

SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING
April 11, 2006

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



COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC AGENDA PACKET
PAGES: 177

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SANTA FE COUNTY
REGULAR MEETING
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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Chairman Harry Montoya, 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 Harry Montoya, Chairman
Commissioner Virginia Vigil, Vice Chairman
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner Mike Anaya

Members Absent:

[None]

V. Invocation

An invocation was given by Margie Romero from Housing Services.

VI. Approval of the Agenda

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- B. Tabled or withdrawn items**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

ROMAN ABEYTA (Deputy County Manager): Thank you, Mr. Chairman. We only have a couple of minor amendments to make the Commission aware of, the first being an added item under IX. Matters from the Commission, E. Consideration and approval of a variance from the terms of Ordinance 2006-04, which is an ordinance declaring hazardous fire conditions warranting restrictions on open fires and smoking within Santa Fe County to permit burning a building for purposes of a film, a project at the Bonanza Creek Ranch.

Again, that's been added to the agenda, Mr. Chairman, and the only other recommended change is we received a request from both staff and the applicant regarding Public Hearings item XII. A. Land Use Department, 6, the Rancho Viejo Village West. There's been a request that that could be moved to the bottom of the agenda, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any withdrawals from the Consent Agenda? Okay. Could I have a motion please, as amended?

COMMISSIONER VIGIL: So moved.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Motion and second.

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

VII. APPROVAL OF MINUTES

1. March 14, 2006

COMMISSIONER CAMPOS: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Campos.

COMMISSIONER VIGIL: I do have a few corrections, minor.

COMMISSIONER SULLIVAN: So do I.

COMMISSIONER ANAYA: I second.

CHAIRMAN MONTOYA: Motion and second by Commissioner Anaya.

Discussion?

COMMISSIONER VIGIL: If that motion includes the amendments or the corrections.

COMMISSIONER CAMPOS: Yes.

CHAIRMAN MONTOYA: He's okay with that. Yes.

The motion to approve the March 14th minutes as corrected passed by unanimous [5-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN – NON-ACTION ITEMS

CHAIRMAN MONTOYA: This is the point in the agenda where anyone who would like to address the Commission, if you could please come forward. Seeing none, we'll move on.

IX. Matters from the Commission

A. Recognition of City of Española Mayor Richard Lucero (Commissioner Montoya)

CHAIRMAN MONTOYA: Mayor Lucero, would you please come forward. We have a proclamation here that I'd like to read on behalf of the Commission. It reads:

Whereas, in 1966, the Honorable Richard Lucero was elected to the Española City Council and in 1968 was elected mayor of the City of Española and served several terms; and

Whereas, Mayor Lucero's commitment to the city and community was for more than 24 years; and

Whereas, Mayor Lucero was born and raised in Española and is a successful business owner in the Española Valley; and

Whereas, during his term of office, Mayor Lucero has been committed to serving the citizens of Española by working to protect the city's water to ensure and safeguard a reliable future, and was instrumental in the implementation of water and wastewater projects; and

Whereas, Mayor Lucero provided opportunities for all citizens by creating a public library and recreational center; and

Whereas Mayor Lucero has been involved in the Main Street program and the Plaza Española Foundation and through his vision and direction the Mission Plaza and Convento Museum was completed and brings tourism and economic development to the City of Española; and

Whereas, Mayor Lucero sought funds for the creation of a local veterans memorial and conducted renovations to the Bond House to make it a historical landmark museum; and

Whereas, he was instrumental in youth education and founded the Española Military Academy Charter School; and

Whereas, Mayor Lucero's public service also included efforts to support Española's youth and provided opportunities for recreational programs, youth programs, as well as senior service programs and many other programs; and

Whereas, in recognition of his exemplary leadership, commitment and contribution as Mayor of the City of Española;

Now, therefore, we the Board of Santa Fe County Commissioners hereby proclaim April 11, 2006 Richard Lucero Day throughout Santa Fe County.

RICHARD LUCERO: Mr. Chairman, members of the Commission, I'm not a person that likes to receive awards and honors but it was hard for me to get here because of that reason. But since you have such a tremendous vision yourselves in the future of this County and where it must go in concerns for citizens, your citizens, our citizens, I should thank you for your dedication in order to give, along with the County Manager and all the

elected officials of this County. I'm sure it's not easy to serve as an elected official in probably the most recognized county in the United States of America for its historical values and so much more.

They ask me constantly, do I have a lot of time now to do what I want to do. I have put things off so many, many years that it's going to take me another lifetime to catch up, but I'll get started soon. I only want to add one other thing, even though we could talk about the water cases that are before the federal courts, and the visions that we had many, many years ago on those issues. I just wanted to add one thing. If I can ever serve you in any way, please, I'm ready to do so. Thank you.

CHAIRMAN MONTOYA: Thank you, Mayor. I'll just add that I really appreciated the camaraderie, the working relationship with I had with him and joined with Mayor Lucero. As you all know the City of Española does overlap and come into Santa Fe County and we were required to work with him, and we will miss you, Mayor. So I'll remember your offer that we should call you. Thank you.

CHAIRMAN MONTOYA: I move to approve the proclamation.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second by Commissioner Sullivan. Discussion.

The motion to approve the proclamation honoring Mayor Richard Lucero passed by unanimous [5-0] voice vote.

IX. B. Resolution No. 2006-59 A Resolution Supporting the Efforts of St. Elizabeth's Shelter to Obtain and Secure a Permanent Site (Commissioner Montoya)

CHAIRMAN MONTOYA: This was brought forth by Gil Martinez, who works over at St. Elizabeth's shelter, and the proclamation or the resolution, actually, is in your packet, and I would stand for any questions and also here to answer any questions is Deborah Tang, the executive director for St. Elizabeth's shelter. So stand for any questions.

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second by Commissioner Sullivan. Discussion?

COMMISSIONER CAMPOS: Question.

CHAIRMAN MONTOYA: Question, Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, could you give us a little background? What exactly are you asking the County to do? Are we looking for legislative assistance or how do we plan to provide resources to St. Elizabeth's shelter to assist them in their efforts to find a permanent home?

CHAIRMAN MONTOYA: Okay, as to the first question, in terms of any legislative purposes that we'd be able to give through our lobbyists or by including St. E's on our infrastructure capital improvements plan, assisting with any letters of support they maybe be seeking for federal assistance as well. This would be through our congressional delegation members. So however we can possibly assist them in obtaining property and funds for their capital improvements.

COMMISSIONER CAMPOS: The last therefore in number 3 says provide a report to the County Commission within 60 days. Who is providing that report?

CHAIRMAN MONTOYA: County staff.

COMMISSIONER CAMPOS: So you're directing County staff to go out there and help them find a building or a piece of property, or -

CHAIRMAN MONTOYA: Asking them to assist in that, yes.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN MONTOYA: Any other discussion?

COMMISSIONER VIGIL: Mr. Chairman, are there any other prospective sites? Do we know? Or are we starting from ground zero?

CHAIRMAN MONTOYA: Ms. Tang, have you had any discussions with County staff on that potential?

DEBORAH TANG: Yes, there is some land that's by Agua Fria, where Youth Shelters and Family Services is, in that area.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTOYA: Any other questions for Deborah?

COMMISSIONER VIGIL: No, but I would just say, Mr. Chairman, that I'm very happy as a Commission to support an initiative such as St. Elizabeth's and whatever the County can do I think we should.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: St. Elizabeth's is a great institution and we in the County should support it but we have to keep in mind our perspectives and how many other things we have and conflicts and staff time. They're pretty burdened right now. So I hope we keep that in mind.

CHAIRMAN MONTOYA: All right. Any other discussion?

The motion to approve Resolution 2006-59 passed by unanimous [5-0] voice vote.

**IX. C. Discussion of the Regularly Scheduled BCC Meeting on May 9th
(Commissioner Vigil)**

COMMISSIONER VIGIL: Actually, Mr. Chairman, I brought this item before the Commission before there is a Western Interstate conference scheduled for May 9 through, I believe May 13th. And I believe at least two Commissioners will be attending that. There's a possibility that I may be attending it because of the affordable housing component to this conference. I am not sure about that but I thought we should discuss alternative times and I think Gerald, if this has been brought to your attention, do you have some alternative times for that scheduled meeting, unless and if there will be three of us, I still think that would be a short Commission.

GERALD GONZALEZ (County Manager): Mr. Chairman, Commissioner Vigil, I know I'd explored this with a couple of the Commissioners. There seems to be a number of conflicts, so my hope was that with everybody sitting around the dais we'd have an opportunity to figure out a time.

COMMISSIONER VIGIL: Okay.

COMMISSIONER CAMPOS: Are we looking at time or date, Mr. Gonzalez? We're looking at a different date? Who's not going to be here?

CHAIRMAN MONTOYA: I won't. Commissioner Anaya and possibly Commissioner Vigil.

COMMISSIONER CAMPOS: Are you fine if we continue on as scheduled? Do you have any objection to continuing as scheduled?

CHAIRMAN MONTOYA: It's a land use meeting. I don't know what's going to be on the agenda for that.

COMMISSIONER CAMPOS: Those are usually long agendas, public hearings.

CHAIRMAN MONTOYA: Yes.

COMMISSIONER CAMPOS: I would prefer to keep our schedule. This is an important meeting.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Can you proceed with a meeting if you just have two Commissioners?

COMMISSIONER CAMPOS: If we have three, unless Commissioner Vigil - she's not sure at this point in time.

COMMISSIONER ANAYA: I'd like to see if we could move it to the 16th. That's the next Tuesday.

COMMISSIONER SULLIVAN: I'm out of town at a meeting up north at 7:00 on the 16th, so it would have to be during the day.

COMMISSIONER ANAYA: Does that meeting start in the morning?

COMMISSIONER SULLIVAN: If it's land use it starts at 3:00.

COMMISSIONER CAMPOS: The public hearings start at 6:00.

MR. GONZALEZ: Mr. Chairman, I believe the 16th is the day also of the Aamodt meeting in DC. So we're down to four Commissioners anyway at this point.

CHAIRMAN MONTOYA: If you're comfortable moving along I've been asked to go to Washington for the Aamodt settlement discussions, the 15th through the 18th.

COMMISSIONER VIGIL: Does this meeting have to be on a Tuesday?

MR. GONZALEZ: No requirement, Mr. Chairman.

CHAIRMAN MONTOYA: I'm fine with it going on on the 16th if the rest of you are.

COMMISSIONER SULLIVAN: I won't be here.

CHAIRMAN MONTOYA: Oh, you won't be here either. Okay. So that's two down.

COMMISSIONER VIGIL: Who else won't be here?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question. Do we have any other public hearings? Sometimes the odd Tuesdays are filled by other hearings. I don't have anything on my calendar but sometimes we do.

MR. GONZALEZ: Not at this time, although we can talk about the possibility of having a strategic planning two or three hours some time during that month. So we could do a combination, I suppose.

COMMISSIONER ANAYA: Do we have to have the meeting? We could cancel it. How about the 23rd?

CHAIRMAN MONTOYA: Do you want to keep it on the 16th?

COMMISSIONER SULLIVAN: I won't be here the 16th.

CHAIRMAN MONTOYA: Are you comfortable with that?

COMMISSIONER SULLIVAN: No, I'd like to be here.

CHAIRMAN MONTOYA: So the 16th is not an option.

COMMISSIONER CAMPOS: Let's keep it on the 9th and see what happens to Commissioner Vigil?

COMMISSIONER VIGIL: Actually, if the two of you don't mind us moving forward with the Commission, if I do go to Sacramento I can leave - that's an administration meeting? The 9th?

MR. ABEYTA: It's land use.

COMMISSIONER CAMPOS: Land use public hearing starting at -

COMMISSIONER VIGIL: I could leave the following morning, possibly.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER VIGIL: So there will only be three of us on the 9th. And you're okay with that?

COMMISSIONER SULLIVAN: They'll withdraw everything so it will be a short agenda.

CHAIRMAN MONTROYA: So we'll just stay with the 9th then.
COMMISSIONER ANAYA: Gerald, you watch out for us.
MR. GONZALEZ: Will do, Commissioner.
COMMISSIONER ANAYA: He'll call us on the phone.
MR. GONZALEZ: I promise.

IX. D. A Proclamation Recognizing National County Government Week, April 23-29, 2006 (County Commission)

CHAIRMAN MONTROYA: That also, I believe was in your packet. National County Government Week is April 23 to 29, and did we get some information on that? We do have the resolution or actually the proclamation. This is honoring all of our County employees and recognizing them throughout that week.

COMMISSIONER SULLIVAN: You better read it because we don't have it.

CHAIRMAN MONTROYA: Okay, it says:

Whereas, America's counties provide a variety of essential services for the health, safety and welfare of our communities; and

Whereas, Counties are often the first to respond to emergencies and are primarily responsible for disaster planning. Counties also work to protect families, children and youth; and

Whereas, there are 3,066 counties in the United States, collectively responsible for the well being of more than 250 million residents; and

Whereas, Counties provide services that make America's communities stronger, safer places to live and raise families. Counties police our streets, fight fires, save lives in hospitals, keep families healthy, repair bridges, plow snow, help troubled youth, train laid-off workers and perform countless other jobs; and

Whereas, first celebrated in 1990, National County Government Week was initiated to raise public awareness about counties representing diverse, vibrant communities in every region of the country and provide recognition of the leadership, innovation and valuable service provided by our nation's counties; and

Whereas, counties have a long history of providing critical services. County governments are the citizen's local government voice, providing solutions that bring communities together; and

Whereas, in recognition of the leadership, innovation and valuable service provided by our nation's counties:

Now therefore, be it resolved, we the board of Santa Fe County commissioners hereby proclaim: April 23-29, 2006: "National County Government Week" throughout Santa Fe County.

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTROYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil. Any discussion?

The motion to approve the County Week proclamation passed by unanimous [5-0] voice vote.

COMMISSIONER ANAYA: Commissioner, what dates was that again?

CHAIRMAN MONTOYA: April 23 through the 29. So that's coming up.

IX. E. Consideration and approval of a variance from the terms of Ordinance 2006-04, which is an ordinance declaring hazardous fire conditions warranting restrictions on open fires and smoking within Santa Fe County to permit burning a building for purposes of a film, a project at the Bonanza Creek Ranch

COMMISSIONER VIGIL: Thank you, Mr. Chairman. This issue was brought to my attention actually last Friday when Commissioner Sullivan, Commissioner Montoya and I were in the Governor's mansion visiting with Lech Welesa. It's an issue that our staff is well aware of. What we're asking is a variance of ordinance 2006-04 as is posted in the notice. I just want to point out, Mr. Chairman, that with us today in support of this - and if you would please stand, because if there's any questions we need to ask of you we'll be able to identify you. With us is Disney producer Amy Sayers. Amy, would you stand. Also Becky Brake, Roland Starden, assistant local manager, Bruce Steinheimer, special effects coordinator, and Lisa Strat, director of the New Mexico Film Office.

And Mr. Chairman, thank you all for being here. I recognize how important it is for you to move forward with this film and Stan Holden will be stating the terms and conditions for the request of the variance.

CHAIRMAN MONTOYA: Okay. Do we have something written on that, Commissioner Vigil?

COMMISSIONER VIGIL: I do believe you should have received a memo.

STAN HOLDEN (Fire Chief): Mr. Chairman, Commissioners, obviously, the Fire Department has some serious reservations and concerns about conducting any burns during the time we are under a declared restriction secondary to the conditions that exist in Santa Fe County. However, given the situation, we have developed some criteria and conditions which our department would recommend to the Commission for approval if in fact the Commission does decide that this is the direction that they wish to go. The Fire Department felt that this would require a variance. I understand from our County Attorney, Mr. Ross that that may not be a requirement in particular and he may need to be requested to give us an opinion on what approach we should take.

These conditions the Fire Department feels are conditions that we would need in order

to move forward with this request from the Disney Production Company to do these burns under these existing conditions. I'd be happy to stand for any additional questions you might have.

CHAIRMAN MONTOYA: Okay. Any questions for Stan? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, thank you. Chief, we're in the middle of one of the driest periods in about 100 years here in New Mexico, very exceptional circumstance and if there should be a fire and it should get out of control, who's going to pay for it? Who takes the risk?

CHIEF HOLDEN: Mr. Chairman, Commissioner Campos, it would be my considered opinion, obviously I'm not a legal expert, but it would be my opinion that if we were to grant these conditions that the County would be accepting the liability secondary to any consequences of allowing this burn to happen, but again, I would suggest we defer to our County Attorney on this.

CHAIRMAN MONTOYA: Steve.

STEVE ROSS (County Attorney): Mr. Chairman, we didn't have a lot of time to think about this yesterday when the request came in and after thinking about it for 24 hours I'm not sure this is a variance but it probably is within the Chief's authority to grant some sort of a special permit if you are okay with the request.

CHAIRMAN MONTOYA: So under the granting of that special permit, who would be liable if something, as Commissioner Campos suggested, went awry.

MR. ROSS: Mr. Chairman, members of the Commission, certainly the County would take the position that we are immune from liability if circumstances like that occurred. But immunity is a fairly vague concept in the state. I can't predict what the courts would do with a claim like that but I would certainly take the position it's not within the enumerated exceptions in the Tort Claims Act.

COMMISSIONER CAMPOS: What about insurance, Chief? Are you requiring insurance of the applicant, special insurance in case something happens?

CHIEF HOLDEN: Mr. Chairman, Commissioner Campos, that's an excellent question. I believe that is a basic requirement that's on the permit. These are conditions that are above and beyond the County's typical permit that is issued through the Land Use Office.

COMMISSIONER CAMPOS: How much insurance?

CHIEF HOLDEN: Commissioner Campos, I can't answer that question.

COMMISSIONER CAMPOS: Is it a small amount?

CHIEF HOLDEN: Again, that would be a land use question. I don't know how much the ordinance requires that sets for that amount.

COMMISSIONER CAMPOS: About supervision, how is this burn going to be supervised by anybody?

CHIEF HOLDEN: Under the conditions that we're asking the Commission to consider, the Fire Department would be responsible for an ultimate go/no-go on any burn that was conducted.

COMMISSIONER CAMPOS: Are you going to actually supervise and be out there in case anything happens?

CHIEF HOLDEN: It would either myself or Deputy Chief Hank Blackwell.

COMMISSIONER CAMPOS: Is it going to cost you extra money?

CHIEF HOLDEN: Yes, sir.

COMMISSIONER CAMPOS: And have you discussed that? Is that something you'll be reimbursed for?

CHIEF HOLDEN: Yes, sir, that's one of the conditions that we've put forth is that the film production company will be responsible for covering that cost.

COMMISSIONER CAMPOS: I'm interested in protecting the public and I'd like to know how much insurance is involved. I think this is kind of a hazard if it's not properly supervised under the right circumstance.

CHIEF HOLDEN: I absolutely agree.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Stan, would you just identify the safety features that you've requested for the record?

CHIEF HOLDEN: Yes, ma'am. The department is requesting the following conditions: For overall safety purposes the burn permit and all burn conditions must be pre-approved by the Fire Department. Conditions of approval must include at a minimum weather conditions including humidity, temperature and time of day, fuel conditions, safety precautions and preparations, adequate staffing of a dedicated fire crew whose make-up, training and expertise are to be determined by the Fire Department and expense to be paid for by the movie production company. And finally, number 3, a go/no-go decision will be made by the Fire Department who must have final approval regarding preparations and conditions prior to the actual initiation of any burns.

COMMISSIONER VIGIL: Thank you. Mr. Chairman, I'd also like, I believe Wally Stanbrun has a few statements or Amy Sayers. I'm not sure which.

AMY SAYERS: That would be me. I'm Amy Sayers. Mr. Chairman and members of the Commission, before we begin or I begin I just want to first of all thank you very much for seeing us on what I know is very short notice. I deeply appreciate it.

In my letter that I wrote to you I detailed a little bit about what we're hoping to do and this portion of our movie where we need to burn down this bar that's populated by our evil biker bar kind of motorcycle club, it's a portion of the journey that our four main characters take off cross-country and they encounter these bad guys. What we want to do is we're planning on building the bar ourselves on a piece of property out on Bonanza Creek Road. It's a big piece of property and if I may I'd like to – first I want to show you the aerial view of the property that we're speaking about.

CHAIRMAN MONTROYA: Where are we at?

MS. SAYERS: Where is it? It's on Bonanza Creek Road. It is 15 Bonanza Creek Lane, it's County Road 45, 1.8 miles south of Bonanza Creek Gate #2. And we have

another – this will show you on a grid exactly where we’re planning on building the bar within the piece of property.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Is that – that’s County Road 45 right there. You’re going to be just going off – and it’s going to be a single structure?

MS. SAYERS: Yes.

COMMISSIONER ANAYA: Just a single structure.

MS. SAYERS: It’s a single structure with two smaller outbuildings. One small trailer on one side and another kind of shed on the other side that we’re building.

COMMISSIONER ANAYA: Are those going to burn too, or just this building.

MS. SAYERS: It’s mainly that building is what’s going to go up in our plan.

Just to set the scene so you understand, one of our heroes cuts the motorcycle that belongs – I don’t want to give you too much detail; I know time is short.

CHAIRMAN MONTTOYA: I want to read the book.

MS. SAYERS: I’ll give you a script. When we finish writing it. But the idea is that John Travolta goes back to kind of give the bad guys a taste of their own medicine. He cuts the gas lines on all the motorcycle gang’s bikes so they can’t follow them. They see him leave, they get on their bikes to follow him. They start them up and go a few feet down our driveway, the paved area that we will pave and do. And they run out of gas. In their frustration one of the guys throws down a cigarette, lights the trail of gasoline leaving the gas pump and up goes our bar.

It’s in an unpopulated area, but of course we’re well aware of the drought conditions and what we’re all facing here in New Mexico.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTTOYA: Thank you, Amy. Any questions for Amy?

COMMISSIONER VIGIL: Amy, would Disney Studios or whoever is promoting this, would they be willing to purchase insurance for that day?

MS. SAYERS: We do carry quite a bit of insurance and of course we’re well aware of what it is. I’d have to talk to Disney. I’m sure the answer is yes. Whatever is required I’m sure that Disney will do.

COMMISSIONER VIGIL: Thank you.

MS. SAYERS: And in addition, I just wanted to say all the costs mentioned earlier will be incurred by us, whatever Fire Department officials – safety is very important to me. Safety is paramount as I stated in my letter and it’s true. So whatever it takes to operate safely is what we will do. Fire Department, water, water trucks, all that stuff will be incurred by our company and I will be guided by the Fire Commission and whatever they deem appropriate is what we want to do.

COMMISSIONER VIGIL: And Amy, you’ve been required to receive other permits for this film and I think those are all in place.

MS. SAYERS: Everything else is in place. We’ve worked with the Land Use

Department, the Fire Marshal's office. We've been working hand-in-hand since February. So yes. Everything seems to be proceeding apace.

COMMISSIONER VIGIL: Okay. If there are no further questions, Mr. Chairman, I'm ready to motion, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya had a question.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. I have complete confidence in our Fire Department. This is just a single structure and I really don't think that this will get out of hand at all. But I'd like to add another condition and that would be under 4, that I get a speaking part in this movie. Mr. Chairman, I'm not laughing.

CHAIRMAN MONTOYA: But you're joking, right?

COMMISSIONER ANAYA: I'd like to get a speaking part in this. I think I'd look pretty good on a bike. I shaved my head for the movie, anyway. But I don't have a problem with this.

MS. SAYERS: I just wanted to make sure everyone say this. This is a rendering of the bar.

COMMISSIONER ANAYA: That's not a very big building. Thank you, Mr. Chairman.

CHIEF HOLDEN: Mr. Chairman, we have the answer to Commissioner Campos' request regarding insurance.

CHAIRMAN MONTOYA: Okay.

JOSE LARRAÑAGA (Land Use Department): Mr. Chairman, Commissioner Campos, any film permit that comes to our office has to have the insurance of \$1 million general liability with Santa Fe County as additional insured. So we have \$1 million for each occurrence on that. And all the – the complete film permit is complete. The only thing we're waiting on is a driveway access permit and we're working with Public Works on that.

CHAIRMAN MONTOYA: So that doesn't need to be added as a condition then. It's part of the process.

MR. LARRAÑAGA: Yes, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I think as a local government division we need to do everything we can possible to promote the film industry. We have a governor and a film commission and state film office who have been working very hard to bring films into New Mexico and Santa Fe of course has been the beneficiary of some of those films. With that, Mr. Chairman, whether a variance is required or whether staff can be directed to pursue a permit for this, I move that either be accepted by this Commission to grant the variance or direct staff to grant the permit for the film with the conditions as presented to us by the Fire Department.

CHAIRMAN MONTOYA: Does that include Commissioner Anaya's condition?

COMMISSIONER VIGIL: Well, I also want to meet John Travolta. Can we include that?

CHAIRMAN MONTOYA: So there's five conditions. Okay. With the three conditions.

COMMISSIONER VIGIL: With the three conditions. Okay, any discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Does that include full compensation for anything that the County has to do to control this thing if it gets out of control? Fully compensated.

CHIEF HOLDEN: That's correct.

COMMISSIONER VIGIL: Okay.

CHAIRMAN MONTOYA: Any other discussion?

The motion to approve the burn permit passed by unanimous [5-0] voice vote.

X. CONSENT CALENDAR

A. Miscellaneous

- 1. Request Authorization to Purchase Four (4) 2006 International Navistar/Horton Model 623 Medium Duty Ambulances with Customized Chassis and Conversion, Specific to Santa Fe County Fire Department, from Professional Ambulance for the Amount of \$181,495 per Ambulance for a Total Amount of \$725,980.00. Santa Fe County Contract #26-0814-FD/TL, is Using an Existing Sandoval County Agreement with the Contractor Pursuant to 13-1-129 NMSA 1978 (Fire Department)**
- 2. Request Approval of Amendment No. 2 to the Professional Services Agreement No. 24-0092-FD of Chris Atwell, Pharmacist Services for the Santa Fe County Fire Department to Extend the Terms of the Agreement for one (1) Additional Year and Increase Compensation of \$3,750 (Fire Department)**
- 3. Request Approval to Enter into Agreement with the Administrative Office of the Courts and the Santa Fe County Sheriff's Office (Sheriff's Office)**

CHAIRMAN MONTOYA: Do I have a motion, please?

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos.

The motion to approve the Consent Calendar as submitted passed by unanimous

[5-0] voice vote.

X. OTHER MATTERS FROM THE COMMISSION

CHAIRMAN MONTOYA: Go ahead.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Real briefly, I just want to send my condolences out to Sam Chavez who passed away yesterday morning. I just want to send my condolences out to him and his family. That was Robert's brother-in-law, by brother.

And I had a question for Animal Control. I read in the paper yesterday that there was pit bull attack in Edgewood, and I know that I had received a call prior to that, a week before, on some pit bulls getting out in the Edgewood area. I don't think it was this pit bull that did the damage. But I know that we've had a lot of these cases where pit bulls are turning on their owners or turning on children and I just thought I'd bring it up to the Commission to see what is the Sheriff doing and maybe what does the Commission want to do with pit bulls in Santa Fe County. I know in some cities and some states and some counties they don't allow pit bulls at all. So Sheriff, if you could just kind of brief me or brief the Commission on what happened and what are the steps that the Sheriff is taking and Animal Control.

RON MADRID (Sheriff's Office): Mr. Chairman, Commissioners, Commissioner Anaya, at this point we have an investigation on a mauling of an 11-year old child. We do not know at this point if there was a pit bull. We have two dogs that we have impounded. One's a St. Bernard and a pit bull. Just about an hour ago we had dental moldings taken off the pit bull and we should know here in about 45 minutes whether it was that dog or not. So we don't know for sure if it was a pit bull. There are state statutes on vicious animals and we do not have a history of this individual's dogs that we took away, so I don't think it was the pit bull that you were talking about because there's no history of any complaints at that residence, other than some shots that the dogs had to be given. But that's where we're at right now.

COMMISSIONER ANAYA: So Major, what happens if this owner, if it turns out to be the dog of this owner that they say it is, what happens to the owner?

MJR. MADRID: The case, we've been working with the district attorney's office and that would be up to the district attorney's office if there are going to be charges filed against him as an owner. I couldn't answer that question right now.

COMMISSIONER ANAYA: What about - is it legal in Santa Fe County to breed pit bulls?

ANDREW JARAMILLO (Animal Control): Mr. Chairman, Commissioners, in Santa Fe County there is a breeders' permit. It doesn't specify what breed, to answer your question.

COMMISSIONER ANAYA: So they can breed Chihuahuas -

MR. JARAMILLO: Dobermans, rotties - like I said, my favorite is

Chihuahuas.

COMMISSIONER ANAYA: I guess maybe we'll just wait to hear when the results come about and then maybe in the future, I don't know how this Commission wants to act, but to me, pit bulls are very vicious and you read about these every couple months. You hear about a pit bull attacking a child and sending that child to the hospital, so that's very serious to me. But I want to thank you Andrew and Major, for coming forward and answering those questions. Thank you.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Is that all the questions of Commissioner Anaya?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER CAMPOS: Commissioner Anaya, are you suggesting that we get some information to this Commission and evaluate the pros and cons of that kind of legislation?

COMMISSIONER ANAYA: I'd like to see that something come out of it, Commissioner. Otherwise, the pit bulls continue to roam, people continue to get hurt and I think we need to do something about it or we're going to read about it in the paper again.

COMMISSIONER CAMPOS: There are other dogs too that are pretty – the pit bull has a very strong jaw. I guess that's what makes it so dangerous. Just like the German shepherd and other animals like that. I've never heard the arguments so if maybe you could invite an expert in the area to come to talk for ten or fifteen minutes and give us some ideas, I think that would be the way to go.

COMMISSIONER ANAYA: Yes, let's see if we could find somebody or maybe look in other counties and other cities to see what their ordinance are and why. Because I know I did read it in the paper and they said that Denver, or some cities have an ordinance where they don't allow breeding or they don't allow the animal in their area. So if we could get something like that.

MR. JARAMILLO: We could look into it, Mr. Chairman, Commissioner Anaya. I recall that Governor Richardson enacted a dangerous dog bill this year. I can get a copy of that bill. That bill, when it was introduced was to help them, control agencies prevent this from happening under that state statute. If Commissioner Anaya, if your dog is deemed potentially dangerous, or dangerous, and we go through the steps with the state law, we can register and be watching that dog. If you fail to – if you violate that act, it's a felony in a situation like this. So we, Animal Control Division, are looking at steps of continuing to use that law to help us out to prevent something like this from happening in Santa Fe County.

COMMISSIONER ANAYA: If we do have that law, then maybe we need to somehow get it out so that the owners know about the law, just in case they have a vicious animal. I think they need to know it. Thank you, Mr. Chairman. That's all I have. If we could get that information.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Commissioner

Vigil.

COMMISSIONER VIGIL: Mr. Chairman, on that subject, I do believe Commissioner Anaya is right. Denver has enacted a law regarding pit bulls, but my understanding is that that law is also being challenged. So I would be in favor of having someone give us more information on this to protect particularly the youth because in Santa Fe County has previously lost a life to vicious dogs. I think it was a youth out in Eldorado and Ron is shaking his head. This must have been about eight or nine years ago. And the potential risk of losing a life because of vicious dogs is something that we need to look at in terms of policy and what we can enact. I know the state statutes do protect us but I'm not too sure how to handle this. Were you going to say something, Ron?

MJR. MADRID: No, I was just agreeing with you on the child that was killed out in Eldorado.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN MONTOYA: Okay. Anything else?

COMMISSIONER VIGIL: On Matters from the Commission? I do have a couple of items. I was just wanting to respond to that. I just wanted to announce to the public that Santa Fe Beautiful is conducting its spring clean-up day on April 22nd. Anyone who's interested, and I do believe our Solid Waste Division partners with them. But for the general public I think it would be good for them to know that on Saturday, April 22nd, on Siler Road, the location where Santa Fe Beautiful is administered, they will be meeting around 8:00 in the morning. They issue garbage bags. Everybody who participates in it can get a garbage bag and get a group of people, a group of friends, and go out and clean a particular area, even in their neighborhood. There's no designated area that's identified. It's a wonderful opportunity for the community to participate in the spring clean up. Gilda Montoya with the City of Santa Fe is the person you can contact for further information on that.

Also, Mr. Chairman, sometime back we had talked about an issue that had come up with regard to neighborhoods being notified when developments are going through the development process and the problem continues that when developers come before the Commission or go through our administration they are required to give notice. We have a rule and regulation that says that notice should be done to those neighborhood associations who are registered with the County. And the problem is that many neighborhood associations are not registered with the County and I'm not too sure that we've done any outreach to get those neighborhoods registered. So I'd like, perhaps Gerald, if we could consider doing some advertising, some community bulletins, getting the word out in terms of some kind of an outreach to get those neighborhood associations to be registered and perhaps, Dolores, as you're raising your hand, you've already taken that initiative. I don't even know. If you want to respond to that request?

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Vigil, we have actually sent out letters to all the existing neighborhood associations and groups that we have on our list to get updated information, and we're also sending out an ad in the local newspaper to ask for updated information also.

COMMISSIONER VIGIL: And Dolores, another way to get the word out is through many of the community bulletins that are available, through the Community College, through the local papers, through local radios. If we could do some kind of a campaign, because if you're trying to reach out to those neighborhood associations who don't know they're supposed to register and you only send letters to those who are registered there might be a little bit of a gap there.

MS. VIGIL: That's a good idea. I will do that.

COMMISSIONER VIGIL: Okay. Thanks. That's all I have, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Nothing, Mr. Chairman.

CHAIRMAN MONTOYA: Well, I'll congratulate you on being a new dad.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN MONTOYA: What's his name?

COMMISSIONER CAMPOS: David.

CHAIRMAN MONTOYA: David. Congratulations. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one item, Mr. Chairman. The last Commission meeting we had some appointments to committees and we discussed getting some diversity in the committee makeup and getting more interest in the committee assignments. One of the issues that I brought up was the question of whether we should have term limits in any or all of our committees. We already have that in place for our COLTPAC committee for open space and trails, and I don't think we have that in place for any of the others, but I might be wrong about that with regard to some of the community review committees.

So I would just like to ask the Manager's office to take a look at that issue and come back to us in conjunction with the Land Use office and come back to us with a brief report as to what your recommendations might be and if any of the committees would work better with term limits on them and if so, which ones.

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

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, in response. I don't know which committees Commissioner Sullivan is concerned about but we have problems getting enough people to volunteer to most of our committees. There are vacancies and maybe one of the ideas is maybe we move to make these groups smaller, instead of having seven, perhaps five. We're just having problems recruiting people, and if you term-limit people then you may even have a more serious problem. Is there a particular committee that you're concerned about or a number of committees?

COMMISSIONER SULLIVAN: I'd like to see the staff recommendation for all of the committees and I think there are committees, like the Community College District which is currently at seven, which seems to be two too large for that committee. But as I said at the last meeting, I think one of the reasons we have trouble recruiting is because we continue appointing the same people and finally people get disenchanted with any potential of serving on the committee. So there may be some committees where it's not an issue but certainly in land

issues where we're doing quasi-judicial decisions, I personally think a rotation of people is healthy. We ought to at least look at that option and debate it and discuss it a bit. I would certainly include, Gerald, that for those committees that you think are too large, that we recommend doing that and seeing what you say about reducing the size of them.

MS. VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Dolores.

MS. VIGIL: I'd like to respond. Commissioner Sullivan, I have looked into the Code and the LCDRCs, the local development review committees, they can go as low as five, no more than seven. So that is in the Code. So for the next go-round, if we do not find enough people to volunteer on the committees, we can go to at least five. As far as doing the term limits, we'll have that ready for you at the next Commission meeting.

COMMISSIONER SULLIVAN: Appreciate it.

MS. VIGIL: You're welcome.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: We received a letter from the City of Santa Fe, subject petition to annex the municipal airport and wastewater treatment plant. Any comments from our staff, from our Manager? What are we supposed to do here? Is this consistent with the JPA? Do we plan to discuss this issue in the near future?

MR. ROSS: Mr. Chairman, Commissioner Campos, this is the first I've heard about it. We'd be happy to analyze it and give you some options.

COMMISSIONER CAMPOS: You've gotten the letter, right?

MR. ROSS: I have not gotten the letter.

COMMISSIONER CAMPOS: It was hand-delivered.

CHAIRMAN MONTOYA: It says on April 7th.

MR. GONZALEZ: In terms of details, I haven't really received anything.

CHAIRMAN MONTOYA: Okay. Essentially what they're asking for is any comments that the County may have regarding the annexation proposal that they're putting forth to petition for the annexation of the municipal airport and the wastewater treatment plan. So I guess they're asking for a comment by May 7th so we could maybe figure out what comments we have and I don't know if the rest of the Commissioners would like to respond as well, or at least react to the response. I would like to.

MR. GONZALEZ: Mr. Chairman, Commissioners, since it was just received we haven't even had a chance to react to the letter, much less analyze it. So it will take some time to sit down and go over and see precisely what we want to do by way of response. I'd be glad to bring you back some staff suggestions and recommendation but also any input from the Commission would be helpful.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: My input to that is that I appreciate new Mayor David Coss submitting the communications to us and I would like an analysis with it. The RPA has met and I think there is a consensus that through annexation we do need to do a joint

strategy with that. Most of the communications I've heard with that is that one of the places we could start is by looking at annexing some of the donut holes, some of those areas that actually are surrounded by city and then all of a sudden are a part of the county. If this in fact is one of those areas, I think we need to see if we consider looking at that alternative.

But I also think it's essential that these communications go before the RPA. So the RPA is meeting, I believe next week and I think that would be a good time to discuss these requests also. I believe that it is through the RPA that these recommendations should come before us. Mr. Chairman, on another item, with regard to local development review committees, this was brought to my attention when Dolores identified the local development review committees, I'd like staff to look into the possibility of creating a local development review committee now that the Tres Arroyos planning process has gotten in place, and also the Highway 14, I-25/599 corridor plan. There have been some issues with regard to meetings that have been held there. And I think if we do an analysis of a local development review committee for those two particular areas it would be quite beneficial and I know we would probably have quite a few participants.

Also, with regard to Commissioner Sullivan's recommendation on term limits for volunteers, I would like to see a staff response to that. I agree with Commissioner Campos that sometimes it's very difficult to get the volunteers to participate in this because it is a huge commitment. I do not want to be prohibited, however, from term limits for that. For example, we did appoint two representatives to CDRC who would have been term-limited if we had a term limit in place. However, their value to that development review committee is so great that it would be hard to lose them. If we deal with the term limits, I think we could incorporate some language that term limits exist, however, unless the County Commission chooses to waive or provide a variance for those, we can appoint participants who want to go beyond the term limits. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Thank you. I just have a couple of items. One is we just had a board meeting with the New Mexico Association of Counties so I would just remind Commissioners to review that packet of materials at your leisure. We do have that available for circulation.

And then the other - I'd just like to commend Roman Abeyta, our Deputy County Manager and Jeff Trujillo, our Human Resources Director, on implementing the countrywide health program, health initiative program. I think it's certainly something that will help in terms of at least providing information on healthy lifestyles for all of our employees and hopefully something that will grow in terms of seeing how we can reduce particularly the medical costs that we're experiencing in terms of the increase in our premiums every year. So hopefully being pro-active and preventing some of the illnesses which this program is set up to do, it will help in terms of the costs we're facing with increased medical premiums. So I just wanted to comment staff and thank you for implementing that program. I think it's going to work great over the long haul. I would just encourage everyone, all the employees, to fill out that questionnaire. That's all I have.

XI. STAFF AND ELECTED OFFICIALS' ITEMS

A. Public Works Department

1. Consideration and Approval of Memorandum of Agreement with the State Department of Transportation Concerning the Northeast Connector

MR. ROSS: Mr. Chairman, Mr. Martinez and I will tag-team on this item. Coming to you via the County Manager right now is a copy of the memo I sent to you all in e-mail form yesterday and put in your boxes, as well as an amended version of the second attachment on top, which was just developed today in response to some comments. As you recall, the approval of the Oshara Village project was conditioned on construction of the northeast connector, which is a road that generally goes from Richards Avenue to St. Francis.

A portion of that road is scheduled to traverse the road that currently is occupied by Rabbit Road. You may be familiar with Rabbit Road. It heads generally west from St. Francis and goes across the railroad tracks. A portion of the proposed northeast connector will have to traverse federal and state right-of-way for I-25. Actually, the federal government owns the right-of-way for Interstate 25 and it's administered locally through the federal highway administration, through the Department of Transportation. So for the developer, Oshara Village, to comply with this condition they had to involve the Department of Transportation, who then involved the County through my office over the last couple of months, in negotiating the memorandum of agreement, which is the first of the two documents.

What this document requires is that the County, in this case, develop the northeast connector between Richards and the intersection of St. Francis and Rabbit Road using the federal highway right-of-way in part. You have a map that's been provided by Oshara Village if you need to visualize the location of that road.

Essentially what the agreement with the Department of Transportation says is that the County will construct that road and include it in the County road inventory, and that we will continue to participate in the planning efforts that are ongoing concerning the transportation needs in that general area. The reciprocal agreement is the agreement with Oshara Village. One of the key provisions of that agreement is that Oshara Village assumes all the obligations of the County under the DOT agreement so that since we're obligated to build the road under the DOT agreement, Oshara Village would assume that obligation to date and build that road on behalf of the County and turn it over to the County at the appropriate time and it would become a County road.

The exact alignment of that road is somewhat in flux at this point and I know there's been some discussion with the Commission in the past about building a temporary road that would serve as the northeast connector and chip-sealing that particular road. This agreement, and in particular the amendment that the County Manager just passed out to you, requires that if that is actually done, if there's actually a chip-seal road constructed as a temporary road, in lieu of a permanent road, built to federal and state standards, that eventually that road would be

upgraded to those standards. It wouldn't be permitted to remain in a temporary state forever. But as you recall from the discussion in the land use approval process of the Oshara development there's some uncertainty as to the final alignment of that road and they wanted the flexibility to construct a temporary road while those plans are formulated and then later construct a permanent road.

I understand there may be some plan that's being finalized at this point to acquire property that essentially abuts the I-25 right-of-way at Richards and thereby straightens the alignment of the northeast connector. Remember, initially, the northeast connector was going to meander through the Oshara Subdivision and meet Richards probably south of the intersection of Richards and Dinosaur. If this property is acquired, and there are plans to do so, that alignment could be straightened and the northeast connector go directly from Richards to St. Francis with a collector, a local road, T-ing into that road and going down to the Oshara development.

So that's the agreement in a nutshell. Mr. Martinez and I have talked about this. Myself and Mr. Lujan talked about it and met with Personnel, the Department of Transportation and the Federal Highway Administration. So I'm ready to answer any further questions. And I do have a diagram if you want to visualize the situation.

CHAIRMAN MONTOYA: Steve, is this, what you just gave us, the same as we had in our in-box?

MR. ROSS: Yes.

CHAIRMAN MONTOYA: There hasn't been any amendments?

MR. ROSS: The amendment is on page 2 of the top document you're holding up, and that's the Oshara agreement, which is the second of the two documents I gave you a few days ago. And there's just a couple of sentences that are proposed to be included in that, on the second page of that document.

CHAIRMAN MONTOYA: So those are the only changes on either document.

MR. ROSS: Those are the only changes. There are no changes to the DOT document. I have received no request to change those from DOT, and the only request is on page 2 of the Oshara agreement in paragraph B.

CHAIRMAN MONTOYA: Okay. Any questions for Steve?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: If I might borrow the map from Commissioner Campos. Steve, what property is this that veers to the east-northeast here? The green that's not DOT easement?

MR. ROSS: That, I believe, is the Oshara property, although the representatives of Oshara - yes the representative of Oshara is nodding his head vigorously. So that's Oshara property there.

COMMISSIONER VIGIL: Okay. That's all I needed. Thanks.

CHAIRMAN MONTOYA: Okay. Any other questions? Commissioner Sullivan, and then Commissioner Anaya.

COMMISSIONER SULLIVAN: Could you pass that down?

CHAIRMAN MONTOYA: Sure.

