does that work?

MS. COBAU: mc, Commissioner Sullivan, I agree that that condition is poorly written and I apologize. That reimbursement agreement is so that the applicant can try to reclaim some of the costs associated with upgrading that crossing from future people who want to subdivide in that area, not from Santa Fe County. Santa Fe County would not be participating in any of the costs associated with upgrading the crossing. The crossing became an issue because the Santa Fe Southern Railway has said it's a ranch crossing and doesn't meet the criteria or the trip traffic that's currently using it. In fact they've threatened to close the crossing, which would cut off access to approximately 80 residents out in that area on Spur Ranch Road. So the applicant has agreed to upgrade that rail crossing in order to alleviate that condition that would be experienced by road development and also by other property owners and developments in the area as a condition.

Because we weren't going to allow additional density in the area that didn't have adequate emergency access.

COMMISSIONER SULLIVAN: Does this then place Santa Fe County in the position of being the policeman to collect these payments from future developers? What's the purpose of this agreement being signed by Santa Fe County?

MS. COBAU: I think, Commissioner Sullivan, that we should strike - I think that the condition should be revised to say payment of \$84,708.81 to the Santa Fe Southern Railway for improvements to the Spur Ranch Road crossing. Period. And strike the remainder of that condition.

COMMISSIONER SULLIVAN: I would understand that better. Thank you.

MS. COBAU: And again I apologize for the unclarity there.

COMMISSIONER SULLIVAN: We'll see if the applicant's in agreement with that. And then prior to hearing the applicant, the only other thing that caught my eye was that on the payment in lieu of fee - and I think we've discussed this before. We already have several million dollars in our affordable housing funding and we haven't figured out what to do with it yet. So I think we have a lot of money in the fund. And it says that the applicant states that the payment in lieu of fee allows for affordable housing to be located in closer proximity to a variety of urban services, including grocery stores. And it goes on to say a commute to Santa Fe requires a car, and that's a good observation, and all the costs associated with maintenance and insurance for the vehicle.

And I would just remind the applicant and others who perhaps haven't been through the area later that there is a grocery store at the Agora Center, fairly large one and not too far at all from this particular development. I think we've talked about this before, of saying we should have all the affordable housing in Agua Fria because that's where the services

are and they're close to work and those kinds of things, and I think we've discussed at some length some other projects about the fact that our idea is that we want to discuss affordable housing in a variety of venues, not just downtown Santa Fe.

I think that these are fairly spurious arguments and ones that the Commission has rejected on past projects. So I wanted to point that out as we get into the discussion. Thank you, Madam Chair.

CHAIR VIGIL: Any further questions? Seeing none, is the applicant here. Mr. Siebert, are you in agreement with everything that's been presented thus far? Do you have any comments?

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer, Santa Fe. Let me just begin by saying, yes, we are in agreement with conditions as stated by staff and as amended tonight. The thing that I'd like to point out to the Commission is that when you developed the affordable housing program the idea was that in essence you end up giving up your lots, you devalue any of those lots that are affordable housing, basically, there's no value to those lots from the developer's standpoint.

In this particular case, and I think you can make projects work if you have 2.5-acre lots and especially if you have 2.5-acre lots similar to the project that's coming up tonight where you get density bonus. You get the ability to cluster those unit. In this case, the only option that the developer has is a 12.5-acre lot. Period. And I think there's a great deal of difference when you talk about giving up the value of a 2.5-acre lot which in Eldorado may range from \$100,000 to \$150,000, for a 12.5-acre lot, that goes from \$200,000 to \$300,000. What you're going to see is that it's going to be - unless you own the land free and clear, you just can't make these projects work.

In addition, what's happening is Russ McMillan, who's the developer, has agreed to do the improvements to the railroad crossing. That's an additional \$84,000. In addition, he has agreed to go from a lesser standard on the roadway, really a place and a cul-de-sac standard, to a local road standard and pay the additional cost of doing that, even though he's not obliged to do that under the Code. All these things make the project marginal at best.

In terms of the \$383,000, that's a number that was derived with the cooperation of the affordable housing staff and we feel that that is a reasonable number. It's my understanding that in terms of the actual money in the affordable housing program that that money would still be well received to do a variety of thing. It's my understanding some of the uses they would put that money to is purchase of land for affordable housing, underwrite the cost of mortgages to assist the homeowners in purchasing homes, adding energy efficiency materials and appliances to homes that are affordable, build and construct affordable homes in conjunction with the County Housing or local housing trusts, leverage funds for financing of infrastructure for affordable housing projects.

It seems to me that you could more than multiply what advantage you would have that money to accomplish a great deal of affordable housing. The issue of where this

project is, there is a grocery store in Eldorado, approximately eight miles from that grocery store. It's not like you would go from your house and walk down and get your groceries. You're just not going to do that. You're going to have to get in a car and drive down to the grocery store and drive back a total of 16 miles in order to do that.

We think what's been offered here is a reasonable solution and we certainly hope that you would consider this favorably. Russ McMillan who is the managing member for High Desert Partnership is here and he would like to say a few words on the housing issue. Thank you.

CHAIR VIGIL: Any questions for Mr. Siebert? Okay. Commissioner Campos.

COMMISSIONER CAMPOS: You don't have any water rights, right?

MR. SIEBERT: No, we would be on domestic wells, 72-12-1 wells.

COMMISSIONER CAMPOS: [inaudible]

MR. SIEBERT: Well, it would be whatever - .25 times 16, so I guess it would be four acre feet.

COMMISSIONER CAMPOS: And you're asking for .25 acre-feet per DU.

MR. SIEBERT: Correct. Actually, when we began this process we did a geohydrologic evaluation and it indicated, based on the hydrology study, it could support twice the density for the 100-year water supply of what's being proposed.

COMMISSIONER CAMPOS: But you're using free water, or somebody else's water, not paying for it, and asking for .25 when you could probably do as well with .2 as we've required of other subdivisions.

MR. SIEBERT: Commissioner, as they say, there's no free lunch and this one isn't either.

COMMISSIONER CAMPOS: This is a free lunch for you. You don't have water rights. You haven't bought water rights.

MR. SIEBERT: You still have to drill the wells. You have to build the water distribution system.

COMMISSIONER CAMPOS: I think it is a free lunch, and you're asking for .25 instead of something more reasonable. Maybe .2 is what you actually need.

MR. SIEBERT: I'm going to let you discuss that with Russ McMillan when he deals with the affordable housing.

CHAIR VIGIL: Thank you. Mr. McMillan, would you please state your name and address for the record and be sworn in.

[Duly sworn, Russell McMillan testified as follows:]

RUSSELL MCMILLAN: Russell McMillan, 9 Balsa Drive, Santa Fe. Boy, where to start with this, I'm not sure. I guess I'll start with the original plan. I've been at this for a year and six months. Trying to get this thing together. We could have done four lots, four 50s, sold them, got out. It didn't serve me any purpose. It didn't really work very well. The County didn't win. Low-cost housing didn't win. So basically, after a while, between the County and I, we came up with this other solution that maybe I could

come in, pay my share.

The reason that the lots don't work is they're too big. Twelve and a half acres, to put a house on there for low-cost housing just does not work. It's not feasible. I feel it's unreasonable to put low-cost housing out there but that's me speaking, so I called the Albuquerque low-cost housing authority. They thought it was unreasonable to put low-cost housing 30 miles outside of a metropolitan area. It didn't make sense. And then they gave me the regional office in Texas and they've never heard of putting low-cost housing 30 miles outside of a town.

Now, yes, I agree with Commissioner Sullivan. There's a grocery store, but it's also way more expensive than the grocery stores in town. That's one thing. Car expenses, just taking simple little things. Gas alone for two cars is about \$280 a month. Just on their gas. Then they're going to be put into a subdivision that has a homeowners association and those dues can go up at any time, and that puts them in another problem down the road after they have a house.

So all of these things add up. It just doesn't make sense to put them out there. I don't know what else to say. I understand what Commissioner Campos is saying about the water, however, I'm meeting County Code. I've done what I'm supposed to do. I've only got 16 lots. I'm allowed to drill the wells. I've proved water. I've done the hydrology report. It's .25, what all the other subdivisions out there have been approved with, including mine in the past last year. I'm only doing what I thought Code is and what I'm allowed to have and that's why it's there.

And as far as a free lunch, I don't think it's a free lunch. By Code I don't need to buy water rights. So I'm not sure where that's coming from. If I could do water rights and split my land smaller, I'd be glad to do it. And I'd also be glad to do the low-cost housing out there if that's what seems reasonable, if I could subdivide my land. But I'm stuck at 12.5-acre tracts. And I will say that when this Commission approved the low-cost housing a year and some months ago, someone on the Commission, and it's in the minutes; you can look it up - brought up what are we going to do about low-cost housing in Eldorado in a moratorium? And the answer was we're going to have to deal with that when we get to it. Well, we're here and I'm stuck in the middle of it. And I'm only trying to find a solution so everybody wins.

I don't think I win putting up \$400,000 and another \$84,000 to fix the railroad for 100 people, but I'm willing to do it because at this point I need to get out of this land and move forward. And that's all I have to say. I'll take questions from there.

CHAIR VIGIL: Questions? No questions. Thank you, Mr. McMillan. This is a public hearing. Is there anyone out there who would like to address the Commission? Please come forward. Seeing that no one has come forward, I'll close the public hearing. What is the Commission's wishes on this? Further questions, comments?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me just ask staff a question about the

affordable housing. This was categorized as a minor project or a major project?

MS. COBAU: Madam Chair, Commissioner Sullivan, it's classified per the ordinance as a minor project.

COMMISSIONER SULLIVAN: Okay. A minor project is not eligible for a water rights transfer waiver or a water allocation or density bonus. It may reduce the lot area for each affordably priced housing unit to the minimum presented by applicable regulations of the New Mexico Environmental Department.

MS. COBAU: Minimum lot size for the NMED is an acre. I think that's what they're getting at, right?

COMMISSIONER SULLIVAN: Yes. So, if I'm reading that correctly, and affordable housing were to go forward, even though there's a restriction and this property is still under the old moratorium ordinance; it's not under the new moratorium ordinance or it's not under the rescinder ordinance or whatever may come in the future, which is 12.5 acres, unless they hook into the water system, the Eldorado system, which they're not doing. Would this Affordable Housing Ordinance then allow them to reduce the affordable housing lots to one acre?

Cs: Madam Chair, Commissioner Sullivan, as you stated, they can't go smaller than 12.5 acres because they are in the moratorium area which is why they came forward with a 12.5-acre proposal. Duncan Sill, the affordable housing administrator is here and I think that questions of that nature could be directed to Duncan. I believe it would. However, we do have community water system and community sewer system requirements also that would affect this project where if we were to go with lots that were smaller than 2.5 acres then per the table that I've included as an exhibit - Commissioner Sullivan, I think that would throw them into the requirement for community water and community sewer system.

COMMISSIONER SULLIVAN: Okay, so assuming that - let's just assume that there were no moratorium but we have our current ordinances in place, they could go, not down to an acre, but they could go down to 2.5 acres.

MS. COBAU: That's correct. If they could prove a 100-year water supply [inaudible] the density could go down.

COMMISSIONER SULLIVAN: He said they already have a geo-hydro. So there's an alternative. And I'm just looking forward to, in the discussion this evening there seemed to be at least this evening some interest in rescinding the moratorium ordinance. I don't know whether that will happen or not, but I'm just understanding that 12.5-acre lots don't often make a feasible project for affordable housing, but I think there are other options here and what I'm hearing is that it would be 2.5 acres.

MS. COBAU: They could proceed with 2.5-acre lots for the Eldorado moratorium. However, they would have to transfer water rights and connect up to the EDU as Rancho San Lucas did on Spur Ranch Road, which was approved by this Commission maybe six, eight months ago. That water rights transfer takes a great deal of time and I believe that Maryann Stickler worked on that for four or five years before she

brought her subdivision forward. So this applicant and his agent have indicated to me that this is their ultimate proposal, that they want to come forward now because as he said, he's worked with County staff for about a year and a half.

He came forward in August with an application for this subdivision and the affordable housing criteria, at that time he felt it was a stumbling block and he was going to proceed with a land division into the four 50-acre lots. He started with the administrative approval process of that four-lot subdivision and made the decision to come forward with the proposal that is before you today.

COMMISSIONER SULLIVAN: Yes. This is a lot quicker way to go, get the lots sold and get out and as he indicated, to get on, but my question only pertained, not to the entire subdivision but just to the affordable lot, and maybe I should clarify that. Would he be able, without connecting into a public water system, to have a 2.5-acre or slightly over 2.5-acre affordable housing lot, assuming there were no moratorium?

MS. COBAU: As long as the gross density was maintained, I believe he could cluster them and have smaller lots. We have unfortunately, today the moratorium which says the minimum lot size is 12.5 acres.

COMMISSIONER SULLIVAN: Yes. Understand, but assuming that in 30 days that may go away. I'm looking at other options here, just to answer the question that the only option I have is to build affordable housing on 12.5 acres and I see other options here that you could build the affordable housing on 2.5 acres. Now the Commission may not think that's a good idea and I respect that, but I'm just indicating that the ordinance does allow some flexibility in that regard.

CHAIR VIGIL: Further questions. Commissioner Campos.

COMMISSIONER CAMPOS: Madam Chair, just a thought. A couple of thoughts. One is that the County should take the money for the affordable housing [inaudible]. Two, I think paragraph 9 should be amended as far as acre-feet per DU from .25 to .2. Otherwise, I think we should approve the project.

COMMISSIONER MONTROYA: As amended?

COMMISSIONER CAMPOS: As amended.

COMMISSIONER MONTROYA: With all conditions?

COMMISSIONER CAMPOS: With all conditions.

COMMISSIONER MONTROYA: Second.

CHAIR VIGIL: Are you making a motion with that, Commissioner Campos?

COMMISSIONER CAMPOS: Yes.

CHAIR VIGIL: And there's a second. Okay. So the only thing that's been amended here is item 3, with the accurate amount of \$84,708. Item 9, requiring .2, then addition 16, the applicant shall construct Avenida de los Compadres, all of that. But we would receive a payment in lieu of. Is that your understanding of the amendments? Okay. There's a motion and a second with amendments. Further discussion? Commissioner Anaya.

COMMISSIONER ANAYA: I wasn't clear on the amendment.

CHAIR VIGIL: Which one? There are actually four. On the conditions of approval, look at item 3. Instead of \$50,000, that amount has been changed to \$84,708.81.

MS. COBAU: Madam Chair, that condition has also been amended to end at the word crossing. The rest will be stricken.

COMMISSIONER ANAYA: So you're changing \$50,000 to \$80 - what?

CHAIR VIGIL: \$84,708.81. And the remainder, that particular amendment also, after the word crossing, that ends that condition. Then we're also looking at changing condition number 9 where water use on this property will be restricted to .20. That's item 9. The other amendment is an additional condition, condition number 16 will be included where the applicant shall construct Avenida de los Compadres, etc. as was stated in the record. Did you need further information on that, Commissioner Anaya?

COMMISSIONER ANAYA: No.

CHAIR VIGIL: There's a motion and a second. Any further discussion?

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I feel that the applicant has done more than enough and I don't agree with those changes.

CHAIR VIGIL: You don't agree with the amendments. Mr. Siebert.

MR. SIEBERT: Madam Chair, I guess we would like to ask for some consideration on the acre-feet as well from .25 to .2. These are large lots. The idea is that some of these lots probably would have horses on them. That really precludes that option. We would like consideration to keep the water use per lot at .25. Thank you.

CHAIR VIGIL: Mr. McMillan, did you want to address the Commission?

MR. MCMILLAN: Yes, just real quickly on the water. I understand where Commissioner Campos - his feelings about it and somewhat I agree, but I have done a lot to make this project work for everybody. And one of the things - this is one of the last big pieces out there and I'm willing to pin this thing in perpetuity for 12.5 acres which eliminates another 40-some houses or however many I could have if the moratorium changed. So I think in a sense my water - .25 in comparison to waiting and having however many lots is a big difference. These are big lots. They're horse properties and .25 is not asking for very much I don't believe.

CHAIR VIGIL: Commissioner Campos, would you be wanting to respond to the applicant's request?

COMMISSIONER CAMPOS: I think we have a motion and I'd like to vote on it. I'm not - we're going to have rooftop collection. There's a lot of restriction on the water usage. I think it's ample water.

CHAIR VIGIL: There's a motion and a second. Anything further?

The motion to approve BCC Case #S 06-5290 with the changes delineated above, passed by 3-2 voice vote with Commissioners Anaya and Vigil voting against

the motion.

CHAIR VIGIL: I do agree with the applicant that .25 is appropriate. Motion passes 3-2 with amendments. Thank you. We're going to take a five-minute recess and then we'll come back and listen to Gerard A. Martinez Variance.

[The Commission recessed from 9:00 to 9:10, and reconvened with Commissioner Campos having left the meeting.]

- XII. A. 6. CDRC Case #V 06-5720 Gerard A. Martinez Variance. Gerard A. Martinez, Applicant, Requests a Variance of Article III, Section 4 (Commercial and Non-Residential Districts) to Allow 2.5-Acre Property that is Not Located Within a Qualifying Intersection to be Eligible for Commercial Zoning. The Property is Located at 02 Barranqueños Road, Which is Off of US Highway 285/84 in the Cuyamungue Grant, within Section 28, Township 19 North, Range 9 East, Santa Fe County (Commission District 1) [Exhibit 4: Applicant's Information Packet]**

MS. COBAU: I'll begin reading. I believe Vicente's probably on his way in from his office. On February 15, 2007 the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend denial. Vicente has included the CDRC meeting minutes as Exhibit F.

The applicant is requesting a variance of Article III, Section 4, Commercial and Non-Residential Districts, to allow that his property to be zoned commercial. Article III, Section 4.1 of the Land Development Code states: Commercial and industrial non-residential land uses are permitted only in zoned districts. There are several reasons why commercial districts are established. The main reason is to avoid strip commercial patterns of development along highways. If the applicant's variance is granted, it would add approximately 418 feet to the existing strip commercial development along US Highway 285.

Commercial districts are allowed at qualifying intersections and are specifically not allowed to develop as strips along a highway. The size and types of uses allowed in a district are based on the capacity of the roads at the intersection. The applicants' property is located in an area where there is no qualifying intersection. The property also will not have any road frontage off Highway 285. There are large hills and slopes that will not allow construction along the highway, therefore he would have to build in the area behind the hills where there are residential lots.

Article II, Section 3, Variances, of the County Code states that where in the case of proposed development it can be shown that strict compliance with the requirements of the code would result in extraordinary hardship to the applicant because of unusual topography

or other such non-self-inflicted condition or that these conditions would result in inhibiting the achievement of the purposes of the Code, the applicant may submit a written request for a variance. This Section goes on to state, In no event shall a variance, modification or waiver be recommended by a Development Review Committee, nor granted by the Board if by doing so the purpose of the Code would be nullified.

Vicente, I'll let you go ahead and read your recommendation.

VICENTE ARCHULETA (Review Specialist): Thank you.

Recommendation: Article III, Section 4.1 of the Land Development Code states: Commercial and industrial non-residential land uses are permitted only in zoned districts. Therefore, staff recommends denial of the requested variance.

CHAIR VIGIL: Okay. Are there any questions of Mr. Archuleta? Seeing none, is the applicant here?

[Duly sworn, Gerard Martinez testified as follows:]

GERARD MARTINEZ: Gerard Martinez, 15 Barranqueños Road. Thank you, Madam Chair, Commissioners. The opening statement that says the property also will not have any road frontage off of Highway 84 I believe is a false statement. I'll elaborate on that later. And also the large hills and slopes that will not allow construction along the highway. There was a three-quarter acre of 2.5 acres that is within the topography that I think will into a buildable category.

I'd like to just make a couple of opening statements to explain my case for this commercial variance. One of my neighbors to the south of me where Gabriel's is, there's a gallery there. Back in 1998 they did the same proceedings I'm going through and were granted a variance under the CDRC Case #V 98-5241. And all along the corridor there between the two bridges, the two overpasses, the Buffalo Thunder and the Cuyamungue overpass, which is approximately 1.3 miles in distance apart from each other there is adjacent and continuous commercial properties already in place.

For instance, on the east side of the frontage road, which is in the same side of the property where I reside, and tied to the lot that I'm asking for variances, seven different commercial established properties along that corridor. And then of course to the north of that is Nambe Pueblo and Pojoaque Pueblo. On the west side of the frontage road, opposite of my property there's also seven established commercial residents. Not to say any at least that the road traffic and the noise is very - it's a very busy corridor. It's almost non-suitable for residential along that frontage, and that's one of my reasons for asking for this variance.

I also own a residence along Barranqueños Road and it's my intention to eventually not introduce anything that is going to have a negative impact to the community there. I don't know if there has been any opposition but there are several people here that will probably talk on my behalf and also I have a letter from another neighbor. Another reason why I'd like to see if I could get a variance is to provide a need to the local community for local services for retail goods and what not. If I may approach the bench, Madam Chair.

CHAIR VIGIL: Yes. Is this with the letter of recommendation?

MR. G. MARTINEZ: I have a packet for each one of the Commissioners that I'd like to refer to as I speak. [Exhibit 4] I have some digital photos and tabs. The first tab, it's the property looking from the frontage highway. As you can see it's fairly flat. I have some slope analysis drawing also that show the contour of that property. Page 2 of the digital photos is standing on Barranqueños Road looking south. You can see the overpass, the Cuyamungue, that passes approximately .3 miles away from that point, and you can see the sign of Gabriel's Restaurant there.

On the third digital photo, it's on the south corner of the proposed property for a variance and you can see the gallery and Gabriel's again. That gallery was the property that was rezoned commercial back in '98, the one I referred to.

On tab 2, just for another indication of what's about to happen in front of that property is Pojoaque Pueblo's proposing a resort community there at Buffalo Thunder. That is approximately one mile from my property and it's scheduled to be - or according to Dave Oakeley, a spokesman for the County as the article states, it is going to be apparently the biggest in New Mexico. So that's what's going to be traveling in front of my frontage there.

Then I have obtained another, in tab 3, a demographic and economic profile for the greater Pojoaque Valley. This kind of is something that I alluded to as the need for local services and helps reduce the community for the valley people to get the services they need. Anymore it's like living in the city without any of the city conveniences. In the report also state the employment of the valley is highly dependent on Los Alamos and I don't know if you've read in the papers how Los Alamos is changing now that they were taken over by a for-profit organization.

And then just the population to jobs ratio in the community for the size of community. I've highlighted different things in different pages there. I speak to all that, all the executive summary, just basically says how poor retail goods and consumer services are to the local population of the valley.

On page 3, again, it just talks to what kind of jobs are in the valley and how disproportionate they are to the different requirements for retail services and consumer services. Page 7 and 8 again, places of work, it breaks down where people work that live in the valley and for the valley's average population it's not in proportion to other rural communities. Page 8 kind of has the valley versus our county rural residents, retail trades, professional administrator and waste management services, public administration, and those ratios are disproportionate. That's probably something I might look forward in providing if I'm approved for commercial.

Tab 4 is from the same author, Al Pitts, and his conclusions. This really impacted me when I read it. When the valley's population now equals that of many self-sufficient New Mexico communities such as Belen, Bernalillo and Taos, and yet in those communities they typically employ 7.5 local service workers per 100 residents. The valley's average is 3.4. It's just an interesting page. I don't know if you want to take time to read it but it really was an eye-opener for me.

Page 5 is a letter from one of my neighbors that was not able to make it and I've included that in the package.

CHAIR VIGIL: Thank you, Mr. Martinez. Is there any questions of the applicant? You may have an answer but I think this would be probably better directed to staff. According to the letter received by Paul Parker, he is making the assertion that there are only two lots along the frontage road between the Cuyamungue overpass and the Buffalo Thunder overpass that are zoned commercial.

MR. G. MARTINEZ: That are zoned residential.

CHAIR VIGIL: Actually, that's probably what she meant to say but the letter itself says that are zoned commercial, if you will look at paragraph 3. I think that it probably was meant to say that are zoned residential, and that the remaining are commercial. I guess maybe a better way to put this, because also the applicant states in part of his written testimony that this is the last property that is not zoned commercial. How much commercial zoning actually exists in this area?

MR. ARCHULETA: Madam Chair, this property is not within the traditional community but could be included at a later date. And some of that, most of the commercial in that area is pre-Code. But exactly how much of it is -

CHAIR VIGIL: How about in percentages? Can someone visually give me a percentage?

MR. G. MARTINEZ: I could name the businesses that are along the .8 mile stretch on either side of my property.

CHAIR VIGIL: Okay. Before we do that, let me ask another question of staff. Does this property qualify for a highway corridor plan? Have we ever exercised our ability to do that?

MR. KOLKMEYER: Madam Chair, actually this is part of the Pojoaque Valley plan that we've been doing and Mr. Martinez attends some of our meetings. In fact, it's good to hear the information quoted back to us from Al Pitts' study up there. The problem is that the commercial uses - we're following the Code to make this interpretation and that's why the staff has made the interpretation that they have: there's not a qualifying intersection there. So they followed the Code, because that's what we're supposed to do. If there's a qualifying intersection that's where commercial goes. The fact of the matter, this is kind of an unusual place because there is a lot of commercial there that was either granted through variances over the years or was pre-Code.

So we're kind of both in a tough position here where in fact I would say - as to your question about how much is commercial, I don't know if it's maybe half or over half but there's certainly a lot of commercial in the area. But it has been done mostly by variance or pre-Code. So that puts us in a kind of difficult situation where we have to evaluate his project according to what's on the Code as being at a qualifying intersection, and the reality of the place is very different. And that's why it's in front of you to make the decision at this point. He is pretty much surrounded by commercial on both sides. And the back parts of a lot of the uses along the highway, in fact are still residential. And then

you have the Pueblos further in the back. So there are pockets of residential back there and that's why we followed the decision making process that we did.

So we wouldn't go back in and do a highway corridor here because it's being done as part of the Pojoaque community plan, and we've left this area pretty much the way it is under the existing conditions. Let the commercial be commercial and the residential be residential.

CHAIR VIGIL: Thank you. Mr. Martinez, is there anything else you'd like to address the Commission with. This is a public hearing so we will have comments from the public.

MR. G. MARTINEZ: Paul Parker, the letter that's enclosed there, has a commercial property to the north of me.

CHAIR VIGIL: What is his commercial property?

MR. G. MARTINEZ: His is residential. Excuse me. Paul Parker's property is residential.

CHAIR VIGIL: Okay. It isn't commercial.

MR. G. MARTINEZ: It's not commercial. And it borders me, I sit to the south of him. That property in his case is residential and then where the gallery is is commercial and then Gabriel's.

CHAIR VIGIL: Okay. In your digital photo labeled 1, the property looking from highway, as I look deep into the property area, I see two residences. Are any one of those yours?

MR. G. MARTINEZ: No, those, as a matter of fact are accessed through Arroyo Cuyamungue. The road - they can't access those houses shown through the Barranqueños Road.

CHAIR VIGIL: Okay. So the second digital photograph is a hill right next to Gabriel's. How much of that is your property?

MR. G. MARTINEZ: You see the key posts that are there, the corner key post is a corner of my property. The majority of that hill is Gabriel's or the owner of the gallery. On the third one is a closer picture of that hill and again, that probably is there is highway right-of-way but the actual property boundary that fronts highway right-of-way is Gabriel's on that hill. You have, like I said, a slope analysis and you see Barranqueños Road as I have it listed. The property that I'm talking about for commercialization is the one that fronts the frontage road there, and it's - the majority is hills. I don't plan to do anything with that portion of the property. Where I plan to do the construction of a building would be - which is approximately three-quarters of an acre in the gray portion, which is slopes less than 20 percent.

CHAIR VIGIL: Okay.

MR. G. MARTINEZ: And these I got from the County GFI [sic].

CHAIR VIGIL: Thank you, Mr. Martinez. This is - unless anyone has any questions for Mr. Martinez. This is a public hearing. Is there anyone from the public that would like to address the Commission on this case?

[Duly sworn, Dave Brazda testified as follows:]

DAVE BRAZDA: My name is Dave Brazda. I'm with the Pueblo of Pojoaque. One of the things that I wanted to bring up is what Jack was saying. In the last meeting there on January 18th, it was stated at that time from Renee Villarreal is that this was not part of the Pojoaque Valley Plan and hasn't been studied. There is an ordinance that's there. The only thing that hasn't been taken into effect here is that this belongs to the right-of-way of the Department of Transportation. I don't think that they have been addressed as to what they can use with the land there because you're going to have to have a slow-down zone to come into – because there's not an intersection there.

The other thing that I think has to be addressed before you take a good look at this is the traffic flow. The traffic flow is going to change as to what we're going to build there and what's going into that area, and how they're going to have to take care of fire protection and everything else just like we are. I really think that the business plan he has up here right now, I think he has to take a look a little bit more of what is his retail. What is actually going to be going in there? Will it conform with retail that's there? I've heard nothing that says or describes what the retail is going to be. But I do think it needs to go back into the plan, if you're going to take a look – if you're going to change an ordinance it needs to go back into the Pojoaque plan to discuss what could happen to that whole area there before you start granting different types of variances to unknown, let's say planned type of development. Thank you.

CHAIR VIGIL: Mr. Brazda, how close to the development of Pojoaque's planning is this property?

MR. BRAZDA: It's about a mile from us.

CHAIR VIGIL: Okay. And within that mile that separates the development and Mr. Martinez, what is that property? Is that all residential or commercial?

MR. BRAZDA: There's some residential. There's commercial. You'll also find about four or five different businesses because of what has been built by the corridor there with the frontage roads that are no longer in existence that were commercial.

CHAIR VIGIL: Are there any further questions for Mr. Brazda. Seeing, hearing none, thank you, Mr. Brazda. Anyone else out there that would like to address the Commission with regard to this case, please come forward. I have another public person. Gerard, did you want to respond to Mr. Brazda?

MR. G. MARTINEZ: Yes, please. My request is only for a commercial variance. I understand there is another step, master plan for approval of fire and highway right-of-way, deceleration/acceleration, the whole bit, but I wasn't going to spend that kind of money and get denied this variance. So I wanted to take it in steps as did where the gallery resides right now. They were granted a variance before they proposed their master plan to what their plans were going to be for that property. So just by advice of the Land Use, they told me that was a good approach to see if the variance would be possible, even before I proposed a master plan as to the specific plans for the property.

CHAIR VIGIL: Thank you, Mr. Martinez. Further comments from the

public. Please come forth.

[Duly sworn, Pat Vigil testified as follows:]

PAT VIGIL: My name is Pat Vigil, 14 Barranqueños Court.

CHAIR VIGIL: Good evening, Mr. Vigil.

MR. VIGIL. Good evening, Madam Chair, Commissioners. I am Gerard Martinez' neighbor. I have lived there 12 years and since I've lived there, I have seen Mr. Martinez do a lot for the neighborhood and the community. He has repaired the road, because when I first moved there that road was in bad shape and he graveled it. It's a nice road now. It's gravel. He fenced in his property. He takes care of the weeds and he's a very responsible property owner. I think that if he were to put a business there on the lot that he wants to put it on, it would not impact our houses at all, because it's on the highway, it's on the road, and our houses are behind the hill. I think that since he is a very responsible property owner I think he would be a very responsible business owner also. So I support Mr. Martinez to get rezoned to commercial.

CHAIR VIGIL: Thank you, Mr. Vigil. Any questions? Appreciate that. Anyone else from the public that would like to address the Commission on this. Please come forward.

[Duly sworn, Manuel Martinez testified as follows:]

MANUEL MARTINEZ: My name is Manuel Martinez. My address is 126 Cities of Gold Road. I just want - I own some property adjacent to this property that Gerard wants to commercialize, and I just want to say that I do support and do not object to him commercializing that property. And I feel that we need more commercial non-Indian property in that area. And that's all I have to say, that I don't object and I support it.

CHAIR VIGIL: Thank you, Mr. Martinez. Any questions? Seeing, hearing none, is there anyone else out there. Please come forward. Is there anyone else that's going to address the Commission on this? I'd like to take a count to budget time. This must be our last testimony.

[Duly sworn, Michael D. Martinez testified as follows:]

MICHAEL D. MARTINEZ: Michael D. Martinez, 22 Barranqueños Road. I lived in that area about ten years and I moved in when the road was in bad shape and stuff like that. As a part of our community right there we got together and we helped as a group to build the road, get it passable so everybody can get in and out in wintertime. We have higher Codes in the county. We have between six and eight inches of basecourse on the road. There's eight houses back there, so we have a nice wide road to get fire engines. I'm in the Fire Department so we have a wide road. We can fire engines in there. I've taken them to task to make sure we can get trucks in there.

I think the impact of a small business like this is going to be very minimal because we have probably one of the largest casinos being built right now and mid-project, there's going to be about 5,000 employees working on that site to a small business that's going to bring in not 5,000 people. Plus the new casino is going to be built in the Nambe Pueblo

which is going to house another – I’m going to guess – probably another 2,000 to 5,000 people between the projects. So I’m supporting Gerard Martinez in his commercial and that’s all I have to say.

CHAIR VIGIL: Thank you, Mr. Martinez. I believe there’s no one else but let me just ask for the record. Would anyone else like to address the Commission on this subject? Seeing none, the public hearing is closed. Any questions, or what is the pleasure of the Commission? Further questions, comments?