COMMISSIONER SULLIVAN: Just a couple of comments. Steve, there's some discussion about straightening it out along the frontage road, as you mentioned, I think we have to remember that the County went through a great deal of effort to reroute Dinosaur Trail and to require the installation of a traffic light there, specifically so that that could be a connection point for that northeast connector, ultimately. So I don't think that you want to bring that connector straight along parallel to the interstate. I think it would still have to connect in at that new traffic light.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I think that is the plan because I understand that the State Highway Department may be interested in acquiring a wedge next to their right-of-way in the event that there's ever an intersection with I-25 and Richards constructed there. Apparently that wedge shape would not be on the table insofar as the developer is concerned but they may have the ability in a negotiation with the current landowner to get the property, an easement, so that it would in fact intersect with Richards at Dinosaur.

COMMISSIONER SULLIVAN: Yes. Just as long as it intersects at the traffic light because that's the only traffic light there, other than at Governor Miles. The only question that I would have about the revised language would be, first of all, we don't seem to have a time period in here and I'm concerned that we should have a time period. And also it indicates that the - is it clear that the upgrade from the temporary basis to the required AASHTO standards will be paid for by Oshara? Is that clear in your -

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I think that's clear, and that was part of the purpose of some of that additional language was to make it crystal clear that that was the case.

COMMISSIONER SULLIVAN: And then I see some additional language limiting the ability of the Public Works Director to review it and limiting it to the terms of this agreement. And the only question/concern I have is with the term "to lesser standards" that's been added in there. And my concern is for safety. And I understand there was an agreement to temporarily chip-seal the road and that only pertains to the first phase of Oshara in that approval. So that after the first phase we should anticipate that it would be upgraded to bituminous asphalt paving. But "lesser standards", the problem I have with such a broad phrase and limiting the Public Works Director is that it needs to conform to geometric standards. It may have a different paving mix on top of it temporarily, but if it's not safe from a geometric standpoint then the cars are going to drive too fast on it and have accidents regardless of what kind of surface is on it.

So my only suggestion would be to say to lesser surfacing standards, so long as ultimately the northeast connector is constructed to AASHTO standards. That would be a little more specific. We're only talking about a temporary surfacing and not the geometrics of the road, which are in fact the important thing, safety-wise. Does that sound reasonable?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I think that's a great idea.

COMMISSIONER SULLIVAN: That's my comment, Mr. Chairman.

CHAIRMAN MONTOYA: Would you just state that one more time, Commissioner.

COMMISSIONER SULLIVAN: I'm just suggesting on page 2 of the document in the underlined, revised language, where it says constructed on a temporary basis to lesser standards, of the interlineated changes. See where it says temporary basis to lesser standards? I'm just recommending that it say to lesser surfacing standards, so that we have appropriate geometric standards for whatever the design speed may be and so forth. But if you do temporary surfacing, that's not as critical, but temporary geometrics can be a disaster. That would be my only suggestion there.

CHAIRMAN MONTOYA: Okay. Any other questions for Steve? Commissioner Anaya.

COMMISSIONER ANAYA: How long is the construction? How long is the road? In miles?

MR. ROSS: Mr. Chairman, Commissioner Anaya, I'm not sure I can completely answer that question. I don't think it's all that long. A mile or so. Do you know, Robert?

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioner Anaya, I believe the Rabbit Road section is approximately about a mile, but the length of road through the Oshara property we do not know because we're not sure of the alignment. We're not sure exactly.

COMMISSIONER ANAYA: So are we talking about the yellow?

MR. ROSS: Mr. Chairman, it's sort of yellow-green, and blue. The blue section, Commissioner Anaya, is the portion of the road that's on the federal right-of-way. And then there's a highlighted part that meanders down through the actual subdivision and that's the current proposed alignment that's seen in connection with the land use process, when we approved the various phases of the Oshara subdivision. I think phase 1 is approved. The alignment may differ if that rectangular or trapezoidal property there on the corner is acquired by Oshara and the road would straighten out and probably intersect below your finger there at the intersection of Churchill Road and Richards.

COMMISSIONER ANAYA: Okay. Thank you. Thanks, Robert.

COMMISSIONER SULLIVAN: Not Churchill Road. Dinosaur.

CHAIRMAN MONTOYA: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: Robert, this would be for you, and perhaps for you, Steve Ross. I'm not sure. The County, one of the conditions is that the County will accept the road for County maintenance purposes. Do we have different levels of acceptance, or does it have to be at the highest level of County standards before we accept it?

MR. MARTINEZ: Mr. Chairman, Commissioner Vigil, there's only one level of acceptance. It's whether we accept it or not. We take over full responsibility of it. Now, design standards, there's different design standards for different classifications of roads so I think that's probably your question.

COMMISSIONER VIGIL: Okay. So do we have that clear in this agreement?

MR. MARTINEZ: Mr. Chairman, Commissioner Vigil, yes. It states in the agreement that it would be built to AASHTO frontage road standards.

COMMISSIONER VIGIL: Okay. And what level of standard is that? Is that the highest?

MR. MARTINEZ: Mr. Chairman, Commissioner Vigil, no. Basically what that is it's equivalent to a local road standard.

COMMISSIONER VIGIL: Okay. That's it, Mr. Chairman.

CHAIRMAN MONTOYA: Other questions?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER SULLIVAN: As amended?

COMMISSIONER ANAYA: As amended.

CHAIRMAN MONTOYA: As amended.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second, Commissioner Sullivan. Discussion?

The motion to approve the MOA on the northeast connector passed by unanimous [5-0] voice vote.

XI. B. Matters from the County Manager

1. Discussion and Possible Action on Affordable Housing Regulations, per Ordinance No. 2006-02

MR. ABEYTA: Mr. Chairman, staff is requesting that that item be postponed to the administrative meeting. There were some changes that staff had made that not everybody has had a chance to review, including the Commission. So we're recommending that that be postponed at this time.

CHAIRMAN MONTOYA: Okay, motion to table to the next administrative meeting?

COMMISSIONER ANAYA: So moved.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion and second.

The motion to table discussion and possible action on affordable housing passed by unanimous [5-0] voice vote.

XI. B. 2. Update and Findings of Fiscal Year 2006 Mid-Year Budget Review and Authorization to Fund 8 New FTEs

MR. ABEYTA: Thank you, Mr. Chairman. We have concluded our mid-year budget review. We're getting ready to start our budget hearings for the fiscal year 06/07 budget. Those begin tomorrow and will run through next week. Then we will provide the BCC with findings and a summary and request direction at a special study session in May. The purpose of today's update is to give the BCC a brief picture of where we're at as far as the general fund and also discuss the possibility of adding new full-time employee positions to the County as a result of several discussions that we've had with the departments and the Commission dating back to last year. So with that, Mr. Chairman, I would ask that Paul Griffin, our budget administrator come up and present his report to the Commission which should only take a few minutes. And then I'll follow up that discussion with new FTE requests that we'll be making.

PAUL GRIFFIN (Budget Administrator): Mr. Chairman, Commissioners, as Roman has stated we are about to embark upon budget hearings in regard to the fiscal year 2007 budget tomorrow. In order to have an idea of where we stood and what we could do or what we could not do in regard to that budget, we had mid-year reviews and from that and from some revenue analyses we have made a determination in regard to the general fund. This paper that you have has lots of colors and lots of numbers on and what not. I'll try to make it as simple as I can.

I have general fund sources and uses. I do not count grants because grants come in and go out and the sources equal the uses, so they're not really under consideration for budget action for next year. The first color you'll see is yellow and that's property taxes. We'll start with the original budget as we passed it as of July 1, 2005, and then we'll take a look at the forecast for this year. And we have forecasted that we're going to bring in \$824,000 more in property tax than our budgeted stated at the beginning of the year. That's a fairly liberal estimate. That estimate was closer to \$2 million at the middle of the year but since the middle of the year the smaller increments of property tax that we usually get have been lower than we have budgeted. So I have had to back that estimate down.

On the uses side you'll notice some yellow-colored items. These are actions that the Board made that took property tax or increased the budgeted property tax for these various purposes. Right at the beginning of the year there were a number of personnel actions that were enacted by the Board and they were paid for by an increase in property taxes. That's where the sources come from. Not long ago, you as a Board approved a \$206,000 increase to fuel because our fuel costs of course across the county were rising above the budget. We had to fix that somehow. And the source for that again is property taxes.

So I have \$824,000. I have \$400,000 and some that have had actions against them right now so we've used \$420,000 of that \$820,000 right now.

The next item down in gross receipts tax. We budgeted \$5 million in gross receipts tax. Now we're forecasting \$5.5 million because after the beginning of the fiscal year the

Board passed the 1/16 cent increment, which usually brings in a little over \$2 million a year, but we start collecting it in January; we do not receive it from the state until March, so we only get 1/3 of that impact out of the tax for the four months that we'll be collecting it this year. It's usually a little bit less than that because for some reason or other, the tax seems to be slow in being collected. So we forecast \$500,000.

That is colored in kind of a blue color. And if you look down at the uses, you'll notice it says 1/16 GRT-Judicial Center, Architects and Engineering. When the 1/16 was passed, there was no particular formal dedication given to that money, although there was a lot said about that 1/16 going to the judicial building. And so I have supposed on this paper that that money is going to the judicial center. If we get into deep trouble in the budget process we may have to re-examine that. But that's not my call; that will be the call of the Board in regard to that.

Investment income is the other star this year. The rates have risen for investment income. The Treasurer had a little bit more freedom to invest in local banks. We forecast \$1.3 million in revenues from investment income. We're going to get closer to \$2 million this year. That's just the way the curve is on the graph when I work it month by month.

And for next year I forecast \$2.1 million. So we'll still keep getting more money although the feds are talking about us being near the height of the rate curve so I don't know where that's going so I'm going to be a little bit conservative about forecasting a whole lot more revenue for investment income.

So we add all that up - I have all other revenue. We generally do not budget a fair amount of revenue because it is things like insurance recovery, miscellaneous revenue, things that really don't have anything that I can pin to the wall in regards to making a forecast. So we generally forecast the budget. At the beginning of the year we mark those as zero in terms of revenue, because we just don't know. We've taken some of the items and have assigned some monetary values based on a five or six-year history that I have for them, but for the most part, I don't really budget those and if they come in, I feel good about it. But they're generally for very specific, somewhat dedicated purposes. So don't regard the change in "all other revenue" as something that really can be used for a whole lot.

The Board acted on some of those items. They increased some fees and in return brought some land use inspector in, a permits inspector and so forth and so on. So there's some money that has been spent by the Board against "all other revenue".

When I total everything up I come to just about \$4 million and change that has increased in what we think we're going to get versus what we've budgeted at the very beginning of the year. The item above the total is budgeted cash. You can make a note of that. We took money out of the bank in the general fund, \$1.2 million, to pay for the Paramount Building. That came out of general fund cash. Our general fund has been very strong over the years and we've had a fair amount of cash in the general fund and we met all of our requirements, plus \$2.5 million in requirements that the Board has passed in regard to reserves, and we felt that we could take that money out and pay for the

Paramount Building.

So the total is \$4 million, of which I have used \$2.352 million. I've got one more item down in the uses. Rolling position list. We came into FY06 with a list of about 18, 19 people who you wanted to add to the budget. But we said we're not going to do that yet because we're starting up the jail in October and we want to see how much it costs to run that jail as of January, then we'll consider the position list. The position list has come down and come down and come down to the point where we felt like there needed to be some action taken on it because these positions have not yet been added into the budget. I recommended to the Manager that we look at the position list, and regard to position list is what I call a rolling list. I don't want to put 19 people on the payroll today. I'd like to phase in some of those today, some of those three months from now, some of those three months from then. Because if we find ourselves in any kind of difficulty in the County we can re-examine that and maybe defer something instead of obligating ourselves to 19 employees today.

That doesn't have a very big impact for this year. I think we have a total of eight on that list that would come in in the last two months of this year. Well, you're only paying them for the last two months of the year there's not a big impact on this year's budget. Only \$65,000. So by waiting until May 1st we saved quite a bit of money in the general fund because we didn't have to pay out in salaries and benefits. Notice that next year, the last column, the FY 006-2007 budget impact of the rolling list is \$754,000 because we're annualizing the \$65,000. In other words, multiplying it by six, because we're working with 12 months instead of two, and then we're adding people in September and adding people in January off that list. That's added into it also.

When I take all of these increased revenues for this year and subtract all of the increased needs for this year I have \$2.3 million in needs, I end up with \$1.6 million. But, on the other hand I've spent \$1.2 million on the Paramount. From a budgeteer financial standpoint I would like that money to fall back to general fund cash because we've depleted cash. We've depleted \$1.2 million of that cash. In any event, I warn everybody about spending any of that money for ongoing, recurring needs because the impact for next year is now six to one for this year. So if you say, well, let's take \$100,000 and spend it this year and we'll do something new that will have a recurring impact on next year, a \$100,000 budget change now is going to have a \$600,000 impact next year.

So I warn against doing that. I say that's essentially non-recurring. And we need to look at it as non-recurring. We really need to look at the investment income as non-recurring because we're not going to get \$800,000 increase in investment income year after year after year. This is a one-time deal based on the rate curve, mainly. And we're getting up towards the top of the rate curve.

Let's look at next year. Property taxes we forecast would rise - right now I have it in the budget as being five percent over the estimated budget for this year. That makes it about eight percent over the original budget for this year, and that's pretty high. We've been fairly fortunate with property taxes. It has ranged between eight and ten percent for

the last two years, but before that it has only been three or four percent. So I've got to be a little bit cautious there and be a little careful about property taxes. I think I've extended myself as far as I can on that.

Gross receipts tax, look at the last column. We're going to get \$2.2 million more than we did this year. Most of that is the 1/16, \$2.1 million of that is the 1/16. And again, if that is considered dedicated for the judicial center then you don't have it to spend on anything else. If we're in a position where we have to spend money on something else, that's a determination you're going to have to make.

So my total for FY07, the total increase over this year is \$5.1 million. If I looked at all of the impacts of the things that we have done this year, and add those together, and then add into it the architects and engineering cost for the judicial center, if I decide to spend that entire GRT, then subtract out from the sources, I have \$1.6 million left. \$1.6 million is equal to about 4.2 percent of the general fund. Right now I have requests in the general fund on the baseline, over and above anything you see here of about \$700,000 in people and about \$800,000 in material - non-people costs. We're going to work on that during the budget hearings. I think it can be brought down.

This does not include transfers to the jail or transfers to the road fund. And if there's a demand on the general fund out of the jail fund or the road fund, that has to go on top of the \$1.5 million, I think that I gave you. And I only have \$1.6 million to deal with here.

So those are essentially the things that we face. We face a very limited ability to grow. If we let everything go the way it is and did not give the jail any more money out of the general fund and did not give the road fund any more money out of the general fund we might just make it without any further increases. I have building blocks over and above the baseline equal to \$4.7 million. That includes 30 people that they want to bring on board or that they've requested to bring on board under the general fund in FY07.

So those things I've got to look at and work with. I'm telling everybody that we don't have a lot of money to work with in the general fund for those kinds of things. My main concern as a budget administrator in regard to the obligations on our money are new services that we either explicitly or inadvertently incur responsibility for, depending on actions that we take, and we really don't have a lot of money for growth into new services. I can't say something else to too many people because I don't have a lot of money to do it, not at least in the general fund, without some kind of a tax increase and I don't know whether we're looking at that right now.

So that's how we stand right now. We can probably make it through the budget hearings and we are going to look at budgets very, very critically. If you want to attend the budget hearings I have a schedule here and I'll pass that out to anybody who wants one. We go into the nitty-gritty and I don't know how fun it is, but we do look at things in great detail. And if there are issues there I will not hesitate to bring them out. People know me well enough for that. Any questions?

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I think it's really important at this point in time to clarify for the audience here and the viewing audience, when we talk about an increase in property taxes, we are not talking about an increase to property taxes because this Commission has actually taken action to increase those property taxes, or the state legislators have taken action to increase those property taxes. We are actually receiving either additional property taxes because of additional homes that have been identified or located that perhaps weren't identified before. Is that correct, Paul?

MR. GRIFFIN: Almost all of this has to do with growth in the county. This is not a rate increase. We in Finance are relying on the Assessor a great deal. They make calculations as to the expansion in existing values and that's usually about three percent. I don't think it can be more than 3.2 percent. And expansion due to new construction. And those two added together make up the bulk of the tax. But again, when you're increasing property tax revenue, because there are more houses being built out there, there are more businesses being built out there, there's a concurrent responsibility for services. So it isn't all free money, as much as I'd like to sometimes look at it that way. That's why we don't expand very much every year because we're just keeping up.

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

CHAIRMAN MONTROYA: Any other questions? Roman.

MR. ABEYTA: Mr. Chairman, I just wanted to bring to the Commission's attention, and staff, because we will be going into budget hearings starting tomorrow that we still need to take into consideration that we've got union contracts that expire this year, so there's going to be some negotiations with AFSCME, with CWA, who represents the sheriffs, and then we've received notice that our corrections officers are either going to unionize or join one of the unions. So we're going to need to take that into account also when we consider our budget requests over the next couple of weeks. And we will be back to the Commission with a study session in May bringing you the findings of the budget hearings and asking for direction because there will be limited resources and we will need the Commission to help us prioritize what gets funded as far as new programs and new growth goes.

But at this time, Mr. Chairman, we are asking for approval of eight FTEs out of the 18 that we identified in last year's budget. We feel comfortable that eight can be supported at this time. Then we will look to fund another six in September, depending again on what the budget findings are, and then possibly another increase in FTEs in January. But for now, the eight that we have come up with as priorities, the Manager's office and staff is a voter information specialist for the County Clerk, which is a result of a federal mandate that the counties and the state were hit with last year. Also a recording clerk due to the volume of activity we have in the Clerk's office with refinances and new mortgages, things like that. She needs more assistance. We're asking for an equipment operator for public works. We're also asking for an administrative secretary for the Treasurer's office. The Treasurer's office hasn't seen new growth in FTEs in probably over ten years. He's had the same number of FTEs and he needs a secretary. PFMD, we

need a systems analyst for Santa Fe County. We don't have one right now so we think that's a priority. Also, we need another project manager for PFMD with the amount of projects that we have and the money we're received from the state legislature, we need more assistance in that are. In Human Resources, we need another risk officer. We only have one for the entire county and when we took over the adult jail we had identified that we're going to need another risk officer to just handle the increase in incidents that occur at the jail. And we need another County Attorney, and assistant County Attorney to help us deal with the Buckman Direct Diversion. So with that, Mr. Chairman, we would ask for authorization to fund these eight FTEs and then we'll be back, as I said, in May and then again in September with either this same list or a revised list, depending on what we find with our 06/07 budget.

COMMISSIONER ANAYA: So moved.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second, Commissioner Vigil. Discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos, Commissioner Sullivan.

COMMISSIONER CAMPOS: Mr. Abeyta, systems analyst. Tell me what

that is.

MR. ABEYTA: Mr. Chairman, actually, I'll let Joseph address that. He can probably address that better than I can, but it's my understanding that the systems analyst would be in charge of our entire MIS operation for the County. But Joseph could give more detail.

COMMISSIONER CAMPOS: And if you would also address the project manager position.

JOSEPH GUTIERREZ (PFMD Director); Mr. Chairman, Commissioner Campos, the systems analyst, we currently don't have a systems analyst in the MIS Bureau and that position would basically be in charge the existing infrastructure and identifying software applications. We don't really have anybody looking ahead for the County in terms of what our needs are, and if you look at the County from where MIS was and where we are now, adding the jail, the Corrections Department basically added approximately 300 people to the equation and we haven't increased MIS staff in that scenario. It added several users, several PCs to the desks, several applications. The Assessor's office is also looking at changing the structure of their system. Again, this person would identify what works for the departments, identify their needs, prepare the RFPs and make sure that we have something that's going to meet the County's needs for the future, not right now.

The demands on MIS on a day-to-day basis are really tremendous in terms of PCs, e-mails, just the basic service. So the staffing we have now is pretty much dedicated to dealing with the day-to-day functions. So we don't have anybody again looking toward the future.

The project manager, right now we really only have two people identified to handle

projects for the PFMD. When I became the director we actually allocated several of the staff and they all pitched in in terms of identifying projects and working on them. But because of the County growth and the Corrections Department, really those people can't work on the projects area anymore. Again, we have Rudy Garcia and Ron Sandoval who work on projects. I tried before to take the finance and process side of it, but if you count the judicial and the future needs of the County, we're looking at approximately over \$100 million and probably easily between 30 and 50 projects. And that list grows every year.

In the legislature you saw, at the last hearing we got another \$10 million from the legislature. Some of it we requested; some of it we didn't. But we're still accountable to pretty much move forward and implement that. I believe we have a good system in identifying what needs to be done but we don't have enough manpower to basically go out and deal with all the issues. There's a lot of small projects that you all have seen in your areas that consume a lot of time, but we're dealing with small amounts. So definitely these positions would be a welcome addition to the Projects and Facilities Management Department.

MR. GONZALEZ: Mr. Chairman, Commissioner Campos, I just wanted to point out that both of these areas are two key areas that are emerging. The strategic planning process is needing additional support.

COMMISSIONER CAMPOS: Thank you, Mr. Chairman. Mr. Abeyta, risk officer. Tell me a little bit more about what this person would do.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, any time we have an accident, either here or at the corrections facility, we need to have somebody go out there and assess it and report it. And he's only got one staff member that does that now for the entire County.

COMMISSIONER CAMPOS: So you're going to have two under Mr. Trujillo.

MR. ABEYTA: We want to have two under Mr. Trujillo.

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

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Yes. Roman, and I don't see anywhere here on the list for these eight or the rest of the 18. I'm concerned, and I've expressed it to the Manager's office before about our lack of Code enforcement. We don't have Charlie Gonzales with us anymore. I'm getting more and more calls and seeing more and more issues of not only Code enforcement but also issues that we have been approving a number of subdivisions and we don't seem to have enough staff to monitor the construction of those subdivisions and the roads and the infrastructure that's ultimately going to be turned over to the County. If they're not County facilities then we don't monitor them. And then when it's all over it's too late to say you didn't compact the basecourse correctly or you didn't have enough thickness of asphalt or whatever the concern might be, or you didn't wire the electrical correctly on the lighting or whatever your concern might be, or that it didn't for some reason meet the conditions of the Land Use Department. Those conditions

might not have anything to do with electrical or construction. They may have to do with locations of things. They may have to do with should there be a park there or should there not be a park there. Whatever. We just don't seem to have any of that monitoring in place.

Then when it gets turned over to the County there's a big scramble and we haven't really been able to document throughout the course of the project that it's been properly constructed. Is there a plan for that? I don't see it anywhere on these 18.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I have talked with the Land Use Department regarding that concern. They have submitted it with their budget that we will be reviewing over the next couple of weeks. That and other positions may show up back on these lists and some may drop off this list. But this was just the priority that was identified last year and if that becomes a priority then that may make it onto the September or January list as a result of the discussion we had today, the discussions we will have with you again in May, and like I said, they did submit it in their budget request that we'll be reviewing over the next week or two. So I'll take that into consideration when we add any FTEs to this list.

COMMISSIONER SULLIVAN: Yes, and I think we need to look at administrative versus field as well. The personnel that the average person sees and interacts with, whether it's Public Works, whether it's Code enforcement, whether it's Planning Department, whether it's transportation issues. We seem to be overweighting in the administrative category and shorting where the rubber meets the road category. I know these people need support, so I'm not saying everybody can operate motor-graders. But nonetheless we seem to be overbalanced in that computation. I guess we'll discuss that when we get to the 30 positions that are coming up on top of these.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, yes. And we'll take that into consideration. I think what's happened is that in the past we were out of balance the other way. So I think we're trying to find that balance now and maybe we've gone now over to the administrative side. So we'll take a look at that when we do our budget reviews. Like I said, we will be back with the Commission. All we're asking for is authorization of these eight now. The list in September and January is probably going to change, based on what we find in our discussions with the staff and with the Commission.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN MONTOYA: Roman, I guess I would support Commissioner Sullivan in that regard, in that request for land use. That tends to be a huge issue in my district in terms of making sure that things are followed up on and things are completed. It seems like things are falling through the cracks as far as Code enforcement is going.

The County Clerk's office is requesting five out of these 18 positions. Are they that short-staffed?

MR. ABEYTA: Mr. Chairman, Commissioners, when we had this discussion with them we found that, yes, they were and a lot of it is in the voter area, the Bureau of Elections. They just cannot keep up with the federal and state laws that have recently been passed. So a lot of it is a result of the initiatives that were recently passed as

a result of the 2000 national election.

MR. GONZALEZ: Mr. Chairman, Commissioners, it is a combination of state and federal. As you know, kicking us into a Class A county increased requirements that we have in terms of manning the election process. So it's driven at the state level and then we have additional federal requirements that have been pushed on us as well as a consequences to the changes to the voting act. We did push these back, trying to space them out in terms of timing so it would make sense. I think all of what you're seeing here just sort of illustrates what I've been saying over and over again, is that we're still struggling as a Class A county with Class B resources, trying to balance everything at the same time and wherever you turn in the County, you see that there are increasing needed and demands that we're forced to deal with.

Obviously, as Roman said, we're going to have to continue to do some balancing as we go through the budget process. Sometimes the squeaky wheel, I suppose, gets the grease, but we also need to make sure that we don't grease the wheel at the expense of whoever it is that's supplying the grease.

CHAIRMAN MONTOYA: Okay. Where's the grease coming from?

MR. GONZALEZ: Well, actually, I have to thank the Commission for being foresighted enough to pass the 1/16 which as you can see from the sheets that Paul has so well put together, are giving us the breathing room, hopefully, to get across this next span. And then I also need to give credit to the Assessor's office and to the Treasurer for increasing the revenues that we're receiving in those areas. So I think all of you get a big share of that credit.

CHAIRMAN MONTOYA: Okay. And then I guess under the next tier, the ones set to come in on September 1st. I know that the Sheriff's office is highly understaffed. I didn't know - in terms of sexual predator enforcement officer, I would encourage us to see if we could a speed predator enforcement officer. I've had a lot more calls, and thank God not on sexual predators but speed people who are just disregarding the law and that continues to be a huge, huge complaint that I've been getting in my district from day one to this date. So I don't know. Is there a huge need for a sexual predator enforcement officer?

MR. GONZALEZ: Mr. Chairman, Commissioners, that's actually driven by changes in the law also. The Sheriff is being required to provide that particular service as a consequence of the changes in the state law.

CHAIRMAN MONTOYA: But they're not giving us any funding to do this? They just say Do this, and come up with your own funding.

MR. GONZALEZ: It's another unfunded mandate, just as some of the election mandates are also unfunded.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I also want to support the Code enforcement component. I think that's something that we really need to prioritize. It's one that we as representatives of our districts here know mostly about. The

other question I have is did we look at our jail and our Fire Department separately from this prioritization project?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, yes, we did and the Fire Department, because of revenues they have brought in, have been able to get more FTEs this past year. They increased their workforce by five. It was from different sources though than general fund, and we also have to compliment the Fire Chief for going out and finding additional funding sources so it wouldn't impact the general fund.

COMMISSIONER VIGIL: Okay. And with regard to our jail, I know currently we need to look at vacancies that are there, but probably the support that's needed there would require more FTEs. Is that going to be a separate analysis?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, yes, it is going to be a separate analysis. What we're looking at in the area of corrections is the salaries that we're paying. It may be an issue of not paying high enough salaries than it is vacancies. Or that's what's causing the vacancies is that our entry-level salaries may be too low. But we need to do that analysis.

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

CHAIRMAN MONTOYA: Maybe we ought to throw that into the equation also in terms of that being a recurring cost, because I would rather see us paying our current employees and make sure that we retain them than having a revolving door and losing good employees to the City. I know we've lost a couple to their different departments over there. So whatever maybe we can do to enter it into the recurring cost equation. I know - what did we grant this year? A three percent increase?

MR. GONZALEZ: That's correct, Mr. Chairman. And I would remind us all that we are in the process of moving towards a class and comp study that hopefully will be able to provide you with the information that will indicate very clearly where we are in relationship to the surrounding employers that we compete with.

CHAIRMAN MONTOYA: Okay. Very good. And when will that be forthcoming?

MR. GONZALEZ: We're in the process of preparing the RFP now. The class and comp study will probably start in the middle of the summer or late summer, and we'll be able to bring that information to the table, hopefully for the next budget cycle.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Roman, does this say that it will not be necessary for us to use any general fund money for the jail?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, this would say that we're not. So if we have to, then the number goes down. So we still need to look at that.

COMMISSIONER SULLIVAN: Because as I understand we may be able to level things out with our current personnel by borrowing off salary savings to level that out, but that's kind of a temporary fix until we start increasing personnel to come up to authorized strength at the jail, and, if in addition, you're talking about raising the salaries of those we already have, I'm wondering whether this upcoming fiscal year, we're going

to be back to dipping in a major way into the general fund for the jail.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, that could be a possibility, and that's why we're going to have the study session with you in May. There's a lot of things we want to accomplish and not a lot of money. And so we're going to really need to roll up our sleeves and make some tough decisions this year in all these areas.

CHAIRMAN MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Abeyta, as far as your evaluation of our staff, do we ever look at it to the point where we start looking for positions that may be not needed anymore or needed in other places?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, we have actually started to talk about that and we're taking a look at it. One area where we've started looking at it is the corrections area, because we, in a sense, just inherited the staff that MTC had and the positions they had and we're starting to take a look, now that we've been in there for over six months as to whether or not there's some efficiencies that we could accomplish by moving some positions around.

COMMISSIONER CAMPOS: Because I think before we start increasing positions, we have to see whether we're utilizing our positions effectively and if there's some that aren't needed anymore, I think we've had this issue for a number of years and I really haven't gotten any feedback from staff except, well, this year we're going to add another four or ten, or whatever. I think that needs to be part of the analysis every year. We have to make sure that we have a lean governmental structure, that it's really productive and I don't think we have been looking at that very carefully.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, we started taking a look at it. The takeover at the jail has forced us to look at it and we'll expand it.

COMMISSIONER CAMPOS: I'm thinking of the whole County.

MR. ABEYTA: We will expand it Countywide.

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

CHAIRMAN MONTOYA: Okay. Any other discussion? We have a motion and second.

The motion to approve the eight FTE positions passed by unanimous [5-0] voice vote.

MR. GONZALEZ: Mr. Chairman, members of the Commission, I just want to thank Paul for doing such an excellent job in terms of his presentation.

CHAIRMAN MONTOYA: Thank you, Paul.

XI. B. 3. Update on Various Issues

MR. GONZALEZ: Mr. Chairman, members of the Commission, I have two updates. First of all, I wanted to let you know that we are prepared to deal with the Chimayo

pilgrimage. We've done the usual preparations this year. Chief Holden has prepared us from the EMS standpoint. We have an operations plan in place that's been coordinated between fire and the Sheriff's office and the Office of Emergency Management and the other players who are involved, including the RECC. So we believe that we're ready to move forward with that. The process will be similar to years in the past. We'll have Sheriff's officers out there. We will be providing relief to people that need water or something to snack on along the way, as long as our supplies are available, and we'll be keeping a close watch on the pilgrims out there, but we do remind the public that they need to be careful, especially careful at this time of year because of the number of people who are traveling 285 headed north.

And second of all, and Chief Holden's here if you have any questions or wanted to ask any questions about our preparations. Then second of all, I just wanted to notify the Commission that I got a call yesterday from Alex Valdez, the CEO at St. Vincent Hospital. He and I will be meeting next week. What he wanted to do was to meet with me so that I could bring back to the Commission some proposals for having a joint hospital board/Commission meeting some time in June as a follow up the meeting that you had earlier. That's all I had, Mr. Chairman.

CHAIRMAN MONTROYA: Okay.

XI. C. Matters from the County Attorney

1. Resolution No. 2006-60. A Resolution Adopting the Santa Fe County Purchasing Regulations and Policy Manual

MR. ROSS: Mr. Chairman, I have Randy Herrera here also here to assist me. He actually drafted the bulk of what you have before you. Just by way of background, the model of the procurement we have in our state was adopted in the early eighties, I think about 1984 and has been on the books ever since. But insofar as I can tell, Santa Fe County has never had its own policies for addressing procurement related issues. It hasn't been a problem up until now because we've had comparatively few challenges to our various procurements. But to forestall any opportunity for such a challenge, and to reduce the risk of such a challenge, I have always identified the need for the County to have its own discrete procurement policies. What we've had up until now have been ad hoc, what I'd call office policies that wouldn't be enforceable in a protest or in litigation related to a procurement. And also that are not really fire-tuned to the needs of the County.

Why this is here before you today is related to the Buckman Direct Diversion project. While this has been on my to-do list for some time the Buckman Direct Diversion put some urgency on developing our own purchasing policies and in particular, Section 34, which pertains to design-build projects. As you know, the Buckman Direct Diversion project is a partnership between the City and the County and the City is a home rule municipality and what that means is in large part they're not bound by the procurement code. They have their own procurement code.

But the County is bound by the procurement code, the state procurement code and its design-build provisions. So that introduces a risk and a potential for confusion in the acquisition of the design-build contractor on the Buckman Direct Diversion project in that, if you look at the City's procurement code, they have a design-build rule and if you look at the County's rules, the County has no rules and there's only a state statute to guide you. So the real impetus for having this before you today is to make sure that the City and the County both have design-build rules and that they are the same so that there is little or no risk that someone could attack the procurement of the design-build contractor under the Buckman Direct Diversion project by pointing to either City or County regulations selectively.

So that's the real impetus to have this before you today and you'll see that Section 34 does address design-build contracts and that is the City's procurement policy pretty much verbatim.

Now the remaining parts of the proposed policy, which is attachment A to the resolution, are essentially the state rules adapted for Santa Fe County and using the office policies I mentioned earlier as a guide, but also updating the office policies to conform to changes that have been made to the procurement code in the last three or four sessions that weren't reflected in the office policy. I can go through this in great or less detail than pursuant to your wishes the other day. We're running a little bit late. Essentially, the policy provides for the major two kinds of procurements, which are bids and proposals. Bids being primarily used when the County procures goods, and proposals being primarily used when the County procures services. And there are discrete rules in place in those proposed policies on both of those processes. They describe how you initiate a bid or a proposal, what rules govern the bid or proposal, what needs to be in the bid or proposal, how it's advertised, how people respond to it, how they're evaluated and how they're awarded.

And it's all fairly straightforward, although none of these rules have been on the books before. We pretty much follow what's set forth in here now. And as I said, the design-build provisions are in there from the City's code. The areas in which I'd like you to focus today are number one, in Section 35, small purchases, and in Section 40, small purchases, because there we have a difference between the office policies and what's state law permits. So what we need to decide is whether Section 39 and 40 should be \$3,000 or whether it should be increased to what state law now permits, which is \$5,000.

What these sections say is when you have small purchases below a dollar threshold, either \$3,000 or \$5,000, the state law permits you to make a procurement like that based on obtaining the best obtainable price. In other words, you don't have to go out to bid or out to proposal for small contracts because the state is saying that would be a waste of government time and resources, that these small products and services should be obtained as simply as we can with as little staff involvement as is needed.

Two years ago the state procurement code was amended to permit small purchases to be made based on the best obtainable price for up to \$5,000. So that is one choice you

need to make today, whether we're going to let that go up to \$5,000 and have staff have a lot more discretion in how the small goods and small services are dealt with.

The other item to look at is towards the back and that concerns the procedures, it's in Section 74, that's the procedure for review and approval of contracts. This is a standard language in any procurement policy like this, but it represents a deviation from what we understand the standard to be here in the County. What Section 74.B requires is that contracts of a certain amount be placed on the agenda of this Board for approval. Up until now, any contract with a face value of \$10,000 or more is placed on an agenda for this Board to review and approve. And that leads to the very long Consent Calendars that we've historically seen here at the County.

We did a little survey of other Class A counties to determine what threshold other counties had. We found that Bernalillo County and Los Alamos County and San Juan County all have purchasing thresholds, and the City of Santa Fe for that matter, all have purchasing thresholds of \$100,000. In other words, a contract whose face value is \$100,000 or more would have to be placed on an agenda for this Board to review. But below that amount, the Manager would have authority to sign off on it. The other Class A county, Dona Ana County, has a threshold of \$50,000. So for purposes of this document, we went with what we thought was a majority position and recommended that contracts of \$100,000 or more be presented to this body, and less would be presented only to the County Manager, or if he thought there was an issue with a particular contract he would of course have the discretion to bump it up to you.

Those are the decision points that are in here. I'm certainly, myself and Mr. Herrera are ready to answer questions about the details of this policy. With the exception of those two items I pointed out to you, it represents what we're already doing here in the County.

CHAIRMAN MONTOYA: Okay. I'd like to see if we could get this done by 5:30. We have public hearings starting at 6:00. Commissioner Campos, any questions?

COMMISSIONER CAMPOS: No, sir.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have to look at it.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, two things. First of all, in the resolution, there's some handwritten language in the resolution, and I think that addresses an earlier concern I had that this procurement policy doesn't provide procurement for professional engineers or architects or surveyors or landscape architects. This is only for other professionals. They're separated out in the state procurement code under a different section. So I want to verify is that the intent is that this resolution also include the handwritten material in there.

CHAIRMAN MONTOYA: I don't know what you're referring to. I don't have any handwritten -

MR. ROSS: Mr. Chairman, the resolution that was placed in the packet

should be printed. It should have a new paragraph 3 that wasn't in my packet.

COMMISSIONER SULLIVAN: Mine's handwritten and it's signed by Steven Ross. Let me look at the chairman's. You've got that handwritten in here. So it looks like the chairman's got the later version and I have the handwritten version. Both versions need to include the term "landscape architects" in it. Those are the four professions that are excluded in these sections of the procurement code. So it's engineers, architects, surveyors and landscape architects. And that's mentioned in our procurement code here also. I saw it in there.

And the other issue I had is I think that while it may be appropriate to think about \$100,000 authorization for construction projects, it's very infrequently that we have architects or engineering projects that are over \$100,000 with the exception of the district court and a few major projects that may eventually come to fruition. That's a fairly sizable contract. If you say that architectural engineering fees might be overall ten percent, let's just say, of a contract, and you're looking at \$10,000, you're looking at a million dollars worth of construction or more.

So I think there's some reason that at least I personally would like to see, to have some review of these A & E contracts that come forward and of the firms that are selected and why they're selected. I've mentioned that in the past that there's been very little documentation of why the firms were selected and if we up this to \$100,000, there will be almost no instances where the Commission ever reviews an architectural or engineering firm with the exception of very major projects.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, as you pointed out, the resolution excludes all that kind of work on Public Works contracts, including A & E type contracts from this resolution. The state rules on this subject aren't that good and Mr. Herrera and I are having to go to square one to work through supplements to these resolutions, these rules and regulations, to address those issues. So this \$100,000 limit that's in 74.B wouldn't apply to those. We're going to bring forward policies for your review, hopefully in a couple meetings. I hope that by the next administrative meeting, concerning Public Works projects. And in there we'll make some recommendations about approval limits, but I'm hearing here that you would like to see the bulk of those and we'll certainly include that notion in the draft.

CHAIRMAN MONTOYA: Isn't that included on 41, or is that different? On page 19. The purchasing manager may procure professional services having a value that does not exceed the sum of \$30,000 except for services of architects, engineers, landscape architects, or surveyors for public works projects in accordance with this section. Does that deal with this discussion at all.

MR. ROSS: Yes, Mr. Chairman, it does. It does. None of the services related to a Public Works project. Actually, this is a kind of project that's not dealt with in the procurement code. It's dealt with in other statutes. Those are not encompassed within this set of rules and regulations. However, we're going to bring you rules and regulations relating to those issues because there is a need for process and a need for uniformity in

processing those types of projects. But it really doesn't belong in here in the first place, and in the second place, we don't have a really good model to work from so we're having to work from square one on those.

CHAIRMAN MONTOYA: Okay. So that will address Commissioner Sullivan's concern, when that's brought forward.

MR. ROSS: Correct.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Well, how does – and I understand. And that's the question I was talking about with regard to landscape architects that's in there also. I pointed out that should be in your resolution. But here we talk about procuring professional services, and I assume that now, by professional services we're only talking about things such as accountants, attorneys, social workers, whatever professional services, facilitators, whatever we may decide is needed. So that will essentially be all. But how does this \$30,000 jibe with the \$100,000?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, state statute permits issuance of a small purchase contract for professional services. It's like small purchase, like notebooks or papers or something like that. But in the case of professional services it's the services of a professional, such a lawyer, what have you, for under \$30,000 without the necessity for going out to RFP. That's what this section pertains to. So the threshold below which you don't need to issue a formal RFP. You just need to get the best obtainable price.

COMMISSIONER SULLIVAN: So between \$30,000 and \$100,000, for again, attorneys and accountants or whatever it might be, the County would have to issue an RFP and get formal proposals. But the result of that wouldn't come to the County Commission.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, if this provision were about this, that's correct.

COMMISSIONER SULLIVAN: And then if that RFP resulted in a price that was over \$100,000, then it would come to the Commission.

MR. ROSS: That's correct.

COMMISSIONER SULLIVAN: Do we have very many of these professional service agreements that are over \$100,000?

MR. ROSS: Mr. Chairman, a few of them. Some of the larger contracts, like for example, the federal lobbyist we were talking about. The jail consultant. Some of the larger professional service contracts. But the bulk of them are actually, based on our survey, below \$20,000. There's a huge volume below \$20,000.

COMMISSIONER SULLIVAN: And I can see that point, particularly as we're dealing with the jail and the youth facility where we're dealing with nurse's contracts and those kinds of things, but I see a big difference between that and \$100,000. And that's my concern. I'd feel a lot more comfortable, even though that doesn't include architects and engineers, if that were some of the – rather like \$50,000 for professional services.

That's my thoughts, Mr. Chairman. It's 5:30.

CHAIRMAN MONTOYA: Okay. I think, why don't we postpone any further discussion on this, if we could, until after the public hearing. We can resume it at that point. Commissioner Vigil has a lot of questions that she's got and we need to move on to executive session and then come back for public hearings. So if there are no objections, is there a motion to move into executive session to discuss items that are on the agenda? [Discussion resumes on page 137.]

XI. C. Matters from the County Attorney

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

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

[The Commission met in executive session from 5:30 to 6:30.]

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

XII. PUBLIC HEARINGS

- A. Land Use Department**
 - 1. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance 2006-3 Requiring the Use of Instant Hot Water Devices or Designs Within all Permanent Structures with a Hot Water Tap Including but Not Limited to Commercial Structures**

WAYNE DALTON (Review Director): Thank you, Mr. Chairman, Commissioners. Staff is requesting authorization to publish title and general summary of an ordinance amending Ordinance 2006-3 requiring the use of instant hot water devices or designs in new residential dwellings and to require hot water devices or designs within all

permanent structures with a hot water tap, including but not limited to commercial structures.

On February 14, 2006, the BCC approved an ordinance requiring the use of instant hot water devices or designs in all new residential dwellings. Staff was directed by the Commission to request that instant hot water devices or designs be required within all new commercial structures. Staff is requesting authorization to publish title and general summary of said ordinance amendment. Thank you.

CHAIRMAN MONTOYA: Questions for staff?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Dalton, the requirement would be prospective or would it require retrofits?

MR. DALTON: Mr. Chairman, Commissioners, it would be – the requirement would actually be for new construction. And also, Mr. Chairman, Commissioner Campos, it would require retrofit in mobile homes.

COMMISSIONER CAMPOS: In mobile homes used for commercial purposes?

MR. DALTON: Mr. Chairman, Commissioner Campos, that would be correct. Actually mobile homes cannot be used for commercial purposes.

COMMISSIONER CAMPOS: So if someone proposes to use a mobile home for commercial purposes they would be required to do a retrofit?

MR. DALTON: Mr. Chairman, Commissioner Campos, an applicant cannot use a mobile home for commercial purposes. The state will not allow that.

COMMISSIONER CAMPOS: Oh. That's prohibited.

MR. DALTON: That's correct.

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

CHAIRMAN MONTOYA: Okay. Questions?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Sullivan, second Commissioner Vigil. Discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I'm going to vote against this. I just think that we're putting on more requirements of the home builder that we don't need and we don't have any type of enforcement, inspection for this. That's it. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Any other discussion? Commissioner Vigil.

COMMISSIONER VIGIL: Wayne, and maybe someone who's out there in the development community, if you can answer this. Mr. Pino, if you listen to this question. Aren't most developments already incorporating these hot water recirculation devices?

MR. DALTON: Mr. Chairman, Commissioner Vigil, to my knowledge, yes, there are some developers within the county already installing recirculation.

COMMISSIONER VIGIL: Okay. And it's part of the energy efficiency, save water save utilities type implementation for these elements. Correct?

MR. DALTON: Mr. Chairman, Commissioner Vigil, that is correct.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Chairman. That's all.

CHAIRMAN MONTOYA: Okay. Any other questions, discussion?

The motion to authorize publication of title and general summary for amendment to the water recirculation ordinance passed majority [4-1] voice vote with Commissioner Anaya voting against.

- XII. A. 2. CDRC Case #V 06-5060 Xpert Towing Variance – Thomas J. Lopez, Applicant, Requests a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of an Eligible Commercial District on 3.09-Acres. The Property is Located South of Camino Quieto off Highway 14, within Section 35, Township 15 North, Range 8 East (Commission District 3)**

SHELLEY COBAU (Review Specialist): On March 16, 2006, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial of a variance of Article III, Section 4.1 and 4.2 of the Land Development Code in order to allow the property to be eligible for commercial use. There's currently a residence, well and septic system on the property. Article III, Section 4.1 of the Code states that commercial and industrial non-residential uses are permitted only in zoned districts.

There are several reasons why commercial districts are established. The primary reason is to avoid strip commercial patterns of development along collector and local roads of the county and to protect existing and future residential development from encroachment by non-residential uses. The subject property is not within an eligible commercial district.

The applicant proposes to operate a 24-hour towing business on this property. The applicant also states that a 15' X 80' fenced vehicle storage area with concrete paving is proposed for the business. The applicant has also stated that numerous commercial businesses are in proximity to the property and the variance should be granted for this reason.

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

CHAIRMAN MONTOYA: Any questions for staff? Is the applicant here?

[Duly sworn, Lee Lopez testified as follows:]

LEE LOPEZ: I'm Lee Lopez. We're requesting a temporary variance with

restrictions as a towing company. We'd like to offer our services to the city and county of Santa Fe and its surrounding areas and being a service provider for not only for private individuals but for seven insurance companies that we are established with currently. We're requesting to utilize a specific fenced and secured area, about 15 X 80 which will be for security purposes only. We are not serving as a salvage yard and/or the capacity, strictly for a security lot.

We are located directly off the highway with a direct access to our location which is off Highway 14. Camino Quieto is the assigned access which is the affected part of the location. There are no easements. The strict rules and guidelines requested by our local neighbors - we will have a fenced and secluded area for such purposes along with a cemented pad. The cemented pad is in prevention of any type of soil erosion between separate vehicles. A maximum of allowed vehicles would be about five to six vehicles at a time. No vehicles are allowed there longer than five days [inaudible] will guarantee that the vehicles will not be on the property for any time longer than a week or so.

We are willing to abide by the necessary rules and regulations set forth in the regulations for such a request. We have provided a petition. [Exhibit 1] The petition was placed at the local San Marcos feed store. We had the permission of the owner in San Marcos. His name is Tom. He also was in agreement to our variance although he refused to sign; he was reluctant to sign due to loss of business and [inaudible] land in the San Marcos area.

Several people giving signatures agreed a towing company is needed and is beneficial to the Lone Butte area. The feedback was very positive amongst speaking to and talking to these people directly on the petition itself. We have assisted with the local fire department in the area in times of need towards the community. Shelley, is our Turquoise Trail Association in effect at his time? [inaudible] It is not in effect? Turquoise Trail is it in effect as an association outside the Lone Butte area?

MR. ROSS: Mr. Chairman, it's out of order for an applicant to ask a staff member questions.

CHAIRMAN MONTOYA: Okay. If you would proceed with your testimony, please.

MS. LOPEZ: With our concern, a letter received by our so-called Turquoise Trail Association, members to our knowledge is not yet an association. As well as getting feedback on the established - currently right now there is no San Marcos Association in effect. And in the San Marcos Association nobody has opposed any of our variance or concerns.

As Mr. Iannucci of the retired US Marshals is primarily behind the so-called not yet Turquoise Trail Association and has gathered people against the variance when in fact has only lived in the general area for a little over a year. Mr. Iannucci is intending to run as the local sheriff of Santa Fe County in the future, I believe his general idea is to get to know the knowledge of the people for his personal gain, which is against the variance. [inaudible] my concern is where he stands as far as the Turquoise Trail Association.

The Fire Marshal Association has not opposed, at least we have not had any feedback on that. [inaudible] that they have not been aware nor invited to any Turquoise Trail meetings, nor ourselves. As far as residents living out in the Lone Butte, not one family has been notified

of the meetings including ourselves and we have there for the last five years. We received ten letters of opposition initiated by Mr. Iannucci and noticed that they all are Anglos. Should I not feel that we are being discriminated against along with the variance in effect. Within a half mile there is a fire station, two restaurants, a gas station, a school, a feed store, movie set and the sheriff's department, all located within the area. As a hardship, in trying to make a living it currently is the primary income, currently with wanting to establish this. I appreciate this matter being taken into consideration for the time being as we're trying to establish something beneficial to the area and to the San Marcos community, the Lone Butte area not to include the services we've provided to Cerrillos, New Mexico and Madrid.

And Mr. Iannucci or whoever their spokesman is, if I can have kind of an answer as to how many households are in your so-called association area and how many current paid members are within the association.

CHAIRMAN MONTOYA: Okay, any questions for Ms. Lopez? Okay, this is a public hearing. We'll ask now for people who would like to speak for or against this project to please come forward. And if you'd please identify yourself and be sworn in.

[Duly sworn, Alexis Higginbotham testified as follows:]

ALEXIS HIGGINBOTHAM: My name is Alexis Higginbotham and I'm the secretary of the San Marcos Association. I have a statement to read on behalf of the San Marcos Association. The towing operation is located on State 14 designated one of eight national scenic byways in New Mexico, one of 126 in the entire country. This special status is given only to distinct and diverse roads based on specific and exceptional qualities. The property in question has become a major detracting feature along this scenic byway. It will be a tremendous loss if the Federal Highway Administration is forced to withdraw Turquoise Trail's scenic byway status.

As this towing has been in business for a few years with considerable disruption to the Camino Quieto Subdivision which forbids commercial activity in its covenants. While we know it is not the County's place to enforce private covenants, neither should it be the County's place to grant a variance that breaks the specific covenants of this neighborhood. The San Marcos Community is only weeks away from seeking your approval for our district plan. All of our activities have been well advertised and open to all. The petitioners were sent newsletters as well as letters from the County that provided details of the plan and offered many opportunities to participate. The petitioners chose not to. The plan specifically offers a mixed-use commercial zone that excludes the property and neighborhood in question.

Any variance request requires there be a material hardship associated with the land in question. A variance may be granted only if the land would not otherwise have "beneficial use". This property, however, holds a residence, a well, and a septic system showing that it has obvious beneficial use and therefore cannot qualify for a hardship. It is also a statute that having brought the property up to the Land Use Ordinance goes in effect, the petitioners involved actually contributed to their own potential hardship. Therefore they should not be allowed to claim that hardship. Lastly, the ordinance requires that granting a variance should not have an effect contrary to the intent of the ordinance section for which the variance is granted. We

respectfully suggest that extending the commercial strip development down the Turquoise Trail Scenic Byway would certainly be contrary to the intent of the commercial zoning ordinance.

It is clear to the San Marcos Association that there are insufficient legal grounds to grant this variance. Thank you.

CHAIRMAN MONTOYA: Okay. Any questions for Ms. Higginbotham?
Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, are you registered with Santa Fe County as an association.

MS. HIGGINBOTHAM: We have been for over 20 years.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN MONTOYA: Next please. Again, identify yourself and be sworn in please.

[Duly sworn, Rick Iannucci testified as follows:]

RICK IANNUCCI: Mr. Chairman, Commissioners, I'm Rick Iannucci, 3774 State Highway 14. I'm the fellow that has been talked about. I could hardly hear her prepared text but I'm the retired US Marshal that lives directly across the street. I don't represent any association nor do I belong to any association. I represent myself, my 10-year old daughter. I'm a single dad. I'm a widower, retired from US government to come out to the beautiful Turquoise Trail and try to raise some horses and a ten-year old girl in an environment that's non-commercial and non-threatening to both the environment and my children. If I may approach?

CHAIRMAN MONTOYA: Is that for everyone?

MR. IANNUCCI: The property in question is right on the highway. The two photos, Mr. Chairman, that I presented were from the Assessor's office. [Exhibit 2] They were taken a little while ago, however, they show the proximity of the residence and what was then a salvage yard and the proximity to the road and the highway on the Turquoise Trail. You can see that the entrance on Quieto, of course there is one there. There's an alternate entrance there, but there's also an entrance right on the main highway which is what is used most often at any time of the day or night.

I didn't have any problem at first with Mr. Lopez but then the traffic started getting a little bit crazy over there, and as he said, he is a 24-hour business and proud of it. The neighbors that talked to me, which I do represent. [Exhibit 3] I have an 80-year old neighbor who lives next to me. He and his wife could not be here. They're in Tucson visiting relatives. He is adamantly opposed and asked me to represent him, as did the neighbor to the south of me, Jeff Hodges. Jeff owns the 20 acres next to me, also a voter here. He could not attend. He was in Chicago on business. But I did, through the power of the Internet, did receive some letters when people did know of my interest. All I did was inform people in the area that this was going on. And I got at least ten, which I'll submit to you, letters from neighbors within a four-mile range, from Cerrillos which is four miles down where the Ortiz Mountain is, all the way up to Stone Ridge Realty.

You also should be in possession of a letter sent by Hugh Nazor. That should have been

in your packet. And later, this afternoon, I was asked to hand-carry a letter from Commissioner Anaya from one of his constituents in his district.

The long and short of it is, I'm the son of immigrants as well. I've saved all my life to get where I am, to get out here. I've been a resident of Santa Fe County since 1989 and although my job has taken me all over the world, I came back to retire here when I lost my wife last year to be with my daughter and raise her. It's a little bit disingenuous for Mr. and Mrs. Lopez to come in at this point with Xpert Towing as they've been operating for several years and beg for forgiveness when at first they should have asked for permission. That's the way I was raised, to obey the letter of the law. If you have any questions of me, I'm the fellow that lives right across the street and I represent everybody on the east side that's directly across and I've gotten - I don't know where this petition came from. I go to the San Marcos Feed Store every day because I have horses. I've never seen it there. And I don't know what it says on there or what it represents other than asking for a tow truck company. We have plenty of towing out there if we need it. I have a 1995 F-350 diesel Dually that broke down twice last month. Within 40 minutes the first time and 30 minutes the second time, ASAP towing through AAA was out there without a problem.

When I asked about was Xpert Towing on there, the guys right across the street. Because I have no problem with him. They said he's not on our list, sir. I said, do you know why? They said, we don't know why. So it's also a little disingenuous to say he's performing this magnificent service to the community because there are other people that service the community in that fashion. I'm prepared to answer any questions you have for me.

CHAIRMAN MONTOYA: Any questions? Commissioner Anaya.

COMMISSIONER ANAYA: Was that a Chevy truck you have?

MR. IANNUCCI: No, sir. That's a Ford F-350 Diesel Dually.

COMMISSIONER ANAYA: And it broke down?

MR. IANNUCCI: It's a '95. Some things happen sometimes, Commissioner.

CHAIRMAN MONTOYA: Thank you, Mr. Iannucci.

MR. IANNUCCI: Thank you. And thank you for taking the time to hear and thank you to all the people that came out in support. If I could just say one final thing. I have nothing against Mr. Lopez. In fact, I don't even know Mr. Lopez, even though I've been there. I've waved to him a couple times in his truck when he's come in. He seemed to have a nice family, and I have nothing personal against him, but I just can't allow this. I can't stand by and allow this to happen, and I have to represent or stand up, give a voice, essentially, to the older people that live right near there that absolutely think this is an abomination. Thank you for your time.

CHAIRMAN MONTOYA: Thank you. Anyone else? Is there anyone else that's going to speak after? Okay, if you'd please come up to the front bench so we can proceed quickly, because we have a number of another hearings this evening.

[Duly sworn, Steve Fehringer testified as follows:]

STEVE FEHRINGER: My name is Steve Fehringer. I'll try to keep this brief and not repeat previous. I reside at 8 Camino Quietto. I'm the owner of the property which is

one of seven lots in the Saba McWilliams Subdivision and designated as Tract B-3, immediately adjoining the west side of the property designated as Tract B-4 that is asking for this variance. My property shares 380 feet of property line with Tract B-4.

I understand the request for a variance to operate a commercial enterprise and feel very strongly that this must not infringe on the rights of residential areas such as ours and our desire to keep these areas intact with all the benefits and attributes desirable in any residential area, including low noise levels, and pleasing aesthetics. I urge the Board of County Commissioners to deny the variance and add the following: I wanted to point out because I am in the subdivision that there are covenants which govern these properties including the one in question and they are legally recorded and fully enforceable. I know that the County does not enforce neighborhood covenants. However, I refer to them because these covenants are quite extensive and show the desire of the owners to keep this area residential with low noise levels, low traffic and good aesthetics.

The covenants are quite specific and I point out only a few brief highlights relating to this variance as follows: No manufacturing or commercial enterprise is allowed other than individual artistic or literary activities; No noxious or offensive activities are allowed, when anything shall be done which may be or become an annoyance or a nuisance to the neighborhood; No fencing is allowed that will interfere with adjoining property owners views; No trailer or camper shall be parked on any lot unless garaged and/or shielded from visibility; and finally, No billboard or other advertising sign is allowed, with the exception of one sign per parcel for individual artistic or literary activities.

The proposed variance is not only for commercial but for a towing service in particular, which uses large trucks with a high decibel volume and no limited range of hours of operation. In other words, late night and early morning usage have been observed. All of these points reflect a strong desire to keep the area residential. I strongly urge this Board to deny the variance and thank you for your time.

CHAIRMAN MONTROYA: Thank you, Mr. Fehringer. Any questions? Thank you, sir. Next.

[Duly sworn, Helen Boyce testified as follows:]

HELEN BOYCE: My name is Helen Boyce and I live at 3741 Turquoise Trail. Mr. Chairman, Commissioners, my husband and I have owned and lived on our property since 1947. In the early days, you might well imagine we were six families and it was very hard to stop anything not residential in our area from becoming anything but residential. However, we did have permission at that time that helped us to prevent a camp for the building of the prison and new buildings of the prison which had already half-established itself with 15 to 20 outlets right across from us.

And another time to get a mining and blasting company and storage to open up right next to us. We appreciated that. We decided that we must get the neighborhood together. A few of us established the San Marcos Association. We have never, when I joined my husband in '62, we had never opposed any appropriate home businesses or anything conducive to good living in that area. However, this is a blight and to change a residential area, a strictly

residential area to commercial, would be detrimental to the scenic road. I also couldn't quite understand all that Ms. Lopez said about the Turquoise Trail Association. The Turquoise Trail Association is an association of business people from I-40 to I-25 and they are the ones who helped us recoup, first of all the name, which private people in our area, probably in the seventies, established [inaudible] lost and we recouped it again. And they would also be very concerned with anything like this kind of a business is allowed to happen in a residential area.

I don't think it would even be allowed in the commercial area. This is light industrial because what is planned forms much more than just an in and out of cars. There are 15 to 20 cars parked close to the road, very visible, but even close to all of us in the neighborhood who are preparing to protect us from looking the way that particular property looks right now.

I'm concerned that this business is given more time to work on that property. It's already been there for many years and we have worried about it. And we're coming here before you to please not let that residential area turn, as somebody said, into a strip commercial area. I thank you.

CHAIRMAN MONTOYA: Okay. Thank you. Any questions for Ms. Boyce. Thank you. Next, please.

[Previously sworn, James McCabe testified as follows:]

JAMES MCCABE: Good evening. My name is James McCabe. I actually live down in Cerrillos, not in the village but up underneath Cedar Mountain there. I moved out here in May of 2002. I have died three times already in my life and I moved out here primarily to seek to improve the quality of my physical life and I'm not some dealer with lots of land, a big house. I've always been a bracero. I've always worked in foundries, worked [inaudible], manufacturing plants, construction, so I just moved out here with a certain amount of money. Like I said, I got a small parcel of land up there, living off the grid and I'm concerned because my work takes me on 14. That's my main artery, whether I'm going to Albuquerque or to Santa Fe or any of the neighborhoods in between, and I just can't help but express my concern over what I have seen developing in that particular area on the Lopez property.

And forgive me because I don't understand. Are there limitations to how many vehicles can be towed to this site? [inaudible response from Mr. Lopez] If I understood Senora Lopez correctly, she said that the business that they're trying to establish is not a salvage yard. It's a "temporary towing repository for vehicles that are towed to this location." Is that correct, Senora? Okay. By the very nature of the towing business, you cannot guarantee the quality of the vehicle that is being towed to that location. For all you know, for all Mr. Lopez knows, there could be a cracked engine block or radiator problems which are going to leach into the soil, into the aquifer of that area. They cannot guarantee us the quality of the vehicles that they're towing there.

And no amount of surety bond is going to recompense any of the neighbors for what very easily could wind up being a Superfund site. Maybe not on such a grand scale, but having worked in the well drilling business, I can tell you that there's certain things that you don't put over water aquifers. And we've got enough problems with water in this area as it is. Essentially, that's it. I'm just concerned about the quality of life for all those people in that

area, Rancho Alegre, South Fork, North Fork, Lone Butte, because you spoil that land, you spoil that aquifer, and it just continues to work its way out. Those are the laws of hydrology and geology. And once the cat is out of the bag, there's not enough money to make that area right again.

And it's the visual, it's the aesthetics. People have invested lots of money in the existing businesses in that area as well as the residential areas. And I don't think that it's fair that anybody should be allowed to come in to the neighborhood as a resident and they say, oh, yes, by the way, I want to move by business here, my commercial business. Eso es. Muchas gracias.

CHAIRMAN MONTOYA: De nada. Gracias. Thank you. Next please.

[Duly sworn, Joan Koch testified as follows:]

JOAN KOCH: My name is Joan Koch. I've lived in Santa Fe since 1987. I bought my land in 1983. I have a big investment in my property and I intend to keep it the way I found it back in 1983. I am totally against what Mr. Lopez wants to do. If he has to have another business to run, I hope that he can find something a little less damaging. I agree with everything all the previous speakers have said. That's what I have to say. Thank you.

CHAIRMAN MONTOYA: Thank you, Ms. Koch. Next, please.

[Previously sworn, Tommy Lopez testified as follows:]

TOMMY LOPEZ: My name is Tommy Lopez. You heard from my wife earlier. I was sworn in when you did all of us. To answer some of their questions and concerns, he made a point to say it is a 24-hour business. It is not a 24-hour business. That secure lot there on that property is from 8:00 to 5:00. That's it. There is nobody - it is not a 24-hour. Now, if you understand a towing business, yes, the tow truck runs 24 hours a day. If you get caught for DWI at 2:00 in the morning, 3:00 in the morning, the cops call and say, we're not going to tow your car because we can't find a tow truck. The truck runs. The truck moves. There is nobody coming to the yard to pick up vehicles. Any type of business is going on. The business hours of the tow company are 8:00 to 5:00, not 24 hours a day, seven days a week. It's 8:00 to 5:00; Saturday is 8:00 to 12:00; Sundays we are closed.

It doesn't mean I'm not going to go pick up your car if you get caught DWI, but the business is closed. So that's one of the concerns they had is the 24 hours. The second one about the gentleman that said he had the truck that broke down, we do provide service for AAA but we are not their primary provider. The calls we run for AAA is when ASAP or other tow companies in the area cannot get to them. If I had been on a different insurance, for example, Cross Country, I guarantee you I would have got the call because I am their primary provider in the area.

Again, I don't know or understand his great big concern. His entrance to his property - and I'm sorry, I can't pronounce your name - Mr. -

CHAIRMAN MONTOYA: Iannucci.

MR. LOPEZ: His property is before mine on Highway 14. He never even approaches Camino Quieto by at least 200 or 300 yards, he turns off to his property on the opposite side of the road. So basically, he never sees it unless he makes it a point to pass his

entrance on his property to [inaudible]

As for Steven, the neighbor that is right behind me that said he shares the fence. I know it's not your guys' concerns, he's talking about fencing, but on the north side of his house, he does have a seven to eight-foot wooden fence from his house out to his – I don't know, maybe garage or whatever it is. He's trying to say we can't do something and yet he has it on his.

As for the scenic byway that they are talking about, I understand that. With the amount of businesses that are already out there, is this scenic byway the only .2 to .3 mile that I live in? Right past me, not even a tenth of a mile there is hummingbird feeder stores, there is the old fire department, there's another guy that just built a great, big, huge metal building that is doing commercial work out of there. That's to the south of my property. To the north of my property, less than a tenth of a mile, you have the Hideaway Restaurant, you have the Shell gas station, the Lone Butte Store. Farther on down, you got the feed store. There's businesses all over that area.

The next biggest concern I heard them talking about was the aquifer. That is why we're here, saying, asking for a temporary. I don't want to stay out there forever. [inaudible] They said the business has been running for years. This business has been running for 13 months. Barely over a year. We just completed one year of business. Where they come up with years and years and years, I have no idea. So it's been 13 months that that business has been running.

As far as the access on Camino Quieto, it has been used out of convenience. I do not need to use that road. And I did not hear any of these neighbors complain during last summer when I took it upon myself three times rented bob cats, backhoes and we did that whole road for them. My neighbors, knowing that it's my trucks that probably do help mess it up a little quicker. The County has never gone out there and done that road. I've done it three times, four times, last summer. Never asked them for a penny.

About the aquifer again, that's why we're saying the concrete pad. No, we don't know the conditions of the cars we do bring in there. That's why the concrete pad. Whatever type of fencing the County and neighbors want. That's why we're asking here. With restrictions, with whatever you guys say, we'll do. You want a coyote fence, we'll put a coyote fence. You want a block wall, I'll put a block wall.

Like I was saying, the scenic byway then is only the .2 to .3 where my property runs on the highway because on both sides of me, I'm covered by businesses. So I guess their scenic byway must be the 380 feet of my front yard off of Highway 14. Other than that, there's businesses all over.

As for the picture you have in front of you, that is when I just started the business. I did sink every last penny my family had into buying these trucks. That is the only time I've ever had that many cars there. The cars in the back of that picture, you can tell the difference of the ones that are in my yard and the ones that are in the farther, farther back. That is not even my property. That is another neighbor that nobody has a problem with him having eight cars there but they have a problem with me having five. The eight cars in the very back of that photo are not even on my property; I have nothing to do with them.

And that's all the questions that I got from them that I wrote down real quick to try to

provide an answer for. And like we said, it's a secure lot. To me honest with you, I am no mechanic. I am very far from being a mechanic. I have no interest in tearing apart cars, trying to rebuild motors, I don't know what I'm doing with that. As far as the noise, if you know anything about bigger trucks, they do not make that much noise. They do not rev that high. You can take your 1985 or '95 Ford 250 that broke down on you, rev that motor and it's going to be louder than my tow truck. Diesels are very - they're maxed. They have a governor, that's it. They don't rev with these loud mufflers and everything that they're trying to say. And if you know anything about bigger trucks, you know that.

CHAIRMAN MONTROYA: Okay. Any questions for Mr. Lopez?

Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, Mr. Lopez, where do you take the car afterward? You say you're going to leave it there for five days, where does it go after?

MR. LOPEZ: What normally happens, sir, is the ones that go out to my property are the DWIs, some accidents. What happens in that case is, you're arrested for DWI. I pick up your car. You get out of jail, you call me. You're out of jail within a day or two. You call me. Of course you want your vehicle back. You come pay the tow bill on the vehicle. You get the keys to your call. You drive it off, you're gone. That is how they get removed.

If it is in an accident, what they do is by law I have to wait four days. I send a certified letter out to the owner of the vehicle, which I obtain through an MCIC. I tell them, you've got so many days to come get your vehicle. If they don't come - there are some that we get stuck with. Sometimes we pick up a car that's just really junk. There's no other way to put it; it's junk. I hold it five days. By law I have to. After five days, I load it up on the truck, I take it into scrap metal on Siler Road. I have to wait the five days by law. So if you don't come for your car within five days it will be gone.

COMMISSIONER ANAYA: One other question, Mr. Chairman. The covenants, were you aware of the covenants on that property when you purchased the property?

MR. LOPEZ: No, I wasn't. I bought that property from a gentleman by name of Rudy Montano who worked for the state. He's now been retired. He actually told me and sold me that property, told me that it could be zoned commercial when I bought it. I didn't bring that up because apparently if it was wrong, then I was informed wrong. I can't go back and say - like I didn't like the comment that said, oh, we got caught. No, I didn't even get caught. I've been dealing with all kinds of people from County in trying to get it settled. I'm not here because I got caught.

COMMISSIONER ANAYA: Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Next please.

[Previously sworn, Mark Vercrusse testified as follows:]

MARK VERCRUSSE: My name is Mark Vercrusse. I live out at 62 Cedar, a little, three miles east of there. They want to talk about the commercial zoning. I don't believe it's been set in stone yet. There's no set area where there's commercial zoning. The San Marcos Association, if I got this right, is working to get this set up with some committees to make it so we have this all under control and this won't get out of hand and nobody will have to

come in here and deal with it again. My question is, the San Marcos Association, I went to a meeting not long ago at Turquoise Trail School and I believe some of you were there. Some of these people here behind me were there. It's not, in my feeling, not representing the entire community. It's - I'd be lying to say it was 98 percent Anglo. Let's face it, where we live, where I live and all the people around my area, and I've worked out there. I've lived there for a long time, and I delivered propane out there to everybody's houses since 1979 with Cotton Butane, the Santa Fe Propane, Adobe Propane, Ferrelgas. I've been to nearly everyone's houses. I know my people. I know my last names. I know who's who.

I'm not wrong by saying that the San Marcos Association in my feeling doesn't represent everybody. If this doesn't - I brought it up in the last meeting. I spoke to several people. Presidents, vice presidents, I'm not sure which one. I met Jack out there that day. Jack was there. He saw who was there. Maybe he could speak for me. I don't believe the San Marcos Association represent the community. And when this all takes place and this zoning is set in stone, I think it's only fair we get everyone out there, and for some reason, the entire community is not being represented out there. And there was talk about the 20-year plan. The 20-year plan for the San Marcos Association is setting aside four acres for commercial development in the area. It's not set in stone again and it's been brought to these committees to work it on within the next few weeks, it's supposed to take place.

But let's face it, four acres for commercial development in our area plan for the next 20 years is just wrong. They'll need that much for one gas station, one library, one pool, one laundromat or another restaurant. That's all I've got to say. I'm all for County and I think these are points that need to be looked into. It's not set in stone. There's no commercial zone yet.

CHAIRMAN MONTOYA: Okay, any questions for Mr. Vercruyse? Okay. Thank you. Next, please.

[Previously sworn, Pete Romero testified as follows:]

PETE ROMERO: My name is Pete Romero. I live at 38 Sunset Trail West. I live in the Silverado Subdivision. I am for Mr. Lopez because I think that there is a need for a wrecker service out there. I live along ways from town, there's a lot of people driving out there, back and forth every day. As far as contamination, aquifer, if you have enough animals on your property and you don't maintain it properly, you're going to have problems with aquifer contamination there.

You have situations where - all he's doing is requesting for a temporary. And the thing is that with what he's proposing for this temporary, it's going to sit there. If it doesn't get passed, after that, for a permanent, then whatever money he's invested in this is going to sit there and stay there. All he's trying to do is keep everything on the up and up for everybody to prevent any problems. If you go, drive up and down 14, up to Cerrillos, look at all the junk cars on people's property. Are we going to clean all that up also? This is a business. Those other cars aren't a business. They're talking historic - let's talk realistic. Drive up and down, clear up everybody's lot if that's what it's going to take.

Where are the boundaries for those associations? Is that to include all of North Fork, South Fork? All of County Road 45, 42? Where are the boundaries? We need to see all that. If

I'm within their boundaries I have received nothing.

CHAIRMAN MONTOYA: Okay. Anything else, Mr. Romero?

MR. ROMERO: That's about it.

CHAIRMAN MONTOYA: Thank you.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Before we hear further testimony and I'm glad to, I am getting more and more confused. Is this a temporary permit being requested?

MR. LOPEZ: Yes, we're asking for a temporary variance. Temporary meaning however long the County, the neighbors decide to allow me. What I want to do is build this company and move it out into town. I don't have a problem with that. Right now, just starting a company, I cannot afford to pay the rent of \$3,000, \$4,000 a month rent in Santa Fe for a yard. I'd be broke in six months.

COMMISSIONER VIGIL: Thank you. Was that staff's understanding?

MS. COBAU: Staff's understanding is that there's not a provision in the Code for a temporary variance.

COMMISSIONER VIGIL: And I didn't see that in the memo, but was that communicated to you by the applicant?

MS. COBAU: If you look at the minutes from the CDRC hearing, Mr. Lopez clearly stated he would like to operate the business for three to five years. I don't know if that's considered temporary in nature. Again, there's no provision in the Code for a temporary variance.

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

CHAIRMAN MONTOYA: Okay. Next.

[Previously sworn, Dominic Vigil testified as follows:]

DOMINIC VIGIL: My name is Dominic Vigil and I reside at 14 Sloman Court. I myself also have a small business and it's hard starting a business. I did the same thing as Mr. Lopez. Put a lot of money into it and so forth. To shut him down is going to be kind of - for him just to stop what he's doing. And the bills keep coming in. I could understand if he wanted to have it there permanently but he put all his money into it. He's just trying to make a living. A lot of these people come out here. They have a lot of money. I'm sure if he did have money to buy a yard he wouldn't have started his business out there, but you've got to start somewhere, like I did. I started and I had the same situation. I had a very hard time, now, because I had to go get a yard because I had to move and now I'm having a hard time paying my own bills for my house and I have kids and he also has kids. I don't think he's trying to be there forever. Like he said, he wants to get his business established and I'm sure he'll move on. But I'm just all for him. I think everybody should have an opportunity to try to better their lives and starting a business. You've got to start somewhere and that's why I have no problem with that.

CHAIRMAN MONTOYA: Okay. Any questions for Mr. Vigil?

COMMISSIONER VIGIL: I have some.

CHAIRMAN MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Vigil, you have come before the Board of County Commissioners to grant a request for a variance for your towing business, correct?

MR. VIGIL: I own a roofing company, not a towing business.

COMMISSIONER VIGIL: I'm sorry. For your roofing company. And you got denied, right?

MR. VIGIL: Yes, ma'am.

COMMISSIONER VIGIL: You have appealed that? Is that correct?

MR. VIGIL: Yes. But we already went through the appeals. It's already been denied.

COMMISSIONER VIGIL: So you're required to remove your business from that location?

MR. VIGIL: Yes. And like I said, I did remove my business from that location and I had to go get a yard. I'm young, I started my business and I'm having a hard time paying my own bills. I have two kids and I just don't have a lot of money, but I'm barely struggling to make it now.

COMMISSIONER VIGIL: So your residence on Sloman Lane no longer has trucks traveling through there.

MR. VIGIL: No, ma'am.

COMMISSIONER VIGIL: No longer has any sign of any business activity?

MR. VIGIL: No, ma'am.

COMMISSIONER VIGIL: Have you relocated the business.

MR. VIGIL: Yes, ma'am.

COMMISSIONER VIGIL: Where to?

MR. VIGIL: Actually, I had to rent a yard behind, from Loren Miller. I rented a yard from him.

COMMISSIONER VIGIL: Okay. But you remain as a resident of Sloman Lane?

MR. VIGIL: Yes, I still do. But now I'm paying my rent. I just think it's real hard to throw him out and he can't just stop business. If I wouldn't have found that lot, because I looked all over. A lot of people want a lot of money, \$1,000 a month, and Loren was willing to work with me with half of that so that really helped out. But if I had to pay the full amount I could face foreclosure even on my own house.

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

CHAIRMAN MONTROYA: Okay. Any other questions? Any other testimony from people who have not spoken. Mr. Iannucci, we've already heard from you sir. Anyone else? If not, this public hearing is closed. What are the wishes of the Board?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Anaya.

COMMISSIONER ANAYA: These are probably some of the toughest cases that we hear because you have an individual here with a young family who's trying to start out

and trying to make something of himself and his family. And he's kind of put in a tough situation where he purchased the property not knowing about the covenants. I was talking to Commissioner Sullivan and asking him the same question about a temporary permit, that I didn't see anything in here about and then Commissioner Vigil brought it up. I was just kind of - I'd hate to see us just eliminate the business all at once and just say, no, no towing. I know he's asking for a three-year temporary permit if that can be done and I think we could do it, if legal is on board with it. But I guess my motion would be that we allow him to operate that towing business for about a year and a half so that he can continue to operate his business and look for another place in the meantime. It's not three years, it's not permanent, but that at least gives him some time to look for a place and that is my motion, Mr. Chairman.

CHAIRMAN MONTOYA: So the motion would be to overturn the CDRC and staff condition, and with the condition to allow for 1 ½ years. Steve is that -

MR. ROSS: Mr. Chairman, we were just discussing the issue of whether a temporary permit was properly noticed. I'm not sure it is because it's requesting a variance. Perhaps a variance of limited duration would be proper under the agenda item as it's noticed with that motion.

COMMISSIONER ANAYA: So, restated, to be a variance with limited duration.

MR. ROSS: Yes, limited duration and one that doesn't run with the land.

CHAIRMAN MONTOYA: Okay. Is that a motion? Motion dies for lack of a second. I'll entertain another motion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for legal. The status here is that we have a CDRC recommendation to deny to variance or a CDRC decision denying the variance? Is it a recommendation or a decision? It's a recommendation. Okay, so the final decision has to be made here tonight.

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

COMMISSIONER CAMPOS: Okay. Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I move that we sustain the recommendation of the CDRC which unanimously denied the request for a variance. In this case there's no grounds for granting a variance. If you look at the ordinance, there's simply nothing that would legally be the basis for granting of a motion.

CHAIRMAN MONTOYA: We have a motion by Commissioner Campos.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second by Commissioner Sullivan. Discussion?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Problematic and I empathize with the case. However, there's two matters of fact that I think are very necessary in the decision making

process that we haven't really alluded to or enlightened everyone to. There was mention of covenants, however, the applicant is making a statement that it was misrepresented to him when he purchased the property that it was – that he would be able to get commercial zoning. That seems very problematic because that is a practice this Commission has no control over. However, the fact that there are covenants, if in fact this purchase was done through the appropriate channels, through a title company and through an appropriate place, those covenants should have been a part of the packet of information it seems and those covenants would be able to identify that in fact this is not commercial zoning.

The other problem is that no matter how we decide whether it's for a year and a half or three, a temporary permit or not, those covenants can still be enforced through a court of law. So my position is no matter how much we try to help you, our decision could be overturned in six weeks if any neighborhood association that's affected, if the neighborhood association that governs the covenants under which this property was purchased chooses to file a cause of action against you. So our authority, while it could be a little more generous, really does not go into the covenants' authority.

So while the empathy in me wants to help you out, I'm not sure we will be helping you out because my sense is, from the opposition that I hear tonight is you probably will get a complaint filed against you for violation of covenants. So with that, Mr. Chairman, I'm ready to take action on the motion.

CHAIRMAN MONTOYA: Okay. Any other discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, and I, just for the record, I don't agree with the business being in that particular spot but I didn't want to just all of a sudden say no more there. I thought maybe we could give him some time. So just for the record.

CHAIRMAN MONTOYA: Okay. Any other discussion?

The motion to deny CDRC Case #V 06-5060 passed by majority 3-2 voice vote with Commissioners Anaya and Vigil voting against. [At the May 9, 2006 meeting Commissioner Vigil clarified she wished to vote with the motion, resulting in a 4-1 vote.]

XII. A. 3 CDRC Case #Z/DP 06-5050 Children's Garden Montessori School Master Plan/Development Plan. Joan Shankin, Applicant, Design Ingenuity, Agent, Request Master Plan Zoning Approval of Phase I and Phase II, and Preliminary and Final Development Plan Approval of Phase I, for a Community Service Facility for the Children's Garden Montessori School which will consist of 40-Students in a Remodeled 3,700 Square Foot Structure on 5.01-Acres. The Property is Located on Old Las Vegas Highway, Southeast of U.S. 285, within Section 10, Township 15 North, Range 10 East (Commission District 4) [Exhibit 4: State Engineer's letter]

MS. COBAU: Mr. Chairman, members of the Commission, Joan Shankin, applicant, Design Ingenuity, agent, request master plan zoning approval of Phase I and Phase II, and preliminary and final development plan approval of Phase I, for a community service facility for the Children's Garden Montessori School which will consist of 40 students in a remodeled 3,700 square foot structure on 5.01 acres. The property is located on Old Las Vegas Highway, southeast of U.S. 285, within Section 10, Township 15 North, Range 10 East in Commission District 4.

On March 16, 2006, the CDRC met and acted on this case. The decision of the CDRC was to recommend master plan zoning approval of phase 1 and phase 2, and preliminary and final development plan approval of phase 1 for a community service facility for the Children's Garden Montessori School, which will consist of 40 students in a remodeled 3,700 square foot structure on five acres. The CDRC meeting minutes are attached at Exhibit B.

The project was reviewed for the following: phasing, existing development, adjacent property, access and parking, terrain management, water, liquid and solid waste, fire protection, landscaping, archeology, signage and lighting.

Staff's position is that this application is in accordance with Article V, Section 5, Master plan procedures, and Article III, Section 4.4, Development plan procedures of the Land Development Code. Staff recommends master plan zoning for phase 1 and phase 2 and preliminary and final development plan approval for phase 1 to allow a 40-student pre-school on 5.01 acres subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. The master plan/development plan will be recorded with the County Clerk's office.
2. All staff redlines will be addressed, original redlines will be returned with final plans.
3. The existing well shall be equipped with a meter, and annual water meter readings shall be submitted to the Land Use Administrator by January 31st of each year. Water use shall not exceed .25 acre-feet per year. Water restrictions shall be

- recorded in the County Clerk's Office.
4. The applicant shall submit an access permit from the Department of Transportation prior to issuance of building permits
 5. The applicant shall submit an updated liquid waster permit from the New Mexico Environment Department prior to issuance of building permits.
 6. This application is subject to final inspection by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
 7. Compliance with applicable review comments from:
 - a) State Historical Preservation Office
 - b) State Engineer's Office
 - c) State Environment Department
 - d) Department of Transportation
 - e) Soil and Water Conservation District
 - f) County Fire Marshal
 - g) County Technical Review
 - h) County Hydrologist
 - i) County Public Works
 8. All outside lighting on the property shall be shielded.
 9. Addressing in compliance with Santa Fe County Rural Addressing.
 10. Submit cost estimate and financial surety for completion of required improvements as approved by staff.
 11. Obtain business registration prior to occupancy.

MS. COBAU: I'll stand for questions.

CHAIRMAN MONTOYA: Okay, questions for staff? Commissioner Sullivan, and then Commissioner Vigil.

COMMISSIONER SULLIVAN: Shelley, I had a question. Is this proposed location in the 285 corridor plan?

MS. COBAU: Mr. Chairman, Commissioner Sullivan, it is outside the 285 corridor plan.

COMMISSIONER SULLIVAN: Okay, then I was a little confused as to why in your staff report you said the 285 corridor plan allows daycare as a condition use, which requires development plan approval by CDRC and BCC.

MS. COBAU: That should be stricken from the staff report. This site lies outside the 285 corridor plan but community service facilities are allowed anywhere in the county.

COMMISSIONER SULLIVAN: Okay, so we're not dealing with areas, because I didn't remember this as being designated as a commercial area.

MS. COBAU: No, it is not.

COMMISSIONER SULLIVAN: In the 285 plan. Okay, thank you.

CHAIRMAN MONTOYA: Okay, Commissioner Vigil.

COMMISSIONER SULLIVAN: On your water budget, you're requesting .25 but in fact you have a comparative analysis of a similar facility that I assume has 30 school children at .19. Is that correct?

MS. COBAU: That's the information that was submitted by the applicant.
That's correct.

COMMISSIONER VIGIL: And where's this other school situated?

MS. COBAU: The school is about .8 mile to the east of where 285 comes into the Old Las Vegas Highway on the north side of the Old Las Vegas Highway. If you know where the alpaca sweater business is, it's close to being across the street from that. It's just past the Apache Ridge Road access. The additional water use comes from the school garden, which the State Engineer requires that the applicant revise their water budget and include the school garden and other uses within the structure with reference to additional bathrooms. That's where the additional use comes in. If that's incorrect, the applicant's agent will clarify that.

COMMISSIONER VIGIL: And the additional use comes from the .19 to the .25. Correct?

MS. COBAU: That's correct.

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

CHAIRMAN MONTOYA: Okay, any other questions for staff? I don't have any. Thank you, Shelley. If the applicant would please come forward.

[Duly sworn, Orallynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: I'm Orallynn Guerrerortiz with Design Ingenuity.

CHAIRMAN MONTOYA: I just have a question. Are you in agreement with the staff recommendations?

MS. GUERRERORTIZ: Yes, sir.

CHAIRMAN MONTOYA: Okay, is there anything you would like to add?

MS. GUERRERORTIZ: No, sir. The only thing, in answer to Commissioner Vigil's question, the existing Montessori school has lost its lease. It's more in the heart of Eldorado. Because of the existing moratorium in Eldorado it's difficult to rezone property so we had to look as close as possible to Eldorado and this is the best property for the project.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm just impressed, Orallynn, that a school of 30 children, Montessori -

MS. GUERRERORTIZ: Forty students.

COMMISSIONER VIGIL: Forty, is it 40? Can keep a water budget within that .25.

MS. GUERRERORTIZ: Well, they bring their own snacks and lunches. I don't know if you remember that experience, packing a lunch every day. That helps, I'm sure.

COMMISSIONER VIGIL: I appreciate it. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay are there any questions for the applicant?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Yes, Oralynn, in your report you say there's an existing conventional liquid waste system which was installed in 2002 with a capacity of 525 gallons per day which is more than twice the anticipated daily flow based on the school's water use. In the State Engineer's analysis, they say that a school of 40 students, kindergarten, should have a system designed for 700 gallons. Could you explain that discrepancy?

MS. GUERRERORTIZ: We did do a review with the Environment Department and they told us that based on the soil that we have that we do need to expand the leach field but the existing septic tank is adequate and I believe we got that documentation in writing, which was submitted to staff, that requested that we expand the leach field, and I think it was an extra 400 square feet.

COMMISSIONER SULLIVAN: Yes, a correction there, it was the Environment Department, not the State Engineer. But I don't see in the Environment Department's analysis that they felt it was acceptable. They felt that you needed to expand it right away an additional 400 -

MS. GUERRERORTIZ: We do. We need to expand the leach field before the school operates and we entered into an agreement to do that.

COMMISSIONER SULLIVAN: So there is a condition in the staff recommendations that say that the applicant shall submit an updated liquid waste - it says waster permit but I think they mean wastewater permit - from the New Mexico Environment Department prior to issuing a building permit. So what I'm trying to clarify is it's your intention to go in and get a new liquid waste disposal permit.

MS. GUERRERORTIZ: That's correct.

COMMISSIONER SULLIVAN: And that permit will meet these conditions of the additional required area for the 40 students for the absorption field.

MS. GUERRERORTIZ: That's correct, sir.

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

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? This is a public hearing, if there is anyone who would like to speak on behalf or against the application, please come forward.

MS. GUERRERORTIZ: The applicant, Joan Shankin would like to speak.

CHAIRMAN MONTOYA: Okay. For or against the project?

[Duly sworn, Joan Shankin testified as follows:]

JOAN SHANKIN: I'm speaking for the project. My name is Joan Shankin. Thank you for your time and I'll keep it very, very brief. Children's Garden Montessori is a new school based on a very successful pre-school in Eldorado, Monte Vista Montessori. Monte Vista Montessori has been in operation for 16 years and has 60 students each year and has always had a waiting list of 40 more. They have lost their lease but the teachers and families are committed to continuing Montessori pre-school education in the Eldorado area. We didn't want the school to have to end, a very successful school, just because of a shortage of space.

The question was where. Not in a neighborhood such as Eldorado with restrictive covenants. Not in a professional development that's going up in Eldorado called the Village, where there's no adjacent outdoor play space available. Not new construction, because we wouldn't have time to get it built before summer school to serve the families. We wouldn't be on a dirt road and we wouldn't be able to be on a residential road where we shared with other residents. So then we found 710 Old Las Vegas Highway, which is on five acres near Highway 285. The driveway goes right on to Old Las Vegas Highway. The lot is wooded and has a beautiful garden. It's perfect for a pre-school. Our pre-school.