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Being somewhat familiar with this area, I think that the description that Mr. Martinez has given us is pretty accurate. In terms of the volume of commercial properties that are along that corridor there. The one question that I have, Gerard, is the property that you have is adjacent to the frontage road. Where’s Paul Parker’s?

MR. G. MARTINEZ: Do you have the plat of survey? Attached to your – did you provide that to them, Vicente?

MR. ARCHULETA: Madam Chair, it’s Exhibit B.

MR. G. MARTINEZ: If you see the highway, 84/285 and the lot that I’m proposing is Barranqueños Lot 2. Paul is north of that on Lot 4, and he’s also adjacent to the highway.

COMMISSIONER MONTOYA: Two Barranqueños? He’s just to the north of your property.

MR. G. MARTINEZ: He’s north of the property, yes.

COMMISSIONER MONTOYA: Oh, okay.

CHAIR VIGIL: Anything further, Commissioner?

COMMISSIONER MONTOYA: Madam Chair, with that, I would move for approval of this variance.

CHAIR VIGIL: There’s a motion to approve. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR VIGIL: There’s a motion and a second? Any further discussion? Commissioner Sullivan? I have a further question and maybe this is for staff. What is the issue with regard to the DOT easement or any kind of – or does that become problematic for this area? Or are you familiar with it?

MR. ARCHULETA: Madam Chair, the applicant would have to submit an application for master plan and at that time, we would submit it to DOT for their comments and recommendation. It looks like what they would be doing is they would be accessing off of Barranqueños Road and that would be – that’s an existing road.

MR. G. MARTINEZ: I would not want to impact that road. There’s enough area within the frontage of that property that I would take the entrance into the business or commercial property south of Barranqueños so as not to conflict with the residential traffic in and out of Barranqueños. I’ll create its own entrance, dedicated to commercial.

CHAIR VIGIL: Thank you, Mr. Martinez. So the requirements for a variance here are still the same as are required under the Code. There has to be a minimal easement. Does this have to be a terrain issue? Those kinds of things? Or where we're looking at variances for commercial, do we look more at established patterns, strip construction, those kinds of things?

MS. COBAU: Madam Chair, members of the Commission, Article II, Section 3 of the Code which describes a variance request doesn't really go into commercial development. It does say where in the case of proposed development it can be shown that strict compliance with the requirements of the Code would result in extraordinary hardship to the applicant because of unusual topography or other such non-self-inflicted conditions that these conditions would result in inhibiting the achievement of the purposes of the Code. And I don't know if you could consider that being surrounded by commercial and being the last residential property is a non-self-inflicted condition, perhaps.

CHAIR VIGIL: Is it in fact the last residential property there? I wasn't real clear.

MS. COBAU: One of the last, I think, based on the applicant's testimony.

CHAIR VIGIL: Okay. Thank you. No further questions from me. Any further questions. Seeing none, there is a motion to approve the request for a variance from residential to commercial on this 2.5-acre lot, and a second.

The motion to approve CDRC Case #V 06-5720 passed by 3-1 voice vote with Commissioner Sullivan voting against. [Commissioner Campos was not present for this action.]

- XII. A. 7. EZ Case #S 04-4881 Northwest Ranches Phase II. Northwest Ranches (Jacque and Annie Constant) Applicants, Jim Siebert and Associates, Agent Request Preliminary and Final Development Plan and Plat Approval for Phase II of the Northwest Ranches Subdivision, Consisting of 12 Remaining Lots of the 19 Lot Subdivision on 47.50 Acres. The Property is Located East of Los Sueños Trail and South of La Serena Trail, Within Section 19, Township 17 North, Range 9 East, NMPM, Santa Fe County (5-Mile EZ, District 1 & 2)**

MR. ARCHULETA: Thank you, Madam Chair.

CHAIR VIGIL: Could you verify that this is in District 2?

MR. ARCHULETA: Madam Chair, you're correct. It is District 2.

CHAIR VIGIL: Thank you. Please proceed.

MR. ARCHULETA: On February 8, 2007, the EZC met and recommended final development plan and plat approval for Phase 2 of the Northwest Ranches

Subdivision, formerly Constant Subdivision, subject to staff conditions.

On September 14, 2004, the BCC granted master plan zoning approval for a 19-lot residential subdivision on 47.5 acres to be developed in multiple phases, subject to staff conditions.

On January 13, 2005, the EZC met and recommended approval of Phase I subject to Staff conditions. On May 10, 2005, the Board of County Commissioners met and granted preliminary and final plat approval of the Northwest Ranches Subdivision consisting of 19 lots - phase 1, consisting of seven lots and a variance of Section 3.5 of the Extraterritorial Subdivision Regulations to allow a 1700-foot long cul-de-sac subject to staff conditions.

The applicants are now requesting final development plan and plat approval for Phase II consisting of the remaining 12 lots of the previously approved 19 lots. All infrastructure has been constructed for Phase I of the subdivision which consists of seven lots. A well has been drilled L 2-2 which serves the seven lots of Phase I.

The application was reviewed for the following: existing conditions, access, traffic, water, fire protection, liquid and solid waste, terrain management/storm water retention, archeology, open space, signage and lighting, and homeowners association.

Recommendation: The proposed final development plan and plat is in accordance with the procedures and submittal requirements set forth in Sections 3.5 and 3.6 of the EZO. Staff recommends final development plan and plat approval for Phase II of the Northwest Ranches Subdivision consisting of the 12 remaining lots subject to staff conditions. May I enter those into the record?

CHAIR VIGIL: You may.

MR. ARCHULETA: Madam Chair, can I make a clarification on number 13?

CHAIR VIGIL: Of course.

MR. ARCHULETA: Number 13 should read "Northwest Ranches shall enter into a fair share agreement based on per lot pro rata share of the cost regarding upgrading maintenance of the north portion of Los Suenos Trail extending from Las Campanas Drive to the north boundary of Suerte del Sur." Thank you, Madam Chair.

CHAIR VIGIL: You're actually just removing "upgrading" and replacing it with "maintenance".

MR. ARCHULETA: That's correct, Madam Chair. Thank you.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a) State Engineer.
 - b) State Environment Dept.
 - c) State Department of Transportation
 - d) County Hydrologist
 - e) Development Review Director
 - f) County Fire Marshal

- g) County Public Works
 - h) County Technical Review
 - i) Soil and Water District
2. Final plat to include but not be limited to the following:
 - a) Compliance with plat checklist.
 - b) Approval of rural address and street names.
 - c) Installation of sprinkler systems.
 - d) Development permits for building construction will not be issued until required improvements for roads, fire protection and drainage is completed as approved by staff.
 - e) Public trail easement along Los Suenos Trail.
 3. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
 - a) Water Restrictions shall be .25 acre-feet per lot
 - b) Water conservation measures shall include water storage from roof drainage.
 - c) Maintenance of roads and drainage facilities.
 - d) Maintenance of septic systems.
 - e) Solid waste removal by the Homeowners Association if the homeowner is not complying.
 4. The homeowner shall contract with a licensed solid waste disposal service for trash pick-up.
 5. No further division of this property will be permitted. This shall be noted on the plat.
 6. A liquid waste permit must be obtained from the Environment Department for the proposed septic system prior to issuance of building permit.
 7. The applicant must record water restrictive covenants simultaneously imposing .25-acre ft. per year per lot. Water meters for each subject parcel must be installed to monitor water use. Water consumption reports must be submitted to the County Hydrologist by January 31st of each year and submitted to the Office of the State Engineer on a quarterly basis. The applicant shall add this responsibility to the Director's duties listed in the Well Sharing Agreement.
 8. Applicant shall submit water quality analysis.
 9. Trails shall be developed within common open space around perimeter of subdivision.
 10. Submit Engineers cost estimate and acceptable financial surety for completion of required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.
 11. Submit solid waste fees in conformance with the ESR.
 12. Development Plan submittals shall comply with the following:
 - a) Extend asphalt pavement on Los Suenos Trail to subdivision access road (Camino Los Sueños).

- b) Common ponds for road drainage.
 - c) Access roads shall have an easement width of 50 feet with a roadway width of 22 feet.
 - d) Finished road grade shall not exceed 3% for 100 feet from intersection.
 - e) Engineer calculations for size of culverts.
13. Northwest Ranches shall enter into a fair share agreement based on per lot pro rata share of the cost regarding upgrading maintenance of the north portion of Los Suenos Trail extending from Las Campanas Drive to the north boundary of Suerte del Sur. [Amended at staff report]
14. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIR VIGIL: Any questions of Vicente? Seeing, hearing none, is the applicant here.

MR. SIEBERT: Madam Chair, I was previously sworn. My name is Jim Siebert. My address is 915 Mercer. We're in agreement with all conditions as stated by staff and I'll - this is, as Vicente pointed out, the second and last phase of this project. And I'll answer any questions you may have.

CHAIR VIGIL: Okay, any questions for Mr. Siebert? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Siebert, you've got seven units, which I think is a lot, on a well, on your first phase. How many units are you going to have on a well in the second phase?

MR. SIEBERT: Well, actually, it's six units on the first phase. There is - which is not part of this subdivision, there is two other lots that were existing that we're really part of the Hager house and guesthouse dating back 30, 40 years ago. And actually, one of those lots is served off that well. So there's only six lots on the well.

COMMISSIONER SULLIVAN: That's in phase 1. What about this phase?

MR. SIEBERT: No well will exceed six lots.

COMMISSIONER SULLIVAN: And this phase is for how many units?

MR. SIEBERT: This phase is for 12.

COMMISSIONER SULLIVAN: So you're going to have two more wells?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Okay. Then I had a question for staff, Madam Chair. In Karen Torres' review from the Water Resources Department, under water availability, source of water, The subdivision will be supplied by onsite shared wells. The proposed subdivision is in the County utility service area with existing distribution lines within 300 feet of the property line and extensions to water lines planned for the near future. The applicant agent states that there is no water available in the County water

system to serve additional customers. Don't we have an ordinance that if you're within 300 feet you must connect into the County water system?

CHAIR VIGIL: Ms. Torres, did you want to address that?

KAREN TORRES (County Hydrologist): Good evening, Madam Chair. Commissioner Sullivan, the ordinance, which I believe passed in 1999, actually says 200 feet within existing regional water system. So I could not cite that ordinance in my review.

COMMISSIONER SULLIVAN: Okay, but hasn't this recently gone - recently, within the last couple of years, I know the City of Santa Fe has changed their ordinance because of state statute and I think - correct me if I'm wrong - that it's now 300 feet.

MS. TORRES: I'm not familiar with the City's ordinance, but I am familiar with the County's ordinance and it does state 200 feet. I don't know that we can tie the two together. I would have to defer to legal for that.

COMMISSIONER SULLIVAN: Well, I wasn't suggesting tying together. The reason, I recall that they changed theirs had to do with a state requirement that invalidated that 200-foot ordinance and people were complaining about it. I might be wrong, but it seems to me that this is an ideal project to connect into the County water system. We have water. We have a procedure which I don't think we had in place when this was first brought forward, a very simplified procedure now for water application, particularly for small projects.

It does say in the write-up that they're putting 8" inch water lines in and fire hydrants, so it seems like for small projects we don't require the applicant to get water rights. We have a procedure that they can pay a fee for small projects so that they don't have to wait and go through the water rights procedure, so for 12 units, it seems I eminently reasonable to hook them up to the County water system. It's only 300 feet away. Am I missing something here?

MS. TORRES: I wholeheartedly agree with that assessment. Again, it's a Code requirement issue. I guess technically, the Code does not require them to hook up to the regional water system, if it's outside of the 200 feet. I'd have to defer to Land Use as far interpretation of the Code but I take that pretty literally. Personally, I do think it's smart to hook up to the regional system, especially because it's so close, especially because this water in particular actually has two ways to access the utility, not only through the main road, Los Sueños Trail, I believe, but I believe that there's also a northern easement, which is actually now, the way that this lot is platted will remove that easement, will move that access in the northern portion.

But I strongly recommend any developer to please convert to utilities, because for an additional 100 feet that cost is probably fairly minimal.

COMMISSIONER SULLIVAN: You say an extension of water lines planned for the near future. Where will those extensions go?

MS. TORRES: Currently, there will be water lines stubbed out - and I believe it's called Los Sueños Trail, right north of where the Suerte Subdivision will be out

in that section, Section 24, and that main road. The water line is just north of there. And as soon as Suerte comes on it will come down. So the line is being planned for extension very, very soon. Suerte is actually being heard tonight for their affordable housing. And there are existing lines, again, there's another access to the north. There's an easement to another subdivision that was approved a few years ago I believe. And that still does exist. But I measured those and they were greater than 200 feet.

COMMISSIONER SULLIVAN: Well, thank you, Madam Chair. I think that this project should connect into the water system. We can split hairs on 200 or 300 feet and I believe it is 300 but we can check that. I'm not saying County ordinance is, but I think that ordinance is outdated. But even if it isn't, why we build County water systems is so we can serve subdivisions and if they then utilize loopholes in the ordinance and get out of tying into the water system, it really just keeps our purpose of getting regional water and protecting the aquifer and enforcing conservation measures that's important to do. So those are the comments I have. Thank you.

CHAIR VIGIL: I agree, Commissioner Sullivan. Commissioner Anaya, do you have any comments?

COMMISSIONER ANAYA: No.

CHAIR VIGIL: Okay. I have a question for the applicant. Based on the recommendations that have been made tonight, what are the possibilities of you hooking up to a water system that would prevent the depletion of the aquifer that the northwest quadrant is so highly concerned about.

MR. SIEBERT: Well, Madam Chair, this issue, I guess one question is why didn't this issue come up when we came in for preliminary plat for the entire subdivision? Because at that time he was obligated to put in a 30,000-gallon storage tank, which he's done. Now you're asking the applicant to come back and provide a redundancy in the system. So that not only does he have to put in the fire protection system and the 8" water lines that Commissioner Sullivan talked about, now he's got to provide another set of water lines. It doesn't seem to me that it's fair to have him provide for two different water systems.

COMMISSIONER SULLIVAN: Madam Chair, I'm not quite clear, if I can just butt in a minute, why he would have to provide two. Once he's on the County system, the County also supplies fire service.

MR. SIEBERT: He spent somewhere on the order of \$50,000 to put in the tank for fire protection, that's correct.

COMMISSIONER SULLIVAN: But you're not going to use that same 30,000 for this phase too, are you?

MR. SIEBERT: Yes, we are. By Code we can use - we only need 30,000 gallons for the 19 lots, and that was always the plan all along. That he would have to provide his own water system and fire protection system.

COMMISSIONER SULLIVAN: I don't know what the reason was or when it was approved for master plan, but apparently there was some incorrect information in

the original application, but -

MR. SIEBERT: Commissioner, could you clarify that?

COMMISSIONER SULLIVAN: It says the applicant's agent incorrectly states there's no available water in the County water system to serve additional customers.

MR. SIEBERT: Let me say at the time that I wrote that that was my understanding, that you had reached capacity with the water system and there was no additional water supply available.

COMMISSIONER SULLIVAN: I'm still not clear, Madam Chair, on what the additional cost is, other than 300 feet of water line. What's the additional cost that would be involved here?

MR. SIEBERT: Well, let me ask you this. So he would not have to pay his percentage of the normal water rates associated with that, which I think are \$30,000 an acre-foot per lot?

COMMISSIONER SULLIVAN: I'm not sure what's in the normal water hookup agreement that Steve has. He's not here any longer. He'd be subject to that, yes.

MR. SIEBERT: So what we're saying is that in addition to paying the fee, bringing in the County water system, and paying the per-lot fee for the equivalent water rights, and he's already - so he's previously put in the fire protection and the water system. Now he's got to come back and pay another fee on top of that to bring the water lines to the project, install the water lines within the project, and then pay his share of the water rights -

COMMISSIONER SULLIVAN: I guess you could look at it another way and that is he got very inexpensive water on the first phase and only had to put in a 50,000-gallon water tank and thus didn't have to provide water rights or pay anybody any fees, so you can flip that coin the other way and say you got a very good deal on the first phase and perhaps you should connect into the County water system on the second phase.

MR. SIEBERT: He had received preliminary plat for the entire project and at that time this was never an issue. I think if he had the opportunity to do it at that time he probably would have done it. He's made a significant investment at this point in a groundwater system.

COMMISSIONER SULLIVAN: Well, I think it would also benefit the sale of his lots. I don't know what the sale price is and if you divide the cost of the water rights over those lots, it would probably be less than \$10,000 a lot. He's probably selling these lots for \$300,000 or \$400,000 apiece. They're selling them for \$240,000 in Eldorado and I imagine up here they could get similar prices. I just can't see that the cost of a sprinkler system, if a purchaser knows that they have to put in a sprinkler system in their house, which has got to be an expensive proposition. I don't know what it's going to cost. If they were on the County water system they wouldn't need to put in a sprinkler system. It seems to me the developer could take advantage of that and price the lot accordingly and come out probably ahead on the deal, it seems to me. How much does a sprinkler system cost to put in a sprinkler system cost to put in a house? \$20,000? I'm just guessing.

It seems like that would be - certainly it's nothing else but an economic wash in a deal, and in terms of public water supply and protection a real public benefit. Excuse me for butting in there, Madam Chair.

CHAIR VIGIL: Okay. Mr. Siebert, are you and your client amenable to considering all of the comments that you've heard tonight, perhaps tabling this and working with our hydrologist with some viable alternatives. And I don't know why this wasn't brought up earlier. Perhaps we weren't even aware of the fact that there was hookups 300 feet away or whatever. And also, ancillary to that, there is, for example, the Suerte development coming up too, that may have not been a part of the factoring into when we moved forward with this.

So are you amenable to a possible tabling, to work with staff to look at a viable alternative inclusive of factoring in all the costs that your client has invested and looking to see if we could come towards a resolution to this?

MR. SIEBERT: Commissioner, I think that's an excellent idea because this is something that's brand new to us. We've had no opportunity to evaluate the relative costs. Yes, I guess we would request a tabling for one month to give us one the opportunity investigate this a little more thoroughly. We are - just to state, we are really more than 200 feet from the water line. By County Code there is no obligation to do it, but I think we're happy to take an extra month and look at that alternative.

COMMISSIONER ANAYA: So moved.

CHAIR VIGIL: Motion for table. Is there a second?

COMMISSIONER SULLIVAN: To the next land use meeting?

CHAIR VIGIL: To the next land use meeting. Is there a second?

COMMISSIONER SULLIVAN: I second.

CHAIR VIGIL: Motion and seconded.

**The motion to table EZ Case #S 04-4881 passed by unanimous [4-0] voice vote.
[Commissioner Campos was not present for this action.]**

- XII. A. 8. CCD Case MP 02-5051 Sonterra Master Plan. Santa Fe Planning Group, Inc., (Scott Hoeft), Agent for Great Western Investors (Richard Montoya), Applicant is Requesting an Extension of a Previously Approved Master Plan for a Mixed-Use Development (Residential, Commercial, Community) in a Village Zone Consisting of 520 Residential Units and 29,117 square feet of Commercial Space on 245 Acres. The Property is Located off Vista del Monte East of Valle Lindo Subdivision Within the Community College District, Section 30, Township 16 North, Range 9 East (Commission District 5) [Exhibit 5: Letter from Patricia Burks]**

JOE CATANACH (Technical Director): Madam Chair, I have a letter that came in today regarding this request.

CHAIR VIGIL: Are they requesting a tabling or anything of that nature?

MR. CATANACH: They have concerns that [inaudible]

CHAIR VIGIL: Oh, this is a private citizen? Okay.

MR. CATANACH: Thank you, Madam Chair. I can proceed, if that's okay.

CHAIR VIGIL: Please.

MR. CATANACH: This is a request by Great Western Investors, Richard Montoya requesting an extension of a previously approved master plan for a mixed-use development, residential, commercial and community uses and a village zone consisting of 520 residential units, 29,117 square feet of commercial space on 245 acres. The property is located off Vista del Monte and East of Valle Lindo, within the Community College District.

On August 26, 2002 the BCC granted master plan approval for the referenced development and I have included the August 2002 BCC minutes as Exhibit C. And on February 28, 2006 the BCC granted approval of a water service agreement for use of the Santa Fe County water system, and I refer you to Exhibit E for that water service agreement. The master plan proposal and relevant conditions shall remain as outlined in the staff report presented to the BCC on August 26, 2002, and I included the staff report to the BCC that outlined the proposal and the conditions of that development.

The County Land Development Code specifies that master plan approval shall be considered valid for a period of five years from the date of approval by the BCC. Master plan approval may be renewed and extended for addition two-year periods by the BCC at the request of the developer. Progress in the planning or development of the project approved in the master plan shall constitute an automatic renewal of the master plan approval. Progress is defined as the approval of preliminary or final plats or development plans for any phase of the project.

The applicant is requesting a two-year extension of the master plan approval until August 26, 2009. The following criteria shall be used for consideration of master plan. This is standard criteria from the Community College District Ordinance, in conformance with the Community College District plan; the viability of the proposed phase of the project to function

as completed development in the event that subsequent phases of the project are not approved or completed; conformance with the Community College District Ordinance and other applicable law and ordinance in effect at the time of consideration, including required improvements, proposed roads and trails, community facilities, design and/or construction standards and open space standards; impact to schools, adjacent properties or the county in general.

Recommendation: Staff considers the master plan to be an integral part of the Community College District

objectives relative to road connections and a district trail connection between the State land, Rancho Viejo and Turquoise Trail, and the master plan also includes a designated elementary school site and a five-acre community park. Staff recommends approval for a two-year extension until August 26, 2009 subject to the following conditions:

1. Compliance with the conditions previously imposed for the master plan.
2. Submit affordable housing plan in conformance with current requirements.
3. Compliance with review comments from the following:
 - a. County Open Space, Parks and Trails Division
 - b. Santa Fe Public School District

Thank you, Madam Chair.

CHAIR VIGIL: Any questions for Mr. Catanach? Seeing none, is the applicant here?

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 St. Francis. We're in agreement with conditions of approval and I stand for questions.

CHAIR VIGIL: Okay. Any questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Hoeft, what progress has been made in the last five years? I understand that you're saying that we couldn't do anything until we got our water service agreement, which you got about 13 months ago. What progress have you made since? During the five years and during the last 13 months?

MR. HOEFT: Well, if you look at the five years in total, Commissioner Sullivan, I would say that if you look at the years 2002 to 2005, we pretty much couldn't do much, because we didn't have water for the project, so out of the five years, three of the years we couldn't do anything. Well, yes, you could say theoretically, we could submit for preliminary development plan, but why would you do that on a project when you don't have a water source. So until we received a water service agreement, just last year, the project at that stage became viable. And then we got that water service agreement signed in September. So now the applicant is ready to begin to charge on this project, put forth a preliminary development plan, but they're looking ahead and seeing a deadline of expiration about four months out. So in that time, the five year total, three years, they couldn't do anything. They proceeded with getting a water service agreement. The minute that we were able to come to this Board and get a water service agreement, and have proceeded with filing the application with the OSE, noticing it with the OSE, as well as paying \$41,000 worth of standby fees. So they are actively working on this project, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Well, how long has it been since you had the water service agreement?

MR. HOEFT: We received it in February 2006 and we got it signed by the County in September 2006.

COMMISSIONER SULLIVAN: So you knew that you had it in February. So have you transferred any water rights to Santa Fe County during that 13 months?

MR. HOEFT: It's in process, Commissioner, yes. The applications have been filed with the OSE.

COMMISSIONER SULLIVAN: Okay. Nothing's been transferred to the County.

MR. HOEFT: It's in process. Of the 35 acre-feet, Commissioner, eight acre-feet have already been transferred and are considered valid and we're working on the 27 acre-feet of Zafarano water rights.

COMMISSIONER SULLIVAN: So eight acre-feet has been transferred over to the County.

MR. HOEFT: Correct.

COMMISSIONER SULLIVAN: And that's all you've done in that period of time is transfer water rights.

MR. HOEFT: I would also have you consider, Commissioner Sullivan, at this time, 2005/2006, the Montoya family, headed by Richard Montoya, Sr. did pass away and he was pretty much the lead charge of all the development projects for the Montoya family. And I would say it took a good part of 2006 for the family to get organized again to figure out how they wanted to proceed with the project. Unfortunately, now it's not a ship run by one person; it's an organization run by six individuals trying to make decisions. And now they have their arms around their projects and they're proceeding.

COMMISSIONER SULLIVAN: And I assume you understand and are in agreement that this project will be subject to 30 percent affordable housing requirements.

MR. HOEFT: Yes, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. That's not in the conditions but it's an ordinance.

MR. HOEFT: It says that it complies with the latest Affordable Housing Ordinance.

COMMISSIONER SULLIVAN: Just want to be sure that you understand that. I didn't see it mentioned specifically in the condition. Number two? Someone said number two. Be in conformance with current requirements. The only other comment I would make, Madam Chair, before your public hearing is I think two years is too long an extension for this project. I think – for two reasons. One, I don't think it's appropriate just to hold land for speculation, and secondly, as much time as I've spent with projects going on in District 5, which is taking the brunt of development in Santa Fe County, I would like to have an opportunity to review this project, and in two years I won't. So I would like consideration, if there is to be an extension to be no more than a year, because I would like to participate. This is a big project. You'll see

some comments that Ms. Burks made here about problems and issues, impact fees, roadways, a number of other issues that are brought up here and a lot of those are valid issues and I'd like to participate in the review of this project when it comes forward. Thank you.

CHAIR VIGIL: You can always participate as a citizen.

COMMISSIONER SULLIVAN: No, thank you very much.

COMMISSIONER MONTROYA: Public hearings.

COMMISSIONER SULLIVAN: I might not vote for you either.

CHAIR VIGIL: I had something I wanted to propose we have a lot on our plate. One of the things that I have actually been thinking about is we're going to be asked to consider a public improvement district for the Longford Homes development out there I believe it is.

MR. HOEFT: That is correct.

CHAIR VIGIL: And it seems to me that if we look at public improvement districts, one of the things I want to avoid, particularly in the Community College District, a lot of these developments coming forth and requesting a public improvement district for their development, what I think would be far more effective and I hope all of the developers in the Community College District are able to get together on this, is look at a public improvement district for the Community College District, for a wider, broader range for development out there because we are receiving so many requests for that, it doesn't make sense to me that we piecemeal a public improvement district. So is that something that Longford and you, Oshara, Villa Serena, San Cristobal, Frontera, any of these, have talked about?

MR. HOEFT: I don't know, Commissioner, but I can head back and look at my packet really quick. I'm pretty sure that there's language already in the conditions of approval that may address this, and if I can just have a second. But to answer your question in short, we'd be more than willing to participate and work with these associations. But let me just get the language.

CHAIR VIGIL: That's okay. It isn't a part of what we need to discuss tonight. I wanted to throw that out just because I'm foreseeing and I have this vision that unless we coordinate with this we're going to get stuck with - well, for example now Rancho Viejo has an assessment district that isn't complementary to the remainder of the developments around there, but if we're able to do something for that entire area that works for the Community College District, I'm thinking we're on the right track. That's all I wanted to add. Is there any other comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Madam Chair, and if developers would like to get together and do that, I think one of the things we learned in reviewing the Longford district - the point I was bringing up is one of the things we've learned in the Longford district and one of the things that I think is worthwhile to be considered, and we did talk about it in our work session is that what we're finding out in improvement districts is that they don't include maintenance costs. Period. They include capital costs for infrastructure. They include reserve costs for when the road fails and potholes need to be patched, but they don't include maintenance costs.

Now, one of the biggest problems we find in these subdivisions is the disparity in

homeowners associations' ability to properly maintain the subdivisions. Those with more economic means do it better and those with less do it less better. So as we look at a public improvement district, and I think you're right. We have a standard phrase that we've stuck in all those Community College District projects that says that you will agree to be a part of a future district. But nothing's ever been done about that, as Commissioner Vigil says. We've put the language in there and nobody's done anything with it.

So I would add that when we think about that when we think about that, think about the problem and the problem is the proper maintenance of these subdivisions that can't be maintained by the County in total - roads, water lines and so forth. So I would throw that out there that the real issue is not developer subsidies. The real issue is how do we maintain these districts and the subdivisions themselves, and then separate from that, how do we maintain major thoroughfares that are beyond the subdivision's responsibility to construct? Road that may be arterials and those things, and likewise with sewer or water lines that may serve other subdivisions.

So that kind of coordination I think is what the chairman is getting at, is that what we're lacking, we're just approving subdivision by subdivision, each is an island in and of itself, and in the end we have all these multi-jurisdictions. So if we can move toward that as we develop the Community College District, I think we'll be going in the right direction.

MR. HOEFT: I concur.

CHAIR VIGIL: Any further discussion? Seeing none, what are the wishes of the Commission?

COMMISSIONER MONTROYA: Public hearing.

CHAIR VIGIL: Thank you. I have a newly appointed sergeant at arms, and he's more awake than my last one. This is a public hearing. Would anyone like to address the Commission with regard to this? Seeing none, I'll close the public hearing. What are the wishes of the Commission?

COMMISSIONER MONTROYA: Madam Chair, move for approval with staff recommendations and conditions.

CHAIR VIGIL: Motion to approve. Is there a second?

COMMISSIONER ANAYA: I second.

CHAIR VIGIL: Motion to approve and seconded. Any further discussion?

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'm going to request that we do this for one year. They can always come back for another year, but I'd like to see what happens with this project in one year. 540 units is a big impact on the Community College District.

CHAIR VIGIL: Is the maker of the motion willing to amend this to review it in another year?

COMMISSIONER MONTROYA: In another year?

CHAIR VIGIL: Rather than two.

COMMISSIONER MONTROYA: Staff's recommendation is two, right?

CHAIR VIGIL: Right.

COMMISSIONER MONTOYA: I want to stick with their recommendation.

CHAIR VIGIL: What are you saying, Scott?

MR. HOEFT: I was unsure if I'm still allowed to speak, Madam Chair. I was just pointing at the ordinance and it says that they may be renewed and extended for an additional two-year period by the Board. Does the Board have the discretion? I would prefer the initial two years as requested.

CHAIR VIGIL: I think that's what the motion is.

COMMISSIONER SULLIVAN: Let me ask Mr. Ross. The ordinance language just says that the Board may extend for two years. Does that preclude the Board from extending for one year? I remember us doing it on a project in Edgewood. I was just curious whether we were allowed to do that or not.

MR. ROSS: Madam Chair, Commissioner Sullivan, it does seem to imply that it's a two-year period. It refers to two-year periods. So I guess if the applicant agrees, you might be able to extend for one year, but it says additional two-year periods.

CHAIR VIGIL: Okay. Does that answer your question, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Yes.

CHAIR VIGIL: There's a motion on the floor and it's been seconded that we approve an extension for two years. Any further discussion?

The motion to grant a two-year extension in CCD Case #MP 02-5051 passed by 3-1 voice vote with Commissioner Sullivan voting against. [Commissioner Campos was not present for this action.

- XII. A. 9. EZ Case #S 05-4841 Suerte del Sur Subdivision Phase 1-5. Santa Fe Planning Group, Inc., (Scott Hoeft), Agent for Suerte del Sur, LLC (Gerald Peters), Applicant is Requesting an Amendment of the Previously Approved Master Plan and Preliminary Plat / Development Plan for a Residential Subdivision Consisting of 304 Lots on 660 Acres. The Property is Located Along Los Sueños Trail South of Las Campanas and North of Pinion Hills Subdivision within the Five Mile Extraterritorial District, Section 24, Township 17 North, Range 8 East (Commission District 2) [Exhibit 6: Original Master Plan Layout; Exhibit 7: Affordable Housing Memo; Exhibit 8: Applicant's Revised Layout; Exhibit 9: Kevin Holman Letter; Exhibit 10: Cost Sharing Agreement]**

CHAIR VIGIL: As there are quite a few people here particularly for this, can I just have a show of hands of those of you who would like to address the Commission

so that I can allocate time appropriately. There's six of you. Very well. Mr. Catanach, would you please proceed.

MR. CATANACH: Madam Chair, initial approvals previously granted are as follows: October 21, 2004, the CDRC recommended master plan for 264 lots. On July 12, 2005, the BCC granted master plan. On February 9, 2006, the EZC recommended preliminary plat/development plan, and on April 11, 2006, the BCC granted preliminary plat/development plan in accordance with the approved master plan. In included the April 2006 BCC minutes as Exhibit F.

February 15, 2007 the CDRC recommended approval for an amended master plan, which is the current request, and on March 8, 2007 the EZC recommended approval for an amended preliminary plat/development plan, and I included the minutes of those meetings attached at Exhibit G.

The current request is for an amendment of the previously approved master plan and preliminary plat/development plan in order to include 30 percent affordable housing for the purpose of complying with the Affordable Housing Ordinance. The summary, background and conditions as outlined in the staff report to the BCC on April 11, 2006 is relevant and remains as presented, and I included the staff report from that April 2006 BCC meeting as Exhibit A. The amended master plan increases the number of lots from 264 to 304 with the following specific amendments.

I outlined the phasing, Phase 1 is 80 affordable housing lots, 48 market lots, 1 community tract for a community building with swimming pool and hard courts, 1 neighborhood community park with recreational facilities. Phase 2 - 45 residential lots. Phase 3 - 45 residential lots. Phase 4 - 40 residential lots. Phase 5 - 47 residential lots.