There's a strong community support for Children's Garden Montessori. Already we have 50 families enrolled for the summer and/or fall. The parents have paid deposits knowing that there's still approval needed to get from you. They are that committed to this project.

Some of the parents and faculty are here today to show their support and I've asked the not to come speak, but I would just like to mention their names for the record so you know that they're here, and I'd like to ask them to stand up. Teresa Seemster, who is a retiring director of the existing Montessori school, and Barrett Leonard, who is a teacher at the existing Montessori school and she'll be a teacher at the new Montessori school, John Day, who's a parent and a board member of the new Montessori School. Thank you very much. And thank you very much.

CHAIRMAN MONTOYA: Thank you, Joan.

MS. SHANKIN: Do you have any questions?

CHAIRMAN MONTOYA: Any questions? Okay. Again, this is the public hearing portion of the case. Anyone else like to speak for or against? Okay, the public hearing is closed. What are the wishes of the Board? Commissioner Vigil.

COMMISSIONER VIGIL: Move to approve with staff's recommendation.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil, second by Commissioner Sullivan. Further discussion?

COMMISSIONER CAMPOS: Is that with the conditions?

COMMISSIONER VIGIL: And I'm looking at the conditions and I don't see - yes, with conditions. Move to approve as per staff's recommendations with conditions.

CHAIRMAN MONTOYA: With conditions. Okay. Any other discussion?

The motion to approve CDCR Case #Z/DP 06-5050 passed by unanimous [5-0] voice vote.

XII. A. 4. CASE # 06-5120 Fiasco Fine Wine, Inc. (Tom Wolinski) Liquor License- Fiasco Fine Wine, Inc. (Thomas Wolinski) is Requesting a Transfer of Location of a Wholesale Liquor License. The Property is Located at 5 Bisbee Court in the Turquoise Trail Business Park (Commission District 5)

JAN DANIELS (Review Specialist): Good evening, Mr. Chairman, Commissioners. Fiasco Fine Wine, Inc. (Thomas Wolinski) is requesting a transfer of location of a wholesale liquor license. The property is located at 5 Bisbee Court in the Turquoise Trail Business Park, Commission District 5. In 1991 the Board of County Commissioners granted commercial zoning and development plan approval to the Turquoise Trail Business Park. The approved zoning allows warehouse/distribution uses for spirituous liquor and wine wholesale.

The applicant states that he is requesting a transfer or location of a wholesale liquor license from 17 Bisbee Court to 20 Bisbee Court. There is no sale or consumption of alcohol to the public at this location. The request is in accordance with the notice requirements and staff recommends approval.

CHAIRMAN MONTOYA: Any questions for staff? Commissioner Vigil.

COMMISSIONER VIGIL: Is this the only liquor distributor out in this Turquoise Trail area? Within the Bisbee Court area?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, I don't know that.

COMMISSIONER VIGIL: Okay, maybe the applicant will, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Other questions for staff? If not, the applicant will please come forward.

[Duly sworn, Steven Begg testified as follows:]

STEVEN BEGG: Steven Begg, co-owner, Fiasco Fine Wine.

CHAIRMAN MONTOYA: Would you like to add anything to the case?

MR. BEGG: The only thing I would like to add is Commissioner Vigil's question. There is another wholesale wine company in Turquoise Trail Business Park and has been there for a period of time.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? Mr. Begg, let me get this. You're moving from -

MR. BEGG: Just across the street.

CHAIRMAN MONTOYA: Just across the street.

MR. BEGG: To a larger location.

CHAIRMAN MONTOYA: Okay, and it's not - you don't sell individual drinks.

MR. BEGG: No, we are a wholesaler by law, by state law. We can only sell to a licensed retail or restaurant in New Mexico.

CHAIRMAN MONTOYA: Okay. So there's no consumption as it indicates here at all.

MR. BEGG: Not on the premises.

CHAIRMAN MONTOYA: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I believe the last time we heard one of these the applicant brought us a bottle of wine [laughter]

MR. BEGG: I knew I did something wrong. Excuse me.

COMMISSIONER SULLIVAN: I don't remember that, Mr. Chairman. Must have been good wine.

CHAIRMAN MONTOYA: Okay, any other questions for the applicant. If not, this is a public hearing. Thank you, Mr. Begg and if anyone would like to speak on behalf of or against the application in this proposal please come forward. Seeing none, this public hearing is closed. What are the wishes of the Board?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN MONTOYA: Second, Commissioner Sullivan. Discussion?

The motion to approve Case #06-5120 passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Thank you, Mr. Begg. Get Commissioner Anaya his bottle of wine.

COMMISSIONER SULLIVAN: There doesn't have to be anything in it. Just a bottle.

- XII. A. 5. EZ Case #S 05-4840 Suerte del Sur Subdivision, Phases 1-5 – Santa Fe Planning Group Inc. (Scott Hoeft) Agent for Suerte del Sur, LLC (Gerald Peters), Applicant, Requests Preliminary Development Plan Approval for a 264-Lot Residential Subdivision on 660 Acres in Accordance with the Approved Master Plan. The Property is Located Along Los Sueños Trail South of Las Campanas and North of Pinon Hills Subdivision within the 5-Mile Extraterritorial District, Section 24, Township 17 North, Range 8 East (Commission District 2)**

JOE CATANACH (Technical Director): Thank you, Mr. Chairman. This proposed subdivision was tabled at last month's meeting so before I start I have some letters that I need to pass out. *[Exhibit 5]*

Mr. Chairman, these were e-mails that I received and first of all, I didn't give these to the Commissioners but there were letters requesting that the County Commission consider a quarter acre-foot of water for the Suerte del Sur Subdivision. I didn't pass out one of these letters to each of the Commissioners, I gave the chairman several letters. One

came from Michael Wiese and again, they all have to do with requesting that the Commission consider a .25, a quarter acre-foot water restriction for the Suerte del Sur Subdivision. So one came from Michael Wiese. Another one from Molly White, J.F. Atencio, Robert and Paula Heffner, Michael Mellos, J. Viallet, and also Dr. Barbara Cohen. Those were the letters that came in that I passed out requesting that the Commission consider a .25 water restriction.

The other letters, and each of the Commissioners did get a copy of these other letters. One is from the attorney for the applicant, Suerte del Sur, so that would be James Rubin is the attorney for Suerte del Sur and Michelle Henrie is the attorney for the property owners south of Suerte del Sur that purchased property from the Archdiocese. These are the two attorneys that are working towards a cost-sharing agreement and these letters state what the status of that is, that they are working, they have been working diligently regarding a cost-sharing agreement and that's just to obviously let the Commission know what the status of that cost-sharing agreement is.

Mr. Chairman, I can proceed to read the staff report. This is Suerte del Sur, LLC, Gerald Peters is the applicant, requesting preliminary development plan approval for a 264-Lot residential subdivision on 660 Acres in accordance with the approved master plan. The property is located along Los Sueños Trail south of Las Campanas and north of Pinon Hills Subdivision within the 5-Mile Extraterritorial District.

Mr. Chairman, obviously we had a substantial discussion at last month's meeting so I'll see if I can just kind of give an update of where we're at with this.

CHAIRMAN MONTOYA: Okay. That would be good.

MR. CATANACH: Mr. Chairman, this was tabled last month based on relevant issues regarding water allocation, roads, traffic and affordable housing. And I did include those minutes in your packets to refresh yourselves of that discussion. At that last meeting the applicant had indicated that they were willing to accept a .25 water restriction per lot and that's where we're at with this. This applicant is again stating that - the staff report didn't change. That's why I'm telling you this verbally. I had not actually got confirmation that they were willing to accept a .25 until after the packet had already gone out. So what I'm doing is I'm confirming that as the applicant indicated last month that they are willing to accept a .25 water restriction per lot.

My understanding of what that means is that includes the two community tracts for recreation, equestrian, that they would also be accepting a .25 allocation on those tracts in order that they can create the lots. Obviously, .25 isn't going to be enough water to serve horses, so they wouldn't be able to immediately put horses out there. That would have to be evaluated as they came in with each phase as far as how much water this subdivision is using. But they would like to set a .25 on the equestrian lot as well as the community tract for the recreational facilities. Again, a .25 allocation. And currently again that wouldn't be enough water to really have a full community building there, but certainly I believe what this applicant is going to tell you as when they come in for phases and they would provide actual meter readings to demonstrate if there's actually enough water from the over all. I'm

not sure if I'm clear on this. That at some point in time if they can demonstrate that the lots are using less than .25 they would be requesting that the Commission increase the amount of water for the community tract.

Mr. Chairman, that's regarding water allocation. As far as roads and traffic, as you recall, we had substantial discussion about conditions to address the issue of roads and traffic and I can tell you that some of those conditions are included in the staff report. I can point you out to obviously condition number 8 regarding the cost-sharing agreement that I just mentioned that I passed out two letters from the attorneys representing the applicant and also the property owners to the south. So number 8 has to do with the cost-sharing agreement. They would need to submit that final cost-sharing agreement at the time they come in with final for phases 1 and 2.

That condition also states that that cost-sharing agreement needs to include a financial surety. The County wants a financial surety posted on this road construction. This road has a potential to become a County road and obviously the County would like to have that financial surety to make sure that the road gets done in accordance with approved plans. Condition 8 also includes that the road would be constructed first, before they start any onsite infrastructure for the subdivision. They would actually have to build the Los Sueños Trail extension first, and that's for the purpose of addressing construction traffic. So if we have – if Los Sueños Trail is extended the construction traffic would primarily use the south end of Los Sueños Trail as opposed to coming through Las Campanas Drive. So that's what that condition 8 does.

Other conditions that have to do with roads and traffic are in regards to – would include condition 12 and that condition is a condition in order that – one of the roads coming off Los Sueños Trail is La Vida Trail and that condition 12 has to do with a road maintenance agreement for that road as necessary.

Number 13, as I mentioned, access for construction traffic should be from the south end of Los Sueños Trail, and the applicant shall enforce this as much as possible. Mr. Chairman, I believe that any kind of enforcement of making sure that construction traffic uses the south end is probably just going to be in the way of posting signs or otherwise the developer's agent and consultants advising the contractors that they need to use the south end of Los Sueños Trail to access into the property.

Mr. Chairman, condition 15 has to do with a road maintenance agreement with other homeowner associations that are responsible for maintaining Los Sueños Trail and what this condition says is that we want a road maintenance agreement prior to final plat development plan and that the applicant agree to participate in a request to the BCC for ownership and maintenance of Los Sueños Trail by the County. So that condition is setting it up that these homeowners associations, once that road is built, these homeowners associations, including the applicant for this subdivision would come forward with a request that the County accept the conditional dedication for the road for ownership and maintenance.

Mr. Chairman, that's how issues of the road and traffic have been addressed and as

far as affordable housing, Mr. Chairman, I'm going to go ahead and refer you to Duncan who has been working on the affordable housing ordinance and has been working on the applicant's request for affordable housing. Now, Duncan's going to explain to you what the request is and just to lead off, he'll be explaining to you that this applicant is making a request for offsite affordable housing on another property along Agua Fria. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Mr. Catanach.

DUNCAN SILL (Housing Staff): Mr. Chairman, Commissioners, on March 14th the applicant submitted an affordable housing plan to the County in which it indicated they would like to request an offsite project as an alternate means of compliance to the requirements of the affordable housing ordinance. In the adopted affordable housing ordinance we have six criteria that we need to consider in regards to reviewing an offsite project. This particular project is proposing that it would build or construct up to 112 affordable units on 41.75 acres, if my recollection is correct.

We have had some discussions internally as a staff and what I have done is to take some of the action items in their plan and try to review it against the criteria in the ordinance. What we could do, Mr. Chairman, is to go over these criteria one by one with the action as presented in the plan or we could take any other format that you all would like to approach this subject with. I'll stand here for questions at the moment.

CHAIRMAN MONTOYA: Questions for Duncan? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think it's important that we do review those criteria and we see what staff has to report on that. Before we get into that, could I ask one clarification of Joe about the .25 restriction? Joe, so does that .25, you indicated it includes two additional lots, so it's whatever the total is plus another half acre foot for those two lots that will be commercial or community lots. Is that correct?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, that's correct. The residential lot count is 264 and the two community tracts would be 266, times the .25, as I understand.

COMMISSIONER SULLIVAN: Okay, and does that include the line loss provisions?

MR. CATANACH: I would prefer that this applicant address that, Mr. Chairman. I'm not certain about that.

COMMISSIONER SULLIVAN: Not certain. Okay. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any questions for Duncan? Commissioner Vigil.

COMMISSIONER VIGIL: Were you going to say something else, Duncan?

MR. SILL: I wanted to provide some more details.

COMMISSIONER VIGIL: Okay, according to Commissioner Sullivan's request. I guess I have a concern because this issue was brought up at the previous meeting. This proposal is the Gerhart property? Am I correct?

MR. SILL: That's correct.

COMMISSIONER VIGIL: And while I understand that may not be within the traditional historic village of Agua Fria, there is a planning process that's going in place and I don't know really right off the top of my head the boundaries of that planning process and it was my hope and my intent that this proposal would go, at minimum, if it does not need to go to a local development review committee, but at minimum, to the planning process. Has that been part of this applicant's procedure?

MR. SILL: Mr. Chairman, Commissioner Vigil, to the best of my knowledge at the moment I don't have an answer to that. I don't know of anybody else here. Judy? Rosanna could answer that.

ROSANNA VAZQUEZ: Good evening, Mr. Chairman. Commissioner Vigil, the reason we haven't gone yet to the planning commission is we wanted to get a yes or a no as to whether or no the idea of offsite affordable housing was going to be okay. Once we got a decision from you as to whether or not offsite affordable would be okay, we would then proceed going to talk to the neighborhoods and submit an application for approval of the Gerhart master plan and development plan approval. And that would be a part of it, Commissioner.

COMMISSIONER VIGIL: And Ms. Vazquez, we're all sort of embarking on new territory here with this affordable housing ordinance. If you do go before the planning committee and we give you the information that this would be an appropriate alternative to affordable housing and the planning committee in fact says that this is not something that we want as a part of our planning process. Now, they're in the final stages of their plan and of course it's not in ordinance form but I really respect the process that they've gone through and I guess, what would your client's position be if in fact we have a community who is saying this is something we don't want.

MS. VAZQUEZ: Mr. Chairman, Commissioners, what the neighborhood is interested in doing on that piece of property would be very important to how we proceeded with this development. So we would take that into consideration, we would come back to you if it looked like it wasn't a feasible project and request something else, but at this point we would just like a yes or a no on the alternate means of compliance. We haven't gotten to that stage, Commissioner, so that's all I can really answer you. We will respect the concerns and the questions raised. We would like to be able to go forward on this and see where it leads us.

COMMISSIONER VIGIL: Is it possible then, and I don't know when, so I'm just throwing this question out to perhaps it's you, Mr. Ross. Is it possible for us to look at considering this applicant's request just with regard to the water and hold off on the affordable housing or do they have to be done jointly?

MR. ROSS: Mr. Chairman, Commissioner Vigil, the affordable housing decision, at least insofar as it pertains to the offsite affordable housing, has to be decided in connection with the preliminary plat. That is because we have a state statute on the books that says that a final plat that's in substantially the form of a preliminary plat must be

approved. So the time to decide on what the plat looks like is now. And if there's a chance that the offsite affordable housing won't be approved by this body then this is the time to talk about it. If you don't talk about it now and go ahead and authorize or pass, approve a preliminary plat then you've de facto made a decision anyway, at least in my opinion.

COMMISSIONER VIGIL: Okay. Then Mr. Chairman, I guess I have a clear understanding that these decisions need to be made tonight. What concerns me is a representative of that district, the traditional historic of Agua Fria have an enormous amount of people who have been engaged in a very active planning process and I have a lot of sensitivity to the history of Agua Fria because Agua Fria is one of those communities that had to fight for their traditional historic status as development was being imposed upon them without any kind of a process for them to have a say-so.

Now that they're going through the planning process, they actually do have the opportunity to empower themselves and make a prediction for what the future of their community will be. If in fact, as we go through this approval process they are saying we're tired of us being told what needs to be put out here and we're not going to take it anymore, which wouldn't surprise me, because that's part of the impetus to this community getting into a planning process. Then we'd have to look at another alternative. I guess what I'm asking is your client is open to other alternatives, if in fact this community opposes this proposal?

MS. VAZQUEZ: Mr. Chairman, Commissioners, that's absolutely right. This was a proposal that we submitted in October because we saw the land, the land seemed to work for putting 112 units on it. Our proposal currently calls for it to be 100 percent affordable. And it seemed to work. As I said earlier, Commissioner Vigil, the neighborhood input and whether we have support from them is crucial and we will look at another alternate means if we have to at that point. I think the decision here, Commissioners, is not necessarily just whether it should be Gerhart. It's really whether it should be offsite or onsite.

We're asking that you allow us the ability to go forward with an offsite affordable housing proposal. I do want to remind this Commission that we will do what we can to work with the neighbors and try to find a site that is appropriate for affordable housing. But this works because of City sewer, its location, the land, the topography. There's a lot of reasons why it does work but neighborhood input is not something we've obtained as of yet, Commissioner.

COMMISSIONER VIGIL: Okay. Thank you. Mr. Chairman, I still have a few more questions. With regard to the process that you've gone through with the immediately surrounding neighborhoods and the current Tres Arroyos planning process, was it your understanding as a representative of your client that the participants in that process or the hearings that you participated in wanted offsite or onsite affordable housing?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the concern that the people had from the neighborhood from the TAP area were density and were traffic. Those were the two big issues. So when you look at putting affordable housing on the project,

you look at higher density and more traffic. And so those were concerns that a lot of the neighbors expressed to us. And I want to talk a little bit about the planning process because this project actually got started in 2003. And in 2003 we had several meetings with neighborhoods saying here's our plan. What do you think of this? There were several changes in the plan made to address some of the concerns of the neighbors and again, the biggest issues were density, as they still are, and traffic.

So that was a concern they had and when we approached on an offsite affordable housing proposal there weren't really strong opinions really either way. The big issue as you're aware of has always been and is, still now, the water issue. And so I think we've addressed that.

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

CHAIRMAN MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Again, a clarification on our process here, Mr. Chairman. Ms. Vazquez has indicated that she's requesting an answer, do we want onsite or offsite affordable housing. But Mr. Ross, correct me if I'm wrong or help me out with the ordinance on this. I think that option is the applicant's. I think we then, if they do choose offsite housing, have to review a specific site proposal for the criteria. Is that correct? I don't think we have the option just ipso facto say we want offsite or onsite, do we?

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

COMMISSIONER SULLIVAN: Okay. So I don't think we can give the applicant what they want, which is go one or go the other. I think we have to respond to a specific proposal which I assume in this case is the Gerhart property. That's not in our packet tonight. I have seen copies of correspondence previously relating to it. So then, Mr. Ross, another question is because as Commissioner Vigil indicates this is obviously a community planning issue and a community input issue, did we notice this meeting for people who would be - that it would include consideration of affordable housing on the Gerhart property so that people who had input on that, in the event that we were to make a decision tonight, could speak to the Commission?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the noticing is as you see it. It's on the agenda the way it was noticed. I don't think there was any specific notification that affordable housing would be discussed but nor was there any specific notification that water, transportation, infrastructure, sewage, things like that would be discussed. So I think the noticing is probably okay.

COMMISSIONER SULLIVAN: My only concern is even if we meet the legal criteria, is that it again, material not being in the public packet that would be available to the public prior to the meeting, or the press would report on it possibly as well. If I were somebody living adjacent to the Gerhart property, how would I know that a public hearing, the possibility of approving 112 units of affordable housing next to me? That's the problem I have, Mr. Chairman. Maybe we can discuss that a little further, but I'm sure the people living adjacent to their proposed development had questions about

traffic and density but the lot sizes on this development are 1.5, 2, 2.5 acres. I'm sure that the people living adjacent to the proposed Gerhart property would also have questions about density and traffic, maybe more so, because that would be considerably more dense development.

So I'm just struggling with how we have a process here, following up on what Commissioner Vigil is asking about, that the public has input into this eventual decision. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Duncan.

MR. SILL: Mr. Chairman, Commissioners, Commissioner Sullivan, Commissioner Vigil, in consideration of the proposal, you were right. We need to consider the criteria of the ordinance against the proposed plans. Specifically, what I'd like to do right now is actually read these criteria so that at least we know what we're looking at in terms of information. The first criterion concerns whether or not the affordable units would over-concentrate a particular area or project with affordable units. And number 2, if the affordable units outside the project area, in consideration of that, whether the cumulative number of affordable units required of both the sending and receiving projects is met. In this case, the Gerhart project is in the EZ Territory, so they would actually be considered separate projects. Steve, am I correct to make that assumption? That they would be considered separate projects?

MR. ROSS: Mr. Chairman, they're considered as one project but obviously there are two jurisdictions that rule on two components of the same project. The BCC would approve the main project and the EZA would approve the receiving project.

MR. SILL: The third criterion looks at infrastructure, whether or not there's adequate infrastructure in that particular area to support the affordable units in that offsite project, including water system. The fourth criterion that we would be considering is, is there really a specific need or market for these affordable units in that area. The fifth criterion is whether the affordable units in the project offsite are suitable for residential use or development and then the last criterion refers to whether the offsite project provides overall greater benefit to the public.

So the above criteria would have to be taken into consideration and discussion in deciding whether or not the County would approve an offsite project. So we could go into more detail in regard to that or I stand here for direction and questions.

CHAIRMAN MONTOYA: Okay. Any questions for Duncan?

Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Sill, one of your criteria is that there be water and wastewater systems?

MR. SILL: That's correct.

COMMISSIONER CAMPOS: Available to this piece of property.

MR. SILL: Mr. Chairman, Commissioner Campos, that's correct. That is a requirement. The applicant has indicated that there is availability to hook up to City sewer. There is a request for County extension of water line, and there is an estimated water

budget of 28 acre-feet for that offsite project at the moment.

COMMISSIONER CAMPOS: Where is the County line right now?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the County line is right at the corner of Los Sueños Road. It's right by the Suerte project. When we initially wrote this letter back in October, it was contemplated that that line would be extended down Hager Road and bore under the highway to the development. There may be other possibilities but it was the intention of this affordable housing letter and this proposal that under the line extension policy we would extent the water line to this development.

COMMISSIONER CAMPOS: From Suerte.

MS. VAZQUEZ: From either that area or another location if there was something closer.

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

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Does the staff have any information with regard to criterion one. I think we all are familiar with the general area in Agua Fria and we probably have our own feelings about what the concentration of affordable housing may be there, but do we have any statistics? Do you have any numbers on within the radius of the proposed site, how much affordable housing is already there, how much market rate housing is there or what categories? Do you have statistics on that that you can give us?

MR. SILL: Mr. Chairman, Commissioner Sullivan, currently we don't have that hard data. In regards to the over-concentration, we recognize that the entire offsite proposal project is affordable. I would need some time to collect that data and make those statistics available. Currently I don't have that.

COMMISSIONER SULLIVAN: My understanding is that within criterion one we're not only looking at the concentration of affordable housing insofar as the proposed site is concerned, because in this instance, the applicant is proposing 100 percent. Is that your understanding?

MR. SILL: Yes, that's correct. I think the first criterion, Mr. Chairman, Commissioner Sullivan, I think the first criterion that looks at a macro-level, whether or not that particular offsite project would contribute to over-concentration of affordable units in a particular area, not just the site itself. And so by that reason, by that logic, there might be other consideration concerning socio-economic issues that might be of interest and might be useful information.

COMMISSIONER SULLIVAN: Okay. But at this point in time staff or the applicant doesn't have that data available to us.

MR. SILL: As far as the staff is concerned, Commissioner Sullivan, we don't have that data available. I don't know if the applicant has that.

COMMISSIONER SULLIVAN: If they do, they haven't made it available to us.

MS. VAZQUEZ: Mr. Chairman, Commissioners, actually in our proposal for October 11th, we didn't submit data but we did give you average prices of homes in the

area. Because the average price in the area was between \$200,000 and \$250,000 for new homes and older homes ranging from about \$190,000 to \$220,000, we thought that the pricing of the homes for the affordable housing units would fall right into the median range of home prices in that area.

COMMISSIONER SULLIVAN: So in essence you would be concentrating affordable housing with like affordable housing in the area.

MS. VAZQUEZ: It will harmonize with the area, Commissioner.

COMMISSIONER SULLIVAN: Harmonizing may be your term but I'm trying to work with the term that's in the ordinance, which I think says concentrating. I thank you, Mr. Chairman. That's my question.

CHAIRMAN MONTROYA: Okay. Any other questions for Duncan? If not, we will hear from the applicant now please.

MS. VAZQUEZ: Good evening again. My name is Rosanna Vazquez and I represent Suerte del Sur development. Scott is handing out a letter of support with regard to some of the road issues that we've worked on from one of the neighbors from Tierra de la Vida Subdivision supporting the plan of the project and thanking us for working with them on some of their road concerns. *[Exhibit 6]*

With regards to affordable housing, Commissioners, this has been an issue that we have tried to deal with since the beginning. In February of 2005, we initially submitted a request for a proposal for affordable housing. It was a proposal for a cash donation. At that time there was no affordable housing ordinance. There were not guidelines except the College District so we submitted a proposal at that time. Because there was no ordinance, there was no way to evaluate it and that sort of went to the wayside. That is in the record and staff has all received copies of it.

In October 2005 when you started looking at an affordable housing ordinance, we submitted a proposal again. At that time, the issues, the concerns on the alternative means of compliance, Commissioner Sullivan, that you were raised were somewhat addressed in the letter that we submitted. It was difficult to address them at the time because there was a draft in process with regards to what it was that people were looking for in alternate means.

We come forward to you today with a request for a project, the Gerhart property for 100 percent affordable units. We're asking you today that you make a decision whether or not we can go forward with an offsite development. We are in the middle of the process right now, and Commissioners, we find ourselves a little bit at odds with exactly what we're supposed to do here because we submitted for preliminary before the ordinance was adopted. We went through the review process with all the agencies before that was done. And we came in halfway. Now we have an ordinance that is effective and what we attempted to do in the March 2005 letter that Duncan was referring to was bringing the alternate means of compliance proposal up to the standards in the ordinance and we believe we've done that.

I asked you earlier if you could please make a decision whether the alternate means

of compliance would be okay, whether an offsite proposal would be approved by you. And Commissioner Sullivan, you're right. You do have to evaluate it in the terms of the proposal and what we submitted. But that never guaranteed us an approval anyway on the Gerhart property. We would still have to go through master plan approval, preliminary development plan approval. So you could, in essence, still today make a decision for offsite housing. Given the fact that we're through the process and an ordinance just went into effect, and allow us to go forward with the development approval process, allow us to go forward with talking to the neighbors, dealing with the planning issues in that development, and see if it works. That's what we're here to request from you today.

We're asking you to make a decision on that so we can go forward with that and go forward with the development that we believe has come to terms with what this Commission and what the best type of development is that we can have on Suerte del Sur. So we'd ask you for your approval on that project. I can answer specific questions on Gerhart if you would like me to. I did do a presentation prior and I don't know if you'd like me to repeat it. But I know we're short on time so I stand for questions.

CHAIRMAN MONTROYA: Questions for Rosanna. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, Ms. Vazquez, what about the cash option?

MS. VAZQUEZ: Mr. Chairman, Commissioners, the cash option was an offer that we made February 2005. It is here and the offer was for \$2.772 million dollars.

COMMISSIONER CAMPOS: \$2.772?

MS. VAZQUEZ: Million dollars. Yes.

COMMISSIONER CAMPOS: And that's still on the table?

MS. VAZQUEZ: Yes, it is.

COMMISSIONER CAMPOS: I have another question. Additional conditions, the last page, 14, the applicant shall contribute their fair share for an intersection or interchange as approved by the MPO and DOT at the intersection of County Road 62. Have you talked to the folks at DOT about this intersection at all?

MS. VAZQUEZ: I'm going to defer to Mr. Gomez on that question, because he's been having the communications with the Department of Transportation. Thank you.

[Duly sworn, Mike Gomez testified as follows:]

MIKE GOMEZ: Yes, we have talked to the New Mexico Department of Transportation on the intersection.

COMMISSIONER CAMPOS: What's the discussion about? Where's it going?

MR. GOMEZ: The discussion, well, we've met with them on numerous occasions before we started the traffic impact analysis, we had a scoping meeting with the district engineer and he outlined the scope of the study, what he wanted us to address, and he did ask for us to look at that intersection in particular and do traffic counts at that location.

COMMISSIONER CAMPOS: What have you done?

MR. GOMEZ: What the traffic counts revealed was with today's traffic out there, the intersection is failing. It's not failing because of the volume of traffic, it's failing because of the speed of the traffic on New Mexico 599. The speed limit out there is 55 miles per hour and in actuality, 599 is under utilized. Right now, Agua Fria Street carries more traffic than 599 does. Richards Avenue carries more traffic. The failing movements we have are on left turn movements at the intersection. So the way to correct that is to go ahead and put in a traffic signal. You could slow down the traffic, although the intention of 599 is to be a bypass route so that's not acceptable. Or you could go ahead and put an interchange in.

By Highway Department regulation and state law we are required to go ahead and pay our fair share and we're willing to go ahead and do that.

COMMISSIONER CAMPOS: Tell me how that fair-share apportionment works.

MR. GOMEZ: Well, it's stated in the statute that basically, the way they've done it in the past is to base it on your pro rata share of traffic at the intersection. So if you contribute ten percent of the traffic, you pay for ten percent of the improvements.

COMMISSIONER CAMPOS: So how far does the DOT look as far as landowners around that intersection?

MR. GOMEZ: They would look at new developments that come in under their jurisdiction. They wouldn't go back to old developments like Las Campanas and try to assess them. They go in and pick up any new developments and get their fair share.

COMMISSIONER CAMPOS: Do you assess this area to see what available land there is for development or will be developed in the future?

MR. GOMEZ: They would look at each project individually, is I think the way they've done it. Now, there's been other areas where they've done this and they've developed a fund so that money is put into an escrow account and it gains interest so that in the future when the improvements are needed the money will be there.

COMMISSIONER CAMPOS: So at what point would the money go into escrow?

MR. GOMEZ: Whenever the Highway Department tells us to go ahead and do that, and that's usually at the driveway permit stage or when we impact the roadway. Now, we did go back and ascertain that the corridor study is on on New Mexico 599. Bohannon Huston has been hired to go ahead and do that. So in the coming year they're going to be evaluating New Mexico 599 and seeing where the improvements are, what the improvements are going to be and the priorities for those improvements. So this project - we're going to be a catalyst. We're going to be an instigator to make sure that County Road 62 and New Mexico 599 is upgraded. It needs to be upgraded.

COMMISSIONER CAMPOS: To an interchange?

MR. GOMEZ: It may be an interchange or it may be a traffic signal. The intersection of Airport Road and New Mexico 599 is signalized right now. It seems to

work adequately.

COMMISSIONER CAMPOS: So right now you're saying it's failing because of speed, but you're not sure what the remedy is going to be. That's going to be up to the DOT at some point in the future.

MR. GOMEZ: They're undertaking a corridor study that's going to involve a lot of public input, evaluation of alternatives, looking into the future to see where traffic is coming from and how to prioritize the money to go ahead and do that. We have a letter from Ruben Chavez Garcia who reviewed our traffic impact and is in agreement. The big issue is they want, because of the long time lags in these developments actually occurring, he wants for us to go ahead and do a traffic impact analysis at every phase of our development. We've looked at all the intersections in the entire roadway network out there and they're all in good shape except for New Mexico 599 and County Road 62, and that's to be expected because of that high speed of traffic on 599.

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

CHAIRMAN MONTOYA: Any other questions for the applicant?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two others, Mr. Chairman. Ms. Vazquez, you mentioned the potential of a cash contribution of \$2.7 million. If there's 79 affordable units, based on the 264 proposed and 30 percent, and let's say that the average that the affordable units, if calculated by the ordinance, were to be \$175,000, then I calculate that that would be a cash payment of about \$13.8 million. Do you have any comment on that?

MS. VAZQUEZ: Mr. Chairman, Commissioners, that is - I'm not even sure if that's the exact way that the regulations are calculating monetary contribution up to this point. There are several discussions when we were going through there. By calculating it - while we were going through the ordinance process on affordable housing, by calculating it that way, it makes it virtually impossible to do a cash contribution because you're looking at such high numbers. And what the cash contribution was initially looked at when we were going through the ordinance process, was to do many things. It was to allow this Commission to use that money for the purchase of water rights for affordable housing. The thought was to use that money for possibly constructing your own affordable housing, to provide money for further infrastructure for some of the developments as is outlined in the affordable housing ordinance. So we did not calculate it that way, Commissioner Sullivan, when we did this. That is one approach.

COMMISSIONER SULLIVAN: Okay. I can assure you that that's the way it is. The only difference is that I'm just estimating or making an assumption of \$175,000 and that would depend on the mix of the units times the cost of the units and it could be \$180,000, it could be \$160,000 or \$200,000. I just was taking that number to get an order of magnitude. It's going to be somewhere in that \$13.8 million range.

The other question I had that I posed earlier was the letter that you provided to us about .25 acre-feet per lot. I wanted to be sure that that included the line loss calculation in it.

MS. VAZQUEZ: That is a water budget, not an allocation, so it is a .25 plus line loss number.

COMMISSIONER SULLIVAN: So that doesn't include, you're saying.

MS. VAZQUEZ: No, it does not, sir.

COMMISSIONER SULLIVAN: Okay. I would just point out to the Commission that we'll be hearing another applicant tonight for housing in Rancho Viejo and their average water budget, with the line loss calculation in it is .215 per lot. We'll get to that when we get there, but I think that there's ample evidence that the .25 should be inclusive of that. Those were the two questions I had. Thank you, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Ms. Vazquez, this whole issue of .25 acre-feet per lot, going back to that, I think I was in communication with staff and I'm sorry Steve Wust isn't here but our hydrologist is. Perhaps this question is for you. Was there an attempt to work out a proposal of .20 per lot with the applicant at all?

KAREN TORRES (County Hydrologist): Mr. Chairman, Commissioner Vigil, I have not seen a revised water budget for this proposal. I heard that they had agreed to the .25 in the last meeting, like we all heard, but that's all that I have seen. There's been nothing that has come across my desk indicating what that breakdown is. And today's verbal was the first I heard about.

COMMISSIONER VIGIL: Karen, Steve Wust, has he worked at all with the applicant to lower this budget? That you know of?

MS. TORRES: The only thing I heard from Dr. Wust was he forwarded an e-mail that said we agree to .25. It really didn't indicate to me that he had worked at all with them. But I do know that what was being proposed per lot was not inclusive of that 20 percent that the utility was requiring. The per-lot allotment is for each individual household, and that 20 percent is what the utility is requiring to keep water in the lines. So that other 20 percent shouldn't actually go to the households. That would be in our utility system.

COMMISSIONER VIGIL: So, as our hydrologist, would you say you are in a position to make a recommendation to the Board of County Commissioners on the proposal of .25?

MS. TORRES: I haven't - like I said, I have not seen what they're exactly proposing. From what they indicated, the size of the houses and the accessory structure I think they can easily do that with that .25. As a utility, we have kind of cross-cutting interests. We want people to conserve, yet we want to have enough water to be able to get it there and have enough water in our lines and have the ability to compensate for other losses that can come up that we don't know about, system leakage and things like that. So this additional 20 percent is what we require of everyone. So I don't think that it's out of line.

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

CHAIRMAN MONTROYA: Okay. Any other questions for staff?

Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just on that point, I'm interested in your policy interpretation on that 20 percent line loss because you're probably familiar with the Rancho Viejo application that's coming up later and I don't believe you were on the staff when some of the initial figures were established, but in that report, they've proposed, based on actual water usage, and the Commission has approved on past phases, a 0.167 acre-feet per dwelling unit. And they you multiply that by 1.2, that comes to .20 acre-feet, which is what they used in their full application to this Commission, which we'll hear later on. And then to that they added commercial, elementary school and a neighborhood center and when you put all that together it came to .215.

So I don't know that there's a specific policy. You seem to be enunciating one that states that we have, that we require .25 acre-feet and the 20 percent is on top of that and I think Rancho Viejo is a specific example where that's not correct.

MS. TORRES: Well, I don't think we are saying what the per-lot budget should be. That's actually up to the applicant and what they decide to do. What the utility has asked is that the developer bring in the additional 20 percent, whatever that budget may be. In this case it happens to be .25. That's what they're proposing. But I know that Rancho Viejo, there are some similarities as far as construction, but I do believe this subdivision may have larger lots. So I don't know if that is an absolute good comparison.

COMMISSIONER SULLIVAN: Well, I guess my only comment on larger lots is what I've seen in subdivisions such as these is that they certainly have more expensive homes and more expensive homes seem to be occupied by one or two people, as opposed to a whole family, and those one or two people use less water. So it would seem, if anything, that - and they're often occupied as second homes, which again, requires even less water. So I don't think that it's even unreasonable to assume that .25 can be met with that 20 percent contingency included in it. That's something of course, the water budget will be accepted or not by the Commission, but I just want to make that clear that we focus on that magic .25 but we have data that says that that is in itself quite a generous number. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other questions for staff? Any other questions for the applicant?

COMMISSIONER VIGIL: I have one.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Clarify for me, Ms. Vazquez, with this .25 per lot allocation, are you also proposing that that .25 go to each individual common area?

MS. VAZQUEZ: Mr. Chairman, Commissioners, yes. What we had proposed here was a .25 on a per-lot basis, not including the 20 percent line loss as our water budget. And what we came in with originally was a higher number. We, at the direction of the utility, we worked with regards to landscaping for the common area as well. In our last meeting in March, we agreed to a .25, not including the common areas. We sat down - I actually did meet with Dr. Wust before he left on vacation to discuss the

.25 allocation and that was hence the e-mail that I sent him, and then we followed it up with a letter that, Karen, is probably sitting on his desk because I didn't cc it to you and I apologize.

But we are at the point where we are agreeing to a .25 water budget, with the idea that, like in other developments as Commissioner Sullivan has raised, every time a development comes back for a final development on something, or on a per-phase basis, you re-assess, you look at the numbers, you look to see what the actual usage is for that phase, and you look to see whether that water can be adjusted. And I think the thought was, in agreeing to the .25 is that when we come in for different phases we'll look at those numbers and we'll reassess those numbers, to see whether or not they work, whether they can be lowered or what we need to do but we would ask for a .25 plus 20 percent line loss number on this, for all the lots.

COMMISSIONER VIGIL: Ms. Vazquez, did at any time, you and Dr. Wust talk about a .20 per lot allocation?

MS. VAZQUEZ: Mr. Chairman, Commissioners, I know it was brought up at the March meeting. It was something that we were a little concerned about not being able to meet. And so that was what the concern was with regards to the common areas and the individual lots. That's why we felt safe going with the .25 and looking at it again when we came in on a phase by phase basis, because maybe it would be lower and then we could re-assess it at that time.

COMMISSIONER VIGIL: So your proposal is requesting a .25 per lot, and after phase 1, an assessment of the actual usage and perhaps an adjustment for phases 2 and 3.

MS. VAZQUEZ: Mr. Chairman, Commissioners, typically how it's done, or how the hydrologist has liked to see it in the past, is that we give them a history of water use for a period of time. And so whatever we submit, we would submit under this water budget for final and then we would come in with the rest of it at another point and we would look at those numbers at that time.

COMMISSIONER VIGIL: How many common areas will this development have? I've only been able to identify two.

MS. VAZQUEZ: We have two lots.

COMMISSIONER VIGIL: And that's the equestrian -

MS. VAZQUEZ: And the community area. The community room and swimming pool.

COMMISSIONER VIGIL: Okay. Also, I think the original proposal identified a trail that's in the perimeter of the development. Is that still part of the proposal and will that trail - do we know what that trail will be? Will it be open to the public as I think Las Campanas' is at some point? Or have those decisions been made, and if so, if not, would it be considered an option to open those trails to the public?

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 North St.

Francis. To answer your question, Commissioner Vigil, the trail that runs the perimeter of the property, the entire distance, has always been earmarked as a public trail. There's a trail that bisects the center of the property, and there's been concern from Mr. Gold, Mr. Hurlocker. They've requested that we have that as a semi-public trail that's open to the public. And what I mean by semi-public, I know you've heard this term before, is that it's open to the public provided that the trail isn't abused and that we have conditions that come with it. Mostly ATV and motorized vehicles. And we have agreed, or we will agree to make that trail a semi-public trail as opposed to a private trail.

COMMISSIONER VIGIL: Okay. Are there any other trails besides that that perimeter trail.

MR. HOEFT: The perimeter, and then the trail that bisects the center of the property. The trail that bisects the center of the property is the one that most of the folks are concerned about. And then of course, to the corner of the property, where Hager Road connects, that will also have a trails network that extends the length of Hager Road.

COMMISSIONER VIGIL: Okay. This will be a gated community to the extent that there will be gates?

MR. HOEFT: Just on two entrances. Los Sueños Trail all the way down will be open. There will be an entrance at this point and an entrance at this point. Those will be gated entries.

COMMISSIONER VIGIL: Gated only to the extent that they're gated. The property isn't going to be walled or fenced in, correct?

MR. HOEFT: That's correct, Commissioner.

COMMISSIONER VIGIL: Okay. No more questions at this point in time, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Gomez on the DOT issue, on condition 14. Mr. Gomez, you explained that you can do phase 1 and at phase 1, if there's a requirement for a light, you pay depending on how many rides or - what's the phrase? How many trips?

MR. GOMEZ: Trips per day.

COMMISSIONER CAMPOS: On that phase.

MR. GOMEZ: Yes.

COMMISSIONER CAMPOS: So if in phase 1 you have to pay a portion of the light, but by phase 2 the intersection requires a grade-separated interchange, how does that work?

MR. GOMEZ: Well, first of all, our traffic won't be getting onto the roadway network until probably the year 2009, 2010. Hopefully this year we'll have definitive answers on New Mexico 599. At that point we'll probably set up an agreement with the Highway Department to contribute our money as our phases are development. Implementation would be a matter with the Highway Department.

COMMISSIONER CAMPOS: So you feel that by the time you get traffic on that road, there's going to be a decision made as to what we need?

MR. GOMEZ: Yes. I'm sure that the corridor study is going to happen this year.

COMMISSIONER CAMPOS: Okay. Thank you, Mr. Gomez. Another question. Concerning the water/wastewater, you're going to have the County supply you with water and then all the wastewater is going to go to Las Campanas?

MR. HOEFT: Commissioner Campos, that is correct.

COMMISSIONER CAMPOS: And they're going to treat it and I suppose they're going to use it for their own needs?

MR. HOEFT: That is correct, Commissioner.

COMMISSIONER CAMPOS: Are you selling the wastewater or are you just providing it to them?

MR. HOEFT: We're just providing it to them.

COMMISSIONER CAMPOS: And this is a contract, a long term of indefinite duration?

MR. HOEFT: Yes it is, Commissioner.

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

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, a question on the wastewater. For staff, either Joe or Mr. Ross. The County has a development agreement with Las Campanas. And as a part of this proposal they're going to be expanding the wastewater treatment plan in Las Campanas. There's a payment made to Las Campanas to expand the wastewater treatment plant. Does the development agreement that the County has with Las Campanas play into that issue? Is County Commission approval required for that modification to their utility system?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I don't believe so. There's comparatively little about that in the agreement.

MR. HOEFT: Commissioner Sullivan, if I understand that question, if Las Campanas expands its liquid waste disposal facility, do they have to go through the approval process.

COMMISSIONER SULLIVAN: With the County.

MR. HOEFT: And the answer is, as Joe knows, that Las Campanas has already submitted the plans and the process is already underway. It's being constructed currently.

COMMISSIONER SULLIVAN: Submitted to the County but -

MR. HOEFT: To EID as well, Commissioner.

COMMISSIONER SULLIVAN: Okay. I understand from a construction standpoint, but Santa Fe County has a development agreement with Las Campanas that goes back more than ten years and in exchange for approval of a certain number of lots

there were requirements in that development agreement for the construction of water and wastewater facilities, which Las Campanas, I presume has met. And that's an ongoing development agreement. So my question has to do with if Las Campanas is making a change to the facilities affected by that agreement, does that change then have to be agreed to by Santa Fe County, the other party to that agreement?

MR. HOEFT: That's the issue, and I'll turn that to Joe, because Joe's more familiar with that agreement than I am.

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, as Steve Ross mentioned, no, that development agreement doesn't have any language that would require approval to expand the wastewater. In fact it has some general language that says that the wastewater treatment plant will be expanded as necessary, as you approach 80 percent capacity. That they would have to make the expansion. But no, no specific language that would require BCC approval for the expansion.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant?
Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Whoever would like to field this question. The negotiations with Los Sueños Trail and the extension of Hager Road, we do have a couple of letters for legal counsel on those. Did any of you participate in those negotiations? And where are you and how can you represent where those negotiations will go?

MR. HOEFT: Commissioner Vigil, we did meet with the neighbors from Los Sueños Trail. I believe there were seven different associations represented at that. That meeting was two weeks ago. It was a very favorable meeting. We had two conditions of approval that they were most interested in. The first, of course was that we would build out Hager Road prior to our phase 1 and 2, which again shifts the traffic in a different direction. And then the second component is that we're going to enter into a road maintenance agreement with the Los Sueños folks. And again, when I say Los Sueños folks, that's seven different associations, as you know.

That road maintenance agreement, again, we're required to enter into that prior to our submittal of final plat approval. And those two conditions are the two conditions that Joe read into the record at the very beginning.

COMMISSIONER VIGIL: Was there any discussion as to whether or not their residents wanted this to be a County road?

MR. HOEFT: There was indeed, and they actually do want this to be a County road.

COMMISSIONER VIGIL: But that isn't part of the settlement, is it? The conditions.

MR. HOEFT: No, what we did is, in that condition of approval we agreed to work with the associations and apply for County dedication of that road. It's an approval process. We would have to come back to this Board and we would be one of the co-

applicants on that application to have – once that road is completed, Los Sueños and Hager Road, to have that County maintained.

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

CHAIRMAN MONTOYA: Any other questions?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for staff about the cash alternative.

The applicant has proposed about \$2.8 million. Commissioner Sullivan has a number that's much higher. Has staff evaluated that in light of the ordinance requirements?

MR. SILL: Mr. Chairman, Commissioners, we have done some preliminary estimation and the figures that we came up with are indeed closer to what Commissioner Sullivan has estimated. So it is a possibility of alternative means of compliance and of course, the Board can take that into consideration.

COMMISSIONER CAMPOS: But you're saying it's worth around \$13 million? It would cost about \$13 million?

MR. SILL: Yes. I'll have to go back and do the exact numbers based on the unit mix it would require. But I think a ballpark figure is going to be anywhere between \$11 to \$14 million.

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

CHAIRMAN MONTOYA: Okay. Any questions? If not, this is a public hearing. Is there anyone here that would like to speak for or against this project? If you would please come forward. And I would ask that you limit your comments to other than the .25 acre-feet of which we've already heard, and the road access, including Los Sueños and Hager Trails. Sir,

[Duly sworn, John McGill testified as follows:]

JOHN MCGILL : My name is John McGill. I live in the Sierra Azul neighborhood. There's one other issue that has not come up with this in this discussion. It's how I got into this. I live in Sierra Azul which is not far from the well that the developer had originally proposed was to go in. And that of course led to the .25 acre-feet and half acre-foot that we heard last month, and all these issues. I'm glad to see that we're finally converging on a number that seems to be reasonable for the area, that sort of follows along with the County's wishes.

But the well is still there and I know that they have an agreement, that the developer has an agreement with the County to take water from the County water system, but the well's still there. It's just a pipe into the aquifer. The engineer has a planning process or a stuffy process that's ongoing now to decide where to put new production wells, and he considers things like the depth of the aquifer and how far you are from the infrastructure, how far you are from population centers, how far you are from domestic wells, which is what my issue is.

And this well that you see on the Suerte del Sur plot is in an area that essentially you would draw the conclusion, we shouldn't have a well here. There are a lot of places –

I don't know if Dr. Wust has presented this model to you or not yet. I know it's out for public discussion now.

CHAIRMAN MONTOYA: We've seen it.

MR. MCGILL: Okay. So there's some good areas, or good areas by this model for these wells, and this is not one of them. So my issue, and I have brought this up with Rosanna before, I'd like to see that well capped, filled in, dynamited, I don't care. That's not a good place for a well. I've heard that there's some discussion about using this well for the County. From my standpoint, I don't care who pulls the water out of that well, it's too close to my well. So I'd like to see the County - I don't think you guys own the well yet. They still own the well. So I would really like to see some action taken that the County and the developer get together as they've gotten together on a lot of these issues so far, get together and say this is not a production well. This is not where we want to pull 60 or 100 acre-feet per year out of the ground.

CHAIRMAN MONTOYA: Okay. Thank you, Mr. McGill. Next. If you all would please come forward and maybe sit in this front row so that I know who all is going to be testifying and maybe we could have Karen swear them in all at once.

[Duly sworn, Michael Hurlocker testified as follows:]

MICHAEL HURLOCKER: My name is Michael Hurlocker, 1520 Paseo de Peralta. I'm a neighbor in a sense that I am a developer in the area of Suerte. I wanted to address two issues. One's affordable housing and the other is the trails. Let me start with the trails. Just a correction. On the Campanas perimeter trail, I just wanted to let you know that in the sense that it is not utilized by the public, it really isn't a public trails. Campanas has never taken down their No Trespassing signs, and they've never taken down their fencing which closes it off to the public. So in the sense that it was a condition of approval for Equestrian Estates, yes, it's available for public use, but in fact the public never uses it. I have the adjoining subdivision; I know. There's just no access to it and it was purposely planned that way. What I would like to see is that the perimeter train in Suerte does not become the same thing. There's a number of trails in the area, most notably the ones in Los Sueños, La Serena, La Vida, La Mirada, Aldea and in Tessera that all have connectivity and one can take a horse ride from West Alameda underneath 599, all the way to the BLM land until you hit Campanas' so-called perimeter trail. So it would be nice, as the applicant has already offered to do, to make the true trail available for public use, and I would just like to add that hopefully there can be maybe a separate equestrian area of the trail adjacent to one that would be used by pedestrians or mountain bikers, because in fact, no mountain biker that's worth his salt - I've never seen a pedestrian either, walk on Campanas' publicly accessible perimeter trail because it's just - wherever horses are solely allowed you can't utilize it for any other purpose. It's just muck and giant pits and divots. So if it really is to be utilized - and then they can go ahead and bring their horses and pedestrian traffic through our trails too, because those are under the public. It just allows - I don't think there's any loss in value or privacy to allow such a thing. So I commend the applicant for doing that.

The other thing I'd like to address is the affordable housing and I wanted to speak, and I am speaking here in support of the applicant's offsite affordable housing proposal to meet compliance with the ordinance, for a number of reasons. The nitty-gritty of the issue, which hasn't been addressed here and maybe everyone - it's the social engineering aspect of what are the attendant consequences of allowing and requiring integrated affordable housing in a subdivision where the market rate houses have a significantly higher valuation than the affordable units.

It plays to whether the project will be viable and would proceed if that is required. I assume since the ordinance allowed cash contributions or offsite affordable compliance that that is something that the Commission contemplated and I guess in some sense was agreeing to when you passed that ordinance. Otherwise you would have disallowed it like the City has. In that sense, I would strongly encourage you to just back up what it is that you already passed. I think it's - there's a lot of social dynamics involved in mixing affordable units with much higher market rate houses. First and foremost, people like to buy in areas that support their real estate value, whatever level that is, and they don't like their houses to go down in value.

Quite frankly, I don't know if this would be a viable project if you allow the integrated, or required the integrated affordable housing, because people aren't going to buy the expensive units. It's that easy. So if you can do a good project offsite too, and make people feel more comfortable living in a homogenous neighborhood, or a more homogenous neighborhood, whatever you may think of that, it would probably be a successful project. So wherever the offsite housing is allowed, if it's viable and works with the neighborhood that it's going into and all those other things considered of course, that you strongly consider allowing that. Thank you.

CHAIRMAN MONTOYA: Okay. Thank you. David.

[Duly sworn, David Gold testified as follows:]

DAVID GOLD: Commissioners, I am sorry but I do have to start by addressing a little bit about the water because certain issues have come up that are different from what were expressed previously. The issue that's come up tonight is the line losses, whether or not they should be included. And I feel that they should be included in the total .25. If they're not going to included, then this Commission should make a very clear policy decision to that effect, because that makes a big difference. Because basically, if you don't include that, the amount of water that in a sense should be allocated - if this becomes a precedent at all, and certainly it would be, whatever you allow here, some other developer is going to come up and say, well, I'll have the same thing.

You need to be very, very clear as to whether or not line losses are part of this calculation or not. I think that it should be .25, including line losses.

The other thing that concerns me that came up tonight that was new is the idea of having yet a few more quarter acre-feet, so to speak, allocated to these common areas. As far as I'm concerned. The total number should be .25 per residence. If they choose to have common areas and you approve of water for some purpose, that should not be an additional

thing that gets added on. I feel like what's happened, every time this has come forward, they're always sort of like pushing. Last time they wanted .5, and they kind of dropped to .375, and now it's like they kind of want .25, but they want a little bit more.

If you're going to have consistency in these policies I really feel you should say, it's .25 per residence, period. If somebody can do better, and they certainly should be encouraged to, then they should. Plus, as I understand it, some of this water usage is going to be by accessory structures, which are guesthouses, basically. If they can't make it within .25 acre-feet then they should drop the guesthouses. All the other subdivisions around here does not have guesthouses and the County has been very strict about the way water is used and all that. So I think this needs to be considered very carefully. And once again, I apologize, but I just feel these were new points that had come up tonight.

There are several other issues that I need to address that also came up. First of all, I'd like to commend Michael Hurlocker because a lot of the trails that he mentioned and that connectivity are based on the subdivisions that he created. He's really had a good eye towards that. I was really glad to see this developer speak of having these trails be semi-public. I just want to be sure that they mean semi-public in a way that's very clearly delineated. Mr. Hurlocker's covenants are actually a good model for the way this should be done. So that would be a suggestion I would like to put forward.

On a completely different topic is on the traffic study and County Road 62. As I mentioned at the last meeting, and still I see it hasn't been addressed, there's clearly going to be an impact on the County Road 70 interchange. Both of these are at-grade crossings. There are a number of accidents at both. The only reason County Road 70 up to this time has had a lower accident rate is because there's less traffic, but as subdivisions start using this, which includes not just this one but other ones being done on Hager land, there's going to be an impact on that. And I feel very strongly that that should be studied.

What it ultimately would boil down to is the amount of contribution that this developer would make towards these interchanges or whatever was put there. And it should be interchanges and not traffic lights, because traffic lights don't actually change the safety statistics at all, and that's a whole other discussion, for what that's worth.

So anyway, I really feel strongly that County Road 70 should be included in any discussion here. County Road 70, by the way, is about a mile from where this will hit. County Road 62 is a half mile, but a lot of the traffic will be using County Road 70 because that's the interchange that's closest to the city. So basically, anybody that's going to the city from here will use County Road 70. So I'm willing to bet it will come out rather high if you do traffic modeling there. Not as high as County Road 62, but it will come out - well, it might even be equal.

Next, I want to say that our community supports having Hager Road developed. In a sense it's actually a disadvantage to us to have it developed in construction phase, but still we made a deal with other communities when we participated in the Arterial Roads Task Force plan. We stand behind that plan and we do support that and I want to be very clear about that.

Another thing that just came up that surprised me, and I'm curious about this is that this is the gated access, because as part of the Arterials Task Force plan, Arroyo Chamisos Road, which is supposed to connect to the [inaudible] I need to point that out. Right here it says east-west corridor connection for future road access. The Arterial Roads Task Force clearly outlined a road, which is Arroyo Chamisos and if these are – I just wasn't clear where the gates were. Could you show me that? Okay. All right. Then I don't have a problem. I just couldn't see it when it was faced the other way but I always listen for such things.

Okay, the final thing I want to talk about is the affordable housing. The issue of whether it should be onsite or offsite is something that apparently has been decided by this Commission and I don't want to address that. But I'm very, very concerned about the process that's being taken. And as Commissioner Vigil and Sullivan both brought up, if I lived next to this thing and the Commission suddenly made a decision that affected me in this way and dumped 120, 112 affordable housing units right next to me, I'd be real concerned. I realize that this applicant is in a unique position, having come in at this point, but what I'm very concerned about, because when Steve Ross was talking before, I didn't get the impression that this was a decision that could be lightly made. I got the impression that if you said we agree to this, that whatever liability you would be assuming, based on a preliminary plat approval.

It's very good of the applicants, and I agree they may be genuine in their attempt to say that they'd be willing to work with neighborhoods and other things like that. I can say I haven't had such a good experience at this point, but it may be that it would work out better with other neighborhoods. But still, if you commit tonight, and it turns out that you could be held liable for this decision, I think you need to be really careful. And I think it's very, very important – it's not just a question of – Commissioner Vigil brought up the planning process. I think that's really important. But there's also just the basic approval process that every subdivision goes through. This has not gone through that approval process at this point.

So if in some way you would be rushing it and then later that could be held against you, I think that needs to be very clearly understood. Thank you very much. That's all I have to say.

CHAIRMAN MONTOYA: Thank you. Any one else wishing to speak for or against? Okay, public hearing is closed. Comments, questions from the Commission?

COMMISSIONER VIGIL: I have a quick one for the applicant. You heard the recommendation, Ms. Vazquez or Mr. Hoefl, that the .25 be inclusive of the 20 percent loss, is it clear to you that if we make that a condition of approval, that that would be how you would comply?

MS. VAZQUEZ: Mr. Chairman, Commissioners, of course. Of course if it were a condition we will comply with it.

COMMISSIONER VIGIL: Okay. I think it's really incumbent upon me to respond to one of the questions that we had and that was with regard to the well. It is my

understanding, and perhaps Ms. Vazquez you can verify this, that at some point in the approval process there was an agreement that the developer would not use this well for this development. Is that not correct?

MS. VAZQUEZ: Mr. Chairman, Commissioners, in the water service agreement it is specifically stated.

COMMISSIONER VIGIL: Okay. And I would just make a commentary. This isn't something that needs to go to me, but my understanding of what's going on with the hydrological study is that we are looking at particular sites for locating wells for conjunctive use, not for production wells or principal production wells possibly for conjunctive use. I don't know if that's real clear to members in the community, or not. But I think it's prudent and the County should actually be commended in looking forwards towards a conjunctive use plan for their portfolio, and it's my position that as we look at sites for wells, through that hydrological study we'll be able to find out the most ideal site for that conjunctive use.

As most of the communities know, we are dealing with drought conditions that we haven't dealt with in hundreds of years and we're planning for the future of dealing with drought conditions. So I don't know that we have the answers to where those wells are going to be located but I do know that it's an important part of Santa Fe County's portfolio to provide for wells, only to be used when necessary, not as principal production wells. Thanks, Mr. Chairman.

COMMISSIONER VIGIL: Thank you for that clarification, Commissioner Vigil. Any other comments? Questions? Commissioner Anaya, Commissioner Sullivan.

COMMISSIONER ANAYA: Mr. Chairman, I'd like to make a motion, and that is to approve this case with the conditions, and that they not exceed the .25 with the line loss calculation included into that, and that they open up the trails and stay open with no signs, and that they continue to look at the Gerhart property for an offsite development of affordable housing. That does not mean that this Commission is saying that that is the place where the affordable housing is going to be. That means that they're going to look into it and go through the procedures just like everybody else and have their community meetings, and get input from the community. That's my motion.

CHAIRMAN MONTROYA: Okay. We have a motion. Do we have a second?

COMMISSIONER VIGIL: I'll second that motion, Mr. Chairman. Commissioner Anaya, did you have any recommendations as to what to do with the common areas, how much water to allocate them?

COMMISSIONER ANAYA: I believe that their request was .25 acres for the common areas and how many common areas are there?

MS. VAZQUEZ: Mr. Chairman, Commissioner, there are two. Two separate lots.

COMMISSIONER ANAYA: I'd like to see the .25 on the common areas.

COMMISSIONER VIGIL: Ms. Vazquez, is it possible for this development

to be built without allocating that .25 to the common areas and the 20 percent loss as a part of our motion? It just seems to me that we can do an assessment after several phases and because of the nature of this development, because it probably will deal with many residents who are not full-time residents there is going to be a water savings here, at least that's what I would anticipate. So that the .25 be allocated per residence and whatever remains after assessment of what's available after phase 1 that that can be reassessed for the common areas. Do you follow me?

MS. VAZQUEZ: I do, Mr. Chairman, Commissioners. My only concern with that request is I do not believe we can create a legal lot of record without attaching any water to it. So we are requesting that those two lots be created. We'd like to use one of them as sort of a sales office at the beginning, just to start looking at selling the lots and construction of those homes on those lots, but we might defer to legal. I don't think we can create those lots without giving water to them.

COMMISSIONER VIGIL: Then, Ms. Vazquez, when are the common areas scheduled to be built? Is it phase 2? Phase 3? What phase are they in?

MS. VAZQUEZ: I'm sorry, Mr. Chairman, Commissioner. Could you repeat your question?

COMMISSIONER VIGIL: Your common areas, your recreation area? What phase will they be built?

MS. VAZQUEZ: Initially we were looking at building them on a phase by phase basis with the first initial three phases. In light of the water budget that we've agreed to, we need to reassess that, Mr. Chairman, Commissioners, and see whether or not we're going to bring it in with the phases that come in initially, but we will have a final answer on that when we submit for final development plan once we figure out how we're going to do it.

COMMISSIONER VIGIL: Okay. Thank you, Ms. Vazquez. Question for Steve Ross. Mr. Ross, is it accurate to say that a legal lot of record can only be recorded if a specific amount of water is allocated per lot?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I think that's probably an accurate assessment of the intent of the Subdivision Act. I'm not sure it says that expressly. But certainly, some of the amendments in 1996 were attended to address the colonias problem in Dona Ana County and one of the chief problems that created the need for those amendments was the fact that developers were creating dry subdivisions. So I'm sure that where that belief comes from.

COMMISSIONER VIGIL: So, Mr. Ross, the proposal to allocate .25 per lot and reserve the allocation for the common areas after phase 1 and after an accurate accounting of the water usage, would that meet within the Subdivision Act. Would that be problematic in your legal mind?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I haven't really analyzed it specifically. I didn't anticipate this question so I'm going to have to punt on that. If you want me to take a look at it quickly, I can do that and come back and report in a few

minutes if you'd like. I hate to give you an opinion that's not fully thought out on that particular question.

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

CHAIRMAN MONTOYA: Okay. Do you want to take a five-minute recess? No? Commissioner Sullivan.

COMMISSIONER SULLIVAN: One of these had – it seems we have two issues here. We have a preliminary plan, which we need to look at in terms of a normal preliminary plan. I've had concerns with this preliminary plan right from the beginning and I've expressed those, I think. It's a cookie cutter plan. I don't think it demonstrates any creativity. Notwithstanding that, we now, because of the ordinance, have an issue to deal with on affordable housing and how we integrate that into the total project.

What Mr. Ross seems to be advising is that once we approve a preliminary plan, we've locked the door, with the exception of some minor modifications. I think what Commissioner Anaya is proposing in his motion and Commissioner Vigil's second is to allow the applicant to explore the Gerhart property. Now, the ordinance does say that that requires, before the project is finally approved by the BCC, it does require that they get the EZA approval ahead of time. So that approval has to be fully in place. I would also want to be sure that this comes back to the Commission. I'm not quite sure, Mr. Catanach. Does this, as a matter of course, come back to the Commission?

MR. CATANACH: The proposed Suerte del Sur Subdivision?

COMMISSIONER SULLIVAN: Correct.

MR. CATANACH: Yes, it would have to come back to the Commission for final.

COMMISSIONER SULLIVAN: For final. Okay. So that's settled. So we seem to be kind of in a loop here, or in a Catch-22. And so I'm wondering if we proceeded with the motion as stated, with the applicant's agreement that the preliminary plan conditions could be modified if the Commission so determined later, if the Gerhart proposal didn't work, to reconsider onsite housing. So that at least gives some direction to move initially but leaves that option open. I think that – and that's the question I wanted to put to Mr. Ross when he gets back. But let me ask Ms. Vazquez if that's acceptable to the applicant?

COMMISSIONER VIGIL: Would you, Commissioner Sullivan, also include the cash-in-lieu-of as an alternative consideration?

COMMISSIONER SULLIVAN: Yes. Yes, I would.

CHAIRMAN MONTOYA: All six are still part of –

COMMISSIONER VIGIL: Right. So you're not being exclusive to –

COMMISSIONER SULLIVAN: No. I'm saying all those options are still on the table. I'm just trying not to foreclose the Commission's option of saying, well, once we've approved a preliminary plan we can't deviate any more from that plan to put affordable housing units in or to do whatever has to be done. Make it half and half or whatever it might eventually be. And I'm just trying to address the County aspect that Mr.

Ross advised us on.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, as far as the Gerhart property, if we say go ahead and look at it, what does that mean? Let's say they do look at it. They do go to the EZA, the EZA approved it. Are we bound by that?

COMMISSIONER SULLIVAN: I think here we're saying, at least I'm interpreting the motion that, yes. We're saying that and that the EZA goes through with it and approves it, that they've got that direction. However, if it runs into a buzz saw, there are alternatives that the applicant can pursue other sites, onsite, cash-in-lieu, and we want to be sure that all those alternatives are still legally viable and available and we're not constrained by the fact that we've approved the preliminary plan.

COMMISSIONER CAMPOS: Well, I'm not convinced that this is the ideal piece of property. I don't know if it is. I don't think we've been presented with sufficient information to decide that, but we're deciding that by moving forward, if the EZA for whatever reason approves it.

COMMISSIONER SULLIVAN: That's true.

COMMISSIONER CAMPOS: We're committed to this Gerhart site, and I don't favor 100 percent affordable. I would prefer a mixed situation of housing types. So I'm not ready to commit to the Gerhart at this point. I don't think I have enough information to do that, because we are binding ourselves.

COMMISSIONER SULLIVAN: I think it's a key issue, Mr. Chairman. It's something I brought up earlier is do we have information on the demographics around this site, and we don't. So we really need a better proposal from the applicant on this site that now conforms with the ordinance. But I was just trying to clarify if there was some way that Commissioner Anaya's motion, if that was the sense the Commission might work.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. In now way are we, by this motion, committing, I don't think, to the Gerhart property. All we're doing is asking them to go out, just like any other development, they have the right to do whatever they want with their property. They could go out and do that without our permission. But we're just saying, yes, go ahead. Go ask the community how they feel about it. We're not saying it has to be there. We're telling them, they have to go sell it or get the information input. Thank you.

CHAIRMAN MONTOYA: Joe, Duncan or Dolores, what's - where are we at with that concern?

MR. SILL: Mr. Chairman, Commissioners, in regards to further consideration and information gathering concerning the Gerhart property, in my opinion I highly recommend that so that we can make a sound decision and thus address these particular issues that the Commission has brought up. Commissioner Anaya, his thoughts as to bringing the project out to seek public opinion, we can certainly as staff try to facilitate with the applicant to collect that information. The mix of - or to use a better

description, the menu of alternative means of compliance, it can be combined. Definitely, in regards to cash, a different off site, a combination of onsite dwelling units.

So I think it could go either way in terms of your consideration, with the conditions, but I recommend the conditions be very clear at this point so that they do have the options in the event that the Commission finds that the Gerhart property is not appropriate as an offsite project.

CHAIRMAN MONTOYA: So with the way that the motion was stated, did that allow for what you're suggesting?

MR. SILL: Mr. Chairman, Commissioners, I believe that the motion suggests that we do have that possibility but I would recommend that we further clarify it and include more detail.

CHAIRMAN MONTOYA: Okay. So Commissioner Anaya, would you clarify that in your motion, please, and the seconder just left. Maybe we need to take a little break here.

COMMISSIONER CAMPOS: Well, we can discuss one other issue.

CHAIRMAN MONTOYA: We have unmet questions on two of your sides and we're unclear on the motion.

COMMISSIONER CAMPOS: Can I raise one issue?

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Anaya, as far as condition 14 that talks about County Road 62, would you have any objection to including also County Road 70, which will also be likely impacted by this development. So if the applicant will continue to fair-share for both 62 and 70, that way they're paying their fair share for their full impact on the road system.

COMMISSIONER ANAYA: Where's 70? Further down?

COMMISSIONER CAMPOS: It's about a half mile away. Is that right?

MR. CATANACH: It's east of 62.

COMMISSIONER CAMPOS: It's east of 62 by about a half mile.

MR. CATANACH: I think it's about a half mile.

COMMISSIONER CAMPOS: So they're close. And the point was made by Mr. Gold that if people are coming to town, a lot of that usage is going to be on 70.

COMMISSIONER ANAYA: Can you get to your subdivision from County Road 70?

MS. VAZQUEZ: Mr. Chairman, Commissioners, once Hager is completed we'll be able to.

COMMISSIONER ANAYA: Okay. I'll include that.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN MONTOYA: So let's come back in about ten minutes.

COMMISSIONER CAMPOS: One more question for staff. Has staff evaluated the Gerhart property? A full evaluation of the Gerhart property or is it something that's being thrown out there for discussion? There's a lot of questions when you evaluate a

piece of property to see if it is acceptable for this kind of use.

MR. SILL: Mr. Chairman, Commissioners, the full evaluation of the Gerhart property has not been completed. I have received preliminary information, gathered some data and I have worked with several staff to collect comments. I have not been able to fully analyze and point out all of the facts and data at this point. In regards to the motion, I believe that we should definitely defer to Steve Ross to make a comment on that issue as well, Mr. Chairman, Commissioners.

COMMISSIONER CAMPOS: This is not even a legal issue. It's an evaluation issue for us. We don't even have a staff report to see if we even think the Gerhart is even - we don't have that information.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: And I realize that. We know that we have to go look for it. They have to bring it to us. They have to give us all that information. We don't have it. But what I'm asking in the motion is for them to go give us that information so that we can make a decision.

[The Commission recessed for 10 minutes.]

CHAIRMAN MONTOYA: We have a motion and a second on the floor and we have a question for Mr. Ross from Commissioner Vigil. Commissioner, could you restate your question?

COMMISSIONER VIGIL: Yes. Mr. Ross, getting back to the .25, does there have to be a legal lot of record?

MR. ROSS: Mr. Chairman, Commissioner Vigil, it's not completely clear. There's an old subdivision act on the book that makes it illegal to sell a dry lot. It's unclear whether it applies to this particular lot. My suggestion would be if we could avoid it and not create a dry lot, particularly since there's some discussion of the developer using that lot for a sales office as a preliminary matter, that would be my suggestion.

COMMISSIONER VIGIL: Okay.

MR. ROSS: You can have a dry lot that's open space, for example. We do that all the time. But for a lot that's going to be used for an office or for some sort of habitation, some sort of business related purpose, I would recommend that we have it completely dry.

COMMISSIONER VIGIL: Okay. Mr. Ross, you also gave me a calculation of so many acre-feet as a compromise. Do you still have that?

MR. ROSS: I know I have it somewhere. It turns out if you divide 266 lots into the amount of water that's available or proposed, you come up with under a quarter acre-foot per lot. 266 being 264 residential lots plus the two lots in question.

COMMISSIONER VIGIL: And since that 266 includes a legal lot of record for the common areas.

MR. ROSS: Yes. There are two common areas.

COMMISSIONER VIGIL: Because there were 264 residential units,

correct?

MR. ROSS: That's correct.

COMMISSIONER VIGIL: And what is the number of acre-feet for 266 that that allocation calculates to?

MR. ROSS: It's just a little over, and I lost my secret piece of paper but it's just a little over .24 acre-feet.

COMMISSIONER VIGIL: It's .24. Or .245. Okay. I would just based on this new information, ask the applicant if that is reasonable. .245 per residence, including the common areas?

MS. VAZQUEZ: For each lot? That's reasonable.

COMMISSIONER SULLIVAN: But the motion is that it also include the 20 percent line loss.

COMMISSIONER VIGIL: Right. Is that unreasonable? .24? .25?

COMMISSIONER SULLIVAN: If you have .2 and you add 20 percent to it, it comes to .24.

COMMISSIONER VIGIL: Right.

MS. VAZQUEZ: Mr. Chairman, Commissioners, we're in agreement.

COMMISSIONER VIGIL: Okay. Then I would ask the motioner if he would amend his motion to make that .245 per lot, with the 20 percent loss as a part of his motion, rather than the .25.

COMMISSIONER ANAYA: I don't have a problem with that.

COMMISSIONER VIGIL: Okay. I would maintain my second with that recommendation.

COMMISSIONER SULLIVAN: Oh, I think I see what's she's doing. So what you're doing is making it .245 so that there still is an allocation for each other lot of record. Is that what you're doing? So each of the two community lots of record have an allocation?

COMMISSIONER VIGIL: Yes.

COMMISSIONER SULLIVAN: Oh, okay.

COMMISSIONER VIGIL: And it would be .245 for 266 lots, which includes the common areas.

COMMISSIONER SULLIVAN: Yes. Okay. I see what you're saying. Okay.

CHAIRMAN MONTOYA: Commissioner Sullivan, you had a question also for Mr. Ross?

COMMISSIONER SULLIVAN: I had a question for Mr. Ross and I was trying to grapple with some potential amendments to the motion or clarifications to the motion about where we go from this point. If we approve a preliminary plan and say evaluate the Gerhart property, are we telling the applicant to come back to the BCC with information about the Gerhart property, or are we telling the applicant to move forward with that process and go to the EZA and get the EZA's approval for the Gerhart property.

And I think what we've heard from the staff tonight was we don't yet have enough information on the Gerhart property to make that decision yet.

And so I think what we're asking the applicant to do is to come back to us with more information on the Gerhart property, and then we'll be able to decide if that's a viable option. And in the meantime, they could make contacts with the local community and begin to get some feedback to participate in the community process and begin to have it known what the plan is. I'm comfortable with them doing that. The only thing I'm not comfortable with is at the same time saying, okay, bam. We have preliminary plat approval. Because the Gerhart property might not work out and we might want to then as a Commission decide that there needs to be some onsite affordable housing to make a better plan. And if we've given preliminary plat approval, then they're going to start forward on final plat approval and engineering and invest that kind of money.

So that's my concern and that's a big complicated question, Mr. Ross, but is there any - can you recommend any solution to that?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the way the affordable housing ordinance was written, it set up an inquiry, this six-part inquiry on the part of the Commission concerning the proposal for offsite affordable housing. There are a number of factors that seem pretty well established and there are other upon which you might feel comfortable with more information. And so that leads kind of to two possibilities.

Number one, you could make a decision based on the available information now, and the applicant would then proceed to the EZA through the EZC and in theory develop additional information to convince that body that the development is appropriate for the area. Of course, the other possibility is the one you suggested. Wait until you feel you have enough information to make this initial referral and that's certainly another avenue.

COMMISSIONER SULLIVAN: If we took that avenue, what do we do with the preliminary plat application at this stage? Preliminary development plan. Excuse me. We'd defer that until we received -

MR. ROSS: You'd probably want to defer that for the reasons I discussed earlier. I wouldn't recommend moving forward unless it were appropriately conditioned with preliminary plat approval with this one issue hanging out there. It's certainly possible to fashion some sort of a condition that might -

COMMISSIONER SULLIVAN: Aha. Okay. That gets me back to my other part, which is would there be, in order to move it - what the applicant wants is some sense of the Commission. If we conditioned this preliminary plat approval with the conditions that Commissioner Anaya and Commissioner Vigil have outlined, and an additional condition that the Gerhart property requires additional information pursuant to the ordinance, and that that information needs to come back to the BCC for review and decision, and that the process cannot move forward beyond this stage until that decision is made, so that we're not - in essence we're putting the preliminary plat in abeyance until we have that information and we've made that decision and that the applicant understands that that preliminary plat may change or the approval of that preliminary development plan

may change, based on subsequent information. Is that kind of a condition, Mr. Ross, welcome?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, theoretically I guess it is. I'd like to hear certainly how the applicant feels about it. I was just scribbling that proposed condition down, in case - what I understand you to be proposing is that we would grant preliminary approval but we would condition it on the applicant coming back to this body and providing additional information about the offsite affordable housing, and maybe even targeted information, information you feel like you need to make an informed decision.

COMMISSIONER SULLIVAN: And that that preliminary approval may be modified, that that preliminary plat may be modified as a result of that additional information and that the applicant would understand that ahead of time. Mr. Chairman, if Mr. Ross suggests the applicant could comment on that if it's all right with you, I think it would be appropriate.

CHAIRMAN MONTOYA: Rosanna.

MS. VAZQUEZ: Mr. Chairman, we would be in agreement to come forward to you and provide as much additional information that you would like on Gerhart. Many of the questions that are in your alternate means of compliance standard have been set forth in the letter and it has been articulated in the March meeting when we met with you. There are some questions that Commissioner Sullivan raised. We'd be more than glad to bring information forward to you at the next meeting if we need to.

We would not be in agreement to hold off on any preliminary approval or amend that preliminary approval. However, I do want to state that if you agree to further information on Gerhart and allowing Gerhart to go forward through the process as Commissioner Anaya's motion says, it doesn't give us any additional recognition except that you have agreed to an offsite housing proposal. If Gerhart is not approved through the EZC or the EZA, or the neighborhoods don't want us to go forward with it, we have to come back to you, Commissioners. We come back to you with another offsite proposal or a cash-in-lieu-of donation again.

We would like that opportunity. We'd like the opportunity to come forward to you next month with more information. We'd like to go through the process, work with the neighbors, go through EZC and EZA, and if it doesn't get approved, Commissioners, we come back to you and offer another proposal for affordable housing offsite or cash-in-lieu-of.

CHAIRMAN MONTOYA: Okay. Commissioner.

COMMISSIONER SULLIVAN: Mr. Chairman, I think that answers my question. I think they're not in agreement with that condition so I think we're back to the issue of once it leaves this chamber we've made our final decision.

CHAIRMAN MONTOYA: Commissioner Vigil, then Commissioner Campos.

COMMISSIONER VIGIL: I would be in disagreement of that. I think what

I'm hearing the applicant say is - and perhaps maybe I need to pose the question towards you, if you'd be willing to agree to a condition of approval that requires you to come back before the BCC upon bringing the Gerhart property to the communities and getting it denied either through the planning process, or through the EZA. Would you be willing to make that a condition of approval?

MS. VAZQUEZ: Mr. Chairman, Commissioners, I don't understand. So what you're asking is that with - I'm assuming it goes with the motion, Commissioner Anaya's that we would come back to you next month, give you some more information, go to the planning, go to the people that are doing the planning process in the Agua Fria area, go through EZC and EZA, and then once we got it approved, come back? Is that what you're saying?

COMMISSIONER VIGIL: I'm saying if you got it denied in any one of those stages -

MS. VAZQUEZ: That is correct. We would come back.

COMMISSIONER VIGIL: Automatically, with an alternative proposal.

MS. VAZQUEZ: We'd either come back with an offsite proposal or we'd come back with a cash-in-lieu-of proposal. Yes.

COMMISSIONER VIGIL: So you would agree to language that would provide those conditions as part of this approval.

MS. VAZQUEZ: Mr. Chairman, Commissioners, yes, we would.

COMMISSIONER VIGIL: Is that your understanding, Mr. Ross, with the language that you're proposing?

MR. ROSS: Mr. Chairman, Commissioner Vigil, that wasn't what I had jotted down, but that might be workable also. It's a different approach to the same problem.

CHAIRMAN MONTOYA: What did you jot down, Steve? Start there.

MR. ROSS: What I jotted down, Mr. Chairman, was preliminary plat approval would be conditional upon the applicant providing additional information concerning the applicant's proposal to provide offsite affordable housing at the Gerhart property, and the Board of County Commissioners subsequently approves utilization of the offsite affordable housing proposed. It's different.

COMMISSIONER CAMPOS: It's very different.

COMMISSIONER VIGIL: And we're, I think, proposing preliminary plat approval be done with the condition. And if the condition is not met once preliminary plat approval has been provided, what does that mean to the applicant? We can actually not go for final development plan if those conditions under the preliminary plan have not been met. Is that correct, Mr. Ross?

MR. ROSS: Mr. Chairman, Commissioner Vigil, we're treading on untrod ground. The best analogy is to contract law. If you have a condition that's not met, the question is usually whether you have a contract at all or whether you have an issue concerning the performance of the contract. In this case it's probably, preliminary plat is

probably conditioned on what's stated in the condition. So if it's not met, you don't have it.

COMMISSIONER VIGIL: And the applicant making a statement that they agree to that condition clinches the consideration, does it not?

MR. ROSS: Mr. Chairman, Commissioner Vigil, now we're - it was just an analogy, so I don't think contract law principles really apply here, nor does consideration really come into the picture.

COMMISSIONER VIGIL: I'm done, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos, then Commissioner Anaya.

COMMISSIONER CAMPOS: A question for Ms. Vazquez. My concern is that if we approve the motion as made by Commissioner Anaya that we're going to get stuck with the Gerhart property. That is, the BCC will not have an opportunity to decide whether it's something it wants or does not want as property for affordable housing. That's where I do not support that motion and I do support the language jotted down and presented by Mr. Ross because I think it's conditional. You have to come back and staff will evaluate this within a month or two, and then we'll decide whether this property is appropriate for the affordable housing project. And if it's not, then we're back to talking again.

MS. VAZQUEZ: Mr. Chairman, Commissioner, I understand your concern and I think it was a concern that was raised during the drafting of the regulation. But this case is in a very different situation than most cases that are going to be under this affordable housing ordinance. The actual proposal for the Gerhart property, laying out most of the criteria that are set out in the ordinance now came to the Commission in October 2005. And there was no evaluation done of that, Mr. Chairman, Commissioners, and we're at a position where we submitted for preliminary. They didn't know when the ordinance was going to be applied. It's a very different situation than any typical case coming under the affordable housing ordinance now.

We submitted that in October in good faith and we updated it in March in good faith. We presented it in March in good faith and we're asking you, because we began this process before this affordable housing ordinance went into effect that you work with us in a way to get the Gerhart project looked at, and allow us to go forward with preliminary. Because of the specific situation that we're in with the processing and the timing of this development.

And again, Commissioner Campos, if Gerhart doesn't get approved, you're not stuck with it.

COMMISSIONER CAMPOS: Well, I don't want to get - if the EZA approves it, we're stuck with it. I want the BCC to decide on whether it's an appropriate site for affordable housing, not the EZA.

MR. CATANACH: Mr. Chairman.

CHAIRMAN MONTOYA: Joe.

MR. CATANACH: I'd like to make a point of clarification regarding the process. A residential subdivision on the Gerhart property, which is being proposed for the offsite affordable, the master plan would have to go to the EZC and EZA. Once the EZA approves a master plan, then a subdivision plat development plan would have to go to the EZC and the Board of County Commission. The Board of County Commission has final authority on subdivision approval on the Gerhart property, not the EZA. The EZA would only approve a master plan.

COMMISSIONER CAMPOS: I don't think that really goes to the point of what I'm concerned about. Want the BCC to make the decision, a policy decision as to whether this is an appropriate site, and not the EZA. And I'm not just considering plat approval. I'm talking about appropriateness for affordable housing.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chairman, I think the bottom line to this whole thing is they can't move forward with their big development with 266 lots unless or until they come up with an affordable housing plan. They can't move forward. So even if they come back to us ten times and we say no, they've got to come back. Why do you shake your head?

COMMISSIONER CAMPOS: Because that's not what your motion is about.

COMMISSIONER ANAYA: That's what my motion is.

COMMISSIONER CAMPOS: I don't think so.

COMMISSIONER ANAYA: My motion is saying let them go out there and come back to us with a plan.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER ANAYA: And if they come back ten times -

COMMISSIONER CAMPOS: Let me ask you a question. So basically your motion says that they're going to go out and provide us more information about Gerhart, staff will have an opportunity to evaluate the Gerhart property, and they're going to have the complete discretion to say no to the Gerhart property.

COMMISSIONER ANAYA: Right.

COMMISSIONER CAMPOS: And that's - they're not going to go to EZC and EZA until the BCC says this is appropriate for affordable housing.

COMMISSIONER ANAYA: That's right.

COMMISSIONER CAMPOS: That's your motion?

COMMISSIONER ANAYA: They can't move forward until they get an affordable housing plan.

COMMISSIONER CAMPOS: The questions I asked you, is that right? Do you agree that that's your motion?

COMMISSIONER ANAYA: That's correct.

COMMISSIONER CAMPOS: Okay. Mr. Ross, if that's the motion, what wording do we need to make it very clear that that is our intent?

CHAIRMAN MONTOYA: I think your wording still works, doesn't it?

MR. ROSS: Mr. Chairman, I think it still works. We could add a little bit maybe on to the end of it to capture what was just said, that the applicant shall not file for approval for the Gerhart property until this issue is settled once and for all at the BCC. As a preliminary matter.

COMMISSIONER CAMPOS: If that's your motion –

COMMISSIONER ANAYA: That's the way I stated it.

MS. VAZQUEZ: Could you restate that condition so I can listen to it. I'm sorry. Because we've gone over it a couple times.

MR. ROSS: Mr. Chairman, let me try it again. Preliminary plat approval is conditioned upon the applicant providing additional information concerning the proposal to provide offsite affordable housing at the Gerhart property, and the Board of County Commissioners subsequently approves utilization of the Gerhart property for offsite affordable housing pursuant to Ordinance 2006-2. The applicant shall not move forward with necessary approvals of the Gerhart property until the Board of County Commissioners has approved it as an acceptable site for the offsite affordable housing. I can make that simpler.

COMMISSIONER CAMPOS: I think that captures – that resolves my concerns.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER CAMPOS: The only question left then is about onsite affordable. Are we giving that up at this point? Or not?

COMMISSIONER VIGIL: No. It's part of the option.

CHAIRMAN MONTOYA: That's my understanding is that we're not giving that up. That's still part of the criteria and the menu of what we have available.

COMMISSIONER CAMPOS: So if they don't come back with an acceptable site, then we're back to ground zero and we can consider all our options. Is that the intent? I see everyone nodding. Is that about right?

COMMISSIONER SULLIVAN: Mr. Chairman, I think so. But I think Mr. Ross, you'd have to change that last sentence a little bit where you said until they come back – what's your last sentence there, Mr. Ross? Until the Commission approves the site, I think you said.

MR. ROSS: The applicant shall not move forward with necessary approvals of the Gerhart property until the Board of County Commissioners has approved it as an acceptable site for offsite affordable housing.

COMMISSIONER SULLIVAN: So I think – shouldn't it read until it is approved, a site or other alternatives for affordable housing. Does that work? Instead of approved it as a site. Approved a site or an acceptable alternative to satisfy the requirements of the Ordinance 2006-2.

MS. VAZQUEZ: I have a suggestion.

COMMISSIONER SULLIVAN: Just a minute please. Does that work?

MR. ROSS: Mr. Chairman, you might even make it even simpler. Just say

the applicant shall not move forward with the necessary approvals of the Gerhart property until the Board of County Commissioners has approved an affordable housing proposal.

CHAIRMAN MONTOYA: There you go.

COMMISSIONER SULLIVAN: That would work too.

CHAIRMAN MONTOYA: That covers it.

MS. VAZQUEZ: That's what I was going to suggest.

COMMISSIONER SULLIVAN: Sure it was. That's why they pay these guys the big bucks.

MS. VAZQUEZ: Thank you.

CHAIRMAN MONTOYA: Commissioner Anaya, are you okay with that?

COMMISSIONER ANAYA: That's what I thought I had said.

CHAIRMAN MONTOYA: An hour ago.

COMMISSIONER SULLIVAN: And Ms. Vazquez, are you clear that that motion lives open to the BCC all of the options that are available under the affordable housing ordinance.

MS. VAZQUEZ: Including offsite? And cash-in-lieu-of, right?

COMMISSIONER SULLIVAN: Including onsite, offsite, cash-in-lieu-of. And whatever else the ordinance may allow. Combinations thereof.

MS. VAZQUEZ: Mr. Chairman, Commissioners, I believe that that would allow you to look at offsite proposals anywhere and cash-in-lieu-of, but I'm not sure - you might ask Steve Ross, whether it really applies to onsite because you have approved the preliminary plat.

COMMISSIONER SULLIVAN: Okay, see now, that's why we have to get the language, so that it does that.