The average lot size for the affordable lots is .70 acre and the market lots primarily range in size from 1 to 3.5 acres with nine ranch lots consisting of five acres, including 54.6 acres of common recreational open space for a public trail. The proposal is a density transfer with a 15 percent density bonus allowed for the affordable housing. The gross density is one residential unit per 2.17 acres.

The water service agreement previously approved by the BCC does not include water service for the affordable housing. The County Water Resources Department has issued a letter confirming additional water service for the affordable housing. This additional allotment of water is subject to approval by the BCC in conjunction with approval of the amended master plan and the preliminary plat/development plan. Water use is allocated at .25 acre-foot per lot, which includes the water for the 20 percent line loss in accordance with the condition previously imposed by the BCC. Therefore water will be restricted to .245 acre-foot per lot. The equestrian facility has been deleted from the proposal.

Recommendation: the proposed amendment is primarily for the purpose of complying with the Affordable Housing Ordinance. The affordable housing plan has been reviewed by the affordable housing Administrator and is acceptable regarding integration and design of the affordable housing within the subdivision. Staff recommends an

amendment of the preliminary plat/development plan subject to the following conditions:

1. Compliance with applicable conditions previously imposed by the BCC for preliminary plat/development plan.
2. Total number of residential lots shall not exceed 304.
3. Off-site section of Los Sueños Trail that extends north of the proposed subdivision to Las Campanas Drive shall be upgraded to a minor arterial standard.
4. Submit final affordable housing agreement in conformance with the affordable housing plan as approved by County staff.

One of the letters that was handed out was an additional letter regarding the affordable housing review in addition to what's already in the packet. And number 5, this condition came about from the recommendation from the EZC. Integrate additional market rate lots along east boundary.

The copy of the amended subdivision plat does not reflect compliance with condition 5 at this time regarding additional market rate lots along east boundary. This applicant can tell you how they plan to comply with that condition 5. Thank you, Madam Chair.

CHAIR VIGIL: Joe, is that condition #5 the same request that was recommended by EZC?

MR. CATANACH: Yes, that's correct, Madam Chair.

CHAIR VIGIL: Okay. Thank you. Are there any questions for Joseph?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: So Joseph, the map that has been passed out to us and was in the packet showing the affordable housing, is this what the EZC saw or is this different from what the EZC saw? *[Exhibit 6]*

MR. CATANACH: No, that's what the EZC saw. Is that what I just passed out?

COMMISSIONER SULLIVAN: The one you just passed out.

MR. CATANACH: That's what the EZC saw and that's what brought about condition 5.

COMMISSIONER SULLIVAN: Okay. So the EZC's approval was based on integrating additional market rate lots on the east boundary.

MR. CATANACH: Along the east boundary.

COMMISSIONER SULLIVAN: But that wasn't done.

MR. CATANACH: That has not been done at this point.

COMMISSIONER SULLIVAN: And the applicant is not proposing to do that.

MR. CATANACH: The applicant is in agreement with the condition.

COMMISSIONER SULLIVAN: But this map doesn't indicate that.

MR. CATANACH: They were in agreement with the condition. They may have actually prepared a map.

COMMISSIONER SULLIVAN: Is there a different map now?

MR. CATANACH: I understand there is a different map.

COMMISSIONER SULLIVAN: I see. Well, we'll find out when hear from the applicant. Thanks.

CHAIR VIGIL: Further questions. Seeing none, the applicant is here. Mr. Hoeft, since we've been discussing condition 5 you might start with that.

MR. HOEFT: I'll pass out some new plans. *[Exhibit 8]* Commissioners, I've got a quick presentation. You've seen this on two different occasions, so what I wanted to do was just quickly highlight the density of the projects because in previous presentation and neighborhood meetings there's been a bit of confusion at how we arrived at 304. Just to give you a quick overview here, you approved previously 264 lots. According to the formula, you take 30 percent of the 264 and you arrive at 79.2, which we rounded up to 80. So you've got 264 as a basis and you've got 80 affordable lots. The second component of the equation, of the provision of the ordinance, 15 percent of the 264 is 40, or 39.6, of which we rounded up, to add an additional 40 units and to add an additional market rate.

So your basis is the 264, plus the forty. Then of course the 80 is based upon the original density of 264. Was I pretty clear? So the bottom line on that is that we had 264 market rate lots approved. That has come down now to 224 market rate lots. So that's our basis. With that I'd just like to highlight some of the components of the plan that have not changes. The trails for example, the perimeter trail that runs around the outside of the property, 50-foot easement, the interior trails that run through the property, of which at previous hearings we've agreed to make those public trails for all use. Those are still in play.

The water source hasn't changed. Liquid waste has not changed. The thing I'd like to highlight that has changed is the community service tract. You'll notice that there's two green patches, one is labeled recreation. The second one is labeled community park. In the past that community park was an equestrian center. As we got into revising this plan, obviously an equestrian center wouldn't work any more and we thought a better use for that location for that five-acre park or roughly 4.5 acres, I believe, is a community park for the area. This is a park that will be not unlike you see when you drive down Caja del Rio and you look over at the MRC on a Saturday morning, and you'll see cars, activity, things going on at that park. It's a park earmarked for families and kids, and it will have a multi-use purpose field. Basketball, volleyball, the whole nine yards. So that's what's earmarked for that community park. Now the equestrian center has been eliminated.

The third component that I'd you through is the open space. And again, I know I've demonstrated my formula here three or four different times in front of this board. But just to highlight the fact that this project has over 460 acres of open space. Now, granted, a good portion of that is private open space. But I think the key point is to highlight that it maintains a rural residential character. There's lots of open space on this project, 460 acres, and if you consider that the site is only 660 acres, that's a considerable amount of open space and it helps

maintain the rural character of the area, which has been the intent of this plan since the beginning, back in 2003.

A last thing I'd like to talk about in my presentation before I turn it over to Ms. Vazquez is the changes to the plans to address Commissioner Sullivan's point. You'll notice on the east side of the property, that condition addressed four affordable lots that were on the property line, of which they are now shown as a yellow shade. That was the change that was suggested or actually required by the EZC of which is shown in that plan.

With that, I would like to turn it over to Ms. Vazquez to discuss the affordable housing plan. And I'll stand for questions later on.

[Duly sworn, Rosanna Vazquez testified as follows:]

ROSANNA VAZQUEZ: Good evening, Commissioners. My name is Rosanna Vazquez. Good evening. I wanted to talk to you a little bit about how we came to be putting together this plan and the thought that went into where it was that the affordable units were placed. We started with the parameters that are set forth in the Affordable Housing Ordinance, of which there are two. One of them is that they shall be integrated into the overall design and layout of the project. The regulations that were approved by all of you about six months after the Affordable Housing Ordinance describe what integration should be. And it describes integration as integrating those units into areas where they are similar in terms of architecture and landscaping.

So that was a very clear direction from the Affordable Housing Ordinance that these homes, these affordable units, had to be in areas where they were going to be similarly situated to market rate homes in the same square footage and design.

The second parameter that's set forth in the Affordable Housing Ordinance is the units shall be reasonably dispersed within the project. "Reasonably dispersed", Commissioners, as you recall during all the meetings of the Affordable Housing Ordinance was never defined. I believe there were some requests that there be a definition for reasonable dispersement to give the developer some direction with regards to what that meant, and it was left open. If you go through the minutes of those hearings it was left open for the reason that you wanted to have some flexibility in application of the Affordable Housing Ordinance to areas like the College District, where there are high densities. The areas such as Eldorado, as we heard today, that have 12.5 acre parcels, to areas such as this that have average lot size of 2.5-acre parcels. So there was no definition of what reasonable dispersement was.

Another important component of that Affordable Housing Ordinance is that it did not limit the ability to cluster at all. There's no prohibition in the Affordable Housing Ordinance about clustering affordable units. Given that the reasonable dispersement definition was left open we came to staff and we talked to staff a little bit about how do we define reasonable dispersement and what do you define it as? We met with County staff to see what the goals were of the Affordable Housing Ordinance and they articulated some very important conditions, and they were that integration means community. It means integrating all sorts of different people together. It means integrating people in public

areas. And the question came, what were those public areas? Well, those public areas at that meeting with staff were defined as the arterial roads. They were defined as your community center. They were defined as your trail system and they were defined as your park.

So we fortunately given some greater direction from County staff because now we had – we knew affordable units had to be in areas that were architecturally the same by design, and we knew that we needed to concentrate areas where we could create communities, along roads, along parks, along trail systems. Taking that direction into consideration, I want to explain to you a little bit about the topography and the layout of this subdivision. Unlike the College District where you have high density development, where the College District actually requires five different types of housing units, we did not have that here. We had a semi-rural development. We had large lots. We had high-end homes in this area, and we had an inability to really apply completely the framework set out in the College District.

We had a market that was looking for single family homes in this area. So given those constraints and given the direction, we tried. And what we've come up with is what you have before you. And I'll explain to you a little bit about what we've done here. The reason and the discussion in the Affordable Housing Ordinance meetings was reasonable integration had to be able to achieve one important goal. It had to be able to achieve the fact that the person living in the affordable unit was not to be made to feel less than somebody that was living in a large unit next to it. It had to demonstrate that those homes could not be noticed as affordable units if you were driving by the subdivision.

Those are two very important components because to create a community that's integrated and to make people feel welcome, they could not feel like they were less than anybody else. And so that was the rationale behind integration and reasonable dispersment. So what we did is this. We took a look at the subdivision, and similar to what was done in the College District, we designated areas, areas that were going to be areas according to staff that we could create community. So we took a look at Rio Lobo Road, which is here, which is designated as a future major arterial road by County. We took a look at the community park and the trail system, and the accessibility to the clubhouse, and we said, okay, let's put the affordable units in that area.

Then we took a look at what kind of design were we going to do? How were we going to create homes that architecturally looked the same, so we didn't put a home which the average square footage is in the Affordable Housing Ordinance are 850 square feet to 1250 square feet. That's the average size of homes set forth in the Affordable Housing Ordinance. We were looking at homes in this area that were going to be above 3,000 square feet. We did not want to put a 3,000+ square foot home adjacent to a 1000 square foot home. It was going to look more like a guesthouse than it would look like an actual development. We wanted a cohesive development.

What was decided was that this area here, given that it was a major arterial, we would create a type of home there. They would be zero lot line townhomes. That was

decided for a couple of reasons. If you look at these lots, they're generally smaller than the lots adjacent to them, across the street from them. A zero lot line home would give the effect of a larger house on these lots and therefore not look so despairingly different from the lots above it. We thought this would be a wonderful area for zero lot line homes and smaller homes, given the fact that there was proximity to the clubhouse. And one thing that was not made clear in staff's presentation but was made clear at the CDRC and EZC is that the clubhouse will be open to the entire community. Everybody in the subdivision will be allowed access to the clubhouse. So to put the smaller homes here gave them accessibility to the clubhouse and the recreational areas.

The next thing that we looked at is the need for starter homes, the need for single family homes, the need to supply affordable units for people such as fireman, policemen and teachers. And in talking to Homewise and talking to some of the developers, what was suggested to us was that detached single homes was something that was in high demand on affordable units. So we created smaller lots on the east corner of the northeast portion of the property to address that concern.

There are approximately 24 lots in the upper portion and the remaining lots are at the end of the subdivision. Commissioners, given the fact that there's no definition on reasonable dispersment, given the parameters that we've been given in the Affordable Housing Ordinance and the constraints that we have, looking at a semi-rural subdivision, we have done our best to try to create community and try to disperse the affordable units along major public areas and areas where people could communicate and interact.

The priority of this Affordable Housing Ordinance in all the discussions that we had, Commissioners, during this ordinance was that we needed affordable housing. That was the big push. We needed affordable housing. What the development will provide is 80 affordable units in phase one. That is the largest number of affordable units outside of the Rancho Viejo development that will be constructed. It will be constructed in the northwest quadrant where there's very little affordable housing. We are proposing that that affordable housing be done all in phase 1.

I wanted to talk a little bit about this issue, about the northwest quadrant here because you will hear, and there are letters in your packet, about creating lots along the side here that would be greater inside than market rate, so as not to affect the home prices of the adjacent property owners. We've tried to do as much as we can with regards to that. We did agree to changing the two lots at the bottom and the top lot here into market rate units. We would also be in agreement at this time in discussions with Northwest Ranches, to amend - to change the number of affordable units on the northeast corner.

CHAIR VIGIL: How many of those units would you change.

MS. VAZQUEZ: It would be the nine that are between Los Sueños Place, the cul-de-sac here, to the corner of the property which borders La Serena and Northwest Ranches.

CHAIR VIGIL: Okay. So where would the nine affordable units go? Point it out to me.

MS. VAZQUEZ: Would you like me to show you on your plat? Would that make it easier?

CHAIR VIGIL: No. Show it there.

MS. VAZQUEZ: Okay. So these lots right here would be removed. They would be market rate lots here. These lots would be moved into this area here. Into the center of the subdivision.

CHAIR VIGIL: So there would be nine affordable units moved to the south of Rio Lobo, and how many units that are market rate would replace those on the north side?

MS. VAZQUEZ: Approximately four. And the lots that we're talking about would be from Los Sueños Place. It's a cul-de-sac, across to La Serena Subdivision and the Northwest Ranches, LLC.

CHAIR VIGIL: I am looking at – do we have an easel that we could put over here and could perhaps it could be slanted? We'll make sure that you have a clear understanding.

MS. VAZQUEZ: And Commissioner, I apologize, because this was something that we have just talked to the neighbors and staff about this evening. We do not have any plats that are prepared to demonstrate which ones would be market at this point.

CHAIR VIGIL: Okay. Before we move, I just made a commitment to try to get at least the map we're talking with on an easel, and if there's some additional maps that can be distributed, can we get that done?

MS. VAZQUEZ: There are no additional maps. I gave my copy of the map to the public so they could take a look at it. But again, I will reiterate, I apologize. This was done this evening. We do not have maps prepared.

CHAIR VIGIL: Okay. That's fine. We'll go ahead and let's put the easel in a way that the public can actually see it, and those of you who are on the right side of the room do you want to move over to the left side to get a better – because we also need to look at it too.

MS. VAZQUEZ: Commissioners, you can't see this so this won't work.

CHAIR VIGIL: And those of you who want to see it and need a better view can come over here to the side. Rosanna, for those who didn't catch the last gist of our conversation for the new proposed interspersment, I guess, could you restate that?

MS. VAZQUEZ: I will, and what I'll do is I'll mark it up because it might be easier now that I've gotten permission to mark. What we are proposing is to move the lots that I'm labeling out in red here, those affordable units, approximately nine of them, those units will be moved south of Rio Lobo in this area right here where I'm circling, right in that area, and these units will be replaced with approximately four market rate units.

CHAIR VIGIL: So the lot sizes would cover that entire area. Okay. Let me ask a question. Could these affordable units be placed to the west of the clubhouse rather than concentrating them on the north side, to the west of the clubhouse. I know that's a

different phase from phase 1 as you have on your maps, but is there any reason why you're placing them up south of Rio Lobo? Is there another location?

MS. VAZQUEZ: Well, the reason is really that we wanted to make sure that the affordable units, given their size, were going to look similar in construction to everything around it. These lots that you're looking at in the center are your - what Rancho Viejo calls really their prime lots or estate lots. So those are going to be the high-end lots with very, very large houses on them, and the disparity, Commissioner, even if you put two homes together that are - going back to the point, if you look at the square footages of affordable housing units, you're looking at approximately 850 to 1250 square feet. So even if you combine two homes, that we are doing in this area here, you're still looking at a 2500 square foot home compared to this area which are your larger lots, and then your estate lots, which are probably going to have 5,000 to 6,000 square foot homes.

So the disparity is great and I don't believe we meet the intent of the Code there, Commissioner, because we need to be able to integrate those homes to the architectural design of the area, of the surrounding lots. I don't believe we meet that intent in this area. I do believe we meet it here, because the product we were looking at for these affordables were zero lot line homes and townhomes. So I believe we meet that intent here.

CHAIR VIGIL: Okay. And I appreciate the effort to bring in some more affordable units there. Let me just propose to you that I actually believe that affordable housing can be incorporated into a design and build with market rate units, and I'm just going to, Ms. Vazquez, point out to you this one particular article. This is the zoning practice from the American Planning Association. It's a practice on inclusionary housing. This is - this right here is a what looks like two-story brick house in what is considered a market, even luxury unit. And this is, I believe in Maryland. Anyway, it doesn't matter, because the point I want to make is what they have done there to design and build affordable housing is that they designed and built a unit like this and made it a duplex, so that the density requirement is met for their affordable housing and at the same time the design is not compromised.

So I'm not too sure that you have to stay with the same affordable units just based on the design. So I want to expand our thinking in terms of how we can address affordable housing through design. I think I'm just going to throw this out too. I know there's people from the public that want to address here and we need to finish this, but there are some myths associated with affordable housing and one of the myths is that it adversely impacts market housing. I have been reading enough evidence to identify that it doesn't and that in fact in some cases it even enhances it. So I think there's a lot of myths that we need to dispel and I am hoping that through this development we're able to move towards that direction.

But anyway, those are just my commentaries. Please continue with your -

MS. VAZQUEZ: Well, if I could just respond to your commentary, because what we tried to achieve in these affordable units is that idea, the idea of a duplex to combine homes here so that they would be reasonable in size to some of the lots around

them. That was the intent, Commissioner Vigil, in that are. We're concerned though, and I'll tell you in our practices with affordable housing in the College District is duplex units don't work well for a lot of people who want to buy affordable housing units, Homewise, the Housing Trust - they don't want to buy duplex lots. They can't sell duplex houses because they want single - they want individual legal lots of record.

So that's why we went to a zero lot line instead of the idea of a duplex, because it became problematic in our experiences through the College District to get those approved as affordable units that could be sold to people who were eligible.

CHAIR VIGIL: I'm just going to say, I don't know that you can paint a wide brush that way because we do have the townhome concept really successful in Aldea. The single-family home units successful in Rancho Viejo, and the whole idea between market and affordable exists all over the city.

MS. VAZQUEZ: But it's a little easier to there, Commissioner Vigil. You're right. And they have been able to do it very, very well. One of the reasons they've been able to is they are dealing with small lots. And there are affordables in Aldea and there are affordables in Rancho Viejo, and even the subdivision that's north of Rancho Viejo, not in the College District - the one that won all the awards. I'm forgetting the name. Off Governor Miles. Nava Ade. They mix in the affordables because the lots are all the same size and the lots are this size. And so the disparity between the square footage of an affordable home is not noticeable.

The problem and the constraint we have here, Commissioner Vigil, is we're dealing with semi-rural lots. We're dealing with larger lots. The average size lot out in this area is 2.5 acres. The average size home - I went through and I looked at the subdivisions, La Serena, this Northwest Ranches is actually La Vida, Tierra Grande, and the Hurlocker subdivisions, you're looking at homes that are averaging in size of about 3,000 square feet. So it's noticeably different in square footage and to address that, what we tried to do is combine them in an area where it wouldn't be noticed, where people wouldn't feel uncomfortable that they lived in a 1200 square foot home, and their next-door neighbor had a 3,000 or 4,000 square foot home.

So that was one way that we tried to address that issue.

CHAIR VIGIL: Okay. Anything further, Ms. Vazquez? Or do you have a question, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Madam Chair, Ms. Vazquez, initially, you were going to have two homeowners associations and now you're saying - and one was going to be for the affordable housing residents and one for the market houses, and now you've amended that you're now going to have one homeowners association. Is that correct?

MS. VAZQUEZ: That's correct, sir.

COMMISSIONER SULLIVAN: You were asking for some - well, let me first ask this question. We have in our packet a map, a phasing map that looks like this. Is this the phasing of the project? Approximately?

MS. VAZQUEZ: May I approach, Commissioner, to your –
CHAIR VIGIL: Please.

MS. VAZQUEZ: Yes, it is.

COMMISSIONER SULLIVAN: Okay. So we have a total of potentially five phases planned. And your proposal is that all of the affordable housing be in the first phase.

MS. VAZQUEZ: Yes.

COMMISSIONER SULLIVAN: The thing that I was looking to get a comment on, you were asking for some guidance on dispersement and saying that wasn't a definition of dispersement. And it does say affordable housing shall be integrated into the overall design, and it says they shall be reasonably dispersed within the project. And you said reasonably can be whatever the Board of County Commissioners determines reasonable is. But there's another paragraph that I think is a little more specific and I wanted to see how your plan complies with that.

MS. VAZQUEZ: Where are you, Commissioner?

COMMISSIONER SULLIVAN: I'm on the Affordable Housing Ordinance, Section 4, paragraph E.

MS. VAZQUEZ: I'm going to run and get my ordinance.

COMMISSIONER SULLIVAN: I'll read it to you while you're doing that. That section says affordable housing shall be provided in phases, if a project is otherwise to be phased, but the proportion of affordable housing units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the project, and the total number of affordable housing units to be offered within all phases of the project, i.e., 30 percent. That's a legal way of saying 30 percent in each phase.

So I think that gives us some pretty good specificity about what dispersement means. Now, within the phase we have to answer another question and that answers dispersing the lots within the phase, so we should have roughly 30 percent in each phase – and that's been a criteria of the Community College District all along, because if subsequent phases don't go forward we want to be sure each phase stands on its own. So that answers it from that standpoint.

And then we say, now what do we do within the phases? How do we cluster or how do we disperse with the phases? And I was – and in that regard I was interested in your comment in the minutes of the EZC meeting, responding I think to a request or a question from a Mr. Cole when you said the ordinance does not prohibit clustering affordable housing, and clustering is routinely done in the Community College District. Now, in all of the affordable housing plans I've seen in the Community College District, they seem to be pretty well dispersed throughout the entire subdivision, but I don't know everything about the Community College District.

So is there a specific [inaudible] that you were referring to there? Because I really don't recall seeing a clustering of affordable units in the Community College District that I

could go back and look at.

MS. VAZQUEZ: Madam Chair, Commissioners, what I meant in that question and what I'm saying in that clustering is not prohibited in the ordinance is because the developments in the College District put their affordable housing units into one or two or even three of the five required housing types of that subdivision. That is to say that they will have townhomes, they will have single family homes on 1/3-acre lots, they'll have single family homes on 3,000 square foot lots, and they will have estate lots and they will have their luxury lots. They will put them in and cluster them into the three different types, the lower three different types of units, but will not put them into the estate lots. Will not put them in – that's what I meant by that.

COMMISSIONER SULLIVAN: Okay. Because I have looked at each one of the affordable housing plans in the Community College District and when you look at the lots with little red dots on them, those little red dots are pretty well dispersed throughout the area, as are the estate lots. So I was wondering where that was. But let's get back to the issue of Article E, which requires – and this is not in the regulations, this is in the ordinance – that the proportion of affordable units offered for sale in any phase must be not less than the proportion of total number of lots to be developed within all phases and the total number of affordable units to be offered within all phases. Could you explain how this proposal complies with that provision of the ordinance?

MS. VAZQUEZ: The language on page 4, I think it's the third line down in Section E, says must not be less than the proportion of the total number of lots to be developed. And so what we are proposing is that it's not less than 30 percent in phase 1 and 2 and that we included all in phase 1 and 2. And the reason that we're proposing it – it is a proposal for your approval.

COMMISSIONER SULLIVAN: No, no, wait a minute. I think you're missing my question here. I think we understand what you're proposing, that they all be in phase 1, but let me read the language in the ordinance again. The proportion of affordable units offered for sale – and let me underline this – within any phase must be not less than the proportion of total number of lots to be developed within all phases and the total number of affordable units, i.e., 30 percent. So that says within any phase. Now, can you explain to me how this complies with that?

MS. VAZQUEZ: It complies with it because within the phase that we are proposing, we are going to provide more than 30 percent and not less than 30 percent.

COMMISSIONER SULLIVAN: Okay, but what about phases 2, 3, 4, and 5?

MS. VAZQUEZ: With regards to phase 2, 3, 4, and 5, we would take the position that we met the requirement because we were providing all of the units up front.

COMMISSIONER SULLIVAN: I'm really having a hard time understanding this when the ordinance, not the regulation, says the proportion of affordable units offered for sale within any phase – and this is for a project that is phased – which this is, must not be less than the proportion of total number of units of the lots to be

developed within all phases, and the total number of affordable units to be offered within all phases. So this paragraph E says that each phase has to be 30 percent. Now, that doesn't mean they all have to be equal, as I read it. Your first phase could be very large. Out of the 304 units you could have 100 in the first phase, but you would still have 30 affordable units. You could have 50 in the next phase, but you would still have 30 percent affordable units. It doesn't mean, as I read it that each phase has to be an equal number of affordable units, but it does mean that within each phase the percentage of affordable units has to be the same. I can't see how you could read that any other way.

MS. VAZQUEZ: Commissioner, I don't think you're understanding what I'm saying either.

COMMISSIONER SULLIVAN: No, I'm certainly not.

COMMISSIONER MONTROYA: Could we get some clarification from staff?

CHAIR VIGIL: Clarification on that, yes. Either Duncan or Steve Ross, because I think we might get caught up in a little bit of confusion here. I think the underlying issue here, the question is whether or not in each one of the phases affordable housing has to be built or if in fact affordable housing can be built in phase 1.

MS. VAZQUEZ: And Commissioner, again, it is a proposal for you, to create all affordable units together. The reason that we made that proposal is that in talking to the local builders, in talking to the people who do affordable housing, they made a suggestion and that suggestion was to put it together and have it built together, because it was easier to build that way for many builders, to take portions of the affordable housing together, and they thought the economies of scale would be easier for them, to build all of them together. And that was why we made that proposal to you initially, was that we thought it was important, given the fact that the ordinance stressed the importance of affordable housing and this was going to be 80 units up front.

And given the comments and the opinions from the contractors that we spoke to who build affordable housing, that we put it together and that they be able to build it all at once. All the infrastructure would go in together. All of the crews could come out and build several homes at one time, and so it made it easier in terms of economies of scale to build all of them together and at once.

CHAIR VIGIL: It seems that it's making sense to me that the reason that it's a part of the ordinance is so that the affordable housing component does not get neglected through each one of the phases, that it in fact becomes a part of it and that would be like a minimum requirement. At least that's how I would interpret it. And that in fact, if it was phased in one particular phase it doesn't get neglected, but I'm open to any interpretation by staff if any of them would like to respond to that. No?

MR. ROSS: Well, Madam Chair, that's certainly – because of the words “not less than” as opposed to “not more than” that's probably a reasonable interpretation.

CHAIR VIGIL: Okay. Thank you. Commissioner Sullivan.

COMMISSIONER SULLIVAN: What does the counselor say at 11:15 at

night? He's very lucid usually beyond 11:00 but I don't trust him past 11:15.

MR. ROSS: You shouldn't trust me past 11:00. I just conferred with Mr. Sill and I agreed with the chair that her interpretation was probably reasonable because it says "not less than" instead of "not more than or "not less than and not more than", or "exactly" - words to that effect.

COMMISSIONER SULLIVAN: And what was the chair's interpretation?

CHAIR VIGIL: The chair's interpretation was that the language that identified phasing of affordable housing in each phase was probably more intended not to neglect affordable housing within each phase, and that in fact this proposal doesn't go there; they actually address affordable housing in one phase and would not be neglecting it.

COMMISSIONER SULLIVAN: Okay. So that I think we're saying the same thing differently and that is there should be affordable housing in each phase and it should be not less than this percentage.

CHAIR VIGIL: No, I don't think we're saying the same thing. What I'm actually saying is there can be affordable housing in each phase so long as it's not neglected, but there actually is nothing wrong with phasing the affordable housing in an initial phase, especially phase 1.

COMMISSIONER SULLIVAN: Well, it says affordable housing shall be provided in phases, if the project is otherwise to be phased. It doesn't say may, it says shall. Once you get into that, it says, but the proportion of affordable units offered for sale within any phase must not be less than the proportion we discussed. So the operative words are shall and must. So it must not be less. And I think that means you could have more affordable housing, if they want to have 32 percent, they can have that, but the overall percentage has to be met, 30 percent, and in each phase we have to have that proportion. We've got shall and must in there and I think we need to be very cognizant of that. That's a key provision in the Community College District Ordinance, even back in the 15 percent days, and it's a key provision in this ordinance too.

So I think we need to certainly have the developer, the applicant take a look at that. Thank you.

CHAIR VIGIL: Any further discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I know it's getting late. I'm tired.

CHAIR VIGIL: Same here.

COMMISSIONER ANAYA: And I was hoping that maybe we could limit the public comment to two minutes per person, so we can hear from them and then we can make a decision and go to bed.

MS. VAZQUEZ: I would just ask that we be allowed to comment on any other comments from the public. And I'll make it brief, Commissioner Anaya.

CHAIR VIGIL: Okay. This is a public hearing. Those of you who would like to address the Commission, we have a request you be limited to two minutes and I think that's appropriate, being that we probably couldn't hear anything beyond two

minutes. Please come forward, state your name and be sworn in for the record. And those of you who would like to speak after this gentleman, please stand on the side aisles so that we can get an orderly moving of this. Please state your name and address.

[Duly sworn, K. Paul Jones testified as follows:]

K. PAUL JONES: 6 Desert Rain, Santa Fe. Madam Chair, Commissioners, I'm a member of the board and president of the Los Sueños Subdivision Homeowners Association. Our subdivision is immediately to the north of the proposed Suerte del Sur Subdivision, bordering on both the west and eastern sides of Los Sueños Trail. On behalf of the property owners of our subdivision, I encourage your approval of the latest amended proposal for the Suerte del Sur Subdivision, but our support is subject to the continued application of the conditions stated by Mr. Catanach in his cover memo of today's date. His conditions include the EZC's recent requirement that there be a reconfiguration of the lots on the eastern boundary of the subdivision, particularly where it borders the La Serena and Northwest Ranches Subdivision. We support this condition and leave it to you to judge the other elements regarding affordable lots.

Our primary concern has been to ensure that all of the conditions regarding Los Sueños Trail, as said by the BCC and specified in Mr. Catanach's cover memo, are upheld. Thus we are pleased that the following conditions have previously been placed on the applicant and we want to ensure their continued applicability.

Based on my conversations with Mr. Catanach, and review of the documents, most particularly the minutes that he's referred to, there are the following five conditions that I think you are already aware of, and all of these are to occur as previously stated, prior to phase 1 of lot development. One of those is condition 2.e, to extend asphalt pavement for Los Sueños Trail from the end of the existing offsite pavement to La Vida Trail.

The second is condition number 8 that you've stipulated, that is to construct what has been labeled Hager Road, ensuring a southern access to Suerte del Sur and minimizing the possibility of construction vehicles, heavy vehicles coming in from the north along Los Sueños Trail.

The third stipulation has been that the applicant is to enforce access as much as possible from the south in order to minimize it from the north. As Mr. Catanach has mentioned in the minutes from your meeting last April, that's a hope. The reality is there will be quite a bit of traffic heading either further north from Suerte del Sur, to make further deliveries, or coming from the north down in spite of these conditions.

CHAIR VIGIL: Could you wrap it up, Mr. Jones?

MR. JONES: So therefore, what's particularly is the next two conditions, to upgrade the currently paved portion of Los Sueños Trail to a minor arterial standard, and that we understand as you've stated it and he has stated it in his memos, is an obligation that fully rests upon the applicant. And finally, to execute a road maintenance agreement with the other homeowners associations such as Los Sueños Subdivision, regarding maintaining Los Sueños Trail once that upgrade occurs. We request that you continue to maintain those five conditions. The reason I draw your attention to them is I recently heard wor, which I hope is false, that

there is an attempt to delay upgrading of Los Sueños Trail to minor arterial road. Thank you very much.

CHAIR VIGIL: Thank you, Mr. Jones. Next speaker.

[Duly sworn, Greg Burns testified as follows:]

GREG BURNS My name is Greg Burns and my address is 66 Tierra Grande in Santa Fe. The first thing I wanted to bring up was after going to the EZC meeting, the presentation there talked about minimum house sizes of over 1,000 square feet. I don't remember the exact numbers. And it seemed like the minimum house size of the affordable dropped to 850 at this meeting. Is that like an unstable number that just varies from meeting to meeting, or is that agreed to? I'm a little confused about that.

CHAIR VIGIL: Be prepared to respond to that, please.

MR. BURNS: So I wanted to read a statement I had prepared. So I'm the homeowners association president for Tierra Grande. Tierra Grande on this map is located down in this corner. And Tierra Grande objects to having clustered affordable housing at its border and requests the following revision to the new master plan. We request that a two-lot buffer of 2.5-acre market rate lots at the border between Tierra Grande and Suerte del Sur. The purpose is to provide a two-lot buffer between Tierra Grande and any affordable housing. Since Tierra Grande is already present and contains all 2.5-acre lots, plus or minus, we consider this a way to continue the character of Tierra Grande into Suerte del Sur and not interrupt that with affordable housing until we're further away from our boundary.

Suerte del Sur, since we're already there and Suerte del Sur is trying to put clustered affordable housing at our border, we consider that their attempt to put a large financial burden on its neighbors and not put them inside their boundaries. Most of their lots are clear of affordable housing and we feel like they're all putting them next to us. We want to make sure that this two-lot buffer extends up through our driveway up to La Vida Trail.