MS. VAZQUEZ: So my suggestion, I have a suggestion on the language, similar to Steve Ross' but I changed the language to read that prior to final plat approval we would get an acceptable affordable housing plan approved by the BCC.

COMMISSIONER SULLIVAN: That's required anyway. That's in the ordinance now. We're dealing with preliminary plat approval. We're trying to not foreclose our options on preliminary plan approval until the condition is satisfied with your affordable housing plan. Not to foreclose on any options. I think that's the motion.

COMMISSIONER CAMPOS: I think that's the intent of the Commission.

CHAIRMAN MONTOYA: Steve, is that clear in the motion?

MR. ROSS: Mr. Chairman, it wouldn't hurt to restate it.

COMMISSIONER SULLIVAN: The question is, is that clear that by using your language, that the Commission has available to it all of the options under the affordable housing ordinance? And those aren't foreclosed by our approving a preliminary development plan.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, it's not clear that it addressed the concern I raised earlier, but perhaps the applicant can shed some light on whether they would take that position, i.e., that if a preliminary plat were approved, even

conditionally, they would still assert that a decision had already been made. I don't think they would at this point, since they're agreeing to some of these conditions.

COMMISSIONER SULLIVAN: Right. Well, maybe we can just get, Mr. Chairman, from Ms. Vazquez, a concurrence that all of those options, including onsite are available to the Commission until they approve this as an affordable housing plan.

MS. VAZQUEZ: Mr. Chairman, Commissioners, may I have a moment? Mr. Chairman, Commissioners, if may just explain, the reason we thought we needed a decision on the preliminary - on the affordable housing issue right now at preliminary because in consultation with staff, we were given the opinion that we had to get a decision on this for preliminary. We will agree to a condition like this if we are able to come forward at the next BCC meeting, the next administrative BCC meeting. The reason I ask you that is because we have a submittal that addresses a lot of issues, that has been submitted for quite some time. If there were concerns by staff or issues that needed to be outlined further, we've been waiting for some answers with regards to that. So we are willing to accept a condition if we can get on the next agenda and we can get a staff report done and we can get an opinion on the affordable housing proposal that we've got now, and we have specific questions that we need answered that we have to answer to you in that time, so that we can address this and we can move on.

We have been, in good faith, submitting affordable housing plans since February of 2005 and we have not gotten a response on any. And we would like that commitment. We would like to move forward as quickly as possible with this and we'd like also the assurance that we can go - that the only issue that would be before this Board of County Commissioners is the affordable housing component of this subdivision and nothing further.

CHAIRMAN MONTOYA: Is there anything to restrict us from doing that, Steve?

MR. ROSS: Mr. Chairman, I was talking to Dolores. What was the question again? I'm sorry.

CHAIRMAN MONTOYA: Is there anything that would restrict us from what's being proposed by the applicant?

MR. ROSS: To be on the next -

CHAIRMAN MONTOYA: The next administrative meeting.

MR. ROSS: I think we could put together a team and get you some more information.

CHAIRMAN MONTOYA: Okay. We have a motion and a second on the floor. Further discussion?

COMMISSIONER CAMPOS: Discussion. Question. What type of evaluator do we need? Do we need to hire an appraiser? A land expert? To see how suitable? What do we have to evaluate?

MR. ROSS: Mr. Chairman, Commissioner Campos, we have tons of information. It's just a matter of pulling it together. I don't think we have time if we're

going to do it at the next meeting to hire someone to put it together for us but we certainly have a variety of consultants we've consulted with over time. Al Pitts is one of them. We'll put together as much information as we can gather if we're talking about two weeks. If we're talking about more time, maybe an outside contractor would be appropriate. But I'm not really sure we know what information we have in house and we can certainly make a stab at finding out what we have. We've got tons of studies have been done on a variety of issues. So there's probably a lot of information there that we can provide to you.

COMMISSIONER CAMPOS: Do you think we could do it in one month, comfortably?

MR. ROSS: The more time you give us the more information you'll get.

COMMISSIONER CAMPOS: Okay. I think we would need at least a month to look at this carefully. We'd have to make a quick decision how we're going to evaluate and if we're going to contract somebody to evaluate this piece of property.

CHAIRMAN MONTOYA: Further discussion?

COMMISSIONER CAMPOS: One other item. On condition 14, Commissioner Anaya, you had agreed that we could include County Road 70, and I would ask if the seconder would also agree to that?

COMMISSIONER VIGIL: That's for the DOT study and the traffic study?
Yes.

COMMISSIONER CAMPOS: Fair share for the intersection or interchanges at both 62 and 70.

COMMISSIONER VIGIL: Yes.

COMMISSIONER SULLIVAN: So, Mr. Chairman, we're now at the point with the language that Mr. Ross has added and with it coming back in a month at the next land use meeting for the evaluation of the affordable housing component of the proposal, leaving open all options, including onsite to be decided on by the Commission, is my understanding. Does that seem reasonable?

CHAIRMAN MONTOYA: And that would be in the administrative portion?

COMMISSIONER SULLIVAN: No, that would be at the land use meeting.

CHAIRMAN MONTOYA: The land use meeting?

COMMISSIONER CAMPOS: That would give us 30 days.

MS. VAZQUEZ: Thirty days is fine, Commissioners.

CHAIRMAN MONTOYA: Okay. Any further discussion. Motion and a second.

The motion to approve EZ Case #S 05-4840 passed by unanimous [5-0] voice vote.

XII. A. 7. EZ Case #DL 06-4140 Trace Sanchez Land Division- Trace Sanchez, Applicant, Requests Plat Approval to Divide 5.00 Acres More or Less into Two (2) Tracts. The Tracts will be Known as Tract A (2.50 Acres More or Less) and Tract B (2.50 Acres More or Less). The Subject is Located within Lot 2 Block 2 of the Pinon Hills Subdivision, within Section 25, Township 17 North, Range 8 East (2-Mile EZ District 5)

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. Tres Sanchez, applicant, requests plat approval to divide 5.00 acres more or less into two tracts. The tracts will be known as Tract A (2.50 acres more or less) and Tract B (2.50 acres more or less). The subject property is located within Lot 2 Block 2 of the Pinon Hills Subdivision, within Section 25, Township 17 North, Range 8 East.

On March 9, 2006, the EZC met and acted on this case. The decision of the EZC was to recommend plat approval to divide five acres into two lots. The property is located within a subdivision that was approved by the BCC in 1964. The subdivision is legal non-conforming as it does not meet current subdivision standards for fire protection, roads, water and liquid waste.

The following lot sizes are proposed: Tract A, 2.5 acres, more or less, vacant; Tract B, 2.5 acres, more or less, vacant.

Recommendation: It is staff's position that the redivision of lots within the Pinon Hills Subdivision will diminish the performance of the existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing additional lots within Pinon Hills, the subdivision should be upgraded to current subdivision standards with respect to the size and number of lots. An upgrade to Pinon Hills would require, among other things, a fire protection plan and existing roads to be substantially improved. Therefore staff recommends denial of this request as proposed.

If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed. Mr. Chairman, may I enter the conditions into the record?

[The conditions are as follows:]

1. Access to these tracts shall be provided with a 38-foot easement and a 20-foot driving surface meeting minimum SFC Common Roadway Standards, the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25 acre-feet per year per lot. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the Land Use Administrator annually by January 31st of each year.
3. A shared well agreement must be approved by the County and executed prior to plat

- recording. The plat must indicate shared well easements.
4. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts.
 5. ESR require a solid waste fee be assessed for all newly created parcels the fee for this Subdivision is \$86.00.
 6. Retention ponds will be required for these tracts at the time of development.
 7. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan.
 8. The applicant shall submit access permit as approved by Public Works Department.
 9. Fire Department Affidavit shall be signed and recorded with the Plat
 10. Submit a Disclosure Statement as per County Code.
 11. Submit a school impact report as per County Code prior to plat recording.
 12. The applicant must address all minor redline comments by the County Subdivision engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Victoria Reyes, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recording.

CHAIRMAN MONTOYA: Any questions for staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, one of the residents has submitted an inquiry stating the lots were not five acres and couldn't be split. They were less than five acres. I wanted to see what staff had to say about that. I see on the first surveyor's plat it says Tract A, 2.5 acres, Tract B, 2.5 acres. But then when I go back on the original plat for Lot 2, Block 2, I see Lot 2, Block 2 is listed as 4.95 acres. So 4.95 acres can't be split into two lots without geohydro or something. Or a family transfer, is my understanding. Do we have a reconciliation between these two survey plats?

MS. REYES: Mr. Chairman, Commissioner Sullivan, the applicant's surveyor resurveyed the property. We did let the surveyor know that the discrepancies would have to be noted on the deed. The surveyor certified that he did find enough points to make it five acres, but perhaps the applicant can describe how he came up with that.

COMMISSIONER SULLIVAN: Because if you look at - I don't know if the Commission is looking where I'm looking, Exhibit 4, where it says 4.95 and then the lot to the right of it is 4.91 and the lot to the left is 4.93 and the lot below it is 4.95 and the lot to the southwest is 4.95 and the lot to the southeast is 4.93 it looks like. I don't see how we can create land here.

MS. REYES: Mr. Chairman, the surveyor certified that this was a true survey.

COMMISSIONER SULLIVAN: So did the other surveyor,

MS. REYES: Well, I'll let the applicant address that.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Any other questions of staff? If the applicant would please come forward, be sworn in and identify yourself please.

[Duly sworn, Tres Sanchez testified as follows:]

TRES SANCHEZ: I'm Tres Sanchez. Commissioners, from what I understand in talking to the surveyor, that this original survey had been done in like 1968 and with new technology, and I guess he found further points he came up with enough to make it five acres.

CHAIRMAN MONTOYA: Okay. Do you have anything else to add, Mr. Sanchez?

MR. SANCHEZ: No.

CHAIRMAN MONTOYA: Okay, questions for the applicant?
Commissioner Anaya.

COMMISSIONER ANAYA: Tres, do you agree with all the conditions?

MR. SANCHEZ: Absolutely.

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

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Tres, there is a letter in our packet. It probably was also included in the EZC packet from I think neighbors who are close to you, Michael Weise and Margaret McHennesey, I believe [Exhibit 7] who are in opposition to you. Did you ever speak with the neighbors or address any of their issues?

MR. SANCHEZ: No, I did not. I posted the signs and had my information available but I didn't talk to anybody else.

COMMISSIONER VIGIL: Also, Mr. Sanchez, your entire division has just completed and we've just approved the Tres Arroyos planning process. Are you familiar with that at all?

MR. SANCHEZ: No, ma'am.

COMMISSIONER VIGIL: That planning process identifies the vision of that community and the surrounding neighbors there. Part of that vision includes no more density in the area you live in. How long have you lived there?

MR. SANCHEZ: How long have I lived at this lot?

COMMISSIONER VIGIL: Yes.

MR. SANCHEZ: It's a vacant lot.

COMMISSIONER VIGIL: Oh, how long have you owned it then?

MR. SANCHEZ: For about six months.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN MONTOYA: Any other questions for the applicant?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think we may have long forgotten but the County has a County Surveyor.

CHAIRMAN MONTOYA: We do?

COMMISSIONER SULLIVAN: I knew you were going to wonder where that came from. He receives a salary as well, and this is, I think, precisely an issue to be interpreted by a professional surveyor who is representing the County. Because I have a concern with changing the whole subdivision plat. We have a subdivision plat on file here. We approved a lot split a month ago of a lot that was up on the corner of this tract, the one that's Block 1 here. That was 5.0 acre. That one is five acres. But you can't change a subdivision plat by changing one lot. You are in essence, replatting the subdivision and there are rules against doing that.

My suggestion at this point is that we, without making a statement one way or another and prejudicing the applicant, that we ask the County Surveyor to give us an opinion as to what's the appropriate procedure here. That would be my suggestion. I'm just not comfortable with changing subdivision plats by replatting single lots.

COMMISSIONER VIGIL: Are you proposing to table this case until we hear from our surveyor?

COMMISSIONER SULLIVAN: Well, I think we have to have a public hearing.

COMMISSIONER CAMPOS: We don't.

COMMISSIONER SULLIVAN: We don't?

COMMISSIONER VIGIL: We can table it.

COMMISSIONER SULLIVAN: Okay. Then, Mr. Chairman, I'd propose to table until the next land use meeting and at the same time to request that this discrepancy be reviewed and the report presented to the Commission by the County Surveyor.

COMMISSIONER CAMPOS: I second that.

CHAIRMAN MONTOYA: Motion to table, second by Commissioner Campos.

The motion to table EZ Case #DL 06-4140 passed by majority 4-1 voice vote with Commissioner Anaya voting against the motion to table.

CHAIRMAN MONTOYA: So this will be tabled to the next land use meeting a month from now which is May 9th. Thank you.

- XII. A. 8. CDRC Case #S 05-5380 Green Ranch Subdivision – Victor Ballas, Applicant, Jim Siebert, Agent Requests Final Plat and Development Plan Approval for a Summary Review (Type V) Residential Subdivision Consisting of 14 Lots on 315.91 Acres. The Property is Located North of Stanley, East of State road 41 on Kamradt Road, within Sections 19 & 30, Township 12 North, Range 10 East (Commission District 3) [Exhibit 8: DOT letter]**

VICKI LUCERO (Technical Review Specialist): Thank you, Mr. Chair. Victor Ballas, Applicant, Jim Siebert, agent requests final plat and development plan approval for a summary review (Type V) residential subdivision consisting of 14 lots on 315.91 acres. The property is located north of Stanley, East of State road 41 on Kamradt Road, within Sections 19 & 30, Township 12 North, Range 10 East, Commission District 3).

On March 16, 2006, a request was heard by the CDRC to allow a cul-de-sac with a length greater than 500 feet for the proposed subdivision. The decision of the CDRC was to grant approval of the request. The applicant is now requesting final plat and development plan approval for a 14-lot residential subdivision on 315.91 acres located north of Stanley. The lots will range in size from 12.39 acres to 40.35 acres, with a gross density of 22.85 acres per lot. This constitutes a Type V summary review subdivision which requires review and approval by the BCC only.

This application was reviewed for access, water, fire protection, liquid and solid waste, terrain management, lighting and signage, archeology and school impact.

Recommendation: It is staff's position that this application is in accordance with all requirements of Article V of the County Land Development Code. Staff recommends final development plan and plat approval subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

[The conditions are as follows:]

1. Compliance with applicable review comments from:
 - a) State Engineer's Office
 - b) State Environment Department
 - c) Soil & Water District
 - d) Department of Transportation
 - e) County Hydrologist
 - f) Development Review Director
 - g) County Fire Marshal
 - h) County Public Works
 - i) State Historical Preservation Office
 - j) Santa Fe Public Schools District
 - k) County Technical Review Division
2. Water use on this property will be restricted to 0.25 acre-feet per year per lot. Water restrictive covenants must be recorded with the final plat. A water meter must be installed for each residence and annual readings must be submitted to the Land Use Administrator.
3. The standard County water restrictions, final homeowner's documents and disclosure statement must be recorded with the final plat.
4. Road names and rural addressing must be approved by the County prior to recording the final plat.
5. The applicant shall submit a financial guarantee, in the amount approved by the

County, for all improvements including fire protection, road improvements, drainage improvements, retention ponding and landscaping/revegetation, prior to grading permit issuance. The financial guarantee for landscaping and revegetation will be kept until plantings have taken, for a minimum of one year.

6. The development plan and plat with appropriate signatures shall be recorded with the Clerk's office.
7. All staff redlines shall be addressed. Original redlines must be returned.
8. This application is subject to final review and inspection by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
9. All utilities shall be underground. This shall be noted on the plat, covenants and disclosure statement.
10. Each lot owner will be required to comply with the County's water harvesting requirements (Ordinance 2003-6). A water harvesting plan shall be submitted with building permit application. This shall be noted on the plat, covenants and disclosure statement.
11. The cul-de-sac shall comply all fire standards.

CHAIRMAN MONTROYA: Okay, questions for staff. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Someone else can go first. I don't want to hog it. A couple of questions for staff. Number one, I saw in the recommendations that there was going to be a 3,000-gallon storage tank to provide fire flow. Is that correct?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, that's what the applicant was proposing. However, there's a letter from the Fire Marshal as part of the packet and they're actually requiring - I believe it's a 10,000-gallon tank on each lot.

COMMISSIONER SULLIVAN: That was going to be my question. So which applies. You're going with the 10,000?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, we're going to be requiring the 10,000, with the Fire Marshal's requirements.

COMMISSIONER SULLIVAN: Okay. Now, these lines are going to be interconnected. Wells, and interconnected, and these are going to be draft tanks, which means they're stuck in the ground and they don't provide any pressure. And you've got - I believe it's 12 lots. Is that correct?

MS. LUCERO: It's actually 14 lots.

COMMISSIONER SULLIVAN: Fourteen lots. So that's 140,000 gallons in storage. It seems to me, and maybe Mr. Siebert can answer this when he presents his case, that it would be better to construct 140,000-gallon storage tank above ground to provide protection to everybody and put in fire suppression hydrants to the site. And that may eliminate the need for individual - I believe one of the conditions our Fire Marshal has is that each house have a sprinkler system.

MS. LUCERO: That's correct.

COMMISSIONER SULLIVAN: So that could eliminate that. Has that been alternatively looked at?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I'm not sure what the discussion was. I know the applicant did meet with the Fire Marshal and I'm not sure if that came up as part of the discussion but perhaps the applicant can better address that.

COMMISSIONER SULLIVAN: Okay. We'll address that. Then another question I had is the staff is recommending approval. The Edgewood Soil and Water Conservation District had concerns about the soils in the north end lots. They said that soils in the north end lots are questionable for installation of conventional individual septic tanks and leach field wastewater systems due to the depth of bed rock and slow permeability. So have we addressed that in our conditions?

MS. LUCERO: Mr. Chairman, we do have a condition that calls for compliance with Soil & Water and the applicant did actually respond to a lot of the reviewing agency comments but we haven't received additional comments from Soil & Water. So that's something that could be addressed in the disclosure statement.

COMMISSIONER SULLIVAN: Well, that's not too useful, putting it in a disclosure statement that a septic tank isn't going to work one way or the other. And if you have poor soils, you're going to have to devise an alternative wastewater system for that lot.

MS. LUCERO: Right. That's correct. So we would have them incorporate some language to that effect into their disclosure on those particular lots.

COMMISSIONER SULLIVAN: And that would be done by the staff, or how is that done?

MS. LUCERO: The disclosure is prepared by the applicant, but staff would have their line comments that they would have to make adjustments or changes prior to recording and then that disclosure statement would be recorded and cross-referenced on the survey plat.

COMMISSIONER SULLIVAN: Okay, then the last question I had was in the applicant's report, and I believe the County Hydrologist mentioned this as well, that there's some water quality problems. And I'm looking on page 7 of the applicant's report, which is Exhibit D. And it says coliform was detected in higher levels that established by the County Land Development Code. Of course we all know that coliform is the indicator for contamination. It is assumed, it goes on to say, that coliform contamination occurred during the well drilling process. I'm not quite sure, unless there were cows walking around while they were drilling the well, how that would happen. Anyway, it goes on to say, Prior to the sale of a lot, the well will be retested for water quality, with additional testing coliform, turbidity and color may be decrease within the parameters of the County Land Development Code.

I'm a little nervous about approving a water system – number one, I'm nervous because they've got six homes on one well, and just practically speaking, four is about the max you can do realistically, unless you have booster pumps and a lot of storage. But I'm

a little concerned. We've gotten water that has higher sodium, iron, and color and turbidity requirements, and the numbers are given in the report, and higher coliform and we're just going to simply say, we're going to test the well again. Why don't we just go test the well again now? And resolve that issue? What's the staff's opinion on that?

MS. LUCERO: Well, Mr. Chairman, Commissioner Sullivan, I was just looking through the County Hydrologist's staff report and they did raise some issues regarding contaminants. But basically, what their recommendation was was that it just be included in the disclosure statement, the different contaminants that were found. I don't know - Steve Wust isn't here tonight but I don't know if Karen Torres has any insight as to -

COMMISSIONER SULLIVAN: Well, it goes on on page 8 to talk about the iron is tested at .69 mg/l and the County Code parameter is .3. So it's twice the level on iron. Sodium tested at 151 mg/l. County Code is 100. So it's 50 percent over on sodium. Those water quality problems can be dealt with by using reverse osmosis, which is a fairly expensive little operation to maintain. So there are ways to deal with those water quality problems but there really isn't a way to deal with coliform issues. If you have coliform contamination you have something wrong in the water supply or in the testing. There could be something wrong in the actual testing that was done. An error made in the testing.

So, Mr. Chairman, I'd be interested to hear what the applicant says as to how we deal with this water quality issue in approving this subdivision.

CHAIRMAN MONTOYA: Karen, do you have anything to add?

KAREN TORRES (County Hydrologist): Well, in Dr. Wust's recommendation, and I'm sorry, this was right before I came on board so I didn't have an opportunity to review it. But upon the modification of the disclosure statement, he wanted additional testing before we would sign off on it. So I don't think we're just going to put it in the disclosure statement. And sort of towards the back of the attachments you'll see what he recommended in the second bullet. I could read that to you if you'd like.

CHAIRMAN MONTOYA: Sure. Go ahead.

MS. TORRES: Modification of this disclosure statement can only be made with County approval following submittal of additional analytical results to the Water Resources Department for review.

CHAIRMAN MONTOYA: Is that one of the conditions?

MS. LUCERO: Mr. Chairman, it's not actually a specific condition but there's an overall condition that says that they must comply with the County Hydrologist and County Utilities review comments.

CHAIRMAN MONTOYA: On number 1.

MS. LUCERO: Yes. That's right.

CHAIRMAN MONTOYA: So that would be addressed there?

COMMISSIONER VIGIL: That's correct.

CHAIRMAN MONTOYA: Commissioner Sullivan.

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

Chairman.

CHAIRMAN MONTROYA: Any other questions for staff? Okay, the applicant, if you'd please come forward.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name's Jim Siebert. My address is 915 Mercer. There's three items I think that came up. One is the soils. What the Soil Conservation District is actually talking about, there's a steep escarpment that's on the north side of the property, all those - actually the escarpment all has entire areas of slopes greater than 30 percent so we couldn't build on those. The soils outside the escarpment are adequate for conventional septic tank and leach field systems.

In terms of the fire protection, we initially had a 30,000-gallon tank that we were proposing because we'd done that in similar subdivisions of this size. In meeting with the Fire Marshal, the preference was, because of the size of the lots and the length of time to get to this particular location, which is actually near Stanley, their preference was to - and I guess they're imposing this in other rural areas as well, individual 10,000-gallon tanks with a dry hydrant they could connect to. That's purely a recommendation of the Fire Marshal's office and we're following that and it's included in their letter.

With regard to the water quality, the disclosure statement will contain a requirement that reverse osmosis will be required, individual reverse osmosis systems will be required for water quality treatment. In terms of the coliform, in talking with the consulting hydrologist, it's my understanding that actually it's something that is becoming more common when you initially do the water quality treatment for a new well, it's a matter of simply how the well drilling process is handled with the well is actually being installed.

We have no problem with retesting the well after it's had a chance to sit for a while now, and I think after pump testing again we'll probably get a different set of parameters. Generally what happens is coliform does go away.

CHAIRMAN MONTROYA: Okay. Any questions for Jim. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. Jim, on your site map, figure 1, and in the platting that was shown also, there appeared to be two roads in there. I'm confused as to which is the main road, this Kamradt Road, and what is the other access, which appears to dead end on the site?

MR. SIEBERT: Mr. Chairman, Commissioners, the main roadway is actually Kamradt Road, which is this road here. The road coming down serving the 40-acre larger lots is currently a dead-end road that we're calling Green Ranch Road. There is another - Kamradt Road actually comes off at two points on State Road 41 and it comes down along the southern boundary, loops back along and comes back to this point. This Kamradt Road is actually an unimproved road that currently serves for maintenance purposes along an overhead power line. And eventually it's assumed that this land will develop, the road will be improved and what we've done is allow for a 50-foot easement to extend down to the road at such time it would be improved in the future.

COMMISSIONER SULLIVAN: I'm still confused. I'm talking about up on the north end of the site. Your site map says --

MR. SIEBERT: Oh, this one here? It's an easement that's being abandoned and being relocated to this point here.

COMMISSIONER SULLIVAN: And what is that an easement for?

MR. SIEBERT: This was an easement that actually hooked back into Kamradt Road and provided for access to tracts over here.

COMMISSIONER SULLIVAN: And why are you relocating it?

MR. SIEBERT: It's simply a better location from the geographic standpoint.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Jim, where's State Road 41 on that map? And where's Kamradt Road?

MR. SIEBERT: State Road 41 is actually further over to the west. What happens is that there's --

COMMISSIONER ANAYA: To get to that property do you go through the Pine Canyon gate?

MR. SIEBERT: There's two roads, actually, that serve the property. What happens is that there's a loop road and the Pine Canyon Subdivision which was originally created by the King family, and you have King Ranch Road here and you have Pine Ranch Road here, they're looping. And then off that comes Kamradt Road. So that's correct.

COMMISSIONER ANAYA: Thank you.

MR. SIEBERT: We are in agreement with all conditions as stated by staff.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One more question, or two. First of all, is this a part of the Galisteo Basin planning process or any of our current, ongoing community planning processes, this area?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, it is not.

COMMISSIONER SULLIVAN: Okay. And then Chief Holden, could you -- we've talked a little about the Fire Department's requirements here and options. Could you let us know what your thinking is on the storage and so forth here?

CHIEF HOLDEN: Mr. Chairman, Commissioner Sullivan, I'm at a district disadvantage here, was not aware of this particular case. I just got the document here and I was reviewing it. I would just, basing it on a professional guess, I would believe what's happening is the distance between the lots and the proposed construction sites are so great that it was best suited that they put in-ground storage facilities and that we would draft from these tanks. And that's why the requirement of 10,000 gallons.

I'm surprised, and I haven't gotten to this yet, but I would have thought that the primary consideration, because of the distance was to sprinkler the homes, to provide fire

sprinklers in each individual home because of the distance from the fire station, and because of the limited water supply. 10,000 gallons is not a lot of water, and I would have thought that that was the primary reason to have the 10,000 gallons on site was actually to supply water to the fire suppression system within the home. And if you'll give me just a minute I might be able to answer your question.

COMMISSIONER SULLIVAN: I think, as I remember the Fire Department's requirements were for individual sprinkler systems. Is that not right, Mr. Siebert?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: So they do have individual –

CHIEF HOLDEN: And that would be in keeping with what we're requiring at this point, primarily because of the distance from the fire station, the ruralness of the community, the unavailability of any large capacity water storage system. This is basically the best that we can do in these rural situations is to require onsite storage and individual sprinklering of the homes.

COMMISSIONER SULLIVAN: And so, then, Mr. Siebert, these 10,000-gallon tanks, are these used for the residential usage?

MR. SIEBERT: No, they would be entirely – because they have to maintain at all times 10,000 gallons in the tanks, so they would be, in terms of domestic use they would be totally separate and apart from domestic use.

COMMISSIONER SULLIVAN: Okay. And on my question of connecting six homes to a well. What can you say about that?

MR. SIEBERT: Well, it's the standard shared well system that's consistently used.

COMMISSIONER SULLIVAN: Four is usually pushing it, depending on how much domestic storage will there be for the six homes.

MR. SIEBERT: Well, that's something that's individually decided at the time they design the house.

COMMISSIONER SULLIVAN: I thought I read in here that the developer was drilling wells for the lots.

MR. SIEBERT: There will be some when he installs the wells, the process is to provide an underground cistern in association with each shared well. And in addition, the covenants provide that each house has to determine what their storage requirements are in addition to what's in the cistern.

COMMISSIONER SULLIVAN: And how much will be in the cistern?

MR. SIEBERT: The cistern will be 1500 gallons.

COMMISSIONER SULLIVAN: So that's really not enough for six houses. So then the individual homes will have to add additional storage to that. Is that what you're saying?

MR. SIEBERT: Correct.

COMMISSIONER SULLIVAN: Why not just make the storage at the well

adequate for the six homes?

MR. SIEBERT: Well, actually, we've found that from a - especially with longer lines, that from a pressure standpoint you're better off pressurizing it at the house than you are attempting to pressurize it at the shared well location.

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

CHAIRMAN MONTOYA: Okay. Any other questions for the applicant? This is a public hearing. Anyone want to speak on behalf of or in opposition to this application? Seeing none, the public hearing is closed. What are the wishes of the Board?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Anaya.

COMMISSIONER ANAYA: Move for approval with conditions.

CHAIRMAN MONTOYA: Motion by Commissioner Anaya for approval with conditions.

COMMISSIONER CAMPOS: Second.

CHAIRMAN MONTOYA: Second, Commissioner Campos. Discussion?

The motion to approve CDRC Case #S 05-5380 passed by majority [4-1] voice vote with Commissioner Sullivan voting against.

COMMISSIONER SULLIVAN: Oh, I had another question. He already left. Too late. Let me ask the staff, Mr. Chairman, while we're handing this out. Does this allow additional lot splits, Vicki? On that Green Ranch Subdivision. They have various sized lots, ranging from 12 to 40 acres, does that allow them to further split the lots?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, it could, but they would be required to do additional water studies to prove that there's adequate water.

COMMISSIONER SULLIVAN: What's the minimum now?

MS. LUCERO: They could go down to 2.5 acres per lot if they prove adequate water.

COMMISSIONER SULLIVAN: Wet water. Meaning a geo-hydro?

MS. LUCERO: Yes, exactly.

COMMISSIONER SULLIVAN: And without a geo-hydro, how much?

MS. LUCERO: I believe it's a 40-acre minimum.

COMMISSIONER SULLIVAN: But they're below that now already, right?

MS. LUCERO: Right. They did conduct a geo-hydro which proved adequate water to reduce the size of the lots.

COMMISSIONER SULLIVAN: Okay. So these 14 lots, this 315-acre subdivision, could all be divided up into 2.5-acre lots like another South Fork?

MS. LUCERO: If they can prove adequate water.

COMMISSIONER SULLIVAN: Which has already been proved, right?

MS. LUCERO: Well, for 14 lots. The geo-hydro proved adequate water for 14 lots out there.

COMMISSIONER SULLIVAN: I think what we just approved here was a 126-lot subdivision.

COMMISSIONER CAMPOS: There's no water there.

COMMISSIONER SULLIVAN: I know there's no water there. That doesn't stop us from approving subdivisions. Okay. I'm just glad I voted no. Thank you, Mr. Chairman.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Commissioner Sullivan, your characterization of that actually misrepresents what my vote was. My vote was, given the recommendations by staff and that the hydro had been done, that this subdivision was going to move forward in good faith to subdivide in accordance with the proposed recommendation. Now, if they come before us and prove another hydro study, which I'm understanding Commissioner Anaya to say it would be difficult to do, we'll cross that bridge when we come to it. But at this point in time, I don't want my vote to be represented as a statement that we've just approved 120-lot division. That misrepresents what I intended to vote for.

- XII. A. 6. EZ Case # MP 05-4870 Rancho Viejo Village West- Rancho Viejo de Santa Fe, Inc. (Isaac Pino) Applicant, Requests Master Plan Approval for a Mixed Use Development (Residential, Commercial, Community) Consisting of 1,250 Residential Units and 117,250 square feet of Commercial Space on 668 Acres to be Developed in 3 Phases. The Property is Located off Rancho Viejo Blvd/Avenida del Sur Intersection in the Community College District within Sections 19, 20, 29, 30, Township 16 North, Range 9 East and Sections 24,25 Township 16 North, Range 8 East (5-Mile EZ Districts)**

MR. CATANACH: Thank you, Mr. Chairman. I handed out a letter that came from the County Fire Department in which they are making a request or a recommendation that Rancho Viejo provide a lot within this master plan for a fire station. *[Exhibit 9]* And with that, Mr. Chairman, I'll go ahead and read the staff report. This is Rancho Viejo of Santa Fe, Incorporated, Isaac Pino, applicant is requesting master plan approval for a mixed-use development, residential/commercial/community consisting of 1,250 residential units and 117,250 feet of commercial space on 668 acres to be developed in three phases. The property is located off the Rancho Viejo Boulevard, Avenida del Sur intersection in the Community College District.

The staff report starts out by summarizing what subdivisions have been approved for Rancho Viejo. Turquoise Trail, 20 commercial lots, Rancho Viejo Business Park, 12 commercial lots, the Village at Rancho Viejo, 334 residential lots, Windmill Ridge 782

residential lots, College Heights 75 residential lots.

On March 9, 2006, the EZC recommended master plan approval and I included the minutes of the EZC meeting. I need a report at this time that also on April 6th, last Thursday the Community College Development Review Committee also recommended approval of this master plan and the master plan proposes the following development with 334 acres of open space, parks, plaza and residential units for affordable housing.

Mr. Chairman, at this point I would go ahead and also clarify that the 188 would have been 15 of the total residential units for affordable housing, but now that we have a new affordable housing ordinance it will be 30 percent. So that in fact would be 30 percent of 1250 would be 375 residential units for affordable housing.

The proposal, phase 1 would be the village zone community center with village zone neighborhood and fringe zone neighborhood at 575 residential units on 351 acres and the staff report outlines the village zone community center, 43 residential units, 41,000 square feet of commercial space. Also, you'd have the village zone neighborhood, 481 residential units, the fringe zone neighborhood, 55 residential units and an elementary school site on 15 acres that would accommodate 500 students.

Phase 2 would be the village zone neighborhood and fringe zone neighborhood, 571 residential units. And that breaks down to the village zone neighborhood, 527 and he fringe zone neighborhood, 44 residential units.

Phase 3 is the employment center zone. About 100 residential units and 68,500 square feet of commercial.

The staff report outlines the locations of the zones and the zoning allowances. The minimum residential density in the Community College District is 3.5 units per acre. The applicant is proposing about 9.1 units per acre, and the gross residential density in the fringe zone is one unit per acre; the applicant is proposing a gross density of one unit per 1.5. The staff report outlines the minimum floor area ratios for the community center and the employment center in which the applicant has stated the proposal to comply different floor area ratios within those commercial areas.

Market analysis, economic, fiscal impact and the master plan submittals did include a commercial market analysis and it included an economic, fiscal impact report. I state what the criteria are for these reports as per the ordinance, and in fact the applicant will have to also submit a residential market analysis in line with those criteria.

The water/wastewater and the County water system is proposed subject to transfer of water rights. Mr. Chairman, I'd want to make a clarification at this time of the staff report. It states that as an option, an onsite community water system, subject to water availability and transfer of water rights. Mr. Chairman, in the Community College District, the ordinance requires that you utilize a public utility, City or County water, so in fact, the applicant did state an option for an onsite community water system, actually, maybe I wasn't absolutely clear if that was a proposal that they would possibly be considering - if need be - considering a transfer of that well to the County water system. I wasn't clear on that. The clarification I'm making is that the Community College District

requires that they utilize a public water utility.

The total estimated water use for the master plan is 268 acre-feet. The applicant is in the process of purchasing 292 acre-feet of water rights and initiating a request to the BCC for approval of a water service agreement for 110 acre-feet to serve the first phase of development. I think that with the new water allocation policy that came out, it's possible that the applicant wasn't able to request that much water in one request. So I think that this applicant will be returning back to the BCC in accordance with the water allocation policy. That's my understanding.

Existing wastewater treatment facility will be utilized subject to permit for expansion as approved by the Environment Department. Treated wastewater is currently used for irrigation of common area landscaping.

Roads and access, a preliminary traffic report has been submitted and primary access will be Rancho Viejo Boulevard to State Road 14. A traffic signal is currently being installed at Rancho Viejo Boulevard/ State Road 14 intersection. Rancho Viejo Boulevard is currently a County road. The master plan indicates a general road network with intersections off Rancho Viejo Boulevard, Richards Avenue and connecting intersections with existing roads off Avenida del Sur.

The master plan indicates that the roads will be in compliance with road standards for the Community College District. That includes bike lanes, sidewalks, on-street parking. The road plan for the Community College District indicates potential for future extension of College Drive through the development to connect with Rancho Viejo Boulevard and the potential for future extension of Avenida del Sur to connect with Vista del Monte to State Road 14.

The staff report addresses terrain, open space, landscaping, archeology. Mr. Chairman, Commissioners, the master plan is in compliance with the Community College District zone, based on land types, permanent open space, parks, plaza will consist of 334 acres, that's 50 percent of the total acreage. This includes five acres of the school site for a community park. So part of the school site would actually be part of the community park. They will be required to install cisterns for collection of roof drainage and an archeological report did determine several significant sites that would need to be preserved in easements or subject to a treatment plan.

Homeowners association, and obviously, this development will again use covenants that are consistent with the covenants that are already being used out there in Rancho Viejo. Staff recommendation and the criteria - the staff report lists the criteria for consideration of the master plan and we're familiar with those criteria, A, B, C, and D. Mr. Chairman, the proposed master plan is in conformance with the Community College District plan and ordinance and staff recommends master plan approval subject to conditions.

Mr. Chairman, I think for purposes of clarification that an additional condition would be added that the applicant shall connect to a public water system. That would be condition 9, shall connect to a public water system in accordance with Ordinance 2002-11.

And like I mentioned, that's already an ordinance. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay, we'll enter the conditions for the record.
[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Dept.
 - c) State Dept. of Transportation
 - d) Soil & Water Dist.
 - e) County Hydrologist
 - f) County Public Works
 - g) County Fire Dept.
 - h) County Technical Review
 - i) County Water Resources Dept.
 - j) Santa Fe Public School Dist.
 - k) State Historic Div.
 - l) County Open Space, Parks & Trails Div.
 - m) County Housing Services Div.
2. Submit a market analysis for the proposed residential development in conformance with the criteria.
3. Specify open space buffer for portion of property along Dinosaur Trail (highway corridor) and Richards Ave. in conformance with CCD Ordinance.
4. Provide road connection for future extension of College Drive in accordance with road circulation plan.
5. Address phasing for off-site road extension for future connection of Avenida del Sur and Vista del Monte in accordance with road circulation plan as required by BCC-EZA.
6. Provide a minimum of 15 percent affordable housing for each phase based on total number of residential units for each phase in conformance with current ordinance for affordable housing .
7. Participation in an infrastructure extension policy for district wide infrastructure improvements as required by the County.
8. Private open space shall not exceed 15 percent of total residential floor area.

CHAIRMAN MONTOYA: Any questions for staff?

MR. CATANACH: Mr. Chairman, I'm sorry. I should state that this proposed master plan is within the Two-mile Extraterritorial – primarily within the Two-mile. There's property outside the Two-mile. This master plan, like I mentioned, has already gone through the two recommending committees, the EZC and the Community College District. The recommendations -- the EZC recommendations would include the City staff conditions. That's what I wanted to say. The City staff conditions would also be

included as part of the conditions. Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: I have a question for staff, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joe, on the City staff conditions, I recall from reading the materials that the applicant was not in agreement with those. Is that correct?

COMMISSIONER SULLIVAN: Mr. Chairman, the minutes will clarify and this applicant will clarify that I think the applicant had an issue with condition 1 of City, and probably condition 2 as I recall, for discussion. I think this applicant is going to state that condition 1 is too general to understand what they're agreeing to, and number 2, this applicant has already contributed – I think the amount was \$80,000 towards intersection improvements at Rodeo and Richards, which apparently has been in an escrow that the applicant has continued to have to review for the last several years. The money hasn't been used.

CHAIRMAN MONTOYA: By the City?

MR. CATANACH: By the City. I think those were probably the extent of the applicant's issues on the City conditions.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: That's all for the staff. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: For staff, and perhaps, Dolores, you should answer this. Is the Community College District planning and ordinance up for re-evaluation?

MS. VIGIL: Mr. Chairman, Commissioner Vigil, I believe that was asked of staff at one point, maybe about three, four months ago, but it hasn't been re-evaluated by my staff at this time.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN MONTOYA: Okay, if the applicant would come forward please.

[Duly sworn, Ike Pino testified as follows:]

IKE PINO: Thank you, Mr. Chairman, Commissioners. Just by way of a brief presentation there's a couple of points I want to make and then address those City conditions and give you what our concerns were about those. And then I think the most effective thing beyond that would be to just stand for your questions, because there probably should be a few.

One of the things that we wanted to call to your attention was that in order to design this master plan we decided to last summer to conduct what we called the Homework Group. [Exhibit 10] And essentially what we did is we invited all of the adjoining residents to participate in the design of the master plan, and that included the residents of Vista Ocaso and the residents of the Village or Rancho Viejo. We had

responses from about 50 people who showed up and worked throughout the summer, really for the early part of the summer, five weeks. And the purpose of the group was to reach consensus on issues that they felt were critical to be addressed in this master plan.

What was essential about the consensus process was that Rancho Viejo did not take it over it. Rancho Viejo did not guide it. In fact, Rancho Viejo was a participant the same as all the rest of the residents. Through that process, four major items were identified for consensus and consensus was reached, and I just wanted to point those out to you. One of them was the issue about the buffer between Vista Ocasá and Rancho Viejo, because the Rancho Viejo property in question butts right up to the south line of Vista Ocasá. And I'll show you on this map. Right there is Vista Ocasá. There's the south part of Vista Ocasá. And you might recall that the issue of the buffer on the north side for another development project was fairly contentious. So when we got together as the Homework Group what we agreed by consensus – and most of the residents that live here on the south side participate in the Homework Group, was that we would have a 325-foot buffer on the south side expanding to 400 feet over here on the southwest side on which nothing would be built. We agreed to that condition and we agreed to bring that forward as a consensus point of the Homework Group.

The residents of Vista Ocasá on the south end were content that a curve would be in there, particularly for potential equestrian use, but there would be no building going on in that particular buffer.

Another major item of consensus was the affordable housing. The entire group felt strongly that the affordable housing needed to mirror what we've done in the past and that would be to have it scattered throughout the subdivision, have it look like the rest of the subdivision and we agreed to that. That's always been our intent because we want to have a look in our community that does not separate the affordables from anything else.

The another item is the location of the public school site. Now, Santo Nino is building right up in here in and will open in the fall a K through 6th grade school. And the public schools have been talking with us about a 15-acre site for a K-8 school. They have not moved forward with this. The project is funded in the bond issue but they don't have the operation money and it's starting to look like the situation is getting even more dire for the public schools.

But the Homework Group decided this was the primary location. There were representatives from Santa Fe Public Schools in the Homework Group. So in the future, when they're ready to build, they're looking at this particular site right in here for the location of the school. It fits within their criteria in that it's tucked in a neighborhood and that's really what they wanted to see.

And then the fourth item, if you go to the College District Plan, Jon Paul, the fourth item was the issue of what's called the north connector road. Right in here, this is the road plan right in here that shows a north connector road that goes up by Vista Ocasá and connects through I-25, either under or over. And there was a sense on the part of some of the residents of Vista Ocasá that participated from the north end that in the development

plan approval for La Pradera that the ability to connect this north connector had been taken out.

We don't know for certain whether that's the case but we did not show this north connector in our plan just in observance of the consensus. However, one of the staff conditions from the County is that we bring across College Drive and connect it to the south. In looking at our master plan that's a condition we can agree with because we had some opportunities to bring College Drive right over here down into the subdivisions, and bring it down to the proposed roads that connect east and west and connect to Rancho Viejo Boulevard and Avenida del Sur.

So a portion of what would be the north connector road would be up in here, but it would probably terminate at the turn here to College Drive back to this intersection, unless – and we're open to this and we told the homeowner group we would come back to them if there was a requirement to push that under now. The traffic impact analysis, and I think you heard this discussed in other cases, suggests that it could – Al Pitt's study suggests that it could be 20 years before that's needed.

But I mention that only because the Vista Ocaso residents were primarily concerned about that north connector road and asked by consensus that it just not be made part of the master plan. So we will come up and swing around back into College Drive. That would be the plan over time. And we'd probably do it in such a fashion as to keep the portion of the road that goes in front of the school separate from the road that comes north and south.

Two other items. Of course we were prepared to discuss water in the context of a water service agreement and that's not the case anymore with the water delivery schedules. We understand how that resolution is intended to work. I did want to tell you that we did conclude the purchase of the 292 acre-feet of water rights. They're diversion water rights. They're pre-1907. We've had preliminary talks with County staff about transferring those or moving them to a place of the County choice in the near future as soon as the County is ready to move on that. We also talked to the State Engineer about those water rights. The State Engineer has recently changed their policies about transfers of water rights, particularly if it's water rights trying to go to a diversion. These are diversion rights and certainly the OSE just looks at them very broadly when we ask them for an opinion and they just say, well these are the kind of rights that are likely to transfer without effect from that policy.

So we do own them. We closed on them on February 14th and we're prepared to make application and to move them as the County would seem reasonable. Now, we understand that moving 292 acre-feet in the County's name doesn't mean that that's going to be banked for us so we can continue on with this master plan. We understand that the water delivery at this point would only allow for an application of 35 acre-feet per year as long as there's water available. But I just want to make it clear that we didn't have an expectation that 292 equals 292 in delivery, and we're just going to have to queue up with everybody else on our request for water and we go forward.

In terms of traffic, there are a couple of items I want to mention. One of them is

that Rancho Viejo Boulevard right now is a road that has no shoulders and the further work on the traffic impact analysis has indicated that we'll need to add shoulders and some on-street parking all the way down to the location of the last intersection. We're going to build parallel trails also that will connect down into regional trails over here that will take pedestrians and bicycles off of Rancho Viejo Boulevard, which is a pretty dicey situation right now with no shoulders. So the combination of widening Rancho Viejo Boulevard, adding parallel trails and crossing them into the regional trail system, should, we hope, create a much safer situation for people on bicycles and pedestrians who like to use that roadway for their purposes.

The staff conditions that the City talked about were these. They said we'd like you to participate financially in the cost of the improvements for Rodeo and Richards intersection. Back in the Village Unit 1, in 1998 we were asked to escrow \$79,000 and we did in the form of a CD and we keep renewing it each year. And we keep asking the City if they're going to do a project and they keep saying they're going to, and we've yet to see a project. Frankly, City staff that is here now was unaware of the fact that we have that money in the bank and they invited us to talk with them about it at a future date when we were at the EZC and took exception to that particular condition, because they didn't know we had it and they really couldn't tell us how much more they would need from us because conditions have changed dramatically. We have a number of subdivisions that have master plan or development plan in the College District and beyond to the north that in my view ought to be participating in the cost of that intersection in addition to what we've added to it already.

But we have made ourselves available to the City. They said they would meet with us and we've had a couple of meetings cancelled by City staff so we haven't been able to find out what else they have on their mind, or to show them the CD, which of course we do have.

Their other one was to participate in a South Richards widening, and we certainly understand that there will be impacts and that that road needs to be widened and we're willing to do our share, but there again we wanted to make sure that we weren't footing the entire bill and just essentially putting ourselves in a position to write a blank check to the City without them telling us what their plans are. In working with the County staff, it's always been real clear as to what their expectations are in terms of infrastructure so we can estimate that fairly easily but it's difficult to say, well, one of these days we're going to do a project and we're going to do a program and we can't tell you how much it's going to be but we want you to agree to participate.

Certainly we're willing to do our fair share but we just want to make sure that it's understood that the City did agree to talk to us to tell us what our fair share of what their project might be. They're not here tonight to speak to that particular issue and those were the reasons why we took exception to those two conditions.

We did have an opportunity to meet with Chief Holden tonight, and we agreed that the donation of the 1.5-acre site for a new fire station would be do-able.

We haven't had a chance to sit down with the chief to find out where exactly he wants it. Certainly anywhere in the master plan is do-able, but it could be that maybe something located in some tracts from previous subdivisions is something that is more preferable. But we've agreed to sit down with Stan and work out where they want to do that and then get that land dedicated to the County so that they can go ahead and then work forward on moving and getting a fire station put in.

I think Commissioner Sullivan will tell you that he's had a lot of phone calls from residents in Rancho Viejo that would like to see a fire station in Rancho Viejo. We understand that a fire station located in Rancho Viejo isn't necessary just for Rancho Viejo and certainly our residents would probably understand that as well but I think they would feel more comfortable if they had something more immediate for fire protection and emergency services. So we're willing to make that provision a condition in our approval for the County when they're ready to do that.

Mr. Chairman, with that I'll stand for any questions.

CHAIRMAN MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Pino, am I to understand if we included, as a condition of approval, number 10, the applicant shall provide a 1.5-acre site to construct a fire station to Santa Fe County, somewhere in there, shall provide a 1.5-acre site to Santa Fe County for the purposes of constructing a fire station.

MR. PINO: That's correct.

COMMISSIONER VIGIL: You're in agreement with that.

MR. PINO: Mr. Chairman, Commissioner Vigil, that's correct.

CHAIRMAN MONTOYA: That would be number 11.

COMMISSIONER VIGIL: I only have number 9, shall connect to public system. What is number 10?

CHAIRMAN MONTOYA: Under City staff conditions, that they also be included.

COMMISSIONER VIGIL: I'm not sure. You didn't agree with all the City staff conditions, right?

MR. PINO: We didn't agree, and Mr. Chairman, Commissioner Vigil, I guess the thing I wanted to underscore the most without too many words was that City staff said we'll talk to you about those and they've never made themselves available to talk to us about them, so it's kind of in limbo insofar as what the City might want us to do specifically. That's why I wanted to put on the record that we do already have a CD in place via other approvals and we would expect to pay a proportionate share of any widening project for Richards, as long as we know there are others paying proportionate shares as well.

COMMISSIONER VIGIL: Okay. Item number 10, being that the applicant will work with City staff to negotiate requests by City for road improvements in the area?

MR. PINO: Mr. Chairman, Commissioner Vigil, if the rest of the Commission agrees with that condition we certainly accept it.

COMMISSIONER ANAYA: What was that?

COMMISSIONER VIGIL: We were discussing the distinct difference between a condition that the applicant is required to comply with City staff's recommendations, or whether or not the applicant should be working with City staff to negotiate conditions. My understanding for that second condition is that the applicant does not agree with the stated conditions by the City, particularly because they have already placed close to \$80,000 in a CD to be applied to improvements to the intersection of Richards Avenue and Rodeo Road, and those improvements have not been made.

So I suppose if we included language that says applicant shall work with the City to negotiate improvements as recommended by them, they would be able to hammer out what's going to happen to the \$80,000 and talk to the City about any perspective requirements. So I would just propose that that language be number 10, and that -

CHAIRMAN MONTOYA: That City staff conditions will be negotiated?

COMMISSIONER VIGIL: Yes. Between applicant and City.

CHAIRMAN MONTOYA: Is that okay, Ike?

MR. PINO: Mr. Chairman, that would be fine on our part, yes.

COMMISSIONER VIGIL: And that would mean that item number 11 would be the applicant shall provide a 1.5-acre site to Santa Fe County for the purposes of constructing a fire station. Mr. Pino, I get a phone call here and there from residents saying they've been talking to Rancho Viejo with regard to land that might be donated for, in some cases it's a church. In some cases it's a charter school. Can you tell me what you've actually donated land for and what might be in the prospective future for what that area might look like for donated land?

MR. PINO: Sure. Let me show you on the College District map and that will give us a broader view. Rancho Viejo Partners, we in conjunction with them once we became partners with them, dedicated the first part of the Community College site and then provided a bonus price for the rest of the land that they're on. The first ten acres of Santa Maria de la Paz were donated, and they purchased the balance of their property. And then we donated the 11 acres where the school is being constructed today. The IAIA site was also donated, 164 acres, and then this little blue wedge down here is approximately 80 acres of institutional property and that's where ATC was given 15 acres for their school. The Seventh Day Adventist Church has come in and petitioned for five acres that we're trying to work with them right now. And then I got a request from the Singing Marimba Music School, or something like that. They wanted five acres down in here.

So we're trying to focus the smaller institutional uses right down in this area inasmuch as the road loops around and can pick up that traffic. But those have been the donations to date.

COMMISSIONER VIGIL: Do you see any future donations?

MR. PINO: Mr. Chairman and Commissioner Vigil, we still approximately 60 acres available to donate in this area. Given the size of the requests that come to us that should be fairly substantial for a while. I might add, the 15 acres for the public schools

should also be included in that. That hasn't been transferred by deed yet but we're intending to do that as soon as they're ready to go.

COMMISSIONER VIGIL: Okay. Also, Mr. Pino, I received a phone call from I think it was a member of the Community College Development Review Committee or someone who is active in there who had made the representation that at some point in time you had made statements with regard to gathering the community, perhaps some surrounding communities, and I'm not even sure if now, as I look at this Homework Group if this is what he was referencing or you were referencing. The reason why I pose the question is if the County is actually in the process of identifying or relooking at the Community College District Ordinance with regard to updating it.

The phone call that I received, however, was more concerned about what the vision of Rancho Viejo was going to be. Is Rancho Viejo currently engaged in any kind of a public process?

MR. PINO: Mr. Chairman, Commissioner Vigil, what the caller was referring to was a discussion I had with him concerning the potential of a master association or an assembly of homeowners associations in the College District. Right now, the only real operating ones are the ones in Rancho Viejo. There are two associations. We've created a third one with this master plan. I'm sure Oshara, La Pradera, all of them will have their own homeowner associations.

What I was suggesting to Mr. Rosen was that over time, as the Community College develops, with the number of people that could actually live on this whole 16,000-acre piece of land, that requirements or requests for such things as community centers or senior centers or even swimming pools for that matter could create a situation where it would become necessary for all of the associations to pool their resources, perhaps to provide those facilities. Back when we were doing the College District plan, I suggested that the County at that time certainly, and probably still today, doesn't have the resources where the group came in and said, we want a senior center, that the County could say, oh, sure. We'll just build it for you.

So the idea always was to create a master or an assembly that would deal with those kinds of issues and create in such a way that dues could be collected or fees could be assessed, etc. It's a long way down the road still, simply because the other associations don't exist. But it's an idea that Mr. Rosen was intrigued by, simply because he sees down the road as a member of the CCDRC, as these things come out of the ground that those kinds of requests will probably come up.

So it's not anything that can occur without coming to the BCC and getting approval for such a creation, and it's one that we've asked the law firm that does our covenants, Hyatt Stebblefield out of Atlanta, does these types of things all over the world, and we've asked them to start taking a preliminary look to schedule on how something like that might look, just so that we can put it out there. Mr. Rosen's biggest concern was that Rancho Viejo not be the promoted of this. And we certainly said if the Community College wants to take the lead as the facilitator, we have no pride of ownership in the idea, that we would

be a participant in it. So that's been the extent of the discussion with them today.

COMMISSIONER VIGIL: Thank you. Mr. Chairman, just one more question for Mr. Pino, while you're there, so we have a triad here of clarification. This question is for Steve Ross. Steve, I know it's a late hour, but with our new water policy, what Rancho Viejo would do is they would come to our Water Resources Department for phase 1 of this development, request 35 acre-feet per year. What they have is 292 diversion water rights that are pre-1907, what will happen first, and do those water rights get banked? Does the 35 acre-feet get allocated and the 292 water rights get reduced by 35 acre-feet once they're used? I'm not real clear on that process and I'm not sure if you are Mr. Pino, either.

MR. PINO: Mr. Chairman, Commissioner, the way we would deal with it would be this. Right now, your total water, and most of it's allocated already anyway is 875 acre-feet. So all you have to work with is that amount. So that will terminate at some point, potentially before the diversion is built. But once the diversion is open you have a greater opportunity for the delivery of more than 875 acre-feet. And so our thought was if we go ahead and transfer the 292 acre-feet in the name of the County that certainly that would be more than enough for any requests that we would make within what's left over in the 875 over the next several years, however long that lasts. But once that diversion is open, those water rights should easily transfer into the diversion and that we would continue making our request through whatever policy the County has in place based on whatever reserve is left there at that time. That would be our approach on how we would look at this and understanding that the biggest limitation right now is that 875 and how far that will stretch.

COMMISSIONER VIGIL: Okay. Thanks. Our chair has left. I've monopolized with too many questions. Any other questions? I saw Commissioner Anaya, Commissioner Campos, and then Commissioner Sullivan.

COMMISSIONER ANAYA: Thank you, Madam Chair. Ike, we appreciate you donating that 1.5 acres for the fire department. Would you be willing to build that station and donate it to the County?

MR. PINO: Mr. Chairman, Commissioner Anaya, Stan and I haven't really talked about that. I'd be willing to talk about it, see how something like that might work out. One of the things that might be a potential is maybe in lieu of paying a fire impact fee with every permit, because over time, that's going to amount to a lot of money, if we figure out how much money would be needed for the station and get it built for you, and perhaps take a credit against the fire impact fees going forward. Because that's what the fire impact fee is for anyway, and rather than wait until you've collected enough to do it over time, just make an agreement where we could provide something like that up front and then have relief from the fire impact fee until it reaches balance and then start charging the fire impact fee again.

I think something along those lines could be worked out and included in some form of an agreement going forward.

COMMISSIONER ANAYA: Tell me if you talk about it and see what you come up with.

MR. PINO: Well, we're certainly open to that, Commissioner.

COMMISSIONER ANAYA: Thank you, Madame Chair.

COMMISSIONER VIGIL: Do you think it would be appropriate at this time to amend condition 11 to say shall provide 1.5-acre site to Santa Fe County to construct a fire station and negotiate with our fire department the construction of that fire station? Mr. Pino.

MR. PINO: Madame Chair, if the County Commission is ready to deal with the issue of the trade-off on fire impact fees – that just came to me now. I don't know if that's the best solution. I'm not even sure the fire chief would agree to that, frankly. But I just brought that up as a potential solution right now, to get you the fire station when you need it rather than later when you need it worse. I'm not quite sure what form that would take. If the Commission is willing to say, yes, we'll forgive the fire impact fee in the amount of what it would take to get the fire station built as part of the condition tonight, then we could probably accept that, Madam Chair.

COMMISSIONER ANAYA: I think that I wouldn't feel comfortable with doing that right now. I would feel comfortable if you would all just talk about it first and come up with some ideas, just saying that, because I don't know what that it. It's late. I just thought I'd throw that out and if you guys could talk about it then maybe we could come up with a good compromise.

COMMISSIONER VIGIL: So, negotiate the possible purchase of the fire station by Rancho Viejo. Or the possible construction.

MR. PINO: Madam Chair, we'd be willing to talk to the County about that. And there'd be an opportunity in the first development plan to make sure and memorialize that, perhaps as a condition of the first development plan and that will give us all enough time to consider how we might want to finance it and what kind of credits would be given to Rancho Viejo for that.

COMMISSIONER VIGIL: I think that's the understanding of the Commission. Are you done, Commissioner Anaya?

COMMISSIONER ANAYA: Yes.

COMMISSIONER VIGIL: Okay. Commissioner Campos and then Commissioner Sullivan. I'm turning it over to our chairman.

COMMISSIONER CAMPOS: Mr. Pino, there was a discussion about a number of donations. Obviously these projects will require water. Are you going to give them water, sell them water, or are you going to send them over to the City? The City has been complaining that the EZ projects have been getting donations from some folks and going to the City, getting water and bringing it out into the County.

MR. PINO: Mr. Chairman, Commissioner Campos, every time that a different entity more recently has approached us, they generally come to us saying that they've got the water situation taken care of. For instance, when ATC approached us, our

first true test for them is do you have the capital to build what it is you're seeking to build. I don't want to give away a piece of land and then have to worry about trying to get it back because you couldn't build anything. And then we talk about water. ATC came in and suggested that they had an agreement working with the City to get water from them so we didn't feel compelled to have to do anything.

When the public schools come in, however, they have no water rights. They hired Elud Martinez to investigate the water rights they thought they had and apparently he found that their water rights are all gone now. So it would be my expectation that we'd have to try to help the school out somehow, not knowing how much they would need but working with them in some fashion.

The Archdiocese had an agreement to be on Sangre de Cristo water like the church is, and so they didn't need any water from us and the Seventh Day Adventists haven't even reached the level of being able prove up their capital outlay money yet, so we haven't discussed water.

So more to your point, Commissioner, I wouldn't want to say that, yes, carte blanche, we'll provide water to everybody, because if they have some other wherewithal to something, perhaps they have water rights, that they can transfer or make some agreement with the City. And I have heard that complaint from the City. I'm not quite sure they're complaining about it now, they could have said no and we could have done something else. But ATC was able to make that deal with them. So we're flexible, Commissioner, I guess what I'm trying to say in so many words. We're flexible to talk with them about those sorts of things.

COMMISSIONER CAMPOS: I've just heard over the last couple of years continuous criticism. The County is sending over to the City and the City has to give them water and they get free land at Rancho Viejo or in the EZ. It's a point of contention. I've talked to Miguel Chavez about it and explained our position. Certainly I could say no but they keep saying yes and then they get mad about it.

MR. PINO: Mr. Chairman, Commissioner, the one on ATC seemed reasonable to me. IAIA is served by City water and the pipe goes right in front of the tract where ATC just has to go across the road there and tie in for their purposes. I think that's why they chose to deal with the City because it was easily accessible. Now I'm hearing, well, they may be this side of the meter, that side of the meter. I don't know. ATC may have to come back to us and work with us on something else. But their original request seemed very reasonable because that pipe was right in the ground, right in front of the property. That was their choice.

COMMISSIONER CAMPOS: I'm just – the issue of more City water in the College District is concerning. It raises some other issues that I'm not sure how they would work out but I sense that the City's very concerned about exporting water to the Community College and I'm not sure what their thoughts are in the future. If the utility gets a stronger presence in the College District I'm not sure what they would want to do. So I'm interested in that issue.

CHAIRMAN MONTROYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Ike, a couple of questions. I recall reading somewhere in the report that you were allocating the school as your commercial requirement. Is that how you're satisfying the commercial requirement of the master plan, with the school?

MR. PINO: Mr. Chairman, Commissioner Sullivan, no. The commercial requirement, the floor area ratio computation is based primarily on this commercial center which is an extension – they don't show the red on the other side; that already exists in the village. And all of this employment zone is in pink over here. So the entire commercial obligation for this master plan is encompassed there and right there. The school is an institutional parcel all by itself.

COMMISSIONER SULLIVAN: And what goes in the employment zone?

MR. PINO: The employment has commercial uses intended to create jobs, as the ordinance was written. And just by way of example, Mr. Chairman, if somebody came in and said I want to put in storage units. Storage units certainly create jobs in the construction but they don't create long-term jobs because then you have one guy sitting over a bunch of storage units. So in my view, that wouldn't be an employment zone type use. However, if an employer, and we had some inquiries – I can't name their name – that were interested in coming in down here in the industrial park and moving about 90 employees in, that would then become an employment zone type use because it would move 90 jobs into the College District.

So we would market this for that type of commercial, that is, bring a campus, bring a large group of employees, but not really entertain the proposals that just create one or two jobs and eat up the mass of the land. The commercial center is different in that it doesn't have the requirement of having to create the jobs, although it will create some jobs. We've had inquiries already from small grocery stores about coming out here once we start construction of this master plan. That's potentially one use that we would see almost immediately.

COMMISSIONER SULLIVAN: The State Engineer review was that the master plan does not provide sufficient information on the water budget for technical review at this stage. Where do we stand with that?

MR. PINO: Mr. Chairman, there was a memo issued by Ms. Torpy. Was that her name? Is that the one? Here we go. Karen Torres. Okay. Mr. Chairman, Commissioner Sullivan, if I could just – this was a short memo that was submitted on February 17th by the Water Resources Department and it says that we had submitted the revised water budget that includes all the total commercial phases and the master plan and the estimated water usage for the proposed elementary school. And then in a letter on February 10th to the County Manager we outlined the imminent purchase of the 292 acre-feet which has since been completed. And then a draft water service agreement that was going to be required. For the master plan level, Mr. Chairman, Commissioner Sullivan, that was really all that was required.

We had a little bit of an issue with the State Engineer's review because a lot of times they don't make the distinction between a development plan and a master plan and we've seen conditions that are more intended for - if you're going to build x-number of houses or this many square feet in this phase, where's your budget. And in fact, the purchase of the 292 acre-feet was intended to be able to cover most of this master plan and that was all that was required to go forward at master plan. That's been our understanding, Commissioner Sullivan and Mr. Chairman. I'm not sure that the State Engineer quite understands that but that's been a continuing source of discussion.

COMMISSIONER SULLIVAN: Let me just - if that's the case then why are we asking the State Engineer for review comments.

MS TORRES: Actually, Mr. Chairman, Commissioner Sullivan, it's late. My brain's a little slow. We did discuss that with the State Engineer with regarding master plans specifically. They are not required by the statutes to chime in at the master plan level. They're only required at the preliminary plat level to actually submit a review. They have been doing it administratively but I guess they've become bogged down and their policy has been they will look at it but they will not really issue an opinion on a master plan.

COMMISSIONER SULLIVAN: Okay.

MS. TORRES: Also, what was done for this one was a little bit more than some of the letters we have been receiving from them.

CHAIRMAN MONTOYA: But as far as County Code they're meeting what's needed for master plan approval.

MS. TORRES: Yes, they are. They have submitted a budget for the first phase. We reviewed it and we were okay with it, but because it is for the first phase if they don't meet that budget, in their final phase, their final build-out, it will come off of that end.

CHAIRMAN MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: And then could you explain, I've been receiving some calls from Churchill Road residents and they're having problems with their wells. And they've checked the physical wells, the connections and everything, and these problems apparently appeared to have started when you started doing the well work. Would you explain what it is you're doing there and what might possibly be causing the problems?

MR. PINO: Mr. Chairman, Commissioner Sullivan, I'll explain what we're doing. I'm not sure I can address what might be causing their problems, but right here, see where this commercial square is right in this area, right in this area where the light yellow and the dark green come together, we have drilled to date one observation well and an injection well for the governor's water innovation project to try and do an injection project and see what it does to the aquifer. Both wells are approximately 1800 feet deep. But nothing's been pumped. That's why I found it kind of curious what might be causing a problem for some of the Churchill area wells, because nothing's been pumped at all to date

and won't be for a while.

The innovation project called for – the State Engineer would allow us to pump 40 acre-feet of water out of the exploration well that we drilled back here five years ago and inject it into the ground at this point to see what the aquifer balance situation might be. But given the timing of the project, we still have two observation wells to finish before we could ever start introducing any water into the injection well. That will push us into probably June or July before any kind of injection could occur. The 40 acre-feet was measured as the amount of water we would be discharging from the treatment plant during the winter months that could conceivably go into an injection well, so it is a measured amount. But no pumping has been done to date, Commissioner.

COMMISSIONER SULLIVAN: But they're developing the wells, right? If you develop the wells you have to pump them.

MR. PINO: Mr. Chairman, if I could, Jon Paul's been managing our project. He's more familiar with what they're doing exactly right at this point.

MR. ROMERO: Actually, Mr. Chairman, Commissioner Sullivan, they're using County water to develop the wells from a meter. We're buying the water from the County, pumping it from a hydrant into the wells. We're not using well water itself for the development of the project at this time.

COMMISSIONER SULLIVAN: That's what seems to be causing the problems. They're getting fluctuations and they're getting air coming through the systems. And it's not just one, it's several. And I don't know. I know that that rig has been out there with lights on it 24 hours a day all night long and it must be doing something out there.

MR. ROMERO: You're correct, Mr. Chairman, Commissioner Sullivan. The drilling is a 24/7 operation just because of the depth of the well that they're drilling, 1800 feet. And in order to achieve those within the time frame it has to be a 24/7 operation. But they are dealing with mud and they're using County water for the packing to get the sleeves into there. And they're using County water. So they haven't actually been pumping the wells.

COMMISSIONER SULLIVAN: But they're putting water into the wells with County water.

MR. ROMERO: To do the drilling. Yes. But that's a depth of 1800 feet so I don't know – I'm not an expert in that. Maybe the County Hydrologist could talk about if it would cause any occurrences with outside wells that are at a shallower depth. I'm not sure.

COMMISSIONER SULLIVAN: Have you checked any of your test wells yet? Or those aren't complete yet?

MR. ROMERO: As Ike Pino said, we're just drilling right now. We haven't done any of the testing.

COMMISSIONER SULLIVAN: Okay, so your observation wells aren't done yet.

MR. ROMERO: They're not done.

COMMISSIONER SULLIVAN: I don't know. This just started happening when that drilling started and two things have happened to more than one well. There's more than one well in the area. There are a couple of wells on Churchill Road. Some are on several homes and some are individual wells. And the one thing that happened is that they suddenly go down. They suddenly, without any specific draws they lose head and go dry and they have to be restarted and reprimed. And then the other thing is we're getting long periods, reports of long periods of air in the system, just continuous.

Typically, when you restart a well you've got to get the air out of the system and in a few hours you've got it cleaned out. This problem with air in the system is going on for weeks, a long time. And no one seems to be able to put their finger on anything else that's changed other than this drilling and well development that's going on. Maybe you could have your hydrologist, whoever, look into that a little more. I don't know what it is but something's happening out there that's abnormal.

MR. PINO: Mr. Chairman, Commissioner Sullivan, I think I have a suggestion. Ballew Groundwater is our hydrologist on this project and they're always looking for opportunities anyway to observe what's happening. We could certainly send them out there if we could get the locations specifically from you, and just make it part of that program to see if that's causing any of that - at least in their estimation, if there might be.

COMMISSIONER SULLIVAN: Because those are the only - well, other than - there's wells at Vista Ocaso too. You're not checking on any of those, are you?

MR. PINO: We have not to date, Mr. Chairman.

COMMISSIONER SULLIVAN: And I haven't heard any reports at Vista Ocaso. Vista Ocaso is further away. If you'll look into that, that would be fine.

CHAIRMAN MONTROYA: Yes. Let's stick to the application review here.

COMMISSIONER SULLIVAN: Well, it kind of started off with the State Engineer and went on to that. That's all the questions I had, Mr. Chairman.

CHAIRMAN MONTROYA: Okay. Any other questions for the applicant? Okay, this is a public hearing. All those who would like to speak on behalf of or against this proposal, would you please come forward. And if you would please identify yourself and be sworn in.

[Duly sworn, Tom O'Brien testified as follows:]

TOM O'BRIEN: I'm Tom O'Brien. I'm a resident of Rancho Viejo, 35 Hook Place. Thanks for this opportunity and I'm not sure if I'm for or against, but let me put it this way. I've had a chance to review some of the preliminary plans for the extension of Rancho Viejo and I think they're really good. I'm in Unit 1, Village 1 and I'm on the Estate lots. The concern that I have is partly addressed by something that Ike Pino mentioned is that in a very short space of Richards Avenue there are a lot of current and potential access points between Avenida del Sur, the entrance to the Community College, and College Avenue, the Catholic Church and school, over here like that.

My understanding is that there are going to be circles to guide some of the traffic there and coming just – I’m not new here in Santa Fe. I’ve been here about seven months. If you’ve lived on the East Coast which I have all my life, you know about traffic circles. Yes, they’re cheap to build, but they’re not very safe. So I think if there’s some consideration here in terms of management of all the access points in about .6 mile to possibly reduce them, use traffic lights, I think then you’ll have a much safer environment in a highly congested and more congested area in the future. Those are the points I wanted to make.

CHAIRMAN MONTOYA: Thank you, Tom.

COMMISSIONER SULLIVAN: Just a comment.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Tom, just to let you know where things are on that, there have been a lot of proposals for traffic circles and as you say, all kinds of people representing themselves as traffic engineers. But what is current – the only things that are currently approved, to the best of my knowledge representing District 5 which includes the Community College District, are a traffic circle at the new Catholic Church school. And that will also assist in the Santa Maria de la Paz traffic flow on Sundays when they’re trying to get out onto Richards Avenue after the services. So there is a traffic circle approved to go in there.

And then at the relocated Dinosaur Trail, that will be a traffic light.

MR. O’BRIEN: Yes, and one issue there to think about, having to drive that road every day, going north, you’ll be able to see the traffic light very well. Going south there will be a visibility issue because you have to go over a hill and you have two bridges, and you may not be able to pick up the light as quickly as you should.

COMMISSIONER SULLIVAN: And that’s the reason that’s there because if you put anything else there, like a stop sign or anything like that, there’s no sight distance when you’re there on Dinosaur Trail. We have school bus drivers there trying to make left hand turns, the time at which someone tops over that hill underneath the interstate and gets down to Dinosaur Trail, the school bus can’t make it out. They’d be T-boned. So there has to be some traffic control mechanism. And there may have to be flashing lights or some kind of warning lights to do that. But because of the developers wanting to relocate that road in hopes that someday they could have an interchange built for them there, and the location now of that intersection down in the swale, in the hollow, as you say, it limits what the options are to have a safe intersection there. And that’s all the connection ultimately for the northeast connector too.

So far, and there are other subdivisions proposed in that area, but other than the traffic light at Governor Miles, so far there are only two things that the County has approved, the traffic light at Dinosaur Trail and one traffic circle at the church. Now, there have been discussions of other for Oshara but those haven’t gone through the approval process yet.

MR. O’BRIEN: Commissioner, I do understand the periodic need for traffic

control near the church, but think about all the Rancho Viejo residents and other residents going north on that road when you have a circle there. You really are limiting the flow of traffic when you're going around that particular point.

COMMISSIONER SULLIVAN: It's no question, Mr. Chairman. It's slightly less convenient, but you also have a problem with traffic turning into the Community College.

MR. O'BRIEN: Absolutely.

COMMISSIONER SULLIVAN: And the school of course is a full-time operation Monday through Friday. The church is in operation during the weekend so essentially we've got full-time traffic there and I think what Rancho Viejo residents are going to have to realize is the development of extensions like this and other subdivisions on there, it's no longer going to have the luxury of a straight shot from Governor Miles to Rancho Viejo. It just ain't going to happen. It's the price of progress.

MR. O'BRIEN: If they can get around options besides circles they'd be much better off. It's like living in New Jersey.

CHAIRMAN MONTOYA: Thank you, Tom. Anyone else like to speak on behalf of or against this project? Okay, the public hearing is closed. What are the wishes of the Board?

COMMISSIONER ANAYA: Move for approval with all the conditions, including the ones that you added.

CHAIRMAN MONTOYA: Okay. Nine, ten and eleven. Okay, motion by Commissioner Anaya.

COMMISSIONER VIGIL: Second.

CHAIRMAN MONTOYA: Second by Commissioner Vigil. Any other discussion?

COMMISSIONER CAMPOS: Question, Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: The City memo has a number of conditions. Are those included or not included in the motion?

CHAIRMAN MONTOYA: They are number 10, to be negotiated with City staff. City staff conditions will be negotiated with City staff.

COMMISSIONER CAMPOS: That includes all five of them?

CHAIRMAN MONTOYA: Yes.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN MONTOYA: Any other discussion?

The motion to approve EZ Case #MP 05-4870, as amended passed by unanimous [5-0] voice vote.

CHAIRMAN MONTOYA: Okay, we will go back now to item XI. C.1
Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I just have several questions and I can go through them very quickly. Because I knew, actually looking at this in terms of a very radical change with regard to our procedures and it concerns me. I want to make sure we've got everything covered. Steve, you had said that Dona Ana County has a cap of \$50,000 and Bernalillo has a cap of \$100,000. Did you mention what San Juan County has?

MR. ROSS: Mr. Chairman, Commissioner Vigil, they're currently at \$100,000 also.

COMMISSIONER VIGIL: And you had said that a majority decision was to recommend \$100,000. What majority was that?

MR. ROSS: The majority of Class A counties in this state have that as a limit.

CHAIRMAN MONTOYA: Bernalillo, San Juan and the City of Santa Fe were the ones you mentioned.

MR. ROSS: And Dona Ana is at \$50,000.

COMMISSIONER VIGIL: Is there a particular reason why we have to make that much of a leap to \$100,000? Or is your rationale based on the fact that Bernalillo and San Juan County are currently doing it?

MR. ROSS: Well, it's based, Mr. Chairman, Commissioner Vigil, on a pragmatic examination of numerous agendas of this body where we have four and five and six pages of contracts, most of which are routine, and also an examination of the policies of other counties that seem to indicate that these kinds of routine matters don't end up on Board agendas, crowding out important policy issues and other important discussions.

COMMISSIONER VIGIL: Do we have an idea of the average range of a procurement is through the County Manager's office?

MR. ROSS: I didn't quite understand your question. We know the distribution of contracts. We know the bulk of them are below the lowest levels on this proposed policy. The bulk of them are below \$10,000. The vast majority of contracts.

COMMISSIONER VIGIL: Under those conditions, I guess the professional service contracts, we're delegating that to the purchasing manager. Is that a sole authority or is that through consultation with the County Manager?

MR. ROSS: Mr. Chairman, Commissioner Vigil, we're not delegating to the purchasing manager the authority to do any contracts.

COMMISSIONER VIGIL: Well, according to small purchaser professional service agreements, the purchasing manager may procure professional services having a value that does not exceed the sum of \$30,000.

MR. ROSS: Mr. Chairman, Commissioner Vigil, those aren't done on contracts. Those are done on purchase orders. That section was simply to describe what procurement method is used. A direct purchase order using the best obtainable price versus a bid or an RFP.

COMMISSIONER VIGIL: Now, the best obtainable price, what are the

criteria for that? Does it parallel the procurement code, best obtainable price, and who is the decision maker with regard to that? How do we know what the best obtainable price is? Are there rules and regs that you're going to be coming forth with?

MR. ROSS: Mr. Chairman, Commissioner Vigil, no. The best obtainable price is in the judgment of the procurement manager. Typically it's done either through written quotes or telephone calls but the procurement code was recently amended to provide this flexibility because government everywhere across the state was getting clogged with documentation that probably wasn't in the judgment of the legislature, given the size of the procurement.

COMMISSIONER VIGIL: I guess I need some sense of security that we have some kind of recordation about knowing what the best obtainable price is and that it isn't an autonomous decision.

MR. ROSS: Mr. Chairman, Commissioner Vigil, it's flexible. It's designed to be flexible. That's the whole idea. What procurement managers typically do is put little notes in the files that illustrate how the best obtainable price was obtained. There are little notes, little memos to the file: I called Sam's; they said it was \$10. I called Walmart; they said it was \$9. I called Big Joe and he said it was \$5 so I bought from Big Joe.

COMMISSIONER VIGIL: Some of these issues I have an issue with. For example, as we did this year, we included an additional lobbyist for lobbying at the state legislature and I ultimately, I think his lobbying contract -- and if it's not a contract, it's a purchase order I guess -- I assume it would be a contract because we have specific requirements or needs or identifies services that we want rendered in a contract. That if we had hired an additional lobbyist as we did, number one, that's a position that I think the Commission should be advised about, and number two, if we do hire someone for under \$30,000 that gives the purchasing manager the ultimate authority on deciding who that person is. Is that not correct?

MR. ROSS: No. Mr. Chairman, Commissioner Vigil, the \$30,000 just determines whether you submit the proposed purchase to formal purchasing procedures. That's all that \$30,000 means. Below \$30,000, you can call up three consultants or lobbyists in your example, or four or five, and get the best obtainable price. Identify what the best obtainable price is and select that person. But under this particular policy, if it's under \$30,000 you can do that with telephone calls or other means that get you the best obtainable price. But that contract if it's for, say, \$30,000, could be executed by the County Manager. That's not to say the County Manager would simply do that. The County Manager is aware that lobbying contracts are things that the Board of County Commissioners finds or feels are important to have some input on. What it means is that he can sign the contract. It means the contract is valid with his signature on it. It doesn't mean that he's going to not undertake any of the other things that the County Manager typically does to keep you informed as to what's going on.

One of the things that we've discussed at the staff level is were this policy to be enacted by this Board is that staff would make a concerted effort to let the Board know

what contracts have been approved by the County Manager in the preceding month so that the Board could ask questions about those contracts or make additional inquiries. Things like that.

COMMISSIONER VIGIL: Okay. Then just to restate, under Section 41, where it says the purchasing manager may procure professional services having a value that does not exceed the sum \$30,000, except for the services of architects, engineers, landscape architects, etc., etc. Is that done without consultation of the County Manager's office or the County Manager?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I guess it depends on the kind of contract we're talking about. If we're talking about the purchase of a truck and a department approaches the purchasing manager and says we'd like to buy a truck for \$30,000 and they have a requisition, which means they have funds available, then it's unlikely that the purchasing manager is going to inform the County Manager that somebody wants to buy a truck. But if it's lobbying services or something else that the County Manager knows are sensitive, there's likely to be consultation about those contracts all the way through the process.

COMMISSIONER VIGIL: Actually, this clause, Steve, pertains specifically to professional services. It does not, in my understanding of it pertain to tangible goods at all. I guess, Mr. Chairman, I recognize the need for a change in procedure but I am concerned about us not having some in-depth discussion about this. I think to some extent you need to provide some autonomy to our Manager and I think that works really well when we have a very responsible and trusting Manager, which I do believe we do. I also think we are giving up some of our autonomy through our purchasing manager. No reflection on you whatsoever. But the problem with this kind of policy is managers change, procurement purchasing managers change, County Managers change, I don't know if I feel comfortable in enacting a policy that provides sort of blanket autonomy to a position - I'm not ready to act on this tonight.

CHAIRMAN MONTOYA: Okay. Discussion, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I went through the procurement issues and I'm pretty familiar with them and I worked on the procurement code when the state switched over to the ABA code and I think they're pretty clean. But I do have a problem with the \$100,000 and the \$50,000 for amendments. I think actually, and I really don't see any situations where there's been any delays or anything. I think actually these contracts that typically go on to the Consent Calendar, there have been several cases where it's been a pretty good check and balance. We've gone through them, we've looked at them. We've found errors in them or we've found questions that we brought up that one County department didn't realize that another County department knew about or should have known about and it provides a pretty good check. We can go through them pretty quickly there, 10 or 20 of them on a Consent Calendar and pull out the ones that have specific interest to us.

That gives us the flexibility to do that. The other 18 or 19 of them go through

quickly. If we eliminate that option to do that, then there's always that nagging feeling that, gee, something is being done that we don't know about and are we really protecting our constituents and wisely investing the public's money. So other than those dollar limitations that are pointed out in Steve Ross' cover memo, I think the current policies are pretty straightforward and going from \$3,000 to \$5,000 is not a problem on small purchases, but I really feel that we're quite a ways out of line on the \$100,000 levels for construction and \$100,000 for professional services and \$50,000 for change orders. You can sweep a lot under the rug on a \$50,000 change order and I think that's where we want to be vigilant more than any place. I don't know what the right numbers are but I just feel those are too far out of line for my comfort zone.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Ross. There are a couple of Commissioners who are not comfortable with the \$50,000, \$100,000. You've cited examples of counties that do this. What kind of information, what is the chain of decision making and does the County Commission get any information as to what's going on with large contracts?

MR. ROSS: Mr. Chairman, Commissioner Campos, I can only speak to San Juan County. I was part of that government for seven years and what occurred there was just what I described. At the time I was there the Manager had \$200,000 of signature authority. What the Manager would do is generate a list each month of contracts that had been executed in the prior month and distribute those to members of the board who would then ask questions, generally privately. The County Commission ran their meetings there much differently than this body runs theirs. The discussions at the County Commission meetings were not of routine matters but were more the overarching issues that - they didn't want to get into the details at all of the operation of government and did not. The authority during the period I was there was very high and that reflected their disinterest in routine matters.

Since then they've had a change in County Manager and the authority is lower. I don't know what the procedures are now, but at least at the time we generated a list each month and we had a review procedure and a group of County employees would review each contract before it went to the Manager for signature. Just looking, these three employees were not people who generated the contract or participated in the contract process whatsoever. They were just picking it over to make sure it was right.

COMMISSIONER CAMPOS: So there was a process of review, evaluation and final submission to the County Manager with a recommendation?

MR. ROSS: Correct.

COMMISSIONER CAMPOS: And in those seven years of your experience at San Juan County, did you have any problems? Any violations? Any big disputes with the County Commission over what the County Manager had done?

MR. ROSS: No.

COMMISSIONER CAMPOS: So it was pretty straightforward?

MR. ROSS: Very straightforward.

COMMISSIONER CAMPOS: Mr. Chairman, I would like to – I'm not uncomfortable with higher limits. I think we have to give our County Manager and our staff more discretion and I do think we need to focus on policy issues. I feel comfortable with the regulations as proposed.

CHAIRMAN MONTOYA: Was that a motion?

COMMISSIONER CAMPOS: That's a motion.

CHAIRMAN MONTOYA: Second. Discussion? Commissioner Vigil.

COMMISSIONER VIGIL: Who would provide the oversight, Mr. Ross?

CHAIRMAN MONTOYA: We do.

COMMISSIONER VIGIL: No, we don't.

CHAIRMAN MONTOYA: They provide us the information and they provide the oversight.

COMMISSIONER VIGIL: These may not be granted through the BCC Consent Calendar anymore. That's the intent, right?

MR. ROSS: Mr. Chairman, Commissioner Vigil, I don't know that that's what it says. It says that the County Manager has the authority to execute contracts, which means in a legal sense that a contract with his signature is not invalid or cannot be attacked if it bears his signature. But I'm sure the County Manager will use the same pragmatism he uses in everything else and if he feels a contract needs to be before you and he's uncomfortable signing it, it will be before you. That's not to say that all the contracts would come to you if you approved this particular change.

COMMISSIONER VIGIL: Mr. Chairman, I would just say probably, of everyone sitting up here, I have the most history with the operations and administration of Santa Fe County government. That includes those people who are in the audience also. I came to Santa Fe County government when this kind of oversight was not there. As a matter of fact the most indicting issues Santa Fe County government had were audits. And it was only when the Commission at that time got together and put a very strict oversight procedure in place that allowed for our Finance Department, our County Manager and the Board of County Commission to provide oversight for all procurements, because that was strictly the problem that was existing in procurements which were existing without any oversight.

I'm afraid that what I'm seeing tonight is actually the problem that I came to at one time at Santa Fe County. I do not believe we are acting in a prudent manner in approving this and I actually – I would like some more time. I do believe the \$100,00 is a little too much. I would be able to look at \$50,000. I believe that \$30,000 is a little too much. I'd be willing to look at less. A lot of damage can be done with \$30,000 and a lot more damage can be done with \$100,000. And that's not, again, any reflection on current staff. It's a reflection no the policy itself. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think the others are comfortable with \$100,000; I'm not. But I'm even more concerned, as I said, with the change orders. As I said, too much can get swept under the rug and everybody is under the gun and doesn't like to be embarrassed and doesn't want to get change orders up in front of the governing body. What I've seen more traditionally on change orders is a percentage, like 10 percent. I've seen when there is a change to a contract that increases the amount by 10 percent or some percentage amount, then it comes to the governing body, as opposed to a specific dollar amount. And I would suggest that in lieu of that \$50,000 or more that's suggested in Mr. Ross' memo.

Nobody seems to be excited about that.

CHAIRMAN MONTOYA: Anything else?

COMMISSIONER VIGIL: Are you making a recommendation to amend the motion?

COMMISSIONER SULLIVAN: I'm making a recommendation to amend the motion.

COMMISSIONER VIGIL: What would the amendment be?

COMMISSIONER SULLIVAN: The amendment would be that that portion of the procurement code, with reference to the amendment of contracts, rather than stating a threshold of \$50,000, it would be a threshold of 10 percent. Above 10 percent would require the BCC authorization.

COMMISSIONER VIGIL: For change orders only?

COMMISSIONER SULLIVAN: For change orders only, yes.

COMMISSIONER CAMPOS: Any feedback from staff?

MR. ROSS: Mr. Chairman, Commissioner Campos, really, that change would be a simple one to make.

CHAIRMAN MONTOYA: Where are you talking about?

MR. ROSS: Well, it's in 74.B, the last sentence. It describes what amendments to contracts that this body has issued, because they're over \$100,000 or because the Manager puts them on your agenda, what the threshold is for amendments to those contracts. We have that issue currently all the time under the current policy because it's silent on amendments. So what Commissioner Sullivan is suggesting that the threshold that's in here – bear in mind, these are large contracts. Most of them are going to be over \$100,000. So if you have, say, a \$100,000 contract that this body has approved, Commissioner Sullivan's change would permit the Manager to amend that contract up to \$10,000, which seems on its face reasonable to me.

CHAIRMAN MONTOYA: So anything over \$10,000 would still be coming back to us. Anything over ten percent.

COMMISSIONER SULLIVAN: You could have a \$100,000 contract and you could have authorization for the amendment of \$50,000. That's a 50 percent increase

in the contract price.

MR. ROSS: And a million dollar contract would be a sizable amendment of \$100,000, which is maybe something you want to see.

CHAIRMAN MONTOYA: Well, we would have to under this policy.

COMMISSIONER SULLIVAN: Well, you could say ten percent or \$50,000, whichever is less, I guess. If you wanted \$50,000 to be the limit. Would it be less or more.