We also request that Suerte del Sur spread out the affordable housing. Currently, we consider it highly clustered and I look in the ordinance, the quote in the ordinance is reasonably dispersed. I think if you show this to most people they wouldn't considered dispersed two places on the map. I would consider dispersed to be all over. So that's that.

Also we want to get away from an us versus them mentality because we have to live up there once this is done. Right now, by dispersing it, that will help. The other thing is right now, these are gated areas. So most of the market rate lots are in a gated community.

CHAIR VIGIL: Mr. Burns, could you summarize please?

MR. BURNS: Okay. And the affordables are all in non-gated areas. All right. I'm almost finished. I think we took a lot of time as a subdivision to come up with a list of specific issues we wanted to address and not just try to [inaudible] that subdivision. So I'm trying to get through them. We also want to make sure that the affordable houses are limited to one story and 15-feet high. This is in keeping with the character of the whole area. This doesn't seem to be addressed. I don't know what they can build out there. The

area out by us is all one-story houses.

We also wanted to make sure they have low reflective stucco exteriors and that kind of trim, again, in keeping with the whole area. We also agree with Councilman Sullivan about the phasing of affordable houses. The quote we use is affordable housing shall be divided in phases if the project is otherwise to be phased. This is a phased project so we don't see that as a big issue. You phase the project – you phase the affordable housing.

CHAIR VIGIL: Could you summarize please? You've been there for four minutes, and I'm sorry to sound so pressuring, but we're trying to get through this.

MR. BURNS: Right. I guess the other thing, I wanted to bring up one more thing is in dealing with Suerte del Sur, we started out not against their subdivision. They've put sewer treatment plants, horse barns and clustered affordable housing against Tierra Grande. At this point we consider them an extremely hostile developer. We request that – and we've asked them repeatedly to act like good neighbors toward us. We just want to make sure the County Council put in specific criteria for how they develop, how they manage like construction traffic and stuff and enforce them, because our sense is they're not a good neighbor. Thank you.

CHAIR VIGIL: Thank you, Mr. Burns. Next person, please. State your name and address for the record. And Mr. Gold, I know you can be fast.

DAVID GOLD: I'll be so fast you won't even realize what happened. David Gold, 70 Sloman Lane.

[Duly sworn, David Gold testified as follows:]

MR. GOLD: Commissioners, I wish to address two issues. One relates to the water. Joe Catanach, when he read the conditions, in the previous meeting I just want to remind you it said the 20 percent line losses would be included in the total number. The way that got read it sounded like that after you apply the 20 percent line loss to .25 you got .245. That's actually not arithmetically correct. The correct number would be .21 or something like that. And that was the number that was agreed upon last time. And then the 20 percent line loss was added to that.

Since the developer has already agreed to this condition, hopefully that condition would follow. I just wanted to remind the Commission of the decision you had already made in that respect. I can get into the details of .245 but I'm not going to waste a bunch of time.

The second thing I want to address relates to affordable housing. When I speak about water I'm speaking as the president of the Santa Fe Domestic Well Owners Association, but what I'm about to say is just my own personal opinion and it does not represent the organization, necessarily. But looking at this, I can't see how anyone could possibly say that this is dispersed, that this is integrated, any of that. And to me the purpose of the ordinance, the phasing, as Commissioner Sullivan said, is to encourage that dispersal as it's made. Commissioner Vigil, you also said something I thought was very valuable. What's happening here, it looks to me like a lot of neighbors that live adjacent to these affordable housing areas are concerned because they're looking and seeing this

concentration right on their border. If in fact it was dispersed and integrated, as per the ordinance, then these issues would go away, the concerns that these neighbors have.

I feel that the ordinance that you all put together is absolutely brilliant. It promotes a very positive sense of community. It promotes a way of incorporating affordable housing that's beneficial to an entire area and would be welcomed by anyone in that area. In our subdivision, I don't know if you remember, but we actually - when there was an attempt to put it all, sort of dump it basically on Agua Fria, our subdivision came forward and members stated they felt that was unfair. We actually believe that affordable housing is good and welcome it, but it has to be done in a way that it really does improve the area. Unfortunately, it's pretty clear from - it doesn't happen to be on our border so I'm just speaking sort of for them, but I really feel that the approach in the ordinance would minimize a lot of concerns that everyone has and I would urge you to work with the approach that's in your ordinance. That's really all I have to say. Thank you very much.

CHAIR VIGIL: Thank you, Mr. Gold. Next person.

[Duly sworn, Wally Hutchinson testified as follows:]

WALLY HUTCHINSON: I'm Wally Hutchinson, 54 La Serena Trail, Santa Fe. To be brief, I concur with the comments that Kenneth Paul Jones of the Los Sueños Subdivision made. Our biggest concern is the prior conditions set on Los Sueños Trail and I'd like you to consider that. Thank you.

CHAIR VIGIL: Thank you, Mr. Hutchinson. Next speaker.

[Duly sworn, Sandy Seehaver testified as follows:]

SANDY SEEHAVER: Sandy Seehaver, 28 La Serena Trail, Santa Fe. I just want concur with Mr. Hutchinson and Mr. Jones on the pre-conditions that have already been set for this development. I want to make sure that everybody keeps them in mind. Thank you.

CHAIR VIGIL: Thank you, Ms. Seehaver. Next speaker please.

[Duly sworn, Tom Ederson testified as follows:]

TOM EDERSON: Tom Ederson, 29 Tierra Grande. Three questions for the agents here. The major arterial didn't quite catch that. I'd like to hear a little more about the trail that's drawn on here and whether or not that connects to any other existing trails. And he said earlier that the gates that are on the earlier plan I have are not on this plan, so they're gone? So, I have a letter from Kevin Holman, a neighbor, which I can't read due to time limits and I'd just like to -

CHAIR VIGIL: You can submit it for the record. Does he support -

MR. EDERSON: He reiterates items that have already been mentioned in terms of the buffer, etc. [Exhibit 9] But I'd just like to say that I think that this whole concept is flawed on three levels - socially, environmentally and legislatively. It's basically housing segregation by income and socially, environmentally, it's affordable housing on a very sensitive area in terms of including an arroyo and it's a very densely vegetated area in terms of our neighborhood. And then legislatively, I think it just sets a bad precedent. I think that the ordinance is very clear, 30 percent affordable housing per

phase. If they want to put it all in the first phase I think phases 2, 3, 4, and 5 would include 30 percent affordable and I think it flies in the face of [inaudible] of the regional plan as well as the spirit of the ordinance.

Finally, I think that the developer wants to have it both ways. He's accepting this density bonus, no problem, but then at the same time he's not following the spirit of the ordinance in terms of the dispersed development because it's fairly concentrated. Thank you.

[Discussions about the map took place away from the microphone.]

CHAIR VIGIL: Okay. Los Sueños Trail is a major arterial. I'm sure you're familiar with that, and the possible major arterial that's been testified to. What is your question specifically? Okay, is there anyone else who would like to address the Commission? Seeing, hearing none, would the applicant like to respond to any of the questions?

COMMISSIONER SULLIVAN: I have one other thing that they applicant could respond to also, a question while they're responding. The original water budget was established at either 35 or 45 acre-feet. I forget which now, and it was established with the inclusion of an equestrian center and that's now been deleted. So what's been the reduction in the water budget as a result of reducing that equestrian center? That's my question.

MS. VAZQUEZ: Commissioner, the water service agreement was for a specified amount of water. The water budget which you're referring to, which discussed the equestrian trail did include it as a proposal, but when you approved the master plan last year, before the Affordable Housing Ordinance was enacted, you did not approve water for the equestrian center. So it's two different things, the water service agreement gives us a certain amount of water that we've transferred but the issue of the equestrian center was a water budget question that was approved in the zoning and it was not approved as part of the water budget in this development.

CHAIR VIGIL: Thank you. Rosanna, while we're talking water, Mr. Gold identified the 20 percent line loss that we discussed previously. Do you recall that? Is that still a part of this proposal?

MS. VAZQUEZ: We have not changed any of the conditions of approval that had been previously applied on this case. So we're in agreement with all the conditions as they were stated in the last hearing when we received them. The only thing really that has changed today, Commissioner, is the affordable housing plan that we're presenting to you.

CHAIR VIGIL: Okay. Thank you. I'd like to call Duncan forward. Just a second. I'll let you respond to this because we need our affordable housing expert.

COMMISSIONER ANAYA: Two minutes, Duncan.

CHAIR VIGIL: We're all tired. We've had some really good discussions with regard to some qualitative goals for affordable housing, and I think if I were to identify the five goals that we talked about, it involves access, acceptance in a community, cooperation and collaboration between communities, diversity and environmental inclusion.

Now, I know that that has to be balanced with what's possible in a development. With regard to balancing all of those goals, what is your assessment of the current proposal?

DUNCAN SILL (Affordable Housing Coordinator): Madam Chair, Commissioners, my current assessment of the current goals, it really is contingent on the five variables that you just mentioned. It's very difficult to balance these components within a project such as this, given the fact that this is not a typical development that we have seen within our experience of affordable housing. We have been experienced with such projects that have promoted similar product types such as Rancho Viejo, with the exception of the estate lots. But it was very – I shouldn't say simple. It was not as difficult to integrate a mix of housing types and have them be dispersed throughout the project. When we're looking at integration here we do have to take into consideration what it really means to have access to common facilities in a project that's unique to this.

And I think we have arrived with discussion from staff and other partners that the current proposal, with the conditions that the applicant has stated today and noted, it seems reasonable. Is this the only way that we could approach a project like this? Perhaps not. But I think we have to get to a stage where policy makers have to make a decision on a staff level, given our discussions and communications with the applicant and others in the community, including Mike Loftin at Homewise and people like that. The conclusion is that we have reached a reasonable arrangement here with the applicant. I'm sorry; I took longer than two minutes.

CHAIR VIGIL: No, that's okay. It seems to me that part of the challenge we have with this development does have to do with access and acceptance and all the other goals but the access would be access to transportation, access to clubhouse and recreation, access to community park. It would seem to me that part of the goal for that is in fact, so that we don't create isolation kind of perspective that this does become a part of the community and a part of acceptance.

I think the cluster development and the phased-in development probably have their own merits. The problem I see with this is that we don't want to encourage isolation. We don't want to create an isolated community feeling and that's one of my fears with regard to this. I don't know what this would mean to the market rate units but it does seem to me that despite all the efforts that have been made here, this might be the best we can do at this point in time.

I was not pleased with the original proposal because it seems to sort of west-east side this proposal, but I do think that this is a further attempt to intersperse and integrate this, and I think it balances a lot of those goals.

The next question I have I think is for the applicant, and that is you've done a really good job of creating a buffer for the Northwest Ranch with your proposal tonight, but I've also heard from residents on the southeast end. Is it possible, and I know as I look at number 25 there, that that's been created. Is it possible to create a buffer for them?

JIM RUBIN: Madam Chair, my name is Jim Rubin. I'm part of the team for Suerte and have been for several years. One of my jobs has been to work on the road

agreements. Your question is directly answered by something that I'd like to put into the record tonight. It's these lots right down here?

CHAIR VIGIL: That's correct.

MR. RUBIN: Okay. I would like to read to you a portion of the road sharing agreement that's very brief to address this, which we call the landowners to the south and archdiocese property, we call them Hager Road landowners. Michelle Henrie of Albuquerque is their attorney. I've been the attorney for Suerte on this. It says the owners of the Hager properties agree to support the onsite affordable housing plan presented by SDS, Suerte del Sur, to Santa Fe County in connection with phases 1 and 2. They also agreed that they might even be here to present testimony or to talk to you.

So what we have is an agreement in writing from the neighbors to the south in the Hager Road properties saying that they support this agreement. And I talked to Ms. Henrie earlier about this today, probably about 4:00 this afternoon and she confirmed to me that this was the agreement. So in terms of a buffer, they never asked for a buffer. They had ample opportunity to review the plans for several months and this agreement is actually just being signed now. The last version of it was offered by Ms. Henrie by their attorney on March 18th and sent to me. So if I could, Madam Chair, add this to the record. *[Exhibit 10]*

CHAIR VIGIL: Please do, if you would give it to our recorder.

MR. RUBIN: So in that respect, I've talked to the developer about this and we believe that we've struck an agreement with the neighbor to the south and there's no need for any buffer down and these lots should remain as they are.

CHAIR VIGIL: I'm hearing differently tonight, Mr. Rubin. I think I heard testimony that they would like more of a buffer there. Perhaps this is testimony from someone you haven't spoken to previously.

MR. RUBIN: I'm misunderstanding then, Madam Chair, because as far as we know, the landowner to the south is the Hager Road properties, and I was understanding that people to the east in Tierra Grande wanted a greater buffer. They wanted to go back two lots as opposed to only the one lot that we've provided for. So that's why I'm confused. Because we believe we have an agreement with the only landowner to the south that abuts affordable lots.

CHAIR VIGIL: Okay, Greg Burns, was it your testimony that requested further buffering? Do you want to further clarify that? That's the request I'm making at this point in time. I think you specifically stated you wanted a two-lot buffer in the southeast. And maybe you can take the mike to the map, identify first of all where your development or where you live and what your specific request is.

MR. BURNS: Okay. I think you've summarized what we're trying to get. We're Tierra Grande down here, and we're trying to get a two-lot buffer that is similar in character to our lot sizes of 2.5-acre lots so that there was two market rates lots of that sort of size at the edge of our development, which would match the character of our development. Tierra Grande is at the southeast corner but it's the eastern edge.

CHAIR VIGIL: Currently in the proposal there's four market rate lots.

What you're requesting is to reduce those to two lots?

MR. BURNS: No, we're requesting they be two deep, so that there be four and then another row of four west of there. So there'll be two lots between us and the affordables. So if you drew a line from Tierra Grande to an affordable, you'd pass through two lots in Suerte del Sur before you'd touch an affordable.

CHAIR VIGIL: Okay.

MR. BURNS: Does that make sense?

CHAIR VIGIL: Yes. Is that do-able, Mr. Rubin? Now I have further clarification.

MR. RUBIN: The developer does not want to change any of the lots down in that corner and in fact the main road to the minor arterial is going to be there down in that corner separating along the green belt, separating Tierra Grande from these lots. So what you've got here is, if you look at the map, number one, you've got a 50-foot green belt all the way around the edge. I don't even know if in Tierra Grande they have 50-foot setbacks on their lots.

CHAIR VIGIL: That 50-foot green belt, does that include a trail?

MR. RUBIN: Yes, it does.

CHAIR VIGIL: So there's a 50-foot green belt and then there's the market lots and then I see just west of the market lots that there is also a trail. How wide is that trail?

MR. RUBIN: This portion here?

CHAIR VIGIL: Okay, at the very edge you have the green belt, right?

MS. VAZQUEZ: Madam Chair, there's a green belt, there's market rate lots adjacent to it, and there's a road. The road is called La Vida Loop. On the other side of that road are the affordable units.

CHAIR VIGIL: Okay, so what I thought was the trail is a road, La Vida Road.

MS. VAZQUEZ: That's the road. Yes. The trail falls within the 50-foot buffer. And it surrounds the entire property.

CHAIR VIGIL: And how much of a buffer is that from Tierra Grande, if you have 50 feet there and many market lots and the road.

MS. VAZQUEZ: I believe that when Mr. Burns is speaking he said he's either lot two or three, right down here. So we would need - it's about 200 feet from the property to the road and doesn't include the road. The affordables would be on the other side.

CHAIR VIGIL: Thank you.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think Madam Chair, number one, that this needs some more specificity in some of the movement of the nine lots and so forth that we talked about here today. Also I think an important condition that we should have in

here, since this is going to set a precedent for other developments is that we obtain a legal opinion on that provision of our ordinance and that we have an opinion that we are complying with that because I think certainly clustering makes sense to do the things that you're talking about which is making market rate housing look like the affordable housing, but I think the ordinance is very clear that that clustering should occur within each phase in a proportionate amount. And we don't have that here or even close to that here.

I do recognize that the staff has been working diligently on this with a very difficult environment in which to do so. So sometimes you breathe a sigh of relief and you say, gosh, this is the best we can do and let's call it a day. But given the fact that we have a very clear provision in the ordinance and that we have a precedent setting situation here I think a) it's important that we know exactly what we're getting, and b) that we have a clarification and I think simply if the Commission wants to approve this tonight that we simply add that in as a condition. That we have a legal clarification of that end of the ordinance so that we don't try to decide that important legal point at midnight. Thank you.

CHAIR VIGIL: Thank you, Commissioner Sullivan. Any further -

COMMISSIONER MONTOYA: Madam Chair.

CHAIR VIGIL: Commissioner Montoya.

COMMISSIONER MONTOYA: Staff, does this proposal here fit the spirit of our ordinance? Okay, scissors, paper, rock.

MR. SILL: Madam Chair, Commissioner Montoya, maybe Steve could help me out a little bit about the spirit of the ordinance.

COMMISSIONER MONTOYA: What I'm hearing is that everything is clustered in two areas and that our ordinance says that these need to be dispersed throughout a development. So given this scenario, does it fit the spirit, the intent, of our ordinance of what we'd like to see in a subdivision or development around affordable housing?

MR. SILL: I believe so. I think it does address the spirit of the ordinance in integrating the affordable units in the overall design of the project. In terms of reasonably dispersed, again, that's a qualitative, subjective interpretation based on a lot of different criteria. In this particular project, given the context and the environment, the topography and the lots' semi-rural setting that are experiencing, it does fit into that spirit. And I think in terms of integration how we should view this is that even though they may appear to be in clustered pockets due to the right type of housing mix we do have an effect of integrating the different socio-economic classes here within an affluent neighborhood within this region.

So I think to the extent that it addresses the spirit of the ordinance I think the applicant has achieved some of that.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIR VIGIL: Further comments, questions. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I think that the applicant brought a proposal to us a while back which offered off-site affordable housing and this

Commission didn't like it, and now they're bringing another proposal and I'm hearing that they should be integrated more into the development. And if that was the case where we integrated it, then I think we'd find - somebody would find something wrong with that. So what I see here is we've got 80 affordable units in an area where we need affordable units and this is going to help out our community tremendously.

So with that, Madam Chair, I'm going to make a motion to approve this and with all the conditions, and a condition with the legal clarification of the ordinance. Is that the one you're talking about? That's my motion.

CHAIR VIGIL: Is there a second?

COMMISSIONER SULLIVAN: Is there not a second because of the clarification of the ordinance or for some other reason. Or just do we think there needs to be more work here?

CHAIR VIGIL: I will second it for discussion if we need to discuss this further.

COMMISSIONER MONTOYA: Madam Chair, what interpretation are you talking about?

CHAIR VIGIL: I'm not speaking about it. Commissioner Sullivan has requested a legal interpretation. He is strictly interpreting the ordinance to say that affordable housing shall be phased in and we have stated that that is probably more a part of requiring development and affordable housing to be component of development so as it is not neglected. And this indeed from my perspective does not neglect affordable housing because it provides it in phase 1, which Homewise and all the other affordable housing organizations are strong advocates for also. Is that correct, Commissioner Sullivan?

COMMISSIONER SULLIVAN: That's correct. That's the paragraph, Section 4. E that we're talking about. But I can't see in your interpretation how you can say that the project meets the requirement of the ordinance because, let's take phase 3. How can we show that phase 3 has affordable housing not less the proportion of the total number of affordable housing to the total number of market housing? Phase 3 has zero. Phase 4 has zero. Phase 5 has zero. Phase 2 has zero. So we don't - the only phase that meet this requirement of the ordinance is phase 1.

COMMISSIONER MONTOYA: Well, actually exceed it.

COMMISSIONER SULLIVAN: You exceed it in phase 1. That's correct. And that's okay. Because it says not less. Must be not less than. So phase 1 we're all right. So we could approve phase 1 tonight and say they've met the requirements. Now, when it comes time to approve phase 2, phase 3, phase 4 and phase 5, what do we do? The applicant's going to say, oh, well, we already provided our 30 percent in phase 1. But we didn't provide the 30 percent in each phase as the ordinance requires. And that I think is an important clarification that we need to make.

And it's not an issue of clustering. I don't think anybody is saying it has to be one market lot, one affordable lot, two market lots, one affordable lot. I think clustering is an economic necessity. But it can easily be done in each phase and have that feeling of

community and that sense of a community that we try to develop in all of our projects. So that's what I'm saying is - I think, quite frankly this needs more work. I think it should be tabled and it should come back and we should see finally what has been talked about here tonight. There's a lot of things that have been talked about. If the Commission doesn't want to do that, then I think it's extremely important - and if we did that, then we could get, while we're doing that we could get a legal opinion on this as to what this means. So I think that would be appropriate.

CHAIR VIGIL: Madam Chair, as much as it pains me to say this, I agree with Commissioner Sullivan.

COMMISSIONER SULLIVAN: Don't be too pained. I'd move for tabling to the next land use meeting.

COMMISSIONER MONTOYA: Second.

CHAIR VIGIL: There's a motion and a second. I have to take this vote on a tabling.

The motion to table failed on a 2-2 tie voice vote.

CHAIR VIGIL: We're back on the motion and the motion is to accept staff recommendation. Mr. Rubin, you wanted to address us. Or Ms. Vazquez, whoever.

MS. VAZQUEZ: Commissioner Vigil, our request to add the 80 units was because we thought it was a public benefit. If it is such a concern, we will draw the phasing line directly across and we will put in for each phase the amount of affordable housing, if that makes it easier for the Commission on this. We thought we were providing a public benefit. Please keep in mind that that will mean that the lower phases will not come in until after the direct diversion is built, because that is a condition on our water service agreement. So we will agree to a condition like that. We believed we were giving a public benefit.

The big concern in the discussion in the Affordable Housing Ordinance was we don't have any affordable housing outside of the College District. That was hammered, and Commissioner Sullivan is correct. His district has taken the brunt of the large subdivisions and all the affordable housing. We believe we were providing a public benefit here. Let's put it all together. Let's build 80 units in phase 1. If this Commission is more comfortable to divide it up into the phases that we've got, we will go ahead and do so. But we want to just make clear that we thought it was a public benefit and the lower phases will not be built until after the direct diversion.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: I don't like that. I want to just go back to my original motion and eliminate the legal clarification of the ordinance. I think that it's important that we get those houses built so that we get people moved into them and not wait for however long it takes to phase in. I think that this project, we're looking at is a

whole and I think they meet the criteria. You heard it from staff and I do not want to wait. I want to get these houses built. As long as they build them then I think they've done what they're asked to do. So my motion is to approve this without the legal clarification of the ordinance, but include the conditions.

CHAIR VIGIL: Motion has still been seconded. I have a question for Commissioner Sullivan and perhaps even Commissioner Montoya. What benefit do you see in phasing in through this current proposal?

COMMISSIONER MONTOYA: It's following what the ordinance asks. That's what the ordinance calls for.

CHAIR VIGIL: And I guess, because there wasn't any clarity in that maybe I need to defer now to our attorney. Recognizing that it's midnight. I'm not going to hold you to any particular opinion. Do you think that this needs further clarification? Or do we have sufficient information on the record to move forward with the motion?

MR. ROSS: Madam Chair, I think you'd be disappointed asking for a legal opinion because one of the issues when we have problems like this in an ordinance is that it really falls on the drafter of the ordinance, i.e., this body, to interpret the ordinance. The problem is really one of omission. As I pointed out before, it's clear that you're not to have less than 30 percent affordable housing in each phase but it's really silent on the issue of whether you can do it all upfront. It's clear that you can't do it all at the end but it's silent on whether you can do it all up front. So like I said before, I think it's a reasonable interpretation that you could read this omission as being something that's permitted, or you can read it literally and say, no, no. You have to have it in each phase. But you drafted the ordinance so you have to pretty much tell us what you meant by that language.

COMMISSIONER SULLIVAN: Madam Chair.

CHAIR VIGIL: Commissioner Sullivan.

COMMISSIONER SULLIVAN: You asked what each of us thought the problems were with that -

CHAIR VIGIL: The benefit.

COMMISSIONER SULLIVAN: The benefit. And I think that the benefit of dispersing it as it's stated in the ordinance, is that we eliminate enclaves. We have a reasonable amount - a small amount, not 80 in one place, but a much smaller amount in a variety of locations. I think that dispersal provides a better comfort factor for everyone. Those in the affordable units as well as those in the market units. They're not designated as being the affordable housing area or the market area, and I think all along that was one of the guiding principles in our Affordable Housing Ordinance. So I feel this plan doesn't do that. The applicant points out, rightfully so, that the phases will come over time and I think we need to accept that, that we're not going to get them all at once.

Bear in mind too here that my understanding is the applicant's not building any housing; the applicant's selling lots. So how fast these will be built is a function of how fast the applicant does or doesn't sell their lots, and with a reasonable dispersion, I think

probably the project will move forward reasonably quickly. And the Buckman Diversion project is due to be on line in a couple of years and so things will probably move fairly rapidly. Those are the benefits that I see, is non-stigmatization.

CHAIR VIGIL: And are you proposing that these affordable units be placed in a different location than what is proposed to us tonight? Because that's the only benefit.

COMMISSIONER SULLIVAN: Yes.

CHAIR VIGIL: Okay.

COMMISSIONER SULLIVAN: My proposal is that there's an amount of 30 percent, and essentially less than 30 percent when you look at the total because of the bonus. It's actually less than 30 percent because their bonus units, 40 bonus units have no affordable housing units in them. So if you take the percentage, the total number of affordable housing units divided by the total number of units you'll see that it's actually less than 30 percent now.

So my proposal is that we follow the ordinance and that each phase have a proportionate amount of affordable housing units, and that those affordable units can certainly be clustered to take advantage of some of the design features that have been mentioned here.

CHAIR VIGIL: And the adverse sort of argument to that is that if we actually do that, there's no surety that these affordable units will be in close proximity to clubhouses or to a main arterial or to a park. So how do we compromise those issues?

COMMISSIONER SULLIVAN: Well, that's a good point. You do have trails. Not everyone in affordable housing is a young family with loud, noisy kids that wants to be next to a park. There are people in affordable housing who are elderly and who want to be as far away from loud, noisy kids as they can possibly be and they would like some peace and quiet. So there are two varieties of affordable housing. And we need to think about both of them. And I think, given the size of the subdivision, the road system and the layout, it's probably relatively accessible wherever you are in the subdivision.

CHAIR VIGIL: Is that an issue, Duncan? Clustering and phasing with regard to this project?

MR. SILL: Madam Chair, Commissioners, there is a possibility that some people in the affordable housing considers to be warehousing, where you do not have reasonable accessibility to common facilities, you do create that isolation that you referred to earlier, and that might be appropriate, as Commissioner Sullivan suggested, for people who don't want to be close to amenities. There are possibly are people out there, but I think the provision of affordability and building community connections, I think we maybe want to err on the side that people possibly want to be close to amenities.

CHAIR VIGIL: Okay. Thank you. Any further discussion?.

COMMISSIONER ANAYA: Madam Chair.

CHAIR VIGIL: Commissioner Anaya.

COMMISSIONER ANAYA: Did I get a second?

CHAIR VIGIL: Yes, I seconded.

COMMISSIONER ANAYA: I think that again, we put an Affordable Housing Ordinance together because we needed affordable housing and we have an opportunity here to have 80 built in phase 1, and that's going to provide a lot of affordable housing in that area where we need it. That's all I have to say.

CHAIR VIGIL: Thanks. Is there any further discussion? Okay, the motion is that we accept the most current proposed draft of affordable housing with amendments. I'm not even clear on whether we need a legal opinion. I think I received a sufficient legal opinion. So I'm not really clear as to whether or not this motion - does the maker of the motion want to include a condition that requests further legal opinion on the ordinance, especially after the County Attorney said he's not even sure that one is necessary; it's up to us.

COMMISSIONER ANAYA: Madam Chair, no. I understood the Attorney real clear.

CHAIR VIGIL: Okay. So are you indicating your motion would remove obtaining a legal opinion?

COMMISSIONER ANAYA: Yes.

CHAIR VIGIL: Okay. And I will second that. It seems to me this is a really difficult hour and I recognize that there are a lot of people here that have some really valuable points to be made with regard to what's going to happen in their backdoor. I think there's been a lot of give and take in this project. I actually see some benefits in the phasing in, and I see some benefits in further clustering, but I also see that that could create its own problems. And I do agree with our affordable housing expert in that you can create warehousing and you can create non-integration when you start going away from getting close to community amenities. I think that's a principal reason why we really strongly need to consider this.

I think many of the issues that have brought concern before all of us have been addressed. The buffering of areas. I don't think - and it's been my experience - I actually live in a development such as this, that everyone's going to be happy when we look at things conceptually. But I will tell you it has been the experience in Santa Fe, and it has been the experience in our Community College District despite everybody's opposition to it, that once we do build affordable housing and we are at a place where we actually start living in a community, that people are more likely to accept what they're living around when they actually have the experience in their environment versus what they have to deal with conceptually.

So I'm at the point where I am of the belief that this is probably the best we can do with perhaps the understanding that if we go any other route there may be those who believe that's the best we can do, but I think there will also be flaws in that, because they're inherent when you're dealing with these things conceptually. So with that, I maintain my second. Is there any other comments?

The motion to approve EZ Case #05-4841 with staff conditions tied by 2-2 voice vote with Commissioners Anaya and Vigil voting in favor and Commissioners Sullivan and Montoya voting against.

CHAIR VIGIL: The motion fails and we need to come before the Commission. Would you explain that for me, Mr. Ross?

MR. ROSS: Well, Madam Chair, it's not been approved. It's a 2-2 tie; the application has not been approved. You have a missing member.

CHAIR VIGIL: So does that mean the applicant has the opportunity to come before us again?

MR. ROSS: We need to put it on the next land use agenda for a decision.

COMMISSIONER MONTOYA: For a vote, right?

MR. ROSS: That's right. Vote only.

CHAIR VIGIL: Strictly for a vote. Okay. This will be placed on the next land use agenda for a full Commission vote. And I would just - if it's at all possible, if throughout these discussions, if anyone has any specific ideas that might improve the design, please make yourselves available to members of the community, Ms. Vazquez and Mr. Hoeft.

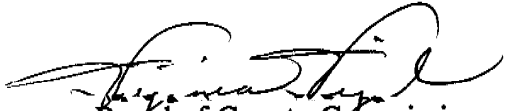
MS. VAZQUEZ: Thank you.

CHAIR VIGIL: Thank you.


XIII. ADJOURNMENT

Chair Vigil declared this meeting adjourned at approximately 12:15 a.m.

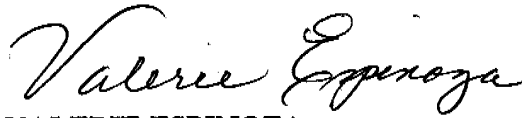
Approved by:


Board of County Commissioners
Virginia Vigil, Chair

Respectfully submitted:


Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK



THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

RESOLUTION NO. 2007-

**A RESOLUTION ESTABLISHING A MANAGEMENT PROTOCOL AT THE
SANTA FE COUNTY ADULT DETENTION FACILITY; VESTING
AUTHORITY FOR OPERATION AND MANAGEMENT OF THE FACILITY IN
THE JAIL ADMINISTRATOR; CLARIFYING THE COUNTY SHERIFF'S
ROLE IN OPERATION AND MANAGEMENT OF THE FACILITY.**

WHEREAS, pursuant to State Law, NMSA 1978, Section 33-3-1(A)(1865-66)(as amended), county jails are "... under control of the respective sheriffs, independent contractors *or* jail administrators hired by the board of county commissioners ..."

WHEREAS, the use of the disjunctive in Section 33-3-1(A) indicates that county jails are managed either by the County Sheriff, an independent contractor, *or* a jail administrator appointed by the Board of County Commissioners;

WHEREAS, the Board of County Commissioners has appointed a Jail Administrator for Santa Fe County Adult Detention Facility (hereinafter referred to as "the Facility");

WHEREAS, the Facility, and the Jail Administrator, operate under the umbrella of the Santa Fe County Corrections Department and the Director of the Corrections Department is a person appointed to that position by the Board of County Commissioners;

WHEREAS, as the Board of County Commissioners has appointed a Jail Administrator for the Facility, Section 33-3-1(A) vests responsibility for operation and management of the aforementioned Facility in the Jail Administrator;

WHEREAS, NMSA 1978, Section 33-3-9(A)(1969)(as amended) vests in "... the sheriff *or* [the] jail administrator ..." the right and responsibility to grant any person imprisoned in a county jail a deduction of time from the term of his sentence for good behavior and industry, sometimes known as "good time;"

WHEREAS, the award of good time to incarcerated persons who exhibit good behavior is a critical component of properly maintaining order in a jail environment, and is a tool that must be possessed by the jail administrator to ensure order, safety and protection of persons who are incarcerated;

WHEREAS, the use of the disjunctive in Section 33-3-9(A) indicates that the discretion to award good time to inmates of the Facility rests in the jail administrator;

REC. CLERK RECORDED 05/23/2007

WHEREAS, hiring and firing employees at the Facility is vested in the Board of County Commissioners, the Santa Fe County Manager and the Santa Fe County Corrections Department and the Jail Administrator;

WHEREAS, an integral part of managing a county jail is the ability to manage, hire and fire employees, and, similarly, to establish criteria for employment and continued employment of employees, including determining and making judgments about the background and prior employment history of prospective employees;

WHEREAS, the aforementioned New Mexico statutes vest the jurisdiction to make these decisions in the Board of County Commissioners and the County Manager;

WHEREAS, NMSA 1978, Section 33-3-19 (1909)(as amended) permits a jail administrator to employ inmates to work in or outside of a jail on public projects so long as the inmates work no more than eight hours in any twenty-four hour period and not on Sundays or legal holidays, and provides that inmates employed in such work are eligible for good time pursuant to Section 33-3-9(A) as a matter of law;

WHEREAS, a jail administrator must exercise discretion and judgment in performing this function, the jail administrator must be able to consider many aspects of an inmate's character, including the charges pending against the inmate, the inmate's history and behavior within the facility, and the inmate's classification;

WHEREAS, the aforementioned New Mexico statutes vest the jurisdiction to make these decisions in the jail administrator appointed by the Board of County Commissioners;

WHEREAS, NMSA 1978, Section 33-3-24 (1981) provides that "... the sheriff of any county *or* the jail administrator of any jail with the approval of the board of county commissioners ... may establish a prisoner-release program ..." as set forth in that Section;

WHEREAS, the use of the disjunctive in Section 33-3-24 clearly vests the discretion with respect to a prisoner-release program with the jail administrator of the Santa Fe County Adult Detention Facility with approval of the Board of County Commissioners;

WHEREAS, such programs are necessary to control the population of jails and therefore preserve public safety by avoiding conflict within a facility, but a jail administrator must ensure that inmates assigned to prisoner-release programs are selected consistent with public safety and the Jail Administrator must therefore exercise discretion and judgment in performing this function and must be able to consider many aspects of an inmate's character, including the charges pending against the inmate, the inmate's history and behavior within the facility, and the inmate's classification;

DRAFT

SFC CLERK RECORDED 05/23/2007

WHEREAS, the aforementioned New Mexico statutes vest the jurisdiction to make these decisions in the jail administrator appointed by the Board of County Commissioners;

WHEREAS, NMSA 1978, Section 33-3-28(A)(1984) provides that persons employed by a jail "... shall have the power of a peace officer with respect to legal custody and enforcement of laws when on the premises of a local jail ..." and are "... deemed [to be] law enforcement officers ..." for purposes of the New Mexico Tort Claims Act, it appears that employees of the Santa Fe County Adult Detention Facility have authority to take all appropriate actions with respect to inmates in custody;

WHEREAS, internal investigations of incidents at the Santa Fe County Adult Detention Facility are currently being performed by employees of the Corrections Department who are also commissioned police officers and designated as special deputy sheriff's officers by the Santa Fe County Sheriff;

WHEREAS, many incidents that occur in jails are not criminal incidents, but careful investigation is needed to determine whether a particular incident constitutes a crime;

WHEREAS, these investigations are best performed by individuals with familiarity with the corrections environment, but those individuals should also refer all appropriate matters to law enforcement agencies should it appear that a crime has been committed for which charges must be filed;

WHEREAS, on February 5, 2004, the Multi-Line Pool Board and the Workers Compensation Board issued their "Joint Policy on Autonomy of Detention and Sheriff Operations" which provided:

"The Multi-Line and Workers' Compensation Pool Boards recognize that administration and operation of a county detention facility is a local decision to be made by the county's Board of County Commissioners, in accordance with NMSA 1978, § 33-3-1. Lately, the Pool Boards have seen an increased interest in consolidating detention and sheriff operations under the control of the sheriff. The Pool Boards encourage separation and autonomy of these functions; professional sheriffs should oversee law enforcement functions, while professional detention administrators should manage detention operations.

"The Boards recognize that law enforcement and detention operations are unique and that they are uniquely different. Each discipline has specific requirements and expectations. Historically, these functions were consolidated; however, due to changes and advancements in society, civil rights entitlements, and court decisions, each discipline has evolved into a distinct profession."

DRAFT

SFC CLERK RECORDED 05/23/2007

WHEREAS, the Multi-Line and Workers' Compensation Pool Boards recognition that law enforcement and detention operations are each unique, with distinct requirements and expectations, is important and should guide the thinking of the Board in its overall responsibility for management of the Facility;

WHEREAS, in recent years, the Santa Fe County Sheriff has purported to assume control over certain operations at the Santa Fe County Adult Detention Facility, including exercising authority over the hiring and firing of employees at the Facility, determining which inmates may be placed on work details, exercising authority over the awarding of good time, purporting to exercise control over internal investigations at the Facility, and purporting to have supervisory authority over employees at the Corrections Department, including the jail administrator;


WHEREAS, recently the Sheriff has launched a quasi-criminal investigation of the management of the Corrections Department and the Facility, all in derogation of his statutory authority under the aforementioned statutes, and in derogation of the constitutional rights of those being investigated;

WHEREAS, since the current leadership at the Corrections Department was appointed, a new medical director has been appointed at the Facility, a contract with University of New Mexico Hospital has been established to provide back-up physician coverage, a medical administrator has been recruited and employed, claims and lawsuits against the Facility have almost completely ceased, raises between \$2 and \$4 per hour have been ordered as an emergency measure to retain employees and attract experienced employees to the Facility, 14 new employees have been hired that, as a group, possess in excess of 200 years correctional experience, a County Corrections Advisory Committee of the Health Policy and Planning Commission has been created to address jail medical issues, St. Vincent Regional Medical Center has offered to assist the County to the extent of its ability with jail medical issues, continued progress has been made satisfying the concerns of the Department of Justice concerning medical and security issues, and members of the Corrections Advisory Committee (an advisory committee to this Board) has indicated that it is very pleased with the efforts of the Corrections Department and the progress that has been made since the new administration began work;

WHEREAS, in viewing the Sheriff's concerns, the Board agrees with the Pool Boards that separation and autonomy of corrections and law enforcement functions is important, that professional sheriffs should oversee law enforcement functions and professional detention administrators should manage detention operations, and this is the proper structure to perpetuate here in Santa Fe County;

WHEREAS, the Board therefore desires to express its confidence in present management of the Facility and of the Corrections Department, and desires to establish, in the clearest possible terms, the terms under which the Adult Detention will be operated, and the specific role of the County Sheriff in those operations.

IT IS THEREFORE RESOLVED AND ORDERED, AS FOLLOWS:

 **DRAFT**

SFC CLERK RECORDED 05/23/2007

1. The Jail Administrator of the Santa Fe County Adult Detention Facility shall have sole authority to operate the Facility on behalf of the Board of County Commissioners.

2. The Jail Administrator, and the Facility, shall remain a part of the Corrections Department.

3. All authority set forth in NMSA 1978, Chapter 33, and all authority that is necessary and proper for proper operation of a county jail, shall be and hereby is lodged in the Jail Administrator of the Santa Fe County Adult Detention Facility.

4. The County Sheriff shall have no role in the operation and management of the Santa Fe County Adult Detention Facility except to conduct investigations of criminal conduct, with which the Jail Administrator shall provide full cooperation.

5. Investigations of incidents that occur at the Facility shall be conducted according to the protocols established by the Jail Administrator, and matters that meet the criteria set forth in those protocols shall be referred to the appropriate law enforcement agency for criminal investigation and prosecution.

6. Having no authority over operation and management of the Santa Fe County Adult Detention Facility, the County Sheriff shall immediately cease the investigation that is ongoing of operations and management of the Facility.

PASSED, APPROVED AND ADOPTED this day of April, 2007.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: Virginia Vigil, Chair

ATTEST:

Valerie Espinoza, County Clerk

Approved as to Form:

Stephen C. Ross, County Attorney



SHC
CLERK RECORDED 05/23/2007

FAIR GROUNDS

April 9, 2007 Meeting

Master Plan

Master Plan was designed and approved by the Fair Board in 2003 and was brought to the BCC in 2003 for review.

Existing Development:

- Extension Office
- Livestock Barn & Pens
- Show Barn/show Pavilion
- Large Exhibit Building/Kitchen/Open Pavilion
- Small Animal Barn & Multipurpose Building
- RV Parking

Master Plan includes:

- Relocation of Extension Office/Renovate Existing Building
- Fine Arts Multipurpose Exhibit Building
- New Multipurpose Pavilion and Indoor Arena
- Restrooms Facilities Small Red Barn
- Open Pavilion Addition
- Youth Facility/Performance Pavilion
- Hook up to City Utilities
- Additional Storage Areas
- Up Grade Parking and Landscaping Areas

Funding

One of County's Top 5 priorities in 2006 (\$500,000) & 2007 (\$1.5 Million)

Grant	Expended to date	Grant Balance	Expiration
2004 \$100,000	\$45,533.52	\$54,466.48	6/30/09
2005 \$ 20,000	\$0	\$20,000	6/30/10
2006 \$300,000	\$0	\$300,000	6/30/10
2007 \$525,000	\$0	\$525,000	6/30/11
Total \$945,000	\$45,533.52	\$899,455.48	

Priorities

2004/2005 Fair Board Priorities were to hook into City Utilities, due to the fact that in the past county fairs, water and sewer had been a problem. Not completed due lack of response/time from the City of Santa Fe. Also priority was to get moving on extension office.

2005/2006 Fair Boards priority was to place additional livestock/barn stalls, also to get large pavilion, covered on west side, additional parking areas for RV's, handicap parking, base coursed parking etc. This was done for the 2006 fair.

2006/2007 Fair Boards priority was to get base course parking/ Extension Building?

La Cienega Valley Association PNM Meeting Minutes.

March 5, 2007

In attendance:

Kathleen McCloud (Bd member)
Jesusita Larranaga (resident)
Ed Sceery (resident)
Anna Murphy (resident)
Laurie Moye (PNM)
Sheri Compton (PNM)
Robert Broderick (PNM)
Tom Dominguez (PNM)
Manuel Sanchez (PNM)
Rey Romero (Bd member)
Jose Varela Lopez (VP Bd member)
JJ Gonzales (Bd member)
Mary Dixon (Bd member)
Sean Murphy (resident)
Carl Dickens (president of board)
Peter Cooke (resident)
Jonathan Polloni (resident)

Meeting opened with presentation by PNM/ Laurie Moye regarding PNM variance request. County Commissioner Anaya of the Board of County Commissioners (BCC) asked for meeting so the La Cienega Valley Association (LCVA) and PNM could discuss options on placement of new/replacement electrical lines.

Ms. Moye said existing lines couldn't support current load, system needs to be broken into 3 distinct groups. Discussion about advantages to overhead (OH) versus underground (UG) lines. PNM mission is to come up with most reasonable cost solution. OH is typically the most cost effective means of running lines. There was discussion that the lines given topography, overhead and underground are both costly.

Ms. Compton, PNM, indicated perhaps not as great a difference between the existing OH and the proposed OH.

Cost differential can be paid directly by County or the County can elect that PNM customers in County (not Santa Fe city residents) pay for the cost over a period of time (1-3 years) as determined by the PRC.

There was discussion about County Road 252 (Simons/Gonzales) and why that road won't work for running lines underground—it is not a county road. This was PNM's first UG alternative presented to the BCC.

Mr. Murphy asked if line could come off of 599 along Los Pinos? Mr. Sanchez, PNM

said it would be 3 times the cost.

Mary asked where the line will go if it goes underground, as requested by LCVA.

PNM said they hadn't discussed UG easements with any landowner yet.
Carl asked if they had considered Camino San Jose?

Mr. Sanchez, PNM, said it wouldn't serve the southwest section of lower La Cienega

Mr. Sceery asked if we as county residents were paying for anyone else in the County's rate recovery?

Ms. Moye said yes you mostly likely would be, as 2 projects had been denied by the BCC. It is a Public Regulation Commission's decision.

There was a question about cost.

Ms. Compton PNM reported it was about a \$250,000 overhead cost to rebuild 3 phases (Frontage Road across to County Road 54, Las Golondrinas) and \$650,000 if they went underground along former County Rd 252.

All existing lines that are overhead will remain OH.

Jose asked why La Cieneguilla is not served by Camel Track station

Mr. Sanchez, PNM said they are clearing the path for that and Camel Track will eventually serve as back up station.

JJ commented that overall LCVA electrical system is cross-country, with very difficult access. What is big picture for replacing lines, rather than in piecemeal fashion?

PNM indicated it was not going to happen. Who will pay for it? Poles placed on narrow roadways would mean tree removal, trimming. Lines generally placed along easements – don't know why they are where they are. Line placement was done a long time ago under agreements between the customer and PNM for line placement.

Ms. Compton said this project is not a rebuild/relocation of lines. It is a system improvement project. PNM wouldn't replace poles at the same height as existing poles. Because of the need to include Qwest lines and heavier conductor wire- wire sags thus requiring additional pole height.

PNM asked if LCVA understood that residents would be responsible for the delta, the difference regular costs and cost of going underground.

Ms. Moye said 6 projects are planned; 3 went forward to the BCC; 2 were denied and 1 is pending. 2 projects have not been filed with the County yet.

It was stressed that all single phase lines will remain (overhead) PNM is building new

backbone to get from point A. frontage road to B. County Road 54, Las Golondrinas.

Discussion about alternate underground routes/easements.

Mr. Cooke presented concerns about long-term vision for community and alternative energy.

Mr. Murphy asked what the rate hike per month would be per household

Ms. Murphy recalled about \$1000 a month

Ms. Moye, PNM, said per month it would be \$1.15 residential, \$2.09 for small power ; General Power is \$59.60, Large Power is \$530.03 and Water & Sewer is \$58.02

There was discussion about easements and type of conduit in easements.

There appeared to be some confusion among PNM representatives regarding cost and routes if two projects, this one and the Entrada projects were combined. PNM will confirm if two projects were combined in cost estimates.

Ms. Moye, PNM confirmed with the LCVA that 4 options be presented at March 13 Commission meeting with associated costs:

- 1) Build overhead as originally proposed by PNM – no cost differential
- 2) Frontage Rd to San Jose and split (underground)
- 3) Around the Horn (La Entrada to Los Pinos)
- 4) Gonzales/Simons private road. (Previously presented alternative)

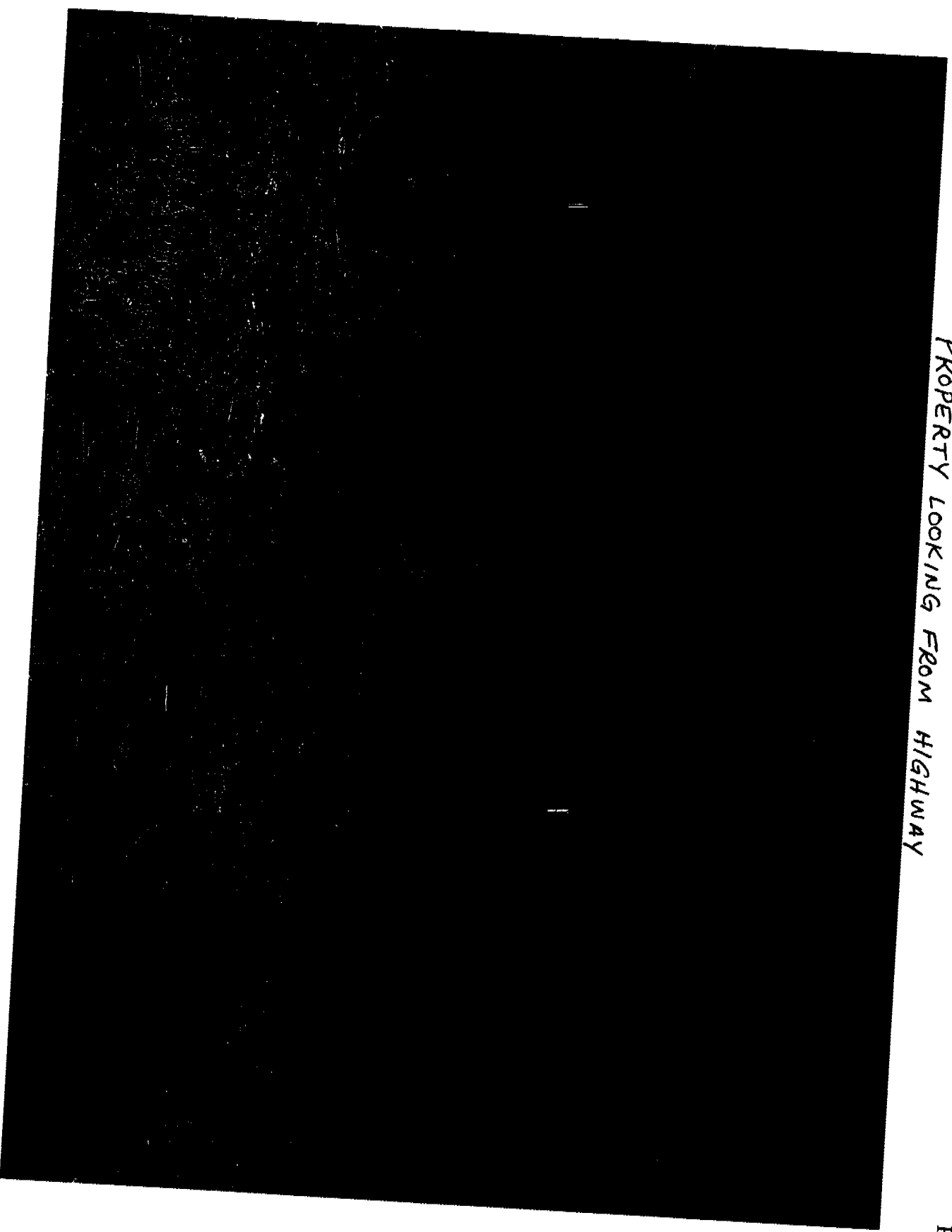
PNM will supply monthly cost estimates for each option that incurs delta.

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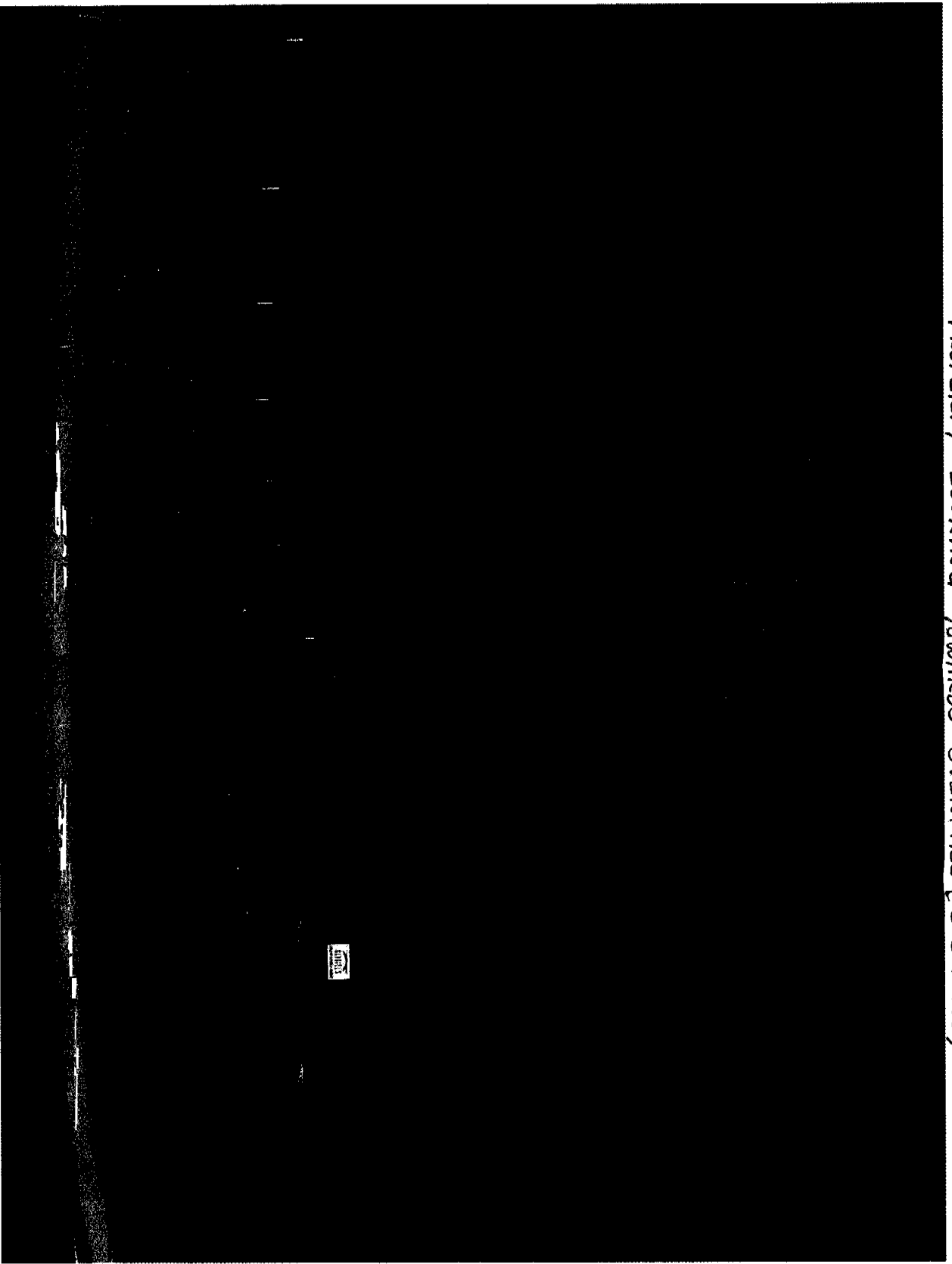


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PROPERTY LOOKING FROM HIGHWAY

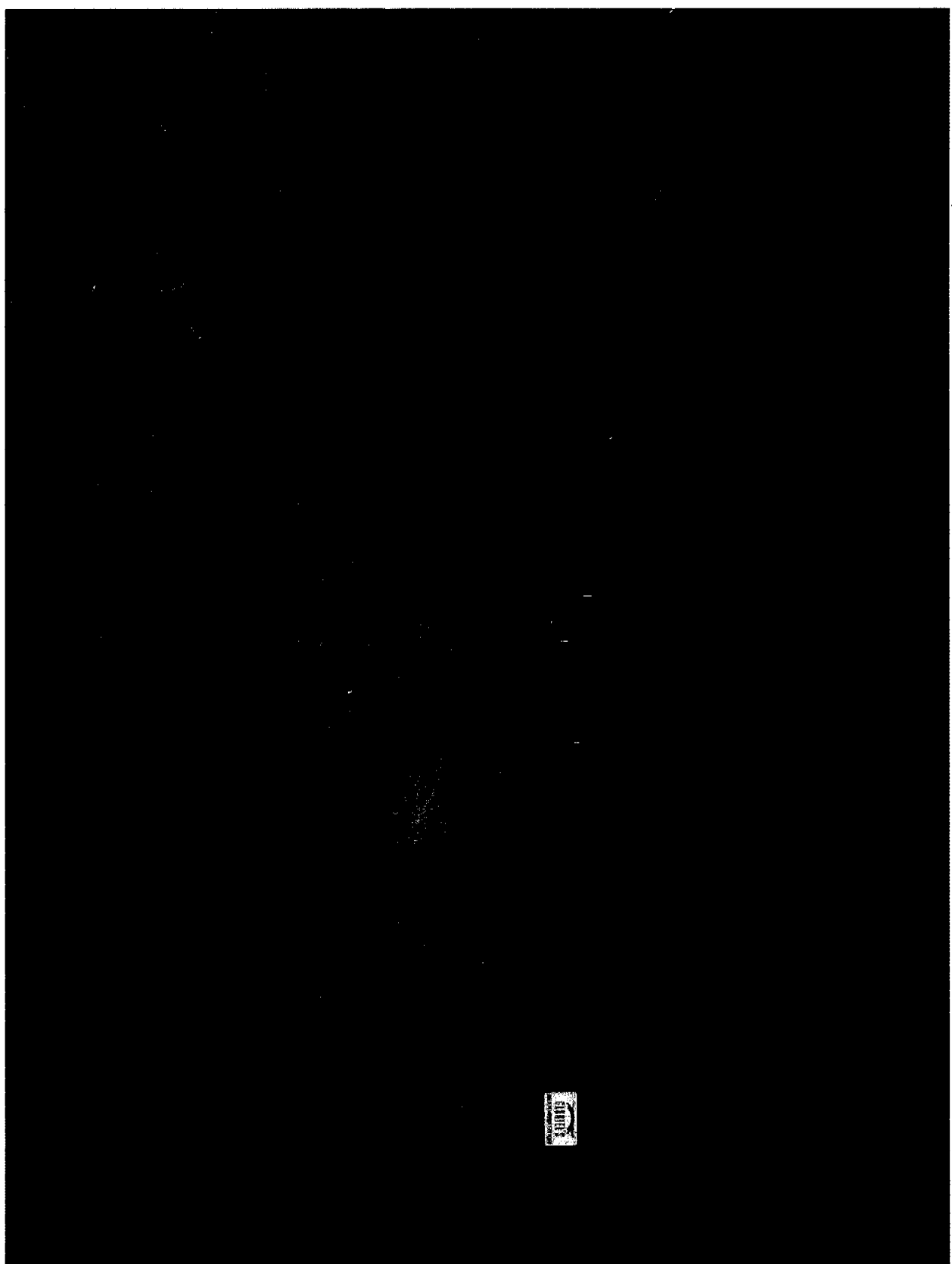


SFC CLERK RECORDED 05/23/2007
PROPERTY LOOKING TOWARDS OVERPASS (0.3 miles)



SFC CLERK RECORDED 05/23/2007

PROPERTY LOOKING SOUTH TOWARDS GALLERY & GABRIEL'S

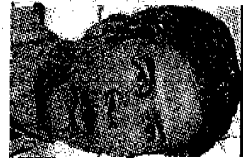


Pojoaque starts work on Buffalo Thunder

Journal Staff Report

Groundbreaking for Pojoaque Pueblo's long-planned Buffalo Thunder Resort will take place this month, Pueblo Gov. George Rivera says.

Buffalo Thunder will include a five-story hotel — the 390-room Hilton Santa Fe North — a spa and fitness facility, several restaurants, entertainment spots, meeting space and a new casino.



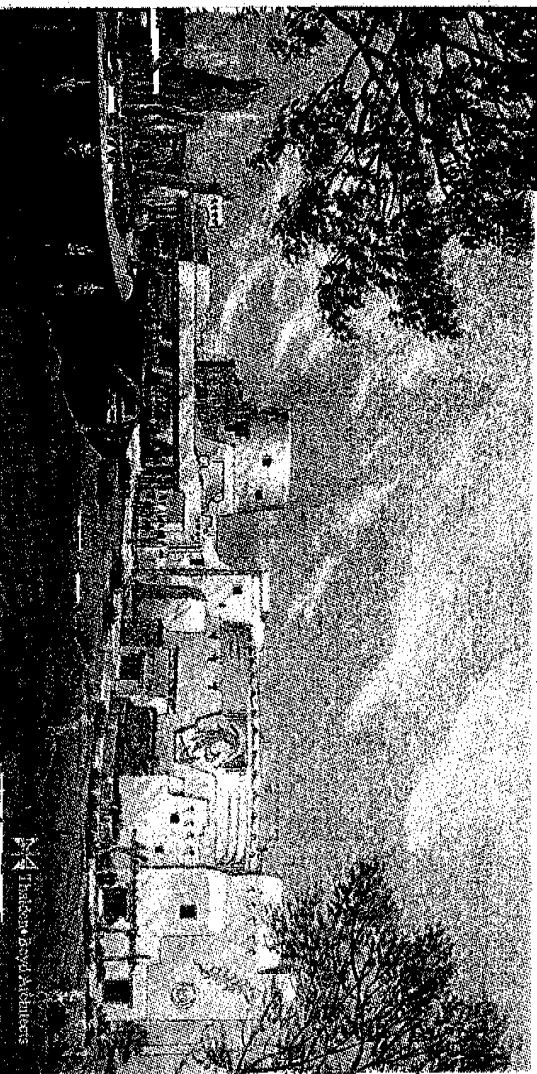
Construction is expected to be completed in the fall of 2008, the pueblo said in a news release.

"The beginning of construction is the result of years of planning and investment by the Pueblo of Pojoaque," Rivera said.

The pueblo first announced plans for the resort — with a price tag of more than \$200 million — in 2004. It will be built on a site north of Santa Fe that already includes the pueblo's golf course and Homewood Suites hotel.

David Oakeley, a spokesman for the pueblo, said getting financing for the resort was the key for the start of construction.

"It all came together," Oakeley said. "It's pretty darn



An architects' sketch shows the Buffalo Thunder resort planned at Pojoaque Pueblo. The hotel is to have 390 rooms.

COURTESY THALDEN-BOYD ARCHITECTS

exciting and it will be one of the biggest resorts in the state of New Mexico.

The pueblo took care of one possible legal obstacle to the financing last year when it reached a settlement with the state of New Mexico over casino revenue sharing.

Pojoaque had been the only casino-operating tribe in New Mexico that refused to pay the state a cut of slot machine revenues.

Pojoaque's new hotel will be by far the biggest in the Santa Fe area — the Eldorado Hotel has 219 rooms — and Oakeley said it apparently will be the biggest in New Mexico. The resort will provide competition for Santa Fe

hotels and the city's new convention center under construction downtown.

In the past, some hoteliers have said that Pojoaque's plan shouldn't hurt the hotel business in Santa Fe and could draw even more visitors to the area. But a former city convention official said the pueblo might draw meetings away from Santa Fe.

Rivera said the resort will create new jobs.

"This international destination resort will mean the addition of approximately 600 new and good-paying jobs to New Mexico," he said. "Not only will this new enterprise create jobs, it will establish careers."

The hotel and resort will be managed by the Hilton Hotels Corp.

The pueblo said the resort will include 66,000 square feet of meeting space and a ballroom to accommodate 1,200 people. There also will be a 16,000-square-foot spa, salon and exercise gym, a 12,700-square-foot retail promenade and an 8,000-square-foot children's recreation area.

The new casino will have 151,000 square feet of space, 1,200 slot machines, 25 table games, a horse and dog simulcast wagering area and a 10-table poker room.

The pueblo said there will be several restaurants, including a 350-seat buffet, a sports bar,

a dance club and a "flair bar" near the casino floor with 100 seats and an entertainment stage, along with indoor and outdoor pools, tennis courts and sand volleyball courts. There will be 1,400 parking spaces including RV and bus parking.

Architects for the project are Thalden-Boyd of Tulsa, Okla., which specializes in Indian casinos. The resort will be built "in the traditional Pueblo style," the news release said.

Centex Corp. of Dallas is contractor.

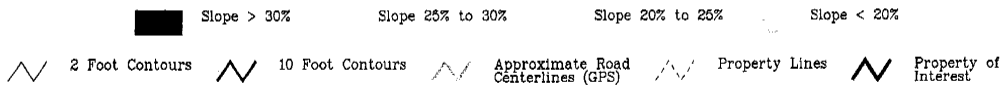
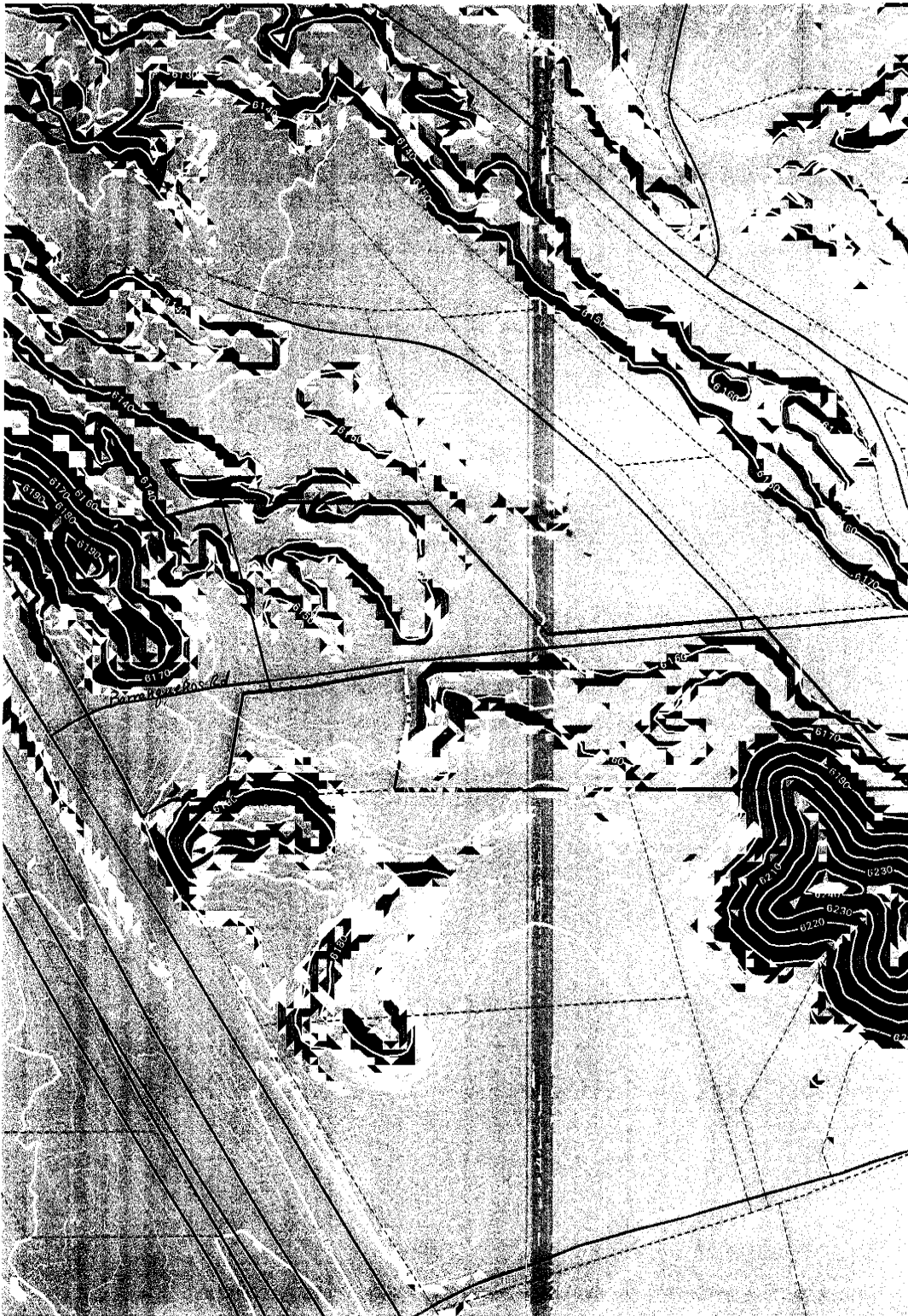
The plans also call for a wastewater treatment facility that "will have 100 percent water recycling capability," the pueblo said. The project also will harvest and purify rainwater through the use of settlement basins. The pueblo said that once the project is completed, all irrigation for its Towa Golf Course will use recycled water.