MR. ROSS: Whichever is less.

COMMISSIONER SULLIVAN: Whichever is less. But I think on a day-to-day basis something's going pretty wrong if you need more than a ten percent amendment at any one juncture. And there could be several amendments, each one of which could be eight percent, five percent, six percent and the County Manager would have authorization to do all of those, but if suddenly a big blip occurred on the radar screen and it was over ten percent then the Commission should know about that.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I agree. These are big contracts we're talking about. These are not small contracts.

COMMISSIONER SULLIVAN: Well, this would apply to contracts under \$100,000, too, wouldn't it?

MR. ROSS: Yes.

COMMISSIONER SULLIVAN: So that's my suggestion. Under 74.B, rather than \$50,000, it would say ten percent or \$50,000, whichever is less.

COMMISSIONER CAMPOS: Any problems, Mr. Ross? Would that make sense?

MR. ROSS: That makes sense to me. I've written that down.

COMMISSIONER CAMPOS: I'll go along with it.

CHAIRMAN MONTOYA: The motioner and the seconder are okay.

COMMISSIONER VIGIL: Mr. Ross, is there any problem with reducing the threshold from \$100,000 to \$50,000? I guess that's probably why I wanted to know what the average range of procurement is, because not having that piece of information I'm wondering why \$100,000 versus \$50,000. Dona Ana is a comparable county to us. So is San Juan. Why are we - we have two choices here. Why did we choose the larger threshold?

COMMISSIONER CAMPOS: I think that's a policy question, not a legal question.

COMMISSIONER VIGIL: Well, is there a problem with reducing it at all, with regard to what the intent of this policy request was for?

MR. ROSS: Mr. Chairman, Commissioner Vigil, this is simply a staff recommendation to make your life simpler. Commissioner Campos is right. It's your call; that's why it's before you.

COMMISSIONER VIGIL: Okay.

COMMISSIONER SULLIVAN: How about leaving it at \$100,000 for

construction and \$50,000 for professional services?

COMMISSIONER CAMPOS: Is that another request for change?

COMMISSIONER SULLIVAN: Yes.

COMMISSIONER CAMPOS: I think I'm ready to go. My motion - I'm not going to change.

COMMISSIONER SULLIVAN: Well, rethink that, would you?

COMMISSIONER CAMPOS: Not right now. I understand there's a lot of issues and I'm assuming staff is going to set up a procedure for review before it gets to the Manager's office, and there's going to be a paper trail, and we're going to get reports after decisions are made so we can review to see if things are going okay, and if not, you can change your policy, change your staff, if you don't like what they're doing. But you've got to, at some point let go a little bit and have a little more confidence with staff. We've got to deal with some of the bigger issues.

COMMISSIONER ANAYA: I move we call for the question.

CHAIRMAN MONTOYA: Before we do that, I just want to say that I agree with Commissioner Campos. I believe that what we're doing is providing the staff with the flexibility that needs to be done and I think allowing us the ability hopefully, to focus more on policy and the big picture of what we should be doing. I just think that also, if we ever have any questions about anything that's going on financially, that's our prerogative to ask whoever we need to ask for that information. So I don't see that if we have a suspicion that's something's not working, hey, it's our responsibility also to make sure that we ask the question why things may not be working. So I think this is certainly something that we've needed for a while and I think we're moving in a direction that's going to allow us to do some policy. Commissioner Campos.

COMMISSIONER CAMPOS: Just a last comment. I think one way that this thing can get out of hand and make everybody suspicious, if we have Commissioners pushing for certain contracts. We've got to get our hands off that process, let that be done by staff. But if there's even - if there starts to be a suspicion that there's a County Commissioner pushing the Manager for something and something is happening, then this whole thing is going to unravel. So I think we as County Commissioners have to back off from this procurement process. If we start getting in this, saying, okay, why don't you do this or that and spend \$100,000, then the whole thing comes apart. So it's going to take - I think we have to trust each other and we have to trust staff and we have to back off from this type of micro-managing. If it goes on then this thing crumbles and we're back to approving each and every thing.

CHAIRMAN MONTOYA: And I think our County Manager needs to let us know that, too.

COMMISSIONER CAMPOS: Absolutely.

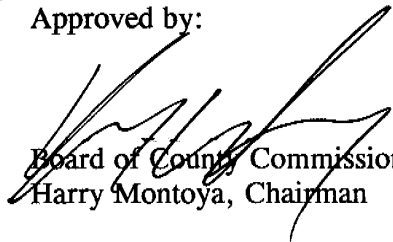
CHAIRMAN MONTOYA: So any other discussion? Motion, and there's one amendment on 74.B I believe it is. Did you get that, Steve?

The motion to approve Resolution 2006-60, as amended, passed by majority [4-1] voice vote with Commissioner Vigil voting against.

XIII. ADJOURNMENT

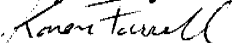
Chairman Montoya declared this meeting adjourned at approximately 12:40 a.m.

Approved by:



Board of County Commissioners
Harry Montoya, Chairman

Respectfully submitted:



Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

PETITION



Xpert Towing Co., is requesting a temporary variance through the County Of Santa Fe business operation located on 3767 State Rd. 14, Santa Fe, NM.

SFC CLERK RECORDED 06/19/2006

NAME	ADDRESS	CONTACT #
<i>Paul Mang</i>	12 Lone Butte Dr SF NM 87508	471-6631
<i>Cindy Marquez</i>	115 Bonanza Creek Rd SF NM	438-0159
<i>Cindy Marquez</i>	12 Lone Butte Dr. SF NM 87508	471-6631
<i>Jessie Dale</i>	44. Sleman et. SF NM 87507	
<i>Jim Husmiak</i>	14 Camino quieto Santa Fe NM	471-1649
<i>Glory Drasnick</i>	15 Camino quieto Santa Fe NM	473-4352
<i>Chris R Martinez</i>	08 Sandra te 58 North Fork. 87508	471-4758
<i>Ernest Sauri</i>	18 E. Cochiti	473-4502 204-2038
<i>Sandra Sena</i>	1670 2 227	204-0370
<i>Harmon G Calderon</i>	#17 1670 2 227 North Charte.	470-3374
<i>Avon Garcia</i>	East Cochiti	470-3374
<i>Amanda Rivera</i>	15 East Cochiti	473-0987
<i>Joe Ruen</i>	16 Cochiti E	471-3578
<i>Floyd Sanchez</i>	SF NM 87508	
<i>Mario Muechj</i>	16 Cochiti E	471-3578
<i>Edin Ueter</i>	S.F. NM 87508	469-0565
<i>Mad Veronypse</i>	77 North Fork Santa Fe NM 87508	471-2034
	62 CEDAR	424-3553
	SANTA FE NM 87508	471-3355

PETITION

Xpert Towing Co., is requesting a temporary variance through the County Of Santa Fe for a business operation located on 3767 State Rd. 14, Santa Fe, NM.

SFC CLERK RECORDED 06/19/2006

NAME	ADDRESS	CONTACT #
Teddy R MONTANO Cuddy B Montano SA Sni	13A Camino Quido 3815 Hwy 14	out of town
H. S. Carson	S. Sunset Trail East SF NM 87508	
Kathleen Sam Cari Griffo	7529 Kachimul PO Box 395 Cerrillos NM 87010	
Jerry Howell Sr	3810 Hwy 14	
Tamesa Petty	PO Box 274 Cerrillos NM 87010	
Lorraine Baca	PO Box 115 Cerrillos, NM 87010	
Chubby Moore	1159 Goldmine Rd Cerrillos, NM 87010	
Vinny CONTARINO	P.O. Box 130 CERRILLOS, NM 87010	
Mary Vrs. L	03 Nando East	
Melissa Solano Romero	47 Sunset Trail W. Santa Fe, NM 87508	
Bertan V. Ch. 35B Curo Bys Sarah Demosthenes	35B Carr. Bjo 8 Camino de Vecinos Santa Fe, NM 87507	
Rosalee Lopez	Hwy 14 Sbe NM 87508	
David Wittgen Paul W. Wittgen Victoria Van Deusen VICTORIK VAN DEUSEN	#12 E. Pine Extension PO Box 337 Cerrillos 87010	
Susan Flynn Macdonald Susan Macdonald	3877 State Rd 14	
Jeri Williamson Jeri Williamson Stefanie Gonzalez Stefanie Gonzalez	242 Goldmine Rd Cerrillos 87010 13000ville rd Cerrillos NM 87011	

PETITION

Xpert Towing Co., is requesting a temporary variance through the County Of Santa Fe for a business operation located on 3767 State Rd. 14, Santa Fe, NM.

NAME	ADDRESS	CONTACT #
Pete D. Romero Thermon Wheeler	38 SENSITT TRAIL WEST S.F., N.M., 87508 53 Old Coal Rd, Cerrillos	
Jean Et Hellen	45 Cielo de Oro Santa Fe NM 87508	
Eloy Soder Hecto Ah-welder	Hiway 14 Hiway 14	
Sharon Burkhardt Inessa Greenfield	#134B Stoney Rd Cerrillos	

SFC CLERK RECORDED 06/19/2006

TOMMY
474-8516

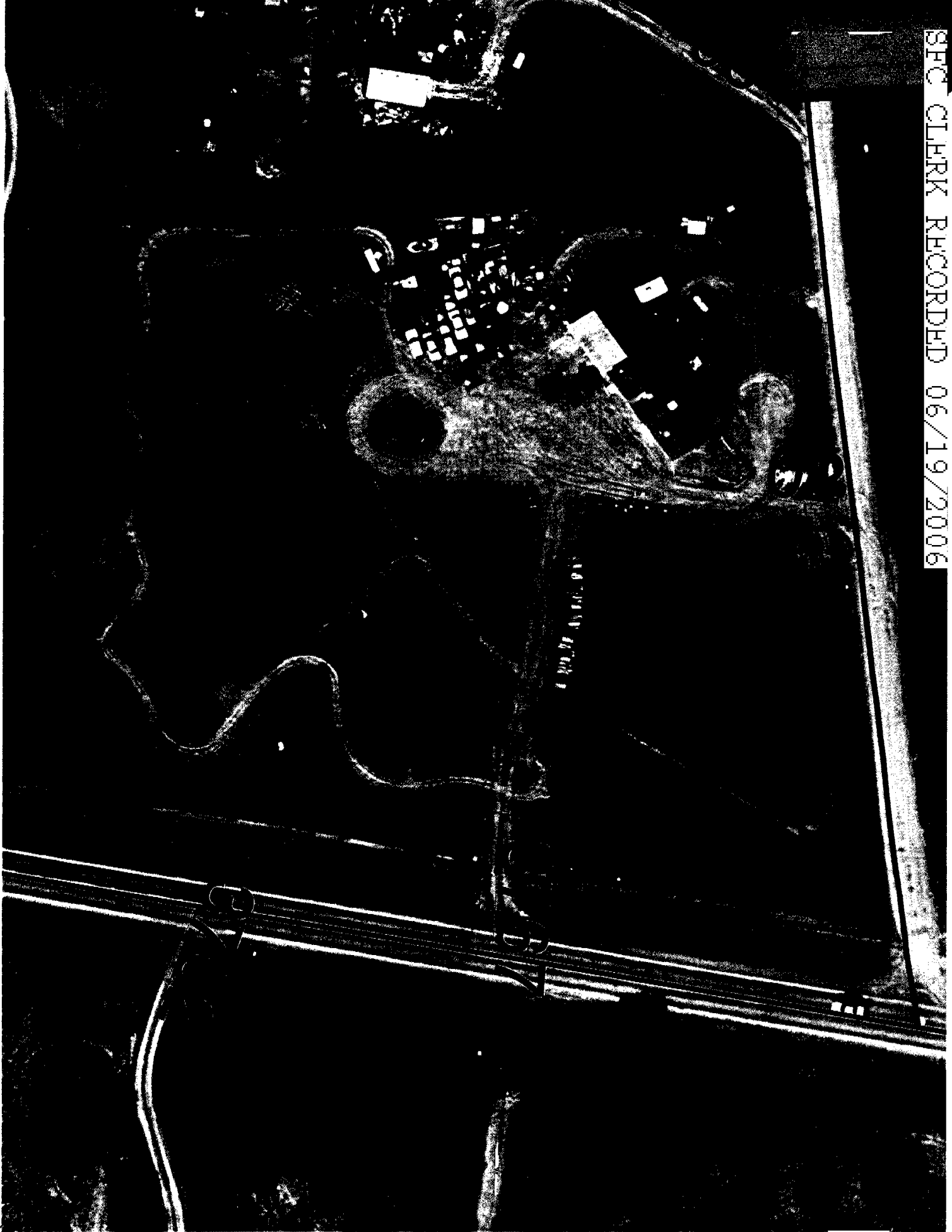
PETITION

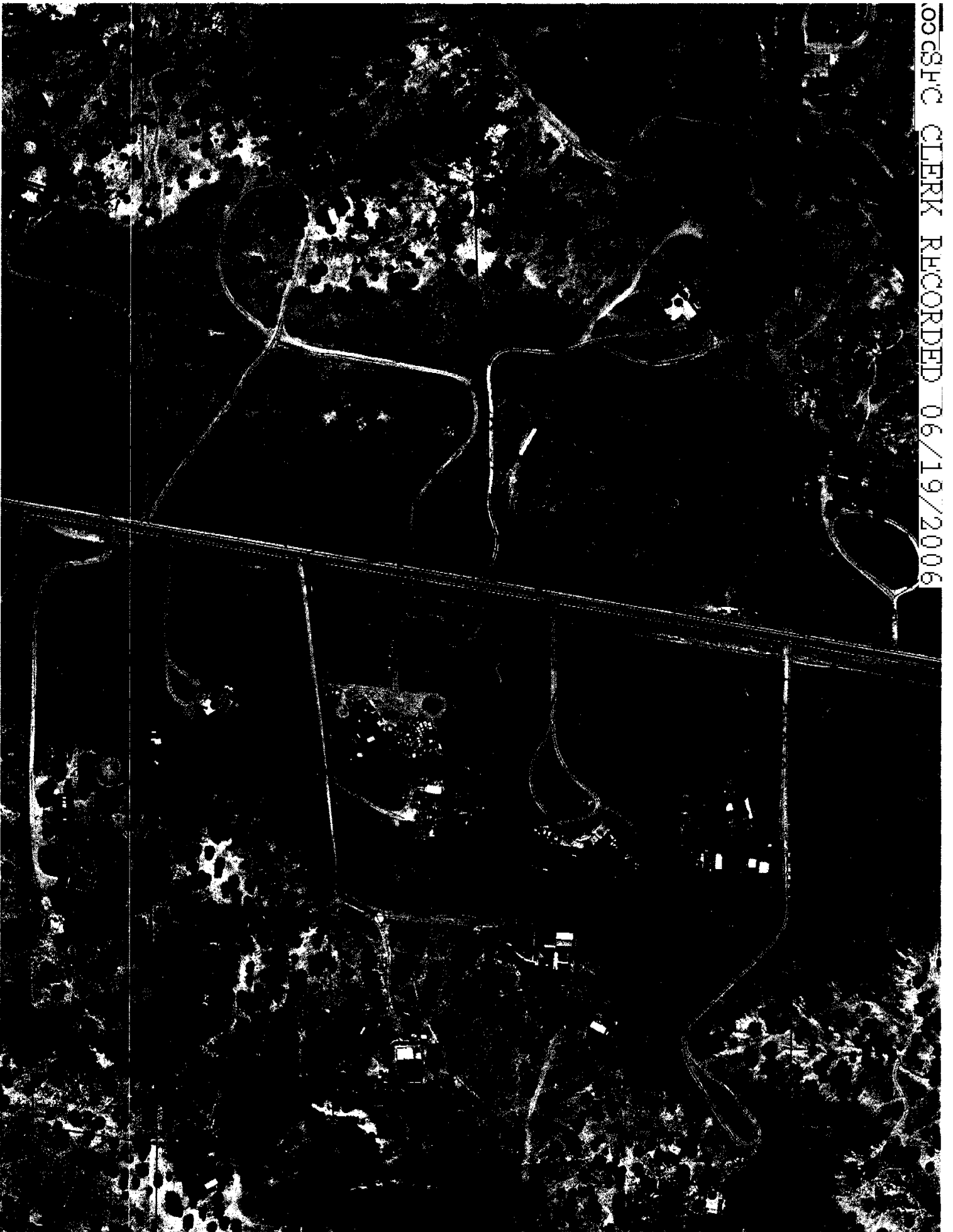
Xpert Towing Co., is requesting a temporary variance through the County Of Santa Fe for a business operation located on 3767 State Rd. 14, Santa Fe, NM.

SFC CLERK RECORDED 06/19/2006

NAME	ADDRESS	CONTACT #
Joe Garcia	06 Ladera del Norte	
IANLY ENIDSON	Box 552 Cerrillos 87010	
Patricia Uriostequi	PO Box 414 Cerrillos, N.M. 87010	473-7371
James J Baca	P.O. BOX 115, #20 RIVER ST. LOS CERRILLOS N.M. 87010	
Shee Baca	P.O. BOX 512 LOS CERRILLOS N.M. 87010	
Bridgitte Uriostequi	PO BOX 414 Cerrillos, NM 87010	204-2436
David Chavez	PO Box 115 Cerrillos NM 87010	438-0392
Delores Serna	P.O. Box 234 Cerrillos NM Cerrillos, NM 87010	424-3874
Rosa Romero	PO BOX 111 Cerrillos, NM 87010	
John Zellmer	PO Box 285 Cerrillos NM 87010	660-0748

SHC CLARK RECORDED 06/19/2006





3774 NM 1

Santa Fe, NM 87508

March 16, 2006

Dear Zoning Board;

RE: CDRC CASE VO 6 5060 at 3767 Hwy 14,

I do not consider this zoning variance to enable a commercial for this residential property in the best interest of the neighborhood, the highway (Turquoise Trail) or the county.

Sincerely,



Rick Iannucci

Exhibit G

*Hand-outs
from CDRC
mtg from
the Public.*

SFC CLERK RECORDED 06/19/2006

3777 SR 14
SANTA FE, NM 87508

MARCH 13/2006

TO WHOM IT MAY CONCERN,

REGARDING CDRC CASE # VO6-5060 RESIDENCE OF THOMAS LOPEZ AT 3767 HIGHWAY 14.

WE DO NOT CONSIDER A ZONING CHANGE AT THE ABOVE RESIDENCE FROM RESIDENTIAL TO BUSINESS IN THE BEST INTEREST OF OUR NEIGHBORHOOD. WE HAVE LIVED CLOSE TO SIMILAR TYPE OF BUSINESS IN THE PAST AND DID NOT APPRECIATE THE EXTRA TRAFFIC AND SOME OF THE PATRONS THAT FREQUENTED THE AREA. WE BOUGHT IN A RESIDENTIAL AREA, IN SANTA FE, WITH STRINGENT RULES GOVERNING WHAT WE COULD DO WITH OUR PROPERTY AND DO NOT APPRECIATE A NEIGHBOR TRYING TO CHANGE THE RULES.

THANK YOU.

SINCERELY,

Richard E. Sather
Nancy Sather

SFC CLERK RECORDED 06/19/2006

Subj: (no subject)
Date: 3/4/2006 8:00:10 A.M. Mountain Standard Time
From: Janolsen@Cybermesa.com
To: CrossedarrowsNM@aol.com

Dear Mr. Iannucci,

Thank you for your alerting us.

I will be leaving town on the 14th so would appreciate your including my strong objections to the variance. There is a county plan evolving which will designate commercial zoning and that is the best way to avoid spot zoning. I oppose the variance. Jan Olsen

56 Haozous Road

Santa Fe, NM

424-0577

RE: CDRC CASE V 06 - 5060 @ 3767 Hwy 14

SFC CLERK RECORDED 06/19/2006

Subj: **Commercial variance**
Date: 3/8/2006 12:07:24 P.M. Mountain Standard Time
From: TurqTrail14@webtv.net
To: CrossedarrowsNM@aol.com
CC: TurqTrail14@webtv.net

To Whom It May Concern,

Please let the record show that the Turquoise Trail Association, which is responsible for the Turquoise Trail National Scenic Byway otherwise known as New Mexico State Highway 14, is adamantly opposed to allowing a commercial variance for the property on Camino Quieto! This section of the TTNSB is not part of the proposed Commercial District of the newly created San Marcos District Plan of Santa Fe County. Granting variances to this new District Plan is inappropriate, unnecessary and unacceptable! Furthermore, this resident has already shown utter disregard of the fact that he lives along a National Scenic Byway where the natural beauty of this area is trying to be preserved and enjoyed by all.

Yours truly,
Lynn McLane, President 438-8711
Diana Johnson, Vice-President
Executive Committee: Lisa Johnson
 Marianna Hatten
 Patricia Brown
 Carla Ward

RE: CDRC CASE # VO 6-5060 e 3767 July 14

SFC CLERK RECORDED 06/19/2006

Subj: **Commercial variance**
Date: 3/8/2006 12:12:59 P.M. Mountain Standard Time
From: TurqTrail14@webtv.net
To: CrossedarrowsNM@aol.com
CC: TurqTrail14@webtv.net

Hello Rick! I received your email through Annie's email list about the hearing on the Camino Quieto property applying for a commercial variance. I am unable to attend the hearing, but on behalf of the Turquoise Trail Assoc. I have sent you a separate email stating our opposition to this variance! We would greatly appreciate it if you could submit this email to the court. Let me know if I can be of any further help.

Happy Trails,
Lynn McLane
Turquoise Trail Natl. Scenic Byway, President
438-8711

SFC CLERK RECORDED 06/19/2006

Subj: (no subject)
Date: 3/4/2006 8:00:10 A.M. Mountain Standard Time
From: Janolsen@Cybermesa.com
To: CrossedarrowsNM@aol.com

Dear Mr. Iannucci,

Thank you for your alerting us.

I will be leaving town on the 14th so would appreciate your including my strong objections to the variance. There is a county plan evolving which will designate commercial zoning and that is the best way to avoid spot zoning. I oppose the variance. Jan Olsen

56 Haozous Road

Santa Fe, NM

424-0577

RE: CDRC CASE # VO 6 5060 @ 3767 Hwy 14

SFC CLERK RECORDED 06/19/2006

Subj: **County variance**
Date: 3/4/2006 7:27:27 A.M. Mountain Standard Time
From: witsennd@juno.com
To: CrossedarrowsNM@aol.com

Dear Rick,

Please take this to the meeting with you. I strongly object to any commercial variances granted to residential property. There are ample commercial zones in the county without business invading residential areas. When variances are granted, the county master plan becomes a joke, property values are damaged and trust is lost in the county commissioners and their intention to enforce panning and zoning regulations.

Sincerely,
Kathy Richkind
231 Gold Mine Road
Cerrillos, NM

REC: CODEC CASE# VO 6 5060 @ 3767 174414

SFC CLERK RECORDED 06/19/2006

Subj: Fwd: Commerical variance on Highway 14
Date: 3/9/2006 12:33:48 P.M. Mountain Standard Time
From: TurqTrail14@webtv.net
To: CrossedArrowsNM@aol.com
CC: TurqTrail14@webtv.net

Here's another opposition letter from our sister association. Thanks!
Lynn McLane

Received: from smtpin-3305.bay.webtv.net (209.240.205.163) by storefull-3353.bay.webtv.net with WTV-SMTP; Wed, 8 Mar 2006 16:09:22 -0800

Received: from omc1-s31.bay6.hotmail.com (omc1-s31.bay6.hotmail.com [65.54.248.233]) by smtpin-3305.bay.webtv.net (WebTV_Postfix+sws) with ESMTMP id DA41CE148 for <turqtrail14@webtv.net>; Wed, 8 Mar 2006 16:09:21 -0800 (PST)

Received: from hotmail.com ([65.54.172.118]) by omc1-s31.bay6.hotmail.com with Microsoft SMTPSVC(6.0.3790.211); Wed, 8 Mar 2006 16:09:20 -0800

Received: from mail pickup service by hotmail.com with Microsoft SMTPSVC; Wed, 8 Mar 2006 16:09:20 -0800

Message-ID: <BAY5-DAV14B6477DBA678DDBB367A4A3EC0@phx.gbl>

Received: from 71.213.140.131 by BAY5-DAV14.phx.gbl with DAV; Thu, 09 Mar 2006 00:09:15 +0000

X-Originating-IP: [71.213.140.131]

X-Originating-Email: [trailttpt@msn.com]

X-Sender: trailttpt@msn.com

From: "Sharon Berg Trust Founder" <trailttpt@msn.com>

To: "lynn mclane" <turqtrail14@webtv.net>

Subject: Commerical variance on Highway 14

Date: Wed, 8 Mar 2006 16:09:22 -0800

MIME-Version: 1.0

Content-Type: multipart/alternative;

boundary="-----_NextPart_000_0003_01C642CA.A9CD0310"

X-Priority: 3

X-MSMail-Priority: Normal

X-Mailer: MSN 9

Seal-Send-Time: Wed, 8 Mar 2006 16:09:22 -0800

X-MimeOLE: Produced By MSN MimeOLE V9.10.0011.1703

X-OriginalArrivalTime: 09 Mar 2006 00:09:20.0722 (UTC)

FILETIME=[B6CDE320:01C6430D]

X-Brightmail: Message tested, results are inconclusive

March 8th, 2006

TO WHOM IT MAY CONCERN:

The Turquoise Trail Preservation Trust vehemently opposes the use of private residential property along the National Scenic Byway to incorporate and mix commercial use along with private residential use.

This is precedent setting for future problem on our National Scenic Byway. It is the TTPT vision to clean up existing use of signage, excessive junk including cars, and improper use of storage that is visable along the Byway. We are talking to the Governors office currently to pass strict legislation to clean up our Scenic Byway and obvious prevent this type of use.

Thank you,
Founders of the Turquoise Trail Preservation Trust

SFC CLERK RECORDED 06/19/2006



STATE OF NEW MEXICO
OFFICE OF THE STATE ENGINEER

Santa Fe

MAR 23 2006

John R. D'Antonio, Jr., P.E.
State Engineer

BATAAN MEMORIAL BUILDING, ROOM 102
SANTA FE, NM 87504-5102
(505) 827-6120
Fax: (505) 827-6682

March 21, 2006

Ms. Shelley Cobau
Development Review Specialist II
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-5102

**CERTIFIED MAIL
RETURN RECEIPT
REQUESTED**

Reference: Children's Garden Montessori School

Dear Ms. Cobau:

On March 15, 2006, the Office of the State Engineer (OSE) received additional documentation regarding the Children's Garden Montessori School. The Development Plan proposes to open a new Montessori school on a 5-acre parcel located on Old Las Vegas Highway, approximately 0.8 miles southeast of Highway 285, within Section 10, Township 15 North, Range 10 East, NMPM. The proposed water supply for the development is an existing 72-12-1 domestic well. This school would replace an existing Montessori School, which is located in the community of Eldorado, and which will close in June 2006.

This office issued a negative opinion on March 9, 2006. The proposal did not satisfy the requirements of Article VII, Section 6.6.2 of the Santa Fe County Land Development Code that requires all non-residential development provide a detailed water demand analysis. Please see the previous letter for specific details.

The additional water supply documents submitted to this office consists of the well record for the existing well, a description of existing and proposed plumbing fixtures and a description of the existing irrigated garden area.

The applicant states that the existing garden is approximately 1,600 square feet of trees and shrubs on drip irrigation. The estimated water demand is 9.49 gallon per square foot per year or 0.047 acre-feet per year based on the information presented in OSE Technical Report 48 (Wilson 1996). The estimated indoor water use of 0.19 acre-feet per year and estimated outdoor water use of 0.047 is within the proposed water budget of 0.25 per year. The OSE has reviewed these calculations and finds that the assumptions are appropriate.

The applicant must file applications with the OSE for Change of Ownership and Change Purpose of Use for the existing well.

REC
CLERK RECORDED 06/19/2006

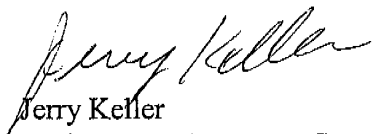
Ms. Shelley Cobau
March 21, 2006
Page 2

Children's Garden Montessori School

The revised proposal was reviewed pursuant to the Santa Fe County Land Development Code. It is the opinion of this office that the revised water supply proposal is in substantial compliance with the requirements of Article VII, Section 6.6.2 of the Code. Accordingly, a **positive** opinion is issued.

If you have any questions, please call me at 505-827-3845.

Sincerely,



Jerry Keller
Senior Water Resource Specialist

cc: John W. Longworth, P.E., Water Use and Conservation Bureau Chief
OSE, Water Rights Division, Santa Fe Office

SFC CLERK RECORDED 06/19/2006

Joe Catanach

From: Michael W. Wiese [wiese@criterionco.com]
Sent: Tuesday, April 11, 2006 10:44 AM
To: HMontoya@aol.com; manaya@co.santa-fe.nm.us; vvigil@co.santa-fe.nm.us;
pcampos@co.santa-fe.nm.us; jsullivan@co.santa-fe.nm.us
Cc: jcatanach@co.santa-fe.nm.us
Subject: Suerte/TAP

Dear Commissioners,

Thank you for your thoughtful consideration and approval of the TAP plan! It sets a very solid and sensible framework for our future.

In that same vein, we urge you to deny the approval of the Peters' development until the per lot water budget is limited to 1/4 acre foot or less per unit (inclusive of any other development-wide water needs!). Anything more sets a terrible precedent in this dry time.

We are deeply concerned about the 'test' well he dug being turned over to the county as a production well. We are convinced this will have a long term detrimental effect on the aquifer.

Why doesn't the recently commissioned water model have any kind of real peer review? And why does it only go out 40 years instead of 100 like the City? An unrealistic or flawed model doesn't help anyone in the long run.

There are truly sustainable solutions available, and this is an opportunity to do the right thing for our grandchildren's grandchildren!

We are also very worried about the potential traffic impacts on the surrounding neighborhoods and urge a comprehensive analysis before approval.

Thank you again for your consideration!

Sincerely,

Margaret Hennessey, Michael Wiese, and Sadie Wiese
992-0319

SFC CLERK RECORDED 06/19/2006

Joe Catanach

From: Jfatencio@cs.com
Sent: Monday, April 10, 2006 1:52 PM
To: jcatanach@co.santa-fe.nm.us
Subject: Case #: EZ-S054840

Gerald Peters' subdivision should be limited to ¼ acre/ft or less per lot. I am concerned about the effect using Peters' well would have on the Santa Fe aquifer and my well. Thank you for your consideration in this matter.

J. F. Atencio
100 Camino Espejo
Santa Fe, New Mexico 87507

11 SHC CLERK RECORDED 06/19/2006

Joe Catanach

From: Robert Heffner [muonphysics@hotmail.com]
Sent: Sunday, April 09, 2006 11:12 PM
To: jsullivan@co.santa-fe.nm.us; hmontoya@co.santa-fe.nm.us; manaya@co.santa-fe.nm.us;
pcampos@co.santa-fe.nm.us; vvigil@co.santa-fe.nm.us
Cc: jcatanach@co.santa-fe.nm.us
Subject: Peters' wells: Case # EZ-S054840

Dear Councilor;

I do not believe that the water allotment for the planned Gerald Peters' subdivision should be allowed to have more than one-quarter acre-feet per lot. That what we are allowed in our subdivision, and more for Peters would endanger the Santa Fe aquifer and our well. Thank you for your consideration.

Robert and Paula Heffner
80 Paseo de Estrellas
Santa Fe 87506

Robert H. Heffner
muonphysics@hotmail.com

HSFC CLERK RECORDED 06/19/2006

Joe Catanach

From: Mike Mellos [mikemellos@cybermesa.com]
Sent: Saturday, April 08, 2006 11:01 AM
To: 'jsullivan@co.santa-fe.nm.us'; 'hmontoya@co.santa-fe.nm.us'; 'manaya@co.santa-fe.nm.us';
'pcampos@co.santa-fe.nm.us'; 'vvigil@co.santa-fe.nm.us'
Cc: jcatanach@co.santa-fe.nm.us
Subject: Case #: EZ-S054840

Dear Commissioners,

I am writing again to express my concern regarding the water usage proposed for the Suerte del Sur development. The subdivision should be limited to ¼ acre/ft per lot including auxiliary uses for the subdivision such as watering livestock and plants and providing for guest houses. Such common and private uses should be entirely supported through the conservation efforts of the residents of the Suerte del Sur development. I honestly believe this would cause no hardship for them or for the developer. Also, I want to thank you all for not allowing elusive "double-talk" to cloud the issues at the last meeting.

Regarding the use of the deep production well at this development I again wish to express my concern about the use of this well as a water source for the County's regional water system. I am concerned that over-reliance on the Suerte del Sur well to supply the regional water system would have a serious impact on my well. The only way to guarantee there could be no such impact would be to never connect the well to the regional network. However if it becomes necessary, I strongly urge you not to allow such connection until after the diversion project has been completed and is fully operational and other wells proposed as county production wells and sited further away from existing residential uses are on line. Furthermore if this well does indeed become so connected I would request that it be allowed to come on line only in cases where the water from all other sources is inadequate to meet the needs of the community at large and similarly be taken off line as soon as conditions permit.

Again I'd like to thank all of you for the responsible posture you have taken on these very difficult and delicate issues.

Mike.

Michael G. Mellos
10 Hacienda Court
Santa Fe, New Mexico
(505) 660-9292

SFC CLERK RECORDED 06/19/2006

4/11/2006

Joe Catanach

From: Viallet [cjviallet@compuserve.com]
Sent: Friday, April 07, 2006 11:06 PM
To: Viallet
Subject: EZ-S054840: Peters Development

Dear Sir or Madam,

Gerald Peter's subdivision should be limited to $\frac{1}{4}$ acre/ft or less per lot. I am very concerned about the effect of using Peters' well would have on the Santa Fe aquifer and my well.

Santa Fe County must develop wisely and given the constraints imposed by nature.

Thank you for taking my point of view into consideration.

Yours truly,

J. Viallet

SFC CLERK RECORDED 06/19/2006

Jennifer Jaramillo

From: Barbara Cohen [barbylon@gmail.com]
Sent: Monday, April 10, 2006 12:41 PM
To: jsullivan@co.santa-fe.nm.us; hmontoya@co.santa-fe.nm.us; manaya@co.santa-fe.nm.us; pcampos@co.santa-fe.nm.us; vvigil@co.santa-fe.nm.us
Cc: barbylon@gmail.com
Subject: Peters subdivision

We are homeowners off Caja del Rio in the County. We have a well but practice wise water use, conservation, xeriscaping, etc. because Santa Fe is a desert and water is a limited resource. Arguments that new developments should be allowed to use increasingly more water are flawed in that water is a zero-sum game here. If new water users use more than their fair share, we will all have less. We are writing to urge the Commission to limit water use in Gerald Peters' proposed subdivision to ¼ acre/ft or less per lot. The developers and owners need to accept that water is a shared resource and they are not entitled to more just because they choose to have water-intensive landscaping or raise horses. Thank you for your attention.

Dr. Barbara Cohen
Dr. Robert Coker
3 Avenida de Mercedes
Santa Fe NM 87506

Brownstein | Hyatt | Farber

201 Third Street N.W.
Suite 1700
Albuquerque, New Mexico 87102
bhf-law.com

* SFC CLERK RECORDED 06/19/2006

April 11, 2006

Michelle Henrie
Attorney at Law
T 505.724.9582
F 505.244.9266
mhenrie@bhf-law.com

VIA FACSIMILE: 505-986-6389
AND E-MAIL: JCATANACH@CO.SANTA-FE.NM.US

Joe Catanach
Development Review Division Director
Santa Fe County
P.O. Box 276
102 Grant Avenue
Santa Fe, NM 87504-0276

RE: Hager Road

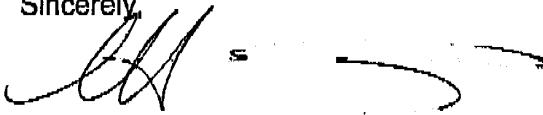
Dear Mr. Catanach:

I represent the Hager Road Trustees. The Trustees are delegates of the owners of the property lying between County Road 70 and the Suerte del Sur project, all of which previously was owned by The Catholic Foundation. As you are aware, the Trustees have been working on negotiating a cost-sharing agreement for construction and maintenance of Hager Road with the developer of the Suerte del Sur project.

I wanted to provide you a status update via this letter.

My client met with representatives of the Suerte del Sur project on Monday, April 3, 2006. At that time, we believed that we reached an oral agreement with the representatives present, and we drafted a written agreement reflecting the same. We provided the written agreement to Mr. Peters' attorney on April 4, 2006, however, over the past week we have not received any signatures, changes, or comments on the agreement. At this point time, there still is no signed agreement.

Sincerely,



Michelle Henrie

MH/kep

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Rubin Katz Law Firm

A Professional Corporation | ATTORNEYS AT LAW

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April 11, 2006

VIA HAND DELIVERY AND EMAIL

Mr. Joe Catanach
Senior Technical Review Specialist
Santa Fe County
P.O. Box 276
Santa Fe, New Mexico 87504-0276

Re: EZ Case No. S 05-4840 Suerte del Sur Subdivision, Phases 1-5

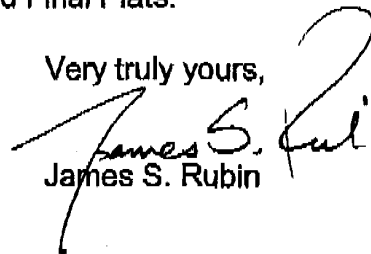
Dear Mr. Catanach:

You received a letter today from Michelle Henrie, the attorney for the Hager Road trustees who are dealing with the 6200' extension of Los Suenos Trail running through the current and former Archdiocese of Santa Fe property. I represent Suerte del Sur, LLC.

Ms. Henrie is correct; the parties met and worked out a prospective arrangement. Significant progress was made since our last meeting. She then used a draft of the road agreement that I had previously prepared and modified it based upon our April 3rd discussions, but she has not yet received a response from us. I was out of the office during April 7-10, and the principal of Suerte was out of town prior to that.

Suerte has met and negotiated in good faith with the Hager Road trustees to reach agreement. We have also been meeting and working with the Los Suenos Trail and La Vida Trail neighbors toward a cost-sharing arrangement along roads north of Suerte. Our efforts have been aimed at being a good neighbor and satisfying proposed conditions of approval for the Preliminary and Final Plats.

Very truly yours,

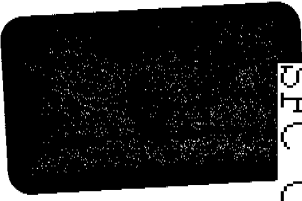


James S. Rubin

JSR/msa

cc: Suerte del Sur, LLC
Michelle Henrie, Esq.
Scott Hoefft
Rosanna Vazquez, Esq.

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Santa Fe County Land Use Dept.

4/11/06

To Whom It May Concern,

On behalf of the Tierra de la Vida H.O.A., I would like to acknowledge the willingness of the Suerte del Sur developers to work with our association.

We feel that the lay-out of Suerte del Sur, less density on it's boundaries and increasing density in it's, is well thought out and in keeping with existing densities in the area.

The Developers have met with us to address the build-out and their future cooperation with neighboring subdivisions as related to future road maintenance.

The Developers have agreed to a condition of recordation that they work with Tierra de la Vida H.O.A. and the Tierra Grande H.O.A. as to the potential impact Suerte del Sur will have on the gravel portion of La Vida Tr. road. The Developer has agreed to work with us as they move forward and to come to some agreement between Suerte del Sur and ourselves.

We would like to recommend conditional approval to Suerte del Sur.

Respectfully,

Stephen A. Etre

Tierra de la Vida H.O.A.

Santa Fe County Commission
Santa Fe, NM 87507

March 8 2006

Dear Commissioners and Staff,

We are writing in reference to case # 06-4140 (Trace Sanchez lot split for lot 2 block 2 on Calle Francisca, Pinon Hills). Unfortunately, we are unable to attend tonight's meeting. The lot in question is not 5 acres. According to County records (plat book 10, page 43-45), the lot is in fact 4.95 acres. A lot split would create at least one lot **under 2.5 acres!** Most lots in Pinon Hills were specifically created to be just under 5 acres to prevent just this kind of split. **We would ask that the request to split the lot be denied.**

In the case of legitimate family transfers, we would ask the following which you've done for other subdivisions in Pinon Hills: a **10 year holding period on any lot splits.**

We ask that you consider the larger issue of lot splits in Pinon Hills and their cumulative effects. A brief summary of health and safety issues follows as an already non-conforming 60 family subdivision, transforms into a very non-conforming 200+ lot subdivision:

There is not yet a system in place to monitor compliance with **WATER USE RESTRICIONS** imposed by the **BOARD OF COUNTY COMMISSIONERS** for lots that have been split in the past. Increasing lot splits, without adequate means of monitoring and enforcing proposed water use restrictions, may result in two or three times faster ground water depletion than allowed by the **COUNTY LAND DEVELOPMENT CODE**. **GROUNDWATER SEWAGE CONTAMINATION** will also become a problem.

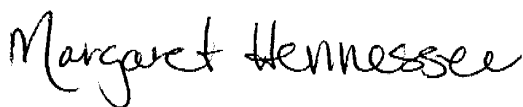
UNSAFE INGRESS-EGRESS: There is only one entrance to the subdivision, rather than the two required by code. That entrance floods, making it impossible to cross. There are internal roads that flood as well and should have crossings.

FIRE RESPONSE: As a non-conforming subdivision, we have no fire hydrants or water storage and our roads confound response. Four recent structure fires have resulted in total loss. Closer house spacing increases the risk of fires spreading.

ROAD IMPROVEMENTS: Further lot splits increase traffic which increases the wear and tear on roads. This could be very costly.

The bottom line is this area is in an **EXISTING NON-CONFORMING SUBDIVISION**. While lot splitting appeals to a few personal interests, it does not benefit the community. Using lot splits to create affordable housing is a poor solution to a real problem because it creates a financial liability to improve the substandard subdivision. If that burden falls upon the neighborhood, the benefit to affordable housing is obviated.

Thank you,

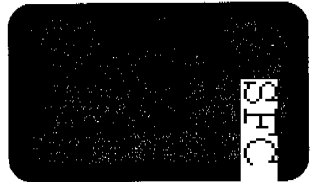


Michael Wiese and Margaret Hennessey

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New Mexico DEPARTMENT OF
TRANSPORTATION
 MOBILITY FOR EVERYONE

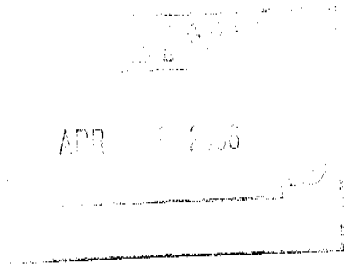


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R/W Bureau

April 5, 2006

Mr. Wayne Dalton
 Santa Fe County, Land Use Department
 P.O. Box 276
 Santa Fe, NM 87504



RE: Green Ranch Subdivision

Dear Mr. Dalton,

The appropriate engineers of the New Mexico Department of Transportation have reviewed the material submitted on the above referenced development and do not have any further comments.

If you have any questions or need further information please contact me at 476-3652 or by e-mail at jeremy.lujan@state.nm.us.

Sincerely,

Jeremy Lujan
 Property Management Agent
 Right of Way Bureau

XC: File #1545

Bill Richardson
 Governor

Rhonda G. Fought
 Cabinet Secretary

Commission

Johnny Cope
 Chairman
 District 2

David Schutz
 Vice Chairman
 District 5

Gregory T. Ortiz
 Secretary
 District 6

Norman Assed
 Commissioner
 District 3

Jim Franken
 Commissioner
 District 4

Jon Hummer
 Commissioner
 District 1

Commissioner Sullivan

BCC Meeting of April 11, 2006

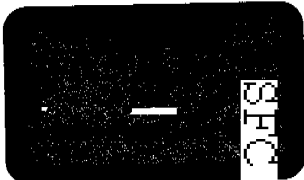
Under Public Hearings

Agenda Item # XII, 6

EX Case # MP 05-4870 **Rancho Viejo Village West**

Fire Department Recommendation:

The Santa Fe County Fire Department recommends to the Board of County Commissioner that the applicant, Rancho Viejo de Santa Fe, Inc., be required to provide a 1.5 acre site on which to construct a new fire station to serve the entire Rancho Viejo subdivision and that title to such property be conveyed to Santa Fe County for this purpose.



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