In 2004, a federal judge rejected a state request for an injunction to keep Pojoaque from using water for the resort and a second golf course, on the grounds that the pueblo was exceeding its legal water rights. The pueblo also is involved in the decades-old Aamodt lawsuit over Indian water rights in northern Santa Fe County that has been moving toward a possible settlement.

The pueblo already operates two casinos and two hotels.

Lots In Section 28 - T19N-R09E
 2 Foot Contours with Slope Analysis

SFC CLERK RECORDED 05/23/2007



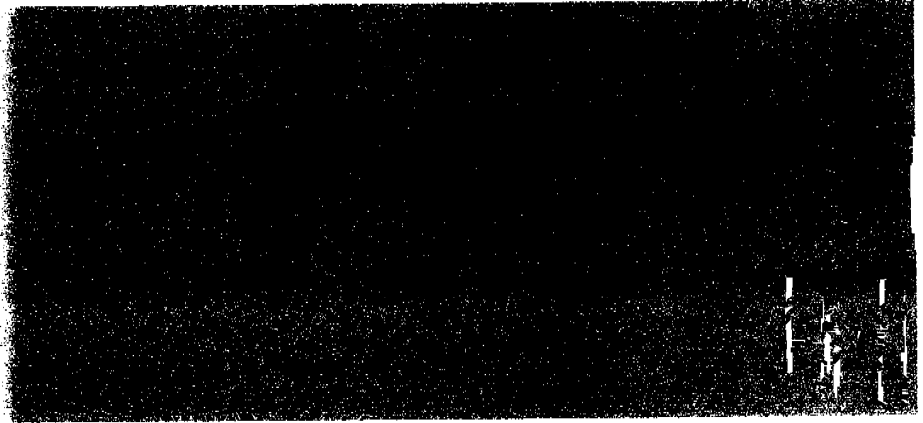
This information is for reference only.
 Santa Fe County assumes no liability for
 errors associated with the use of these data.
 Users are solely responsible for
 confirming data accuracy.

WARNING:
 Two (2) foot contour data sets are
 NOT SUITABLE FOR ENGINEERING WORK.
 These data are appropriate for
 PLANNING PURPOSES ONLY.

Scale 1:1200

1 inch represents 100 feet

March 29, 2006



**DEMOGRAPHIC AND ECONOMIC PROFILE
OF THE GREATER POJUAQUE VALLEY
1990-2010**

PREPARED FOR
County of Santa Fe
Land Use Planning Division
Jack Kolkmeier, Director

09/01/2006

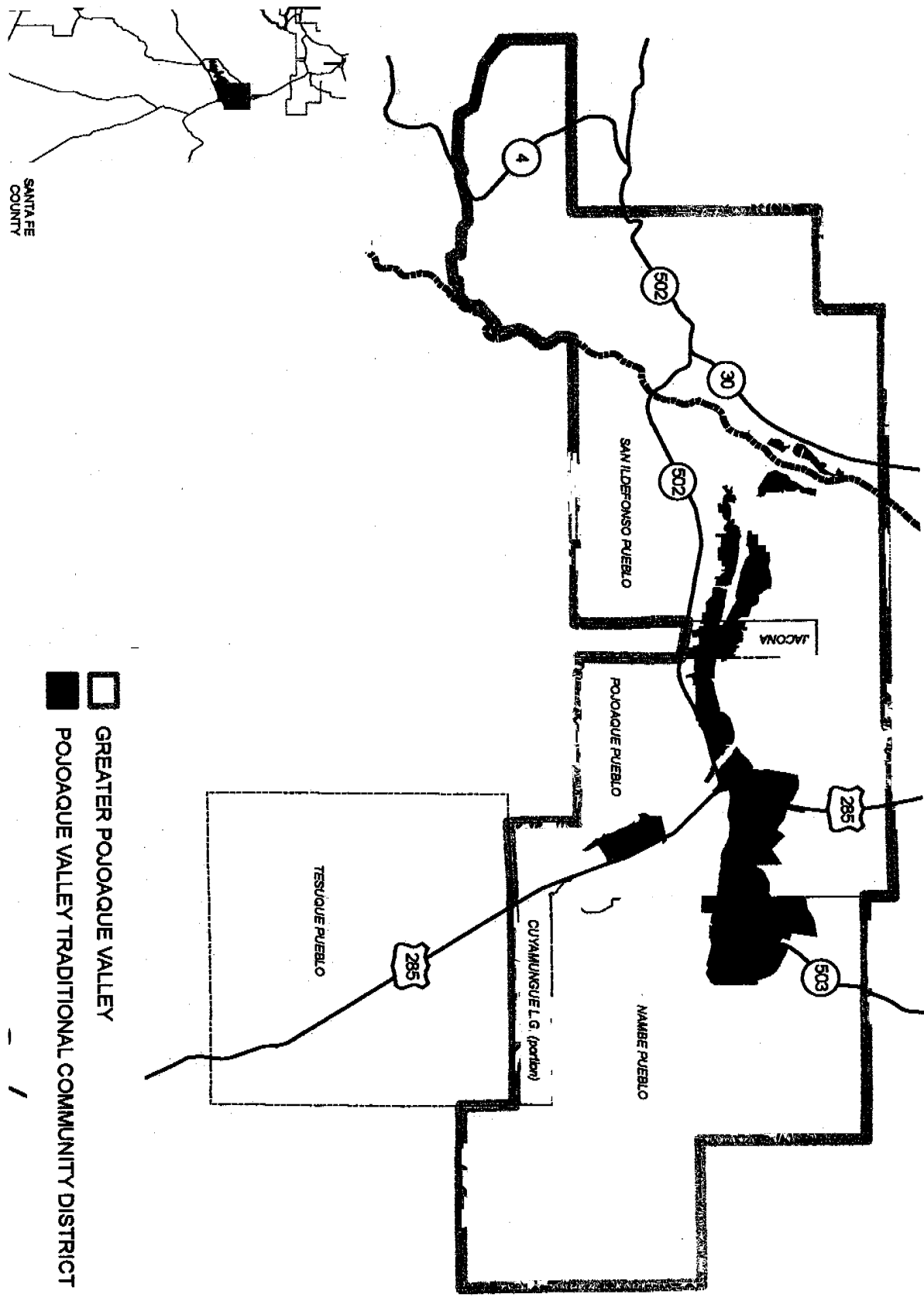
AL PITTS, Demographer and Economist

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GREATER POJOAQUE VALLEY

CONTEXT MAP



-  GREATER POJOAQUE VALLEY
-  POJOAQUE VALLEY TRADITIONAL COMMUNITY DISTRICT

SANTA FE COUNTY

DEMOGRAPHIC AND ECONOMIC PROFILE OF THE GREATER POJOAQUE VALLEY, 1990-2010

EXECUTIVE SUMMARY

The Greater Pojoaque Valley comprises 64,850 acres of northern Santa Fe County. The Valley is jointly administered by the County of Santa Fe and the tribal councils of three local Pueblos: Pojoaque Pueblo, Nambé Pueblo, and San Ildefonso Pueblo. Tribally-controlled lands occupy 88% of the Valley's landscape. Non-tribally owned lands -- including the currently proposed Pojoaque Valley Traditional Community District and a portion of the Cuyamungue Land Grant -- occupy the remainder.

EXISTING CONDITIONS

At present (2005), the Valley has a population of approximately 7200 persons, of whom 5000 reside on non-tribal lands (almost all in the proposed District). It hosts 2800 households (2000 in the District), and 3100 housing units (2200 in the District).

Noteworthy characteristics of the Valley's population include:

- As compared to the rest of the County, the population is more Hispanic and native American in character (59% and 19%, as compared to rural County averages of 50% and 4%);
- The Valley hosts relatively more elderly (age 65+) persons;
- Net in-migration into the Valley has been less than elsewhere in the County; in 2000, 71% of the population lived in the same homes they lived in 1995 (versus 59% in the rural County);
- Valley residents are less well educated, and have lower incomes, than the County norm;
- Valley residents are highly reliant on employment at Los Alamos, less dependent on the City of Santa Fe; 28% work in Los Alamos, 39% in the City (as compared to averages of 9% and 53%, in the rural County as a whole);
- The proportion of mobile homes (25% of all housing) is slightly lower than the rural County average; vacation homes are few.

Valley employment numbers 1300 jobs. 28% of the Valley's jobs are located in the District; 72%, outside the District (almost entirely on tribal lands). A large majority of the Valley's employees (952) work in the area's public schools, other government services, and the Valley's resort, recreation, and lodging complex.

The Valley's jobs-to-population ratio approximately equals the rural County norm of 17 local jobs per 100 local residents.

However, local service employment is very low. For New Mexico communities of similar size, private-sector workers who provide retail goods and consumer services to the local population typically average 18 employed workers per 100 local residents. The Valley average is 3.

DEVELOPMENT TRENDS

Population and housing growth in the Valley has been slower than the rural County average. Growth on non-tribal lands has been declining; growth on tribal lands (mostly, within Pojoaque Pueblo) has been increasing. On balance, the increase in tribal-lands growth has offset recently declining growth on non-tribal lands.

Annual population growth in the County (outside the City) averaged 4.5% during the Nineties, but since 1997 has dropped to an average of 2.2% per year. In contrast, the Valley as a whole has been growing at a fairly constant 1.3-1.5% since at least 1990.

During the last five years, net housing growth within the Valley has been relatively stable, averaging approximately 51 units per year.

- 43% of this growth -- 22 units annually -- occurred on non-tribal lands
- 43% (22 units), on tribal lands within Pojoaque Pueblo;
- 14% (7 units), on tribal lands within Nambe and San Ildefonso Pueblos.

One consequence of the Valley's stability and the County's declining growth is that the Valley now accounts for a larger share of County growth than has been the case in the recent past. Among major subregions of Santa Fe County (outside the City) during 2000-2003, annual net housing growth in the Valley ranked fourth, surpassed only by:

- Santa Fe Community College District (123 units/year)
- Tres Arroyos/West Las Campanas (74 units)
- Eldorado (72 units)

In addition, the Valley -- despite its low rate of historic and recent growth -- has now grown to a size equal to many established, self-sufficient, and incorporated New Mexico communities. For example, the Valley's current population (7200) is comparable to those of Aztec (6900), Belen (7100), Bernalillo (7500), Raton (6900), Truth or Consequences (7200), Taos (4800).

Finally, review of development plans currently under consideration in the region indicates that through 2010, population and housing growth in the Valley will remain generally stable at current levels.

DEMOGRAPHIC AND ECONOMIC PROFILE OF THE GREATER POJOAQUE VALLEY, 1990-2010

INTRODUCTION

OVERVIEW

This report presents demographic and economic estimates for the Pojoaque Valley region of northern Santa Fe County and for a proposed Pojoaque Valley Traditional Community Planning District. Comparative figures are provided for the City of Santa Fe, Santa Fe County outside the City, and the County as a whole. Because Pojoaque Pueblo hosts the bulk of economic activity within the Valley, data are also provided for Pojoaque Pueblo.

Five broad classes of statistical indicators are reported in the pages that follow:

- Benchmark demographic statistics for years 1990 and 2000 (population, housing, and household characteristics);
- Benchmark social and economic statistics for 2000 (employment, income, education, journey to work);
- Annual population, housing, and household estimates for years 2001-2005;
- Employment (jobs) estimates for Year 2005;
- Annual population, housing, and household projections for years 2006-2010.

The benchmark demographic estimates of this report derive from U.S. Census Bureau data files, tabulated at the Census Block level. Year 2000 socioeconomic estimates were tabulated from tract-level Census files. In carrying out this study, all housing and population estimates prepared for 1990-2005 were verified against high-resolution aerial photography of the Valley region.

Employment statistics for 2005 were obtained from ESRI Business Information Solutions (ESRIBIS), a national provider of economic statistics to corporate and government users.

The demographic estimates and projections reported for 2001-2010 were prepared by this author, using data inputs and calibration methods conventionally employed by the Santa Fe County Land Use Planning Division and the Santa Fe City/County Regional Planning Authority. Population

and housing statistics for non-tribal lands within the Valley derive principally from building permit data provided by the County's Land Use Department. Statistics on home construction and non-residential development on tribally-owned land within Pojoaque Pueblo were graciously provided by the Pueblo of Pojoaque Enterprise Corporation.

GEOGRAPHIC CONSIDERATIONS

An accompanying context map generally describes the geographic region encompassed by this report.

As defined for this study, the "Greater Pojoaque Valley" includes (a) all land located within the Federally-defined reservation boundaries of Nambe, Pojoaque and San Ildefonso Pueblos, plus (b) that portion of the Jacona Land Grant which lies north of State Highway 502, plus (c) that portion of the Cuyamungue Land Grant which lies outside Pueblo boundaries.

So defined, the Valley extends across 101.3 square miles (64,850 acres), accounting for 5.3% of the County total.

The "Pojoaque Valley Traditional Community District" (see attached context map) lies entirely within the Valley and contains all land currently proposed by Santa Fe County for inclusion in a new Community Planning District. The District occupies 7.4 square miles (approximately 4700 acres) of land. Although the District occupies only 5% of the Valley's geography, it currently contains 69% of the Valley's population and 28% of its current employment.

Jurisdictionally, land use planning and regulatory authority within the District (as well as the non-Pueblo portions of the Jacona and Cuyamungue land grants) resides exclusively with Santa Fe County. Regulatory authority for development of lands contained within each Pueblo's boundaries, but outside the proposed District, is vested in each of the three respective Pueblo councils.

**DEMOGRAPHIC AND ECONOMIC PROFILE
OF THE GREATER POJOAQUE VALLEY, 1990-2010**

PRINCIPAL FINDINGS

EXISTING CONDITIONS

CURRENT POPULATION, HOUSEHOLDS, AND HOUSING

In 2005, approximately 7200 persons inhabited the Greater Pojoaque Valley. Of this number, 5000 reside in the Traditional Community District 900, on tribally owned lands within Pojoaque Pueblo 1100, on tribally owned lands within Nambu and San Ildefonso Pueblos 200, in the non-pueblo portion of the Cuyamungue Land Grant

The Valley contains approximately 3100 homes (2175 of which are located in the Community District). Valley households number 2800 (of which 2000 inhabit the Community District). At present, Valley residents account for 9.6% of Santa Fe County's estimated "rural" population (i.e., County residents who live outside the City of Santa Fe).

CURRENT EMPLOYMENT

In 2005, the Valley hosted an estimated 1282 jobs. Approximately 28% (360 jobs) of the Valley's employment is located in the Community District.

The Valley's jobs-to-population ratio (18 jobs per 100 residents) is virtually identical to the rural County average. However, the Valley's jobs are disproportionately concentrated in educational and other government services and in the lodgings/entertainment/recreation industries. These activities account for 74.3% of the Valley's employment.

Principal employers within the Valley are the Valley's resort complex and the Pojoaque high school and elementary school. Together, they account for approximately 840 of the Valley's employees. Government employment accounts for another 112 jobs; retail establishments, 104.

POPULATION CHARACTERISTICS (Year 2000)

Summary

As compared to the rural County average, the Valley's residents

- Are older;
- Are significantly more Hispanic and Native American in character;
- Are more likely to live alone;
- Live in smaller families;
- Are slightly more likely to own their own homes;
- Have significantly lower household incomes;
- Are less well educated.

Age Distribution. Valley residents have almost the same median age as other rural County residents. Elderly persons are relatively more numerous. In addition, persons who live in the Community District tend to be older than those who live elsewhere in the Valley:

	DISTRICT	VALLEY	COUNTY
Median Age (years)	38.8	36.5	36.3
Persons Age 17 and younger (% of pop.)	25.6	27.2	27.5
Persons Age 65 and older (% of pop.)	12.6	10.9	7.8

Ethnicity. The Valley contains a proportionately larger Hispanic and Native American population than is the case generally in the rural County. Most of the Valley's Hispanic population resides within the District; most of its Native Americans, outside the District.

	DISTRICT	VALLEY	COUNTY
Hispanic persons (% of population)	66.8	59.0	50.2
Native Americans (% of population)	6.6	18.8	3.9

Living Arrangements. In the both the Valley and District, the proportion of persons living in family households is comparable to the rural County average. Persons living alone are more common in the Valley than in the County (excluding the City).

	DISTRICT	VALLEY	COUNTY
Persons living in families (% of pop.)	86.3	86.5	85.0
Persons living alone (% of pop.)	9.6	9.1	8.0
Other (*) (% of pop.)	4.1	4.4	7.0

(*) Persons living in multi-person households consisting entirely of un-related individuals

Family Size. In the both the Valley and District, average family size is somewhat less than the rural County norm:

Traditional Community District	3.1 persons
Greater Pojoaque Valley	3.1
Santa Fe County (excl. City of Santa Fe)	3.2

Home Ownership. The fraction of District households who reside in owner-occupied housing (81.9%) is slightly higher than the County (x-city) average of 80.0%. Although the Valley average stood at 79.8% in Year 2000, the home ownership ratio for the Valley as a whole is likely somewhat lower today, due to recent apartment construction on Pojoaque Pueblo lands.

Household Income. In 1999, average household income in the Valley was nearly 23% less than the rural County average (\$34,132 for the Valley, versus \$44,205 in the rural County). 28.3% of Valley households had incomes of less than \$20,000, as compared to 19.8% of rural County households.

Education. Valley residents are less well-educated than most County residents. Among Valley residents age 25 years and older, 18.5% had not completed high school, as compared to the 15.6% rural County average. Similarly, 23.7% of Valley residents had completed a college degree, versus 33.9% of rural County residents.

HOUSING CHARACTERISTICS (Year 2000)

Summary

As compared to the rural County average, the Valley's housing stock in Year 2000 had

- A larger fraction of housing units awaiting lease or sale;
- A smaller fraction of vacation homes;
- A larger fraction of conventional single family housing;
- A smaller fraction of mobile homes;
- A slightly larger fraction of multi-family units;
- A somewhat higher home ownership ratio.

Occupancy Status. "Vacation" (seasonal/recreational) homes comprise a noticeably smaller fraction of the Valley's housing stock than elsewhere in the County. Vacant units awaiting sale or lease were somewhat more common.

	DISTRICT	VALLEY	COUNTY
Occupied Units (% of all units)	92.0	92.2	91.7
Seasonal or Recreational Units (%)	1.6	1.8	2.7
Other (mainly, units awaiting lease/sale) (%)	6.4	6.0	5.6

Type of Construction. Conventional detached single-family homes accounted for a somewhat larger fraction of the Valley's housing stock in Year 2000 than the County at large (outside the City of Santa Fe). Mobile homes were somewhat less common.

	VALLEY	COUNTY
Conventional Single-Family (% of all units)	67.4	64.4
Mobile Homes (% of all units)	25.4	28.9
Multi-Family Housing (% of all units)	7.2	6.7

Home Ownership. In the District, the fraction of owner-occupied housing (81.9% of all occupied units) is higher than the County (x-city) average of 80.0%. Although the Valley average stood at 79.8% in Year 2000, the home ownership ratio for the Valley as a whole is likely somewhat lower today, due to recent apartment construction on Pojoaque Pueblo lands.

LABOR FORCE CHARACTERISTICS (Year 2000)

Summary

As compared to the rural County average,

- Labor force participation (persons employed or seeking work) was lower;
- Unemployment was modestly less;
- Valley residents were dramatically more dependent for employment on Los Alamos National Laboratory;
- Valley residents were dramatically less dependent on employment by City of Santa Fe employers;
- Valley residents were more likely to be employed in construction, arts/entertainment/recreation, and lodgings and food services;
- Valley residents not employed in Los Alamos were significantly less likely to be engaged in retail trades, professional services, and public administration;
- Valley residents were less likely to work at home;
- Among those who commute to work, average one-way travel time (28.2 minutes) is comparable to the rural County average.

Labor Force Participation. In Year 2000, the Valley had a resident labor force (including both employed and unemployed workers) of 3137 persons. As a fraction of residents age 16 and older, the Valley's labor force participation rate of 62.4% was less than the rural County's 67%.

Unemployment. At 4.6%, the Valley's unemployment rate was somewhat less than the County's X-City average of 4.9%. Remarkably, unemployment within Pojoaque Pueblo as a whole (including portions of the Pueblo located in the District) stood at 2.4%, whereas Valley unemployment outside Pojoaque Pueblo measured 6.3%.

Place of Work. Valley residents are highly dependent on employment at Los Alamos National Laboratory. Fully a quarter of the Valley's work force was employed in Los Alamos County, as compared to 8.5% of employed workers in rural Santa Fe County. On the other hand, only 38.9% of the Valley's employed labor force worked in the City of Santa Fe, as compared to the rural County's average of 52.5%.

Industry of Employment. Leaving aside those employed in Los Alamos County, the Valley's residents were significantly more likely than the County's rural residents to be employed in

- Construction (15% of the Valley's employed workers, versus 10.8% of rural County workers)
- Arts, entertainment and recreation (9.1% versus 4.5%)
- Accommodations and food services (8.2% versus 6.7%)

Correspondingly, they were noticeably less likely to be employed in

- Retail trade (8.2% versus 12.4%)
- Professional, administrative, and waste management services (1.8% versus 7.7%)
- Public administration (4.7% versus 8.7%)

Journey to Work. The proportion of Valley residents who work at home was significantly lower than the County's rural average (3.9% versus 7.5%). Among those who travel to work, one-way travel time averages 28.2 minutes, as compared to the County's rural average of 29.6 minutes.

DEMOGRAPHIC TRENDS (1990-2010)

SUMMARY

- During the Nineties, the Valley's population grew at an average annual rate of 1.5%, only a third of the rural County's average. Housing growth averaged 41 units a year (4% of the rural County's average total).
- Net in-migration accounted for much less of the Valley's growth than was the case in the rest of the County.
- Housing growth in the District and on non-tribal portions of the Cuyamungue Land Grant accounted for an average of 32 units per year; tribal lands, 9 units/year.
- Since 2000, housing growth in the Valley has risen to an average of 51 units per year and currently accounts for approximately 7.5% of all County growth outside the City of Santa Fe.
- Population and housing growth within the District has slowed. Growth on tribal lands within Nambe and San Ildefonso Pueblos appears to be holding constant at the low levels of the Nineties. Growth within Pojoaque Pueblo has increased.
- Housing growth in the District is currently averaging 22 units per year (versus approximately 31 units during the Nineties). Population growth has averaged 0.76% per year -- very close to the "natural" (births minus death) growth rate. Net in-migration has been negligible.
- Current housing growth on tribal lands in Nambe and San Ildefonso Pueblos appears to be holding steady at the 7 units per year experienced during the Nineties. Population growth has been averaging 1.3% annually.
- Housing growth on tribal land in Pojoaque Pueblo is averaging 22 units per year, versus 2.7 units during the Nineties. Population growth is averaging 5.1% per year.
- In sum, the Valley has recently been expanding at an average rate of 51 housing units per year (versus 41 units during the Nineties). 43% of the Valley's residential growth is occurring on non-tribal lands (almost all within the District); 43% on tribal land within Pojoaque Pueblo; 14% on tribal lands in Nambe and San Ildefonso Pueblos.

- Review of development plans under consideration for this region indicates that, during the next five years, population and housing growth will remain slow and steady. For the period 2006-2010, annual home construction is projected to rise by 2 additional units per year, to an average of 53 units per year for the Valley as a whole.

BACKGROUND

During the period 1990-2000, population growth in Santa Fe County was considerably higher than it is at present. For the County as a whole, annual population growth averaged 2.7%. Annual growth in the City of Santa Fe averaged approximately 1.1%; growth outside the City, 4.6%. Most of this growth was fueled by heavy in-migration. Only 30.5% of the County's growth was the consequence of natural growth (birth minus deaths). The remainder was entirely due to net in-migration from outside the County.

These averages, however, mask a significant decline in growth that began in 1996-1997. During those years, the County's growth rate dropped suddenly to 1.3% and has since been averaging 1.7% per year.

The principal cause of this decline was a sharp drop in net in-migration. In recent years, net in-migration has accounted for 40-65% of the County's growth, as compared to 60-85% prior to 1997. Most of the post-1995 decline occurred outside the City: from 1990 to date, the City's annual growth rate has generally held steady at approximately 1%.

Another factor in County growth trends has been a significant decline in household size, affecting almost all subregions of the County. As a result, the rate of housing growth has been consistently higher than the rate of population growth. (A decline in household size implies that it takes proportionately more homes to accommodate a given increase in population). During 1990-2000, the County's housing stock rose an average of 3.4% per year. Population grew at a lesser rate of 2.7% annually.

THE VALLEY

In contrast, population trends in the Valley have been much more stable, and population growth much less rapid, than in the County at large. Between 1990 and 2000, the Valley's population grew at an average annual rate of 1.4% (less than a third the rate of rural Santa Fe County). Housing growth averaged 1.6% per year. Moreover, the Valley's rate of growth appears (from Census 2000 statistics) to have remained relatively constant throughout the Nineties.

Net-in migration has also played a much smaller role in the Valley's growth. Among Year 2000 residents of the Valley, only 14.5% lived outside the County in 1995 (as compared to 23.3% in Santa Fe County generally, excluding the City).

During the Nineties, the Valley added an average of 41.4 housing units per year (approximately 4% of the rural County total). Of the Valley's annual average, the

Traditional Community District accounted for	30.6 units (74%)
Pojoaque Pueblo, tribally owned land:	2.7 units (7%)
Nambe Pueblo, tribally owned land:	4.6 units (11%)
San Ildefonso Pueblo, tribally owned land:	2.2 units (5%)
Cuyamungue Land Grant, non-Pueblo portion:	1.3 units (3%)

Since 1997, the annual building permit count for non-tribal lands (including the District) has dropped to an average of 22 units. Inspection of aerial photography suggests that housing growth on tribal lands in Nambe and San Ildefonso Pueblos together has remained roughly constant at its 1990-2000 level of 7 units per year.

If so, population growth in these areas is currently occurring at close to the "natural" (births minus deaths) level of 0.8% per year. Net in-migration appears to be virtually non-existent.

In contrast, housing growth on tribal land within Pojoaque Pueblo has increased to an average of 22 units per year during the period 2000-2005 (versus 3 units during the Nineties).

Thus, the decline in home construction outside Pojoaque Pueblo has been more than offset by an increase in Pueblo construction.

As for future growth, review of development plans currently under consideration by the Pueblo indicate that this pace of home is likely to continue through 2010.

Growth elsewhere in the Valley can similarly be expected to remain steady at current levels during the next five years.

The Author

Mr. Pitts is a private statistical consultant, specializing in population, land use, and traffic estimates and projections.

In his long-time capacity as demographic and County roads consultant to the Santa Fe County Land Use Planning Division, he prepared the population, housing, and employment estimates that support the Santa Fe Community College District Plan (1999-2002), the College District Fiscal Impact Study (2003) and the Santa Fe Regional Future Land Use and Growth Management Plan (2003). In 1997-99, he was principal author of the Santa Fe Urban and Extraterritorial Future Roads Plan and since then has continued to serve as co-developer of the Santa Fe Regional Transportation Model.

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**DEMOGRAPHIC AND ECONOMIC PROFILE
OF THE GREATER POJOAQUE VALLEY, 1990-2010**

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**DEMOGRAPHIC AND ECONOMIC PROFILE
OF THE GREATER POJOAQUE VALLEY, 1990-2010**

SUMMARY

INDICATOR	YEAR	POJOAQUE COMMUNITY DISTRICT	GREATER POJOAQUE VALLEY	SANTA FE COUNTY (%CHT)
POPULATION				
Persons (April)	1990	4,132	5,816	43,089
Persons (July)	2000	4,786	6,756	67,424
Persons (July, estimated)	2005	4,972	7,217	75,191
Persons (July, projected)	2010	5,185	7,756	83,832
Average annual growth (percent)	1990-2000	1.4	1.5	4.5
	2000-2005	0.8	1.3	2.2
	2005-2010	0.8	1.5	2.2
Median Age (years)	2000	38.8	36.5	36.3
Population Characteristics (percent)				
Persons 0-17 years of age	2000	25.6	27.4	27.5
Persons 65 years of age and older		12.6	10.9	7.8
Hispanic persons		66.8	59.0	50.2
Native American persons		6.6	18.8	3.9
Persons living in households		100.0	100.0	98.7
Persons living in families (% of persons in households)		86.3	86.5	85.0
Persons living alone (% of persons in households)		9.6	9.1	8.0
Persons who lived in a different house in 1985		29.0	29.0	41.3
Persons who lived in a different house in 1995		14.5	14.5	23.3
Persons who lived outside of Santa Fe County in 1985		7.7	7.7	14.6
Persons who did not complete high school (*)		18.5	18.5	15.6
Persons who completed a college degree (*)		23.7	23.7	33.9
HOUSEHOLDS*				
Number of households (April)	1990	1,570	2,130	15,051
Number of households (July)	2000	1,906	2,617	25,042
Number of households (July, estimated)	2005	2,003	2,829	28,471
Number of households (July, projected)	2010	2,105	3,076	32,256
Household Characteristics				
Average household size (persons)	2000	2.5	2.6	2.7
Average family size (persons)		3.1	3.1	3.2
Family households (% of all households)		71.0	71.4	71.5
Single-person and other non-family households (%)		29.0	28.6	28.5
Households living in owner-occupied housing (%)		81.9	79.8	80.0
Households with income less than \$20,000 (%)		28.3	28.3	19.8
Median household income		\$34,132	\$44,205	\$44,205
HOUSING				
Housing units (April)	1990	1,755	2,405	16,783
Housing units (July)	2000	2,067	2,845	27,188
Housing units (July, estimated)	2005	2,173	3,076	31,037
Housing units (July, projected)	2010	2,283	3,346	35,151
HOUSING				
Average annual growth (housing units)	1990-2000	31	41	1,013
	2000-2005	22	51	774
	2005-2010	22	53	823
Housing Characteristics (% of total units)				
Occupied housing units	2000	92.0	92.2	91.7
Vacant housing units		8.0	7.8	8.3
Recreational/seasonal units		1.6	1.8	2.7
Owner-occupied units (% of occupied units)		81.9	79.8	80.0
Conventional detached single-family homes			67.4	64.4
Mobile homes			25.4	28.9
Multi-family housing units			7.2	6.7
EMPLOYMENT				
Employed persons	2005	360	1,282	13,072
Percent employed in:				
Construction		1.1	0.7	7.9
Manufacturing, transport, communications, utilities		1.4	3.6	5.6
Retail trade		9.4	8.1	22.9
Entertainment, recreation, accommodations		47.9	45.0	13.9
Educational services		5.8	20.7	10.9
Government		11.9	8.7	12.6
All other		22.5	13.2	26.2
RESIDENT LABOR FORCE (age 18 and older)				
Resident labor force (persons)	2000		3,137	34,203
Employed persons in labor force (persons)			2,993	32,540
Unemployment rate (percent)			4.6	4.9
Percent of employed residents who work in				
City of Santa Fe			38.9	52.5
Remainder of Santa Fe County			25.3	21.3
Los Alamos County			28.1	8.5
Elsewhere			7.7	17.7
JOURNEY TO WORK				
Employed persons who work at home	2000		117	2,437
Employed persons who commute to work			2,876	30,103
Commuters (% of employed persons)			95.1	92.5
Median one-way travel time to work (minutes)			28.6	24.4
Percent of commuters who travel by:				
One-passenger private vehicle			74.9	76.0
Carpool			19.7	20.0
Public transportation			0.3	0.3
Other means (e.g., bicycle, walked, motorcycle)			5.1	3.7

01. POPULATION, HOUSEHOLD, AND HOUSING GROWTH, 1990-2010

PRINCIPAL ASSUMPTIONS

COUNTY-ADMINISTERED LANDS (Pojoaque Valley Traditional Community District and a portion of the Cuyamungue Land Grant)

HOUSING OCCUPANCY After 1996, occupied units as a pct of all housing units remains constant at the Census2000-enumerated level.
AVERAGE HOUSEHOLD SIZE After 1996, household size declines at half the average annual rate experienced during 1990-2000.
HOUSING GROWTH After 2003, unit housing growth remains constant at the average annual rate experienced during 1999-2003.

PUEBLO-ADMINISTERED LANDS (All Pueblo lands located outside the Pojoaque Valley Traditional Community District)

HOUSING OCCUPANCY After 2000, occupied units as a pct of all housing units remains constant at the Census2000-enumerated level.
AVERAGE HOUSEHOLD SIZE After 2000, household size declines at half the average annual rate experienced during 1990-2000.
HOUSING GROWTH Beginning in 2000, unit housing growth in Namba and San Ildefonso Pueblos remains constant at the average annual rate experienced by each during 1990-2000.

Beginning in 2007, annual housing growth on tribally-owned land within Pojoaque Pueblo remains constant at 24 units per year, consistent with residential construction plans under consideration by the Pueblo of Pojoaque Enterprise Corporation as of August 2006.

POPULATION	GREATER POJOAQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	POJOAQUE PUEBLO TRIBAL LANDS	NAMBE PUEBLO TRIBAL LANDS	SAN ILDEFONSO PUEBLO TRIBAL LANDS	CUYAMUNGUE LAND GRANT (NON-TRIBAL) (*)
YEAR (July 1)						
1990 (April, Census)	5,816	4,132	860	423	408	203
2000 (April, Census)	6,895	4,771	858	531	520	215
2000 (July)	6,756	4,766	898	533	524	215
2001	6,906	4,818	800	544	528	216
2002	6,993	4,852	842	552	530	217
2003	7,074	4,893	864	562	534	221
2004 (Projected)	7,128	4,934	881	572	538	222
2005 (Projected)	7,217	4,972	896	583	543	223
2006 (Projected)	7,333	5,013	959	593	547	221
2007 (Projected)	7,431	5,051	1,008	600	549	223
2008 (Projected)	7,540	5,088	1,065	610	553	224
2009 (Projected)	7,649	5,128	1,121	620	557	225
2010 (Projected)	7,756	5,165	1,174	630	561	226
AVERAGE ANNUAL GROWTH (%)						
1990-2000	1.47	1.44	0.70	2.28	2.47	0.56
2000-2005	1.33	0.77	5.12	1.81	0.71	0.73
2005-2010 (Projected)	1.46	0.76	5.55	1.56	0.65	0.27

(*) Portion not located within Pueblo boundaries.

04. POPULATION, HOUSEHOLD, AND HOUSING GROWTH, 1990-2010
(continued)

HOUSING UNITS	GREATER POJOAQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	POJOAQUE PUEBLO TRIBAL LANDS	NAMBE PUEBLO TRIBAL LANDS	SAN ILDEFONSO PUEBLO TRIBAL LANDS	CUYAMUNGUE LAND GRANT (NON-TRIBAL) (*)
1990 (April, Census)	2,405	1,795	228	166	173	83
2000 (April, Census)	2,821	2,061	265	214	195	96
2000 (July)	2,845	2,067	271	215	196	96
2001	2,912	2,086	311	220	198	97
2002	2,957	2,105	329	225	200	98
2003	2,999	2,128	339	230	202	100
2004 (Projected)	3,030	2,151	359	235	204	101
2005 (Projected)	3,075	2,173	365	240	206	102
2006 (Projected)	3,132	2,195	381	245	208	103
2007 (Projected)	3,184	2,217	403	250	210	104
2008 (Projected)	3,238	2,239	427	255	212	105
2009 (Projected)	3,292	2,261	451	260	214	106
2010 (Projected)	3,346	2,283	475	265	216	107
AVERAGE ANNUAL GROWTH (%)						
1990-2000	1.65	1.81	1.70	2.56	1.23	1.43
2000-2005	1.57	1.01	5.55	2.22	1.00	1.22
2005-2010 (Projected)	1.70	0.99	6.00	2.00	0.95	0.96

HOUSEHOLDS	GREATER POJOAQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	POJOAQUE PUEBLO TRIBAL LANDS	NAMBE PUEBLO TRIBAL LANDS	SAN ILDEFONSO PUEBLO TRIBAL LANDS	CUYAMUNGUE LAND GRANT (NON-TRIBAL) (*)
1990 (April, Census)	2,130	1,570	209	149	128	74
2000 (April, Census)	2,595	1,900	230	204	173	88
2000 (July)	2,617	1,906	244	205	174	88
2001	2,679	1,923	281	210	176	89
2002	2,719	1,941	297	214	177	90
2003	2,759	1,962	305	219	179	92
2004 (Projected)	2,787	1,983	306	224	181	93
2005 (Projected)	2,829	2,003	320	229	183	94
2006 (Projected)	2,861	2,024	344	234	185	94
2007 (Projected)	2,926	2,044	363	238	186	95
2008 (Projected)	2,976	2,064	385	243	188	96
2009 (Projected)	3,026	2,084	407	248	190	97
2010 (Projected)	3,076	2,105	428	253	192	98

(*) Portion not located within Pueblo boundaries.

01. POPULATION, HOUSEHOLD, AND HOUSING GROWTH, 1990-2010
(continued)

ANNUAL NET HOUSING GROWTH

UNIT HOUSING GROWTH CALENDAR YEAR	GREATER POJOAQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	POJOAQUE PUEBLO TRIBAL LANDS	NAME PUEBLO TRIBAL LANDS	SAN ILDEFONSO PUEBLO TRIBAL LANDS	CUYAMUNGUE LAND GRANT (NON-TRIBAL)
2000	94	22	64	5	2	1
2001	38	16	16	5	2	0
2002	50	22	20	5	2	1
2003	32	23	0	5	2	2
2004	30	22	0	5	2	1
2005	61	22	31	5	2	1
2006	50	22	20	5	2	1
2007	54	22	24	5	2	1
2008	54	22	24	5	2	1
2009	54	22	24	5	2	1
2010	54	22	24	5	2	1

Figures in italics are projected or estimated.

AVERAGE ANNUAL GROWTH (units)

1990-2000	41.4	30.6	2.7	4.6	2.2	1.3
2000-2005	50.9	21.2	21.7	5.0	2.0	1.0
2006-2010	53.2	22.0	23.2	5.0	2.0	1.0

POJOAQUE VALLEY TRADITIONAL COMMUNITY DISTRICT:
ANNUAL HOME CONSTRUCTION BY UNIT TYPE, 1997-2003

UNIT HOUSING GROWTH CALENDAR YEAR	NET GROWTH	NEW UNIT CONSTRUCTION	HOUSING LOSSES	SRES	NET GROWTH BY TYPE OF UNIT MOBILE	OTHER
1997	30	35	-5	14	15	1
1998	34	40	-6	14	19	1
1999	29	33	-4	9	19	1
2000	22	23	-1	11	10	1
2001	16	17	-1	10	6	0
2002	22	25	-3	12	10	0
2003	23	28	-5	17	5	1
TOTAL, 1997-2003	176	201	-26	87	84	5

SRES: Conventional single-family residences; MOBILE: Mobile homes.

02. DEMOGRAPHIC COMPARISONS, 1990 VERSUS 2000

	GREATER POCAHOE VALLEY		POU VALLEY TRAD COMMUNITY DISTRICT		REMAINDER OF VALLEY		SANTA FE COUNTY	
	1990	2000	1990	2000	1990	2000	1990	2000
POPULATION CHARACTERISTICS								
TOTAL POPULATION	6,816	6,695	4,132	4,771	1,884	1,924	98,928	129,282
AVERAGE ANNUAL GROWTH, 1990-2000	1.42%		1.45%		1.34%		2.71%	
Hispanic Population (percent of total)	61.0	59.0	67.2	66.8	45.8	39.7	49.5	49.0
Non-Hispanic Population (percent of total)	38.0	41.0	32.8	33.2	54.2	60.3	50.5	51.0
Persons Living in Households (percent of total)	100.0	100.0	100.0	100.0	100.0	100.0	97.3	98.2
Persons Living in Group Quarters (percent of total)	0.0	0.0	0.0	0.0	0.0	0.0	2.7	1.8
Persons Living Alone (percent of persons living in households)	8.3	9.1	9.1	9.6	6.3	7.9	10.6	12.1
Persons in Multi-Person Households (incl living in households)	91.7	90.9	90.9	90.4	93.7	92.1	89.4	87.9
Population Density (persons per square mile)	39.6	45.6	558.4	644.7	12.1	13.8	51.8	67.7
Median Age (years)	34.3	36.5	X	38.8	X	29.2	34.3	37.9
HOUSING CHARACTERISTICS								
TOTAL HOUSING UNITS	2,407	2,821	1,765	2,061	662	760	41,464	57,701
AVERAGE ANNUAL GROWTH, 1990-2000 (percent)	1.80%		1.82%		1.84%		3.38%	
AVERAGE ANNUAL GROWTH, 1990-2000 (units)	41.4		90.6		10.8		1624	
Occupied Housing Units	2,130	2,595	1,570	1,900	560	695	37,840	52,482
Vacant Housing Units	277	226	185	161	92	65	3,624	5,219
Owner-Occupied Housing Units	1,727	2,070	1,243	1,557	484	513	25,621	35,985
Renter-Occupied Housing Units	403	525	327	343	76	182	12,219	16,497
Vacancy Ratio (vacant units as a percent of all units)	11.5	8.0	10.5	7.8	14.1	8.6	8.7	9.0
Home Ownership Ratio (owner-occupied as pct of all occupied units)	81.1	79.8	79.2	81.9	86.4	73.8	87.7	88.6
HOUSEHOLD CHARACTERISTICS								
TOTAL HOUSEHOLDS	2,190	2,596	1,570	1,900	650	696	37,840	52,482
AVERAGE ANNUAL GROWTH, 1990-2000	1.99%		1.99%		2.18%		3.39%	
One-Person Households (percent of total)	22.6	23.5	23.9	24.2	19.0	21.6	26.9	29.4
Multi-Person Households (percent of total)	77.4	76.5	76.1	75.8	81.0	78.4	73.1	70.6
Households Living in Owner-Occupied Housing (percent)	81.1	79.8	79.2	81.9	86.4	74.1	87.7	88.6
Households Living in Renter-Occupied Housing (percent)	18.9	20.2	20.8	18.1	13.6	25.9	32.3	31.4
Average Household Size (persons)	2.73	2.59	2.83	2.51	3.01	2.77	2.54	2.42
Average Size of Multi-Person Households (persons)	3.24	3.07	3.15	2.99	3.48	3.25	3.11	3.01

SOURCES: U.S. Census Bureau, Census 1990 Summary File 1, Matrix P11; Summary Tape File 1B, Matrices P1, P3, H1, H3, H7, H8; U.S. Census Bureau, Census 2000 Summary File 1, Matrices P1, P4, P12, P26, P27, H1, H3, H4.

03. DETAILED POPULATION CHARACTERISTICS, 2000

	GREATER POJAOQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	REMAINDER OF VALLEY	POJAOQUE PUEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
TOTAL POPULATION	6,695	4,771	1,924	2,712	3,983	62,203	67,089	129,292
Average Population Density (persons per sq. mi.)	45.6	644.7	13.8	127.9	31.7	1663.2	35.8	67.7
Area (square miles)	146.7	7.4	139.3	21.2	125.5	37.4	1871.6	1909.0
POPULATION BY SEX								
Male Population	3,330	2,364	966	1,355	1,975	29,758	33,488	63,246
Female Population	3,365	2,407	958	1,357	2,008	32,445	33,601	66,046
Males as a percent of total population	49.7	49.5	50.2	50.0	49.6	47.8	49.9	48.9
POPULATION BY RACE AND ETHNICITY								
TOTAL POPULATION (persons)	6,695	4,771	1,924	2,712	3,983	62,203	67,089	129,292
PERCENT								
White Alone	50.5	59.5	28.3	56.2	46.6	76.3	70.9	73.5
Native American Alone	18.8	6.6	49.2	9.7	25.0	2.2	3.9	3.1
Black, Asian, or Pacific Islander Alone	0.8	0.5	0.9	0.6	0.6	2.0	1.2	1.6
Some Other Race Alone	25.8	28.7	18.1	29.7	23.1	16.3	20.0	17.7
Persons of Multiple Races	4.3	4.7	3.5	3.8	4.7	4.2	4.0	4.1
PERCENT								
Hispanic Population	59.0	66.8	39.7	65.8	54.4	47.8	50.2	49.0
Non-Hispanic Population	41.0	33.2	60.3	34.2	45.6	52.2	49.8	51.0
POPULATION BY LIVING ARRANGEMENTS								
TOTAL POPULATION (persons)	6,695	4,771	1,924	2,712	3,983	62,203	67,089	129,292
PERCENT								
Persons living in households	100.0	100.0	100.0	100.0	100.0	97.6	98.7	98.2
Persons living in group quarters	0.0	0.0	0.0	0.0	0.0	2.4	1.3	1.8
PERSONS LIVING IN HOUSEHOLDS (number)	6,695	4,771	1,924	2,712	3,983	60,729	66,187	126,916
PERCENT								
Persons living in families	86.5	86.3	87.1	85.4	87.3	72.3	85.0	78.9
Persons living alone	9.1	9.6	7.8	9.6	8.8	16.1	8.0	11.9
Persons in non-family households of 2+ persons	4.4	4.1	5.1	5.0	3.9	11.6	7.0	9.2
PERSONS LIVING IN								
Owner-occupied housing	5,527	4,079	1,448	2,130	3,397	37,154	54,449	91,603
Renter-occupied housing	1,168	692	476	582	586	23,575	11,738	35,313
Total	6,695	4,771	1,924	2,712	3,983	60,729	66,187	126,916
Persons in Owner-occupied housing (pct of total)	82.6	85.5	75.3	78.5	85.3	61.2	82.3	72.2

SOURCES: U.S. Census Bureau, Census2000 Summary File 1, Maritimes H11, P7, P8, P12, P26, P27.

03. DETAILED POPULATION CHARACTERISTICS, 2000 (continued)

	GREATER POJAOQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	REMAINDER OF VALLEY	POJAOQUE PIEBLHO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
POPULATION BY SEX AND AGE								
TOTAL POPULATION, BOTH SEXES (number)	6,995	4,771	1,924	2,712	3,985	62,203	97,089	129,292
MEDIAN AGE (years)	36.5	38.8	29.2	36.1	36.9	39.8	36.3	37.9
PERCENT								
Persons 0-4 years of age	7.2	6.4	9.4	7.4	7.1	5.4	6.9	6.2
Persons 5-17 years of age	20.2	19.2	22.6	19.8	20.5	14.9	20.6	17.9
Persons 18-24 years of age	8.0	6.6	11.4	8.8	7.6	8.9	7.5	8.1
Persons 25-64 years of age	53.7	56.2	50.1	54.2	53.3	56.9	57.2	57.0
Persons 65+ years of age	10.9	12.8	8.5	10.0	11.5	13.9	7.8	10.8
MALE POPULATION (number)	3,330	2,364	966	1,355	1,976	28,758	33,488	63,246
MEDIAN AGE (years)	36.3	38.8	28.4	36.0	36.5	37.6	35.8	36.6
PERCENT								
Persons 0-4 years of age	7.0	5.8	9.7	7.7	6.4	5.7	7.0	6.4
Persons 5-17 years of age	20.5	20.1	21.3	20.1	20.8	15.8	21.1	18.6
Persons 18-24 years of age	8.7	6.9	13.0	9.1	8.4	9.6	8.0	8.7
Persons 25-64 years of age	52.9	54.3	49.9	52.5	53.3	57.1	56.2	56.7
Persons 65+ years of age	10.9	12.9	6.1	10.6	11.1	11.8	7.7	9.6
FEMALE POPULATION (number)	3,665	2,407	958	1,357	2,009	32,445	33,601	66,046
MEDIAN AGE (years)	36.8	38.9	30.3	36.2	37.3	41.7	36.8	39.1
PERCENT								
Persons 0-4 years of age	7.5	6.9	9.0	7.1	7.7	5.1	6.8	6.0
Persons 5-17 years of age	19.9	18.4	23.8	19.5	20.2	14.1	20.2	17.2
Persons 18-24 years of age	7.3	6.3	9.7	8.1	6.7	8.2	7.0	7.6
Persons 25-64 years of age	54.4	56.0	50.5	55.8	53.6	56.8	58.0	57.4
Persons 65+ years of age	10.9	12.4	7.0	9.5	11.8	15.8	8.0	11.8
PLACE OF RESIDENCE IN 1995								
YEAR 2000 RESIDENTS AGE 5 YEARS AND OLDER	8,146	X	X	2,508	3,638	88,481	63,106	121,306
PCT WHO LIVED IN A DIFFERENT HOUSE IN 1995	28.0	X	X	31.9	27.0	52.3	41.3	46.6
PCT WHO LIVED OUTSIDE OF SF COUNTY IN 1995	14.5	X	X	16.4	13.4	27.1	23.3	25.0
PCT WHO LIVED OUTSIDE OF NEW MEXICO IN 1995	7.7	X	X	7.2	8.1	22.0	14.6	18.1
PERCENT OF YEAR 2000 RESIDENTS WHO								
Lived in same house in 1995	71.0	X	X	68.1	73.0	47.7	58.7	53.4
Lived in a different house in 1995, located in								
City of Santa Fe	5.2	X	X	8.1	3.3	21.6	12.1	16.8
Elsewhere in Santa Fe County	9.3	X	X	7.4	10.3	3.6	5.9	4.8
Some Other New Mexico County	6.8	X	X	9.2	5.3	5.1	8.7	6.9
A State other than New Mexico	4.8	X	X	4.5	5.1	17.2	10.9	13.9
Outside of the United States	2.9	X	X	2.7	3.0	4.8	3.7	4.2
Total	100.0	X	X	100.0	100.0	100.0	100.0	100.0

SOURCES: U.S. Census Bureau, Census2000 Summary File 1, Marix P12; Summary File 3, Matrices P24 and P25.

14. DETAILED HOUSEHOLD AND HOUSING CHARACTERISTICS, 2000

	GREATER POJAOQUE VALLEY	TRADITIONAL COMMUNITY DISTRICT	REMAINDER OF VALLEY	POJAOQUE PUEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
HOUSEHOLD CHARACTERISTICS								
TOTAL HOUSEHOLDS								
Family households	2,596	1,900	696	1,071	1,824	27,668	24,913	82,462
Non-Family households: 1 person living alone	1,862	1,360	502	751	1,101	14,982	17,806	32,787
Non-Family households: 2+ persons	610	459	151	260	350	10,029	5,384	15,413
PERCENT:								
Family households	71.4	71.0	72.3	70.1	72.2	54.3	71.5	82.4
Non-Family households: 1 person living alone	23.5	24.2	21.7	24.3	23.0	36.4	21.6	29.4
Non-Family households: 2+ persons	5.1	4.8	6.0	5.6	4.8	9.3	6.9	8.2
Average household size	2.58	2.51	2.77	2.53	2.61	2.20	2.66	2.42
Average family size	3.13	3.05	3.34	3.08	3.16	3.00	3.20	3.11
Average size of 2+ person non-family households	2.20	2.14	2.33	2.27	2.15	2.24	2.18	2.22
PERCENT								
Households in owner-occupied housing	79.8	81.9	73.8	75.7	73.8	58.2	80.0	68.6
Households in renter-occupied housing	20.2	18.1	26.2	24.3	17.4	41.8	20.0	31.4
Families in owner-occupied housing	85.2	87.6	78.9	81.6	78.9	69.0	85.1	77.7
Families in renter-occupied housing	14.8	12.4	21.1	18.4	12.4	31.0	14.9	22.3
Non-family HH's in owner-occupied housing	66.2	66.2	60.6	61.9	60.6	45.4	67.3	53.3
Non-family HH's in renter-occupied housing	33.8	31.8	39.4	38.1	39.4	54.6	32.7	46.7
HOUSING CHARACTERISTICS								
TOTAL HOUSING UNITS								
Average housing density (units per square mile)	2,821	2,061	760	1,179	1,642	30,633	27,168	57,701
	27.8	278.5	8.1	55.6	20.5	816.4	14.5	30.2
OCCUPIED HOUSING UNITS								
Owner-Occupied housing units	2,070	1,557	513	811	1,259	16,052	19,933	35,985
Renter-Occupied housing units	525	343	182	260	265	11,517	4,980	16,497
Total Occupied Units	2,595	1,900	695	1,071	1,524	27,569	24,913	52,482
Owner-Occupied units as pct of total occupied	79.8	81.9	73.8	75.7	82.6	58.2	80.0	68.6
VACANT HOUSING UNITS								
Recreational/seasonal units	51	32	19	21	30	1,580	745	2,325
Other vacant housing units	175	129	46	87	88	1,384	1,510	2,894
Total Vacant Units	226	161	65	108	118	2,964	2,255	5,219
Vacant units as pct of all housing units	8.0	7.8	8.6	9.2	7.2	9.7	8.3	9.0
Recreational/seasonal units as pct of all units	1.8	1.6	2.5	1.8	1.8	5.2	2.7	4.0
HOUSING UNITS BY TYPE OF CONSTRUCTION								
Conventional detached single-family homes	1,901	X	X	679	1,224	17,872	17,504	35,379
Attached single- and multi-family homes	203	X	X	127	75	11,504	1,828	13,316
Mobile homes	717	X	X	373	343	1,157	7,838	9,006
Total housing units	2,821	2,061	760	1,179	1,642	30,533	27,168	57,701
Mobile homes as pct of all housing units	25.4		X	31.6	20.9	3.8	28.9	15.6

SOURCES: U.S. Census Bureau, Census2000 Summary File 1, Matrices H1, H3, H4, H5, H17, P26, P27; Summary File 3, Matrices H4 and H30.

06. EMPLOYMENT
by Industry and Place of Employment, 2006

PERSONS EMPLOYED IN	GREATER PLOMOQUE VALLEY		TRADITIONAL COMMUNITY DISTRICT		REMAINDER OF VALLEY		PLOMOQUE PUEBLO		REMAINDER OF VALLEY		CITY OF SANTA FE		SANTA FE COUNTY X-CITY		SANTA FE COUNTY ENTIRE	
	13	8	4	4	5	0	0	13	6	5	1,036	291	3,421	1,036	408	1,684
Agriculture and Mining	9	4	1	1	4	0	0	6	2,386	291	621	291	3,421	1,036	408	1,684
Construction	5	1	1	1	4	0	0	5	1,258	330	990	330	1,320	1,258	330	1,320
Manufacturing	41	4	4	4	37	14	14	27	1,045	388	1,045	388	1,443	1,045	388	1,443
Transportation, Communications, Utilities	7	1	1	1	6	4	4	3	14,432	2,976	14,432	2,976	17,410	14,432	2,976	17,410
Wholesale Trade	104	34	34	10	12	8	8	14	3,357	426	3,357	426	3,783	3,357	426	3,783
Retail Trade	22	8	8	20	20	25	25	3	1,750	178	1,750	178	1,928	1,750	178	1,928
Finance, Insurance, Real Estate	28	164	4	4	8	8	8	0	1,296	1,639	1,296	1,639	2,935	1,296	1,639	2,935
Accommodations	546	4	4	8	8	12	12	0	4,963	321	4,963	321	5,284	4,963	321	5,284
Entertainment and Recreation	12	21	21	245	245	32	32	234	2,087	1,425	2,087	1,425	3,512	2,087	1,425	3,512
Health Services	266	43	43	69	69	112	112	0	15,857	1,852	15,857	1,852	17,509	15,857	1,852	17,509
Educational Services	112	58	58	59	59	79	79	38	8,443	1,993	8,443	1,993	10,436	8,443	1,993	10,436
Government	117	58	58	59	59	79	79	38	8,443	1,993	8,443	1,993	10,436	8,443	1,993	10,436
All Other Industries and Services	117	58	58	59	59	79	79	38	8,443	1,993	8,443	1,993	10,436	8,443	1,993	10,436
TOTAL	1,282	380	380	922	922	898	898	344	88,485	13,072	88,485	13,072	71,857	88,485	13,072	71,857
Job-to-Housing Ratio	0.39	0.17	0.17	0.78	0.78	X	X	X	1.77	0.42	1.77	0.42	1.12	1.77	0.42	1.12
Job-to-Population Ratio	0.17	0.07	0.07	0.31	0.31	X	X	X	0.89	0.17	0.89	0.17	0.81	0.89	0.17	0.81

PERCENT

Agriculture and Mining	1.0	2.2	1.1	0.5	0.5	0.0	0.0	3.8	1.1	2.2	1.3	2.2	1.3	2.2	1.1	1.3
Construction	0.7	1.1	1.1	0.5	0.5	0.3	0.3	1.7	4.1	4.1	7.9	4.1	4.8	4.1	1.1	4.8
Manufacturing	0.4	0.3	0.3	0.4	0.4	0.0	0.0	1.5	2.2	2.2	3.1	2.2	2.3	0.4	0.3	2.3
Transport, Communications, Utilities	3.2	1.1	1.1	4.0	4.0	1.5	1.5	7.8	1.7	1.7	2.5	1.7	1.8	3.2	1.1	1.8
Wholesale Trade	0.5	0.3	0.3	0.7	0.7	0.4	0.4	0.9	1.8	1.8	3.0	1.8	2.0	0.5	0.3	2.0
Retail Trade	8.1	9.4	9.4	7.6	7.6	11.0	11.0	0.3	24.6	24.6	24.3	24.6	24.3	8.1	9.4	24.3
Finance, Insurance, Real Estate	1.7	2.8	2.8	1.3	1.3	0.9	0.9	4.1	5.7	5.7	3.3	5.7	5.3	1.7	2.8	5.3
Accommodations	2.2	2.2	2.2	2.2	2.2	2.7	2.7	0.9	3.0	3.0	1.4	3.0	2.7	2.2	2.2	2.7
Entertainment and Recreation	42.8	45.7	45.7	41.4	41.4	58.2	58.2	0.0	2.2	2.2	4.1	2.2	4.1	42.8	45.7	4.1
Health Services	0.9	1.1	1.1	0.9	0.9	1.3	1.3	0.0	8.5	8.5	2.5	8.5	7.4	0.9	1.1	7.4
Educational Services	20.7	5.8	5.8	26.6	26.6	3.4	3.4	68.0	3.6	3.6	10.9	3.6	4.9	20.7	5.8	4.9
Government	8.7	11.9	11.9	7.5	7.5	11.9	11.9	0.0	27.1	27.1	12.6	27.1	24.5	8.7	11.9	24.5
All Other Industries and Services	9.1	16.1	16.1	6.4	6.4	8.4	8.4	11.0	14.4	14.4	15.2	14.4	14.5	9.1	16.1	14.5
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0	100.0

NOTES: Job ratios shown are approximate. The employment figures cited above refer to total employment; they include both (a) workers covered by unemployment insurance, as well as (b) estimates of non-covered employment, such as self-employed persons and persons who work for commissions. Since 2001, New Mexico Department of Labor (NMDL) employment estimates have reported only covered employment. Hence, the figures shown are not consistent with, and exceed, published NMDL employment estimates for Santa Fe County.

PRINCIPAL SOURCE: ESRI, Redlands, California, 2005.

06. EMPLOYMENT (continued)

LABOR FORCE PARTICIPATION AND EMPLOYMENT STATUS, 2000

	GREATER POJAOQUE VALLEY	POJAOQUE PUEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
TOTAL RESIDENTS AGE 16 AND OLDER	5,024	2,064	2,960	50,324	51,028	101,952
Not in labor force	1,887	698	1,189	16,891	16,825	33,716
In labor force	3,137	1,366	1,771	34,033	34,203	68,236
Employed	2,983	1,333	1,660	32,491	32,540	65,031
Unemployed	144	33	111	1,542	1,663	3,205
Labor Force Participation Rate	62.4%	66.2%	59.8%	66.8%	67.0%	66.9%
Unemployment Rate	4.6%	2.4%	6.3%	4.6%	4.8%	4.7%

SOURCE: U.S. Census Bureau, Census2000 Summary File 3, Matrix P43.

EMPLOYED RESIDENTS BY PLACE OF WORK, 2000

	GREATER POJAOQUE VALLEY	POJAOQUE PUEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
EMPLOYED RESIDENTS AGE 16 AND OLDER	2,983	1,333	1,660	32,491	32,540	65,031
RESIDENTS EMPLOYED IN:						
City of Santa Fe	1,163	543	620	27,715	17,083	44,798
Remainder of Santa Fe County	758	368	390	2,339	6,931	9,270
Santa Fe County (entire)	1,921	911	1,010	30,054	24,014	54,068
Los Alamos County	843	323	520	1,397	2,768	4,163
Some Other New Mexico County	218	95	123	715	5,487	6,182
New Mexico (entire)	2,982	1,329	1,653	32,166	32,247	64,413
Outside of New Mexico	11	4	7	325	293	618
PERCENT EMPLOYED IN:						
City of Santa Fe	38.9	40.8	37.4	85.3	52.5	69.0
Remainder of Santa Fe County	25.3	27.6	23.5	7.2	21.3	14.2
Santa Fe County (entire)	64.2	68.4	60.9	92.5	73.8	83.2
Los Alamos County	28.1	24.2	31.3	4.3	8.5	6.3
Some Other New Mexico County	7.3	7.1	7.4	2.2	16.8	9.5
New Mexico (entire)	99.6	99.7	99.6	99.0	99.1	99.0
Outside of New Mexico	0.4	0.3	0.4	1.0	0.9	1.0

SOURCES: U.S. Census Bureau, Census2000 Summary File 3, Matrices P26, P28, P43.

05. EMPLOYMENT (continued)

EMPLOYED RESIDENTS BY INDUSTRY, 2000

	GREATER POLOQUE VALLEY	POLOQUE PUEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
EMPLOYED RESIDENTS AGE 16 AND OLDER						
PERSONS NOT EMPLOYED IN LOS ALAMOS COUNTY						
Agriculture, Forestry, Fishing, Hunting	85	11	54	196	324	520
Construction	321	147	174	2,487	3,236	5,723
Manufacturing	71	16	95	1,026	1,445	2,471
Wholesale Trade	57	23	34	568	603	1,171
Retail Trade	177	85	92	4,045	3,694	7,739
Transportation, Warehousing, Utilities	110	37	73	572	823	1,495
Finance, Insurance, Real Estate	184	71	93	2,082	1,885	3,967
Professional, Scientific, and Technical Services (private sector) (*)	38	33	5	2,645	2,298	4,943
Administrative, Support, Waste Management Services (private sector) (*)	56	24	32	832	825	1,657
Educational Services	203	97	106	3,317	2,796	6,113
Health Care and Social Assistance	235	108	129	2,803	3,179	5,982
Arts, Entertainment, Recreation	195	94	101	1,320	1,346	2,666
Accommodation and Food Services	176	108	68	3,514	2,014	5,528
Public Administration (*)	101	90	11	2,903	2,593	5,496
All Other Industries and Services	183	68	115	2,784	2,679	5,463
Subtotal	2,152	1,010	1,142	31,094	29,840	60,934
PERSONS EMPLOYED IN LOS ALAMOS COUNTY	841	323	518	1,397	2,700	4,097
TOTAL	2,993	1,333	1,660	32,491	32,540	65,031
PERCENT (PERSONS NOT EMPLOYED IN LOS ALAMOS COUNTY)						
Agriculture, Forestry, Fishing, Hunting	3.0	1.1	4.7	0.6	1.1	0.9
Construction	15.0	14.5	15.2	8.0	10.8	9.4
Manufacturing	3.3	1.6	4.8	3.3	4.8	4.1
Wholesale Trade	2.6	2.3	3.0	1.8	2.0	1.9
Retail Trade	8.2	8.4	8.1	13.1	12.4	12.6
Transportation, Warehousing, Utilities	5.1	3.7	6.4	1.8	3.1	2.5
Finance, Insurance, Real Estate	7.6	7.0	8.1	6.7	6.3	6.5
Professional, Scientific, and Technical Services (private sector) (*)	1.8	3.3	0.4	8.5	7.7	8.1
Administrative, Support, Waste Management Services (private sector) (*)	2.6	2.4	2.8	2.7	2.8	2.7
Educational Services	9.4	9.6	9.3	10.7	9.4	10.0
Health Care and Social Assistance	10.9	10.5	11.3	9.0	10.7	9.8
Arts, Entertainment, Recreation	9.1	9.3	8.8	4.2	4.5	4.4
Accommodation and Food Services	8.2	10.7	6.0	11.3	6.7	8.1
Public Administration (*)	4.7	8.9	1.0	8.3	8.7	9.0
All Other Industries and Services	8.5	6.7	10.1	9.0	9.0	9.0
TOTAL	100.0	100.0	100.0	100.0	100.0	100.0

(*) Approximate

SOURCES: Based on U.S. Census Bureau, Census2000 Summary File 3, Matrices P26, P28, P49.

06. JOURNEY TO WORK, 2000

	GREATER POJAOAQUE VALLEY	POJAOAQUE PUEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
EMPLOYED RESIDENTS AGE 16 AND OLDER						
Employed Residents Who Work at Home	117	69	48	2,375	2,437	4,812
Employed Residents Who Travel to Work ("Commuters")	2,876	1,264	1,612	30,116	30,103	60,219
TOTAL	2,993	1,333	1,660	32,491	32,540	65,031
Commuters as a Pct of Employed Residents Age 16 and Older	96.1	94.8	87.1	92.7	92.5	92.6
MEANS OF TRANSPORTATION TO WORK						
Percent of Commuters who Travel by						
One-Passenger Private Vehicle (car, truck, or van)	74.9	76.7	73.7	78.1	76.0	77.1
Carpool (car, truck, or van)	19.7	19.5	19.8	14.3	20.0	17.1
Public Transportation (e.g., bus, railroad, taxi)	0.3	0.0	0.4	1.6	0.3	1.0
Other Means (e.g., motorcycle, bicycle, walked)	5.1	3.8	6.1	6.0	3.7	4.8
Total	100.0	100.0	100.0	100.0	100.0	100.0
ONE-WAY TRAVEL TIME TO WORK						
Percent of Commuters who Travel						
Less than 15 minutes	20.1	22.0	18.5	50.6	20.1	35.4
15-29 minutes	32.9	40.4	27.0	33.1	39.0	36.0
30-59 minutes	43.8	35.0	50.8	12.8	34.4	23.6
1 hour or more	3.2	2.6	3.7	3.5	6.5	5.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
Median Travel Time to Work	28.6	26.2	30.7	14.9	24.4	19.2
Mean Travel Time to Work	28.2	26.1	29.9	19.8	29.6	24.7

SOURCES: U.S. Census Bureau, Census2000 Summary File 3, Matrices P30 and P31 (adjusted).

07. INCOME AND EDUCATION, 2000

	GREATER POLOQUE VALLEY	POLOQUE PIEBLO	REMAINDER OF VALLEY	CITY OF SANTA FE	SANTA FE COUNTY X-CITY	SANTA FE COUNTY ENTIRE
HOUSEHOLD INCOME (in 1999 dollars)						
Total Resident Households	2,595	1,071	1,520	27,589	24,913	52,482
Percent of Households with Incomes of						
Less than \$10,000	13.2	12.1	14.1	9.5	8.7	9.1
\$10,000 to \$19,999	15.1	15.2	15.2	12.0	11.1	11.6
\$20,000 to \$49,999	40.3	39.9	39.8	37.8	35.9	36.9
\$50,000 to \$99,999	23.5	24.7	23.0	29.0	29.9	29.4
\$100,000 or more	7.9	8.1	7.8	11.7	14.4	13.0
Total	100.0	100.0	100.0	100.0	100.0	100.0
Median Household Income	\$34,132	\$34,256	\$34,044	\$40,392	\$44,205	\$42,207
SCHOOL ENROLLMENT						
Residents Age 3 Years and Older, Enrolled in						
Pre-schools and Nursery Schools	123	32	91	679	975	1,854
Kindergarten	71	31	40	727	980	1,697
Grades 1 through 5	832	341	491	5,700	8,998	14,699
Grades 6 through 12	427	202	225	2,824	4,328	7,152
College Undergraduate School	330	152	176	3,518	2,730	6,249
Graduate or Professional School	51	28	23	1,162	883	2,045
Total Enrolled Residents	1,834	786	1,046	14,611	18,875	33,486
Total Enrolled in Grades 1-12	1,259	543	716	8,524	13,327	21,851
Total, Grades 1-12, Enrolled in Public Schools (number)	1,197	516	681	7,268	11,557	18,825
Total, Grades 1-12, Enrolled in Public Schools (percent)	95.1	95.0	95.1	85.3	95.7	86.2
EDUCATIONAL ATTAINMENT						
Residents Age 25 Years and Older	4,358	1,741	2,617	43,997	43,873	87,870
Percent of Residents Age 25+ who						
Did not complete high school	18.5	18.2	18.7	15.4	15.6	15.5
Completed high school	26.8	25.2	27.9	17.2	22.2	19.7
Have some college education	32.0	32.9	31.5	27.4	28.3	27.9
Completed an undergraduate college degree	12.8	13.2	12.5	21.6	19.0	20.3
Completed a master's or professional degree	8.7	9.2	8.3	15.5	12.3	13.9
Completed a doctorate degree	1.2	1.3	1.1	2.9	2.6	2.7
Total	100.0	100.0	100.0	100.0	100.0	100.0

SOURCES: U.S. Census Bureau, Census2000 Summary File 3, Tables P36, P37, P52, P53.

DEMOGRAPHIC AND ECONOMIC PROFILE OF THE GREATER POJOAQUE VALLEY
Comparison of Valley Socioeconomic and Employment Patterns with Incorporated NM Communities of Similar Size

SEC CLERK RECORDED 05/23/2007

CONCLUSIONS

At present, 42.6% of the Valley's employees work in entertainment and recreation; 20.7% work at schools. Only 19% work in private-sector establishments that provide routine goods and services to Valley residents, a fraction that by any standard is very meager. In addition, total Valley employment per 100 residents stands at 17.8 workers, which is too low to provide adequate local services to local residents, given the skew toward recreational uses.

In sum, the Valley grossly lacks the employment base required to provide a reasonable measure of goods and services needed by Valley residents. Instead, residents are forced to rely on Los Alamos, Espanola, and the City of Santa Fe to meet their consumer needs, which adds traffic to an already crowded US285. In addition, the Valley's poorly diversified employment mix exposes the Valley to considerable business cycle and other economic risk.

The Valley's population now equals that of many self-sufficient New Mexico communities, such as Belen, Bernalillo, and Taos. What would it take to provide current Valley residents with the same level of locally available consumer goods and services currently enjoyed by residents of similar-size New Mexico communities? How much additional employment would be needed? How much additional commercial space would be required?

Similar-size communities in New Mexico typically employ 17.5 local service workers per 100 residents. The Valley average is 17.8. The Valley's current population numbers 7200. It currently hosts 1300 jobs of all types.

Accordingly, the Valley would need roughly 14.1 additional local service employees per 100 residents, or approximately 1030 additional workers. Total Valley employment would rise to 2330. Its jobs-to-population ratio would then equal 32 employees per 100 residents, as compared to an average of 42 in similar-size towns (88, in the City of Santa Fe).

In Santa Fe County, each local service employee typically uses about 400 square feet of commercial space. Commercial lot coverage ratios outside the City generally range from 15% to 30% of gross acres.

Thus, roughly 412,000 square feet of commercial space would be needed to host an additional 1030 local service workers. Total commercial space for all uses would rise from roughly 710,000 square feet at present, to 1.1 million square feet. Somewhere between 31 and 63 additional gross acres would need to be zoned for local commercial service uses (plus some additional amount to accommodate future population growth).

Plans are apparently being considered that would greatly expand the Valley's commercial activity in the near future. However, a large majority of that growth would be devoted to creation of additional recreational facilities; relatively little would be dedicated to provision of local services.

Thought should be given instead to providing more in the way of commercial uses that specifically serve the needs of the Valley's current residents and families ... not to mention the additional residents that future commercial development will draw into the Valley. For a Valley that contains 65,000 acres, a Community Plan that zoned an additional 30-100 acres for local commercial service uses would not significantly alter the region's character. But such a plan would arguably make the Valley much more liveable from the standpoint of its current and future residents.

--- Al Pitts, Demographer and Economist

09/01/2006

copy
m.d.

40.0

P.O. Box 459, Los Alamos NM 87544
505-662-7456
505-661-6168 (fax)

Santa Fe County
Santa Fe County Land Development

Gerald A. and Susan Martinez own a tract of land on the Frontage road on the east side of HWY 84/285 which he is requesting rezoning to commercial property.

Mr. Martinez's property joins 5 acres which we own to the west of his property on Frontage Road.

We have known Gerald for several years. He has always been a good neighbor and has always kept his property in first class condition.

We hope that you will grant his request for rezoning to commercial property. To the best of our knowledge all but 2 lots along the frontage road between the Cuyamungue overpass and the Buffalo Thunder overpass are zoned commercial.

The traffic along the 84/28 Highway is so busy and noisy that it is not an ideal place for residential housing.

Therefore we hope that you will rezone Mr Martinez property to commercial so it will be compatible with the other tracts of land in this area along Frontage Road.

Thank you for your consideration in granting this request.

Paul Parker

Property owner

April 10, 2007

To: Santa Fe Board of County Commissioners

From:

Patricia M. Burks
Santa Fe, New Mexico 87508
505/471-0526

Re:

CCD Case MP 02-5051 Sonterra Master Plan. Santa Fe Planning Group, Inc., (Scott Hoeft), Agent for Great Western Investors (Richard Montoya), Applicant is Requesting an Extension of a Previously Approved Master Plan for a Mixed Use Development (Residential, Commercial, Community) in a Village Zone Consisting of 520 Residential Units and 29,117 sq. ft. of Commercial Space on 245 Acres. The Property is Located off Vista del Monte East of Valle Lindo Subdivision Within the Community College District, Section 30, Township 16 North, Range 9 East (Commission District 5) Joe Catanach, Case Planner

Dear Commissioners:

Please deny a time extension for the Sonterra master plan build out. Instead, I respectfully request that it be brought back to the table to be fully discussed again based on inadequate infrastructure to accommodate its impacts as well as those from all the rampant development that is planned and happening now on Highway 14. A field trip to our area would show you that the land is being laid bare by high density development. This area deserves another look.

Major adaptation by existing citizens to the strain on the roadways and other infrastructure will be significant. I expect strains on roads, traffic volume, traffic control, water use, schools, environment, fire protection, refuse, and crime to be highly increased by the onslaught of homes within Rancho Viejo, La Pradera, Windmill Ridge Phase's I, II, III, IV, Oshara, Longford Homes (Turquoise Trail), Villa Serena, San Cristobal, and Sonterra.

I don't expect the "band-aid" type reconfiguration of Highway 14 including the funnel design of the bridge and the holding lanes at the light near Allsup's at the Longford Homes development to sufficiently accommodate the projected traffic numbers for anticipated vehicle usage at development build out and this route is the one expected to serve Sonterra developers residential egress and ingress.

Construction of 512 Longford homes is currently being experienced within an eighth mile radius of Sonterra Subdivision. I implore you to deny the continual building of an additional 520 homes until we've had a reasonable time to absorb the changes that are happening now and plan adequately for future homes.

You have been given another chance to reconsider and plan this area wisely. Approving in 2002 the Longford, Sonterra, and San Cristobal master plans were a violation of the Community College District's own master plan. Proceeding with yet another huge development like Sonterra without another look at the situation out here and its impact on existing infrastructure and quality of life in this part of the county would be a disservice to those of us who have lived here for many years.

Finally, development impact fees need to be imposed on developers when they receive approvals of their master plans from the commission. This would fairly put the cost of such necessary improvements squarely on them as their contribution to the community that they desire to build in and make money from and not so much on us taxpayers.

Patricia M. Burks



SHC
CLERK RECORDED 05/23/2007

Santa Fe County Affordable Housing Memorandum

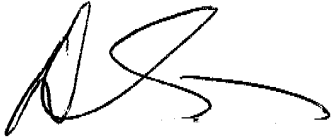
To: Joe Catanach
Senior Technical Review Specialists
Land Use Department

From: Duncan Sill, Affordable Housing Administrator

Date: April 2, 2007

Re: EZ CASE S 05-48441
Suerte Del Sur Subdivision Amended Preliminary Plat Affordable
Housing Plan—Revised 2/5/07--**follow up comments**

CC:



The purpose of this memorandum serves as a follow up to the conditions that the Applicant must address **prior to full acceptance** of the Affordable Housing Plan (Plan).

This Plan was reviewed by CDRC and EZC during the previous two months and was conditionally approved based on the following outstanding issues:

1. **Number of Required Affordable Housing Units—Seventy-Nine + residual fee (79.20).** The Applicant is providing 80 Affordable Units. The Board of County Commission has the option to ask the applicant to provide a residual fee instead here. If so, the applicant will be required to submit a calculation of the residual fee for review and acceptance.
2. **Mix of Housing Types, Size and Income levels.** *Condition: The Applicant needs to provide further details to address the locations and mix of these proposed housing types and how they are integrated within the spectrum of various income ranges. Specifically, the Applicant must demonstrate how the affordable units are clustered or are located within particular compounds.*
3. **Timetable and phasing for construction of Affordable Housing Units.** *Condition: The Applicant needs to clarify the phasing schedule of the affordable units. It seems that Phase I and Phase II will create all of the affordable housing for this Project. The Phasing will also be specified within the Affordable Housing Agreement.*
4. **Incentives.** *Condition: Applicant needs to expand descriptions on the use of energy efficiency measures to indicate for example how passive solar orientation can be achieved and for which segment of the affordable units, how water heaters*

will meet efficiency standards, etc. There should be specifications for the affordable units created in their respective locations and orientations where applicable.

- 5. Integration.** *Condition: The EZC on 3/8/07 discussed with the Applicant that some of the affordable units located on the southernmost part of Los Suenos Trail adjacent to La Vida Loop be reconsidered with Market Rate Units. This is suggested to accommodate neighboring property owners. All previous conditions and comments apply to integration of affordable units within the Project.*

Concluding comments:

All other conditions and comments remain applicable as stated in my previous reviews. Moreover, an Affordable Housing Agreement shall be submitted for approval upon full acceptance of the Affordable Housing Plan.

Please feel free to contact me at 992-6752 if additional information is required or if you have question regarding the abovementioned issues. Thank you for your help with this proposal.

Date: March 15, 2007

Kevin Holman
1623 S. Ivy way
Denver, CO
80224
303-759-4845
303-908-3183 (cell)
Kevin.holman@bentley.com

RE: Public Notice File Number 05-4841 Suerte del Sur, LLC (Gerald Peters)

To Whom It May Concern:

I am writing this letter as a follow up to the public hearing held on March 8, 2007 in the commission chambers of the County Administration Building. I am thankful for the opportunity I was given to talk about my concerns regarding the proposed plat / development plan. I am writing this letter to elaborate upon my concerns.

I am the owner of lot 1 (23 Tierra Grande) in the Tierra Grande subdivision which is on the south eastern border of the Suerte del Sur subdivision.

On January 17th, I wrote a letter that stated the following concerns about the proposal:

I am particularly concerned for the following reasons:

- I am concerned about the smaller ½ - 1 acre lots that are planned for the eastern portion of the subdivision that abuts the Tierra Grande subdivision. I am concerned about their size, location, and density. I am concerned about the effect these smaller lots will have on the property values of the adjacent lots in Tierra Grande.

If the subdivision plan is to include some smaller lots, I would like to see these lots planned throughout their master development, and not exclusively against our property or for that matter against any other adjacent property. There is more than adequate space within their property to accommodate smaller lots and I don't think that neighboring properties should bear any potential property devaluation by having exclusively the smaller lots adjacent to their property. I would like to see the master plan amended to have a consistent homogenous distribution of lots and integrated lot sizes throughout the subdivision – in particular for the eastern edge of the sub-division.

I am still concerned for the above mentioned reasons. I am writing this letter to elaborate upon my first point.

In the March 8th meeting, Rosanna Vazquez stated that the proposed plat / development plan included “A BUFFER AROUND THE DEVELOPMENT THAT ARE LARGER LOTS.” I agree that this should be a feature of the proposed development, but I do **NOT** agree that the proposed layout provides “a buffer around the development that are larger lots.”

BHC
CLERK RECORDED 05/23/2007

I think the proposed plat plan does provide a buffer of larger lots on the north side of the development, the west side of the development, and the south side of the development. However, it is clear that the proposal does **NOT** provide a buffer of larger lots on the eastern side of the development.

What I would like to see is a buffer around the development of larger lots where these lots are equal in size to the lots in the adjacent subdivisions.

This looks to have been done for all but the eastern border of the subdivision.

I am not familiar with the lots sizes of all the adjacent subdivisions on the eastern border of the Suerte del Sur subdivision. However, I am familiar with the 4 lots (lots 1, 2, 3, and 4) in the Tierra Grande subdivision which do border on the Suerte del Sur subdivision.

Lot 1 is 2.27 acres, lot 2 is 2.81 acres, lot 3 is 3.10 acres, and lot 4 is 2.97 acres. The average size of these 4 adjacent lots is 2.79 acres.

- I would like to see the size of the lots on the eastern side of the Suerte del Sur subdivision increased in size to at least 2.79 acres for the portion of the Suerte del Sur subdivision that shares a boundary with the Tierra Grande subdivision.
- I would also like to see the lot sizes increased for the lots that border the other subdivisions on the eastern side of the Suerte del Sur subdivision (Northwest Ranches LLC and la Serena Subdivision) to a size that is equal to that of these adjacent properties.

I think this is a fair, reasonable and equitable request – especially given that the Suerte del Sur subdivision is 660 acres. I think that amending the plat plan to provide these larger lots on the eastern side of the subdivision, helps to preserve the property values of these adjacent properties and adds to the value of the Suerte del Sur subdivision.

I hope that you seriously consider my concerns and move to have the sub-division plan amended. I appreciate your consideration in this matter. If you have any questions, feel free to call me at (303) 759-4845 or (303) 908-3183 (cell) or via email at kevin.holman@bentley.com

Sincerely,

Kevin Holman

SHC CLERK RECORDED 05/23/2007

Subject: Cost Sharing Agreement
From: "Henrie, Michelle" <MHenrie@BHFS.com>
Date: Sun, 18 Mar 2007 09:58:37 -0600
To: <jrubin@rubinkatzlaw.com>
CC: "Tom Macken" <tpm@macken.net>, <RossJudy@aol.com>, <phill@santafevistas.com>, <DRICON@aol.com>, <DeBellaCollect@aol.com>, <michael@thecatholicfoundation.org>, <wegnerco@pacbell.net>

Jim,

Attached is a revised Cost Sharing Agreement. I believe it articulates what we discussed at the meeting on March 5. In addition, I tried to clarify the interest provisions in Paragraphs 4, 5 and 6 so that we are not disagreeing about them later if they kick in. Also attached is a redline based on the 9-25-06 document. Sorry for the delay in turning this around.

Michelle

Michelle Henrie
Brownstein Hyatt Farber Schreck, P.C.
201 Third Street N.W.
Suite 1700
Albuquerque, NM 87102
mhenrie@bhfs.com <mailto:mhenrie@bhfs.com>
T 505.724.9582
F 505.244.9266

<<Cost Sharing Agreement 03-18-07.doc>> <<Redline.doc>>

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COST SHARING AGREEMENT

This Agreement is made and entered into by the following parties on the date set forth below.

1. The owners of certain real estate in Santa Fe County, New Mexico, more particularly described as follows:

Tracts 1, 2, 3, 4, 5, 6 and 7 as shown on "Lot Split and Lot Line Adjustment Requested by The Estate of Richard M. Hager" recorded on January 28, 1999 in Plat Book 405, Pages 003 – 004 as Instrument No. 1059159 of the records of said County.

("Hager Properties"); and

Suerte del Sur, LLC, a New Mexico limited liability company ("SDS LLC"), the owner of approximately 630 acres of land immediately to the north of Lot 2 of the Hager Properties more particularly described as follows: ("SDS Property");

and

The Archdiocese of Santa Fe Catholic Foundation as the owner of "Tract A-1" located between the Hager Properties and Santa Fe County Road 70 as shown on the plat recorded as document no. 1014-560 on March 4, 1998 in plat book 392, page 003..

RECITALS

A. WHEREAS, the owners of the Hager Properties have agreed with one another to construct an arterial road to be known as Hager Road via that certain "Road Construction and Maintenance Cost Sharing Agreement" recorded as Instrument No. 1418149 of the records of Santa Fe County and the "First Supplement to Road Construction and Maintenance Agreement and Statement of the Hager Road Construction Association" recorded as Instrument No. 1427042 of the records of Santa Fe County (together: "Hager Road Agreement");

B. WHEREAS, Hager Road will serve a proposed development known as "Suerte del Sur" situated within all or a portion of the SDS Property;

C. WHEREAS the parties desire to agree upon a cost-sharing arrangement for the cost of constructing Hager Road in the scope under the terms and conditions described below.

AGREEMENT

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is acknowledged, the undersigned agree as follows:

1. **Work.** The "Work" covered by this Agreement includes the design, construction and maintenance of Hager Road.

2. **Scope of Hager Road.** The Work covered by this Agreement includes and is limited to the following scope of Hager Road:

A. Length. Hager Road shall begin at and include its intersection with County Road 70. It shall proceed northerly through Tract A-1 and the Hager Properties via, approximately, the Hager Road and utility easement shown on recorded plats or via, approximately, the alignment approved by the Arterial Roads Task Force Steering Committee of the Santa Fe Metropolitan Planning Organization. The approximate length of Hager Road is 6,200 feet.

B. Width. The width of Hager Road shall be that required by Santa Fe County for a Minor Arterial road capable of accommodating traffic from the Suerte del Sur project and traffic from projects on the Hager Properties and Tract A-1, as well as traffic from surrounding neighborhoods.

C. Standard. Hager Road shall be built to Santa Fe County standards.

D. Infrastructure. The Work does not include infrastructure, except such infrastructure, if any, (i) as may be necessary for the proper functioning of Hager Road as required by Santa Fe County (e.g., storm water management) or (ii) installed at the request of SDS LLC in sizes larger than would be required for the use of the Hager Properties in order to accommodate the needs of Suerte del Sur.

E. Other Exclusions. The Work shall not include any portion of Hager Road situated within the property owned by SDS LLC, nor any non-arterial "spur" roads within either the Hager Properties or Tract A-1.

3. **Construction Costs.** The "Construction Costs" of completing the Work shall include:

A. Engineering Services. SDS LLC acknowledges that the owners of the Hager Properties have retained Thomas Densford, P.E., and Ivan Trujillo, a/k/a Earth & Steel, LLC ("Engineers") to perform the services described in Scope of Work attached as Exhibit A hereto pursuant to a proposal submitted by the Engineers dated March 8, 2006, and Amendment #1 thereto dated March 10, 2006. Construction Costs shall include any and all services billed by the Engineers pursuant to this engagement that are within the scope of Hager Road listed in Paragraph 2 of this Agreement.

B. Construction Management, which shall be performed on a time and materials basis by either the Engineers as described in Exhibit A or by another licensed professional engineering company.

C. Government Requirements. All costs necessitated by permits, improvements, activities required by Santa Fe County or federal or state regulations as a condition of or prerequisite to building Hager Road.

D. Construction Services. Costs for construction shall be determined by a fair and competitive bidding process. Requested bid terms shall include (i) contractor maintenance of Hager Road for at least one year or until Hager Road is accepted by Santa Fe County, whichever occurs earlier. Selection of the contractor to perform the Work and approval of plans for the Work shall be made by the owners of the Hager Properties in consultation with SDS, LLC.

Construction Costs shall accrue until Santa Fe County, or the applicable governing entity, agrees that the Work is completed in accordance with required standards. Construction Costs shall not include legal fees relating to developing this Agreement.

4. Allocation of Construction Costs. The parties agree to share the Construction Costs for the Work as follows.

A. Upon expiration of the appeal period for final plat approval allowing up to 99 dwelling unit anywhere within Suerte del Sur, the owners of the Hager Properties collectively shall be responsible for 50% of the Construction Costs, and SDS LLC shall be responsible for 50% of the Construction Costs. All such Construction Costs shall be paid when due and before delinquent, with each party submitting a separate check to the requesting entity.

B. Upon expiration of the appeal period for final plat approval allowing at least 99 dwelling units anywhere within Suerte del Sur, SDS LLC shall reimburse the undersigned owners of the Hager Properties, collectively, such amount as to make SDS LLC's total share of Construction Costs equal to 66.67% (two-thirds) of the Construction Costs. Such reimbursement shall occur within 30 days of receipt of the vested final plat approval described herein.

All Construction Costs shall bear interest beginning 60 days after the date of the execution of this Agreement. The interest rate shall be equal to the prime rate, as reported by the Wall Street Journal's bank survey as of the date of the execution of this Agreement, plus 1/2%.

5. Financial Assurity. The owners of the Hager Properties shall provide 33.33% (one-third) of any financial assurity required by Santa Fe County for the Work, and SDS LLC shall provide 66.67% (two-thirds) share of any required financial assurity for the Work. Financial assurances shall be provided within 10 calendar days of Santa Fe County's requirement for the same. If the owners of the Hager Properties must advance any portion of SDS LLC's share of the financial assurity for the Work, such advance shall bear interest beginning on the date of said advance. The interest rate shall be equal to the prime rate, as reported by the Wall Street Journal's bank survey as of the date of the said advance.

6. **Hager Road Maintenance.** "Maintenance Costs" include any and all maintenance required to keep Hager Road (in the scope described in Paragraph 2 of this Agreement) consistent with Santa Fe County standards until such time as Santa Fe County, or the applicable governing entity, adopts or accepts Hager Road as public. Maintenance Costs shall be allocated and paid in the same percentages as set forth in Paragraphs 4 and 5 of this Agreement. If the owners of the Hager Properties must advance any portion of SDS LLC's share of Maintenance Costs, such advance shall bear interest beginning on the date of said advance. The interest rate shall be equal to the prime rate, as reported by the Wall Street Journal's bank survey as of the date of the said advance. The owners of the Hager Properties reserve the right to assign maintenance responsibilities, including Maintenance Costs to a nonprofit corporation, the Hager Road Association, upon completion of the Work pursuant to the Hager Road Agreement. SDS LLC acknowledges that the Hager Road Association will be governed by the Hager Road Agreement, including its determination of Maintenance Costs and selection of contractors to perform required maintenance.

7. **Mechanic's Liens.** If because of any act or omission (or alleged act or omission) of any undersigned party under this Agreement, any mechanic's or other lien, charge or order for the payment of money or other encumbrance shall be filed against any of the Hager Properties, Tract A-1, and/or any portion of such properties (whether or not such lien, charge, order or encumbrance is valid or enforceable as such), the party causing the encumbrance shall, at its own cost and expense, cause the same to be discharged of record or bonded within 30 days after the assertion or the filing thereof. Further, the party causing the encumbrance shall indemnify and save harmless the property owner from all costs, liabilities, suits, penalties, claims and demands, including reasonable attorneys fees, resulting therefrom.

8. **Default.** An "Event of Default" by a party shall be deemed to have occurred hereunder if such party shall breach or fail to perform, observe or meet any covenant or condition made in this Agreement and such breach or failure shall not be cured within 10 days after receipt of notice by the defaulting party from the non-defaulting party or, in the event such breach or failure cannot be cured within 10 days, if the defaulting party shall not have commenced, within said period, to cure such breach or default and be diligently pursuing such cure unto completion

9. **Remedies.** Upon any Event of Default by any party hereunder, the non-defaulting party may enforce the terms of this Agreement using all rights and remedies available to such party under law or in equity.

10. **Costs of Legal Proceedings.** In the event that a party hereunder institutes legal proceedings with respect to this Agreement, the prevailing party shall recover, in addition to any other relief to which it is entitled, its costs and expenses incurred in connection with such legal proceedings, including, without limitation, reasonable attorney's fees.

11. **Good Faith.** The undersigned shall act in good faith hereunder for the general mutual benefit of the owners of the Hager Properties, Tract A-1, and SDS LLC. Subject to the duty to act in good faith, no party or its employees or agents shall be liable for any damage, loss or prejudice suffered or claimed by any person on account of (i) the approval, conditional approval or disapproval of any plans or specifications for the Work, whether or not defective; (ii) the

sufficiency of engineering plans for the Work, (iii) the performance of the Work, or (iv) the selection of the contractor(s) to perform the Work.

12. General Cooperation. Notwithstanding any other provision of this Agreement to the contrary, the parties agree in good faith to execute such further or additional documents, and to take such other actions, as may be reasonably necessary or appropriate to fully carry out the intent and purpose of the parties as set forth in this Agreement.

13. Negation of Partnership. None of the terms or provisions of this Agreement shall be deemed to create a partnership between or among the parties in their respective businesses or otherwise, nor shall it cause them to be considered joint venturers or members of any joint enterprise.

14. No Oral Amendment or Modifications. No amendments, waivers or modifications hereof shall be made or deemed to have been made unless in writing executed by the party to be bound thereby.

15. Governing Law. This Agreement and the rights of the parties hereunder shall be governed by and interpreted in accordance with the laws of the State of New Mexico.

16. No Waiver. No waiver of a breach of any of the covenants contained in this Agreement shall be construed to be a waiver of any succeeding breach of the same or any other covenants.

17. Negotiated Provisions. This Agreement shall not be construed more strictly against one party than against the other merely by virtue of the fact that it may have been prepared by counsel for one of the parties, it being recognized that the owners of the Hager Properties, Tract A-1, and SDS LLC have contributed substantially and materially to the preparation of this Agreement.

18. Severability. If any provision of this Agreement, or the application of such provisions to any person or circumstances, shall be held invalid, the remainder of this Agreement, or the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

19. Binding on Successors. This Agreement is binding on the heirs, successors or assignees of the undersigned.

20. Recitals. The foregoing recitals are incorporated herein by reference.

21. Captions. The captions and section headings of this Agreement are not necessarily descriptive, or intended or represented to be descriptive, of all the provisions thereunder, and in no manner shall such captions and section headings be deemed or interpreted to limit the provisions of this Agreement.

22. Numbers and Genders. Whenever used herein, unless the context shall otherwise provide, the singular number shall include the plural, the plural shall include the singular, the use

of any gender shall include all genders, and the use of the words "include" and "including" shall be construed as if the phrases "without limitation" or "but not [be] limited to" were annexed thereafter.

23. Entire Agreement. This Agreement constitutes the entire agreement between the owners of the Hager Properties, the owner of Tract A-1, and SDS LLC as to the matters contained herein.

24. Time of the Essence. Time is of the essence with respect to performance required under this Agreement.

25. Utility Easement for SDS LLC. The parties agree that SDS LLC may place, repair and maintain utilities serving Suerte del Sur within the Hager Road easement. Prior to placing, repairing or maintaining any such utilities, SDS LLC agrees to provide notice, including specifications, to (A) each of the undersigned or (B) the Hager Road Association. Within one month after placing, repairing or maintaining any such utilities, SDS LLC agrees to restore, at its costs, any portion of Hager Road, the Hager Road easement, or adjacent lands affected by the placement, repair or maintenance of such utilities.

26. Commencement of Obligations. Notwithstanding anything herein to the contrary, any and all duties or obligations between the parties stated in Paragraphs 1 through 25 shall commence upon expiration of the appeal period for final plat approval allowing any number of dwelling units anywhere within Suerte del Sur.

27. Support for SDS LLC's Affordable Housing Plan. The owners of the Hager Properties agree to support the onsite affordable housing plan presented by SDS LLC to Santa Fe County in connection with Phases 1 and 2. As used in this Paragraph 27, "support" includes (i) face-to-face meetings with two or three Santa Fe County Commissioners or (ii) providing testimony at Santa Fe County Commission public hearing by representative owners of the Hager Properties.

IN WITNESS WHEREOF, the undersigned has executed this Agreement effective this _____ day of March, 2007.

THE ARCHDIOCESE OF SANTA FE CATHOLIC FOUNDATION, a New Mexico nonprofit foundation, Owner, Tracts 1, 6, 7 of the Hager Properties and Tract A-1.

By
Title

STATE OF NEW MEXICO

COUNTY OF SANTA FE

This instrument was acknowledged before me this ____ day of __ March, 2007 by
____ of the Archdiocese of Santa Fe Catholic
Foundation, a New Mexico nonprofit foundation.

Notary Public

My commission expires:

SFC CLERK RECORDED 05/23/2007

LAS LOMITAS, LLC, a New Mexico limited liability company, Owner, Tract 2 of the Hager Properties.

By
Manager

STATE OF NEW MEXICO
COUNTY OF SANTA FE

This instrument was acknowledged before me this ___ day of March, 2007 by
, Manager of Las Lomitas, LLC, a New Mexico limited liability
company.

My commission expires: Notary Public

Owners. Tract 3 of the Hager Properties
husband and wife

JUDY C. ROSS

TED R. WEGNER

STATE OF NEW MEXICO
COUNTY OF SANTA FE

This instrument was acknowledged before me this ___ day of March, 2007 by Judy C.
Ross and Ted R. Wegner.

My commission expires: Notary Public

DZD, LLC, a New Mexico limited liability company, Owner, Tract 4 of the Hager Properties

By
Co-Manager

By
Co-Manager

STATE OF NEW MEXICO

COUNTY OF SANTA FE

This instrument was acknowledged before me this ___ day of March, 2007 by Richard J. Driscoll and Joseph C. DeBella, Co-Managers of DZD, LLC, a New Mexico limited liability company.

Notary Public

My commission expires:

SANTA RITA RANCH ESTATES, LLC,
a New Mexico limited liability company,
Owner, Tract 5 of the Hager Properties

By
Manager

STATE OF NEW MEXICO

COUNTY OF SANTA FE

This instrument was acknowledged before me this ___ day of March, 2007 by
, Manager of Santa Rita Ranch Estates, LLC, a New Mexico limited liability company.

Notary Public

My commission expires:

SFC CLERK RECORDED 05/23/2007

SUERTE DEL SUR LLC,
a New Mexico limited liability company
By Suerte Development, Inc., its manager

By *S/ Steven Peters*
Title VP

STATE OF NEW MEXICO

COUNTY OF SANTA FE

This instrument was acknowledged before me this ___ day of _March, 2007 by
of Suerte Development, Inc., a New Mexico
corporation, Manager of Suerte del Sur LLC, a New Mexico limited liability company.

Notary Public

My commission expires: