

COUNTY OF SANTA FE )  
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**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**May 10, 2005**

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

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING

(Public Hearing)

May 10, 2005 – 3:00 pm

*Please turn off Cellular Phones during the meeting.*

## Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. State Pledge
- V. Invocation
- VI. Approval of Agenda
  - A. Amendments
  - B. Tabled or Withdrawn Items
  - C. Consent Calendar Withdrawals
- VII. Approval of Minutes
  - A. April 12, 2005 - *approved with corrections*
- VIII. Matters of Public Concern -NON-ACTION ITEMS
- IX. Matters from the Commission #57
  - ok* A. A Resolution Dedicating the El Dorado Senior Center as the “Ken and Patty Adam Senior Center”(Commissioner Sullivan)
  - B. Honor Edgewood Resident Dorothy Brown on her 100<sup>th</sup> Birthday (Commissioner Anaya)
  - C. A Proclamation Declaring May 25<sup>th</sup> 2005 as “Senior Citizen Day in Santa Fe County”(Commissioner Anaya) #58
  - table* D. A Resolution Supporting Federal Funding for Cooperative Extension Service and Agricultural Experiment Stations (Commissioner Anaya)
  - table* E. A Resolution Calling for a Revision of the Endangered Species Act (Commissioner Anaya)
  - table* F. Adopt the “Code of the West” to Santa Fe County (Commissioner Anaya)
  - table* G. A Resolution Supporting the Conceptual Proposal of the Northern Pueblo Tributary Water Rights Association Regarding the Aamodt Water Settlement and Urge the Bureau of Reclamation and the State of New Mexico to Provide Apportionment of San Juan-Chama Water to the Aamodt Settlement (Commissioner Montoya)
  - H. A Resolution Urging Congress and the Bush Administration to Seek a Two-Year Extension of the Deadline of the Help America Vote Act and Support Full Funding (Commissioner Montoya) #59
  - ok* Extension of the Deadline of the Help America Vote Act and Support Full Funding (Commissioner Montoya)

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*#60*  
I. *ok* A Resolution Supporting the Restoration of Funding to the Department of Homeland Security's Office of Domestic Preparedness' Grant Programs (Commissioner Montoya)

J. *ok* A Resolution in Support of the Implementation of Renewable Energy and Energy Efficiency in Santa Fe County Buildings (Commissioner Montoya) *#61*

X. Presentations

*ok* A. Presentation by Steve Ross for Bernadette Salazar, Employee of the Quarter, 1<sup>st</sup> Quarter of 2005

B. Presentation of Santa Fe County Employee, Jayla Ortiz-Ranked 5<sup>th</sup> in the World *ok* in the Women's International Boxing Association (WIBA) Valerie Espinoza

XI. Consent Calendar

*table* A. EZ Case # 04-4210- Jeanniene Schmitt Family Transfer (Approved) (Land Use Department)

B. Request Authorization for Acceptance and Approval for Project Agreement 05-PT-63-091 from the New Mexico Department of Transportation / \$18,750.00 *ok* (Sheriff's Office)

XII. Staff and Elected Officials' Items

A. Project & Facilities Management Department

1. Request Authorization to Accept and Award a Professional Service Agreement with John Alejandro & Associates, Professional Architectural *ok* and Engineering Services for Phase I of the RTC Project at the Youth Development Facility.

2. Request Authorization to Accept and Award a Professional Service Agreement with Edward Aragon of Aragon Architects, Professional *ok* Architectural and Engineering Services for Phase II of the RTC Project at the Youth Development Facility.

B. Sheriff's Office

1. Request Approval of Fiscal Year 2006 HIDTA Grant Agreement *ok* #15PSNP573Z With the Office of National Drug Control Policy for \$244,064/ Region III Drug Task Force *#62*

2. A Resolution Designating the County Manager or His Designee as the *ok* County's Authorized Representative/Official for Purposes of HIDTA Grant Award Number I5PSNP573Z /Region III Drug Task Force

C. Matters from the County Manager

1. Updates on Various Issues

D. Matters from the County Attorney

1. Executive Session

*ok* a. Discussion of Pending or Threatened Litigation

b. Limited Personnel Issues

c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights

XIII. Public Hearings

A. Land Use Department

*only for discussion* 1. Ordinance 2005- An Ordinance Amending Ordinance 2002-13, An Ordinance Addressing Water Conservation for All Residential and Commercial Uses of Water Within Santa Fe County (Wayne Dalton)

*table* 2. Ordinance 2004 - An Ordinance Amending Ordinance 1996-10, Article V, Section 8 (Subdivision Design Standards) of the Land Development Code to Require 30% of the Total Housing Approved Within a Subdivision of 5

**Lots or Greater to be Affordable Housing. Wayne Dalton (FIRST PUBLIC HEARING) TABLED**

3. **CDRC Case # Z/DP 04-5190 Beth Longanecker Master Plan / Development Plan Jim Corbin, Agent for Beth Longanecker, Requests Master Plan Zoning and Preliminary and Final Development Plan Approval for a Commercial Horse Business on 4.43- Acres. The Property is Located off State Road 14 at 2 Ron's Road Within Section 26, Township 15 North, Range 8 East, (Commission District 5) Jan Daniels (TABLED)**
4. **EZ Case # S 04-4451-Oshara Village New Village Consulting LLC., (Alan Hoffman) Applicant, Lorn Tryk, Agent, Request Final Plat and Development Plan Approval for Phase I of the Oshara Village Development Which will Consist of 175 Residential Lots and 136,000 sq. ft. of Commercial Space on 74 Lots on a Total of 37.78 Acres in Accordance With the Previously Approved Master Plan. The Property is Located Along Richards Avenue South of Interstate 25, in the Community College District, Within Section 16, Township 16 North, Range 9 East, (Commission District 5) Vicki Lucero TABLED**
5. **EZ Case # S 96-1212 Las Campanas Estates VIII, Units 1,2, & 3 Las Campanas Limited Partnership (Michael D. Baird), Applicant, is Requesting an Amendment of the Plat/Development Plan for 104 Residential Lots, to Permit Guest Houses. The Property is Located off Las Campanas Drive Within Section 11, Township 17 North, Range East, (Commission District 2) Joe Catanach**
6. **LCDR Case # V 05-5080 Mathew L. Griego Family Transfer. Mathew L. Griego, Applicant Requests a Variance of Article XIV, Section 6.4 (Zoning Densities) To Divide 5.384- Acres into Three Tracts for the Purpose of a Family Transfer. The Tracts will be Known as Tract 2-A (1.0- Acres, More or Less), Tract 2-B (1.0- Acres More or Less) and Tract 2-C (3.384-Acres More or Less). The Property is Located at 09 Camino Loma, Which is Located Within the Historic Community of La Cienega/La Cieneguilla, Within Section 6, Township 15 North, Range 8 East (Commission District 3) Vicente Archuleta**
7. **CDRC Case # A/V 05-5020 Robert French Appeal/Variance Robert French, Applicant, is Appealing the County Development Review Committee's Decision to Deny the Placement of a Second Home on 1-Acre, Off of Arroyo Cuyamungue, Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 47 Tango Road Santa Fe, NM Within Section 28, Township 19 North, Range 9 East, (Commission District 1) John M. Salazar**
8. **CDRC Case # V 03-5621 Bobby Armijo Density Variance Bobby Armijo, Applicant, Requests a Variance of Article III Section 10 (Lot Size Requirements) Of the Land Development Code to Allow the Division of 16.20-Acres into Two 8.0-Acre Parcels for the Purpose of a Family Transfer. The Property is Located at 428 Ojo De La Vaca, Within Section 30, Township 15 North, Range 11 East, (Commission District 3) Victoria Reyes**

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9. **CDRC Case # A. V 05-5070 Pat Chavez Appeal/Variance** Pat Chavez, Applicant, is Appealing the County Development Review Committee's Decision to Deny the Placement of a Second Home on 2.46-Acres Which Would Result in a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located at 21 Ceramic Ct. Via East Frontage Rd., Within Section 34, Township 16 North, Range 8 East, (Commission District 5) John M. Salazar  
**WITHDRAWN**
10. **CDRC Case # V 05-5050 Johnson Variance of 5-Year Exemption** Mark Johnson, Applicant, Requests a Variance of Article II Section 2.3.1 g (5-Year Exemption) of the Land Development Code, to Allow the Sale of a Previously Subdivided Property that was Created Under the 5-Year Exemption. The Property is Located at 56 Cactus place Via Highway 14, Within Section 30 Township 15 North, Range 11 East (Commission District 5) Victoria Reyes

#### **XIV. Adjournment**

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

**May 10, 2005**

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

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

**Members Present:**

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

**Members Absent:**

[None]

**V. Invocation**

An invocation was given by Brenda Lynn Bachelor.

**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 have a few tablings and a withdrawal. Under XIII. Public Hearings, item A.2 has been tabled, A.3 is tabled. A.4 has been tabled. We received a request to table case number 8, CDRC Case #V 03-5621, Bobby Armijo density variance. And case number 9 has been withdrawn. Other than that there are no further changes, Mr. Chairman.

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CHAIRMAN ANAYA: Are there any other changes that the Commission would like to make? I'd like to move, under IX. Matters from the Commission, I'd like to move C and B, just swap them. So B would be where C is. And the resolution IX. E, a resolution calling for a revision of the Endangered Species Act, I would like to table that one. I got a letter from an individual from the Sierra Club, and if Pat Torres is here in the audience, if we could contact the Sierra Club to talk about any of the issues that they want to bring up just so we're on the same page when we bring the resolution forward. So if we can table that one.

And do we want to talk about the ordinance on hot water recirculation systems? That's XIII, A. 1.

MR. ABEYTA: That's correct. That's XIII. A,1.

CHAIRMAN ANAYA: I know that the CDRC tabled it, correct? And we want to know if the Commission wants to hear that now or do we want it to go back to the CDRC for further recommendations to this Board. Is there any comment?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to at least discuss it when it comes up on the agenda. I don't want to table it at this point.

CHAIRMAN ANAYA: Okay. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, I'm comfortable discussing it but not taking any action on it without getting an approval or at least some sort of recommendation from CDRC.

COMMISSIONER VIGIL: Mr. Chairman, I think we should discuss it because I think we're all prepared just from preliminary review to make some comments and perhaps those could be incorporated. I agree. I don't believe that we're at a place where we can take action on this.

CHAIRMAN ANAYA: Okay, so I then I guess what I'm hearing from the Commission is to leave it on the agenda. We'll talk about it and go from there. Any other changes?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: What about items IX. Matters from the Commission, F? Adopt the Code of the West? I thought there was some discussion that that might be tabled.

CHAIRMAN ANAYA: That was talked about but I'd like to talk about it. Whatever the pleasure of the Commission. I'd like to talk about it.

COMMISSIONER VIGIL: I'm happy to hear concerns from the Commission. I think those could all be incorporated because I also believe this is another one that needs the input, not only of staff but perhaps of the Commission and this is the appropriate place for it.

CHAIRMAN ANAYA: Okay. Any other changes?

COMMISSIONER MONTOYA: Mr. Chairman, Steve, Mr. Ross, did every Commissioner get the amended copy for item IX. G?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Montoya, I don't know. Lisa was handling that. We'll try and find out.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Commissioner Montoya, I did receive a copy just a little bit ago in my box this afternoon. I haven't had a chance to read it.

COMMISSIONER MONTOYA: Okay.

COMMISSIONER CAMPOS: I had heard that there was some interest that this should be tabled until we have further discussion and a better understanding of the implications. I would prefer that. I don't know what your thoughts are. Do you want to just do it and present it.

COMMISSIONER MONTOYA: Well, we could discuss it, yes.

CHAIRMAN ANAYA: Okay, any other comments? Is there a motion to approve the agenda as amended?

COMMISSIONER VIGIL: So moved.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Any more discussion?

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

**VII. Approval of Minutes  
April 12, 2005**

COMMISSIONER CAMPOS: Move to approve.

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

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: A motion and a second. Any discussion?

COMMISSIONER VIGIL: Mr. Chairman, I just have some changes, some clerical.

CHAIRMAN ANAYA: Commissioner Vigil has some changes. Commissioner Sullivan

changes. COMMISSIONER SULLIVAN: I had some administrative, typographical

changes. CHAIRMAN ANAYA: Any more discussion?

COMMISSIONER CAMPOS: Mr. Chairman, I do not object to any minor things that do not change the substance of the minutes.

COMMISSIONER VIGIL: None of mine do.



**The motion to approve the April 12, 2005 minutes passed by unanimous [5-0] voice vote.**

**CHAIRMAN ANAYA:** The minutes of April 12, 2005 have been adopted.

**VIII. Matters of Public Concern –NON-ACTION ITEMS**

**CHAIRMAN ANAYA:** Is there anybody in the audience that would like to come and speak to the Commission on any concern. Molly Harris and Rebecca Montoya.

**MOLLY HARRIS:** Good afternoon, Mr. Chairman, Commissioners. Look forward to being here this afternoon. Finally having some warm weather in Santa Fe. It's really nice. Most of you know me but for the record my name is Molly Harris. I'm the director of the Highway Beautification program for the Department of Transportation, and I'm here today on behalf of Secretary Faught and Governor Richardson to invite Santa Fe County to participate with us in a new litter campaign that the DOT is promoting in this next year.

We all know as elected officials and government that it's getting very expensive to maintain and pickup litter from our roadways, whether it be in the county or the city or on state highways. So to bring that awareness we're going to have a tremendous kick-off of the litter clean-up and it's going to take place May 24<sup>th</sup>, 8:30 in the morning and we're going to clean up I-25 from Santa Fe, the edge of the city, to Albuquerque, to just before Bernalillo. And we're asking for the Santa Fe County to become a partner with us. I did bring a letter of invitation to Commissioner Anaya, giving him a little bit more detail. But I think this is a great opportunity for us to partner together and for us to be aware that we need to join as all governments together in the effort to help keep our state clean and beautiful.

And with that, I would be open to any ideas, suggestions, or if you want me to follow up with your County Manager, I'd be happy to do that as well.

**CHAIRMAN ANAYA:** Molly, Ms. Harris, thank you very much for coming and presenting what you want to do and I think that the County would love to participate and I've already talked to the County Manager. We have some ideas and in terms of the employees coming out, I know litter is a big problem and we all have to do our share, our part in order to cut it down and to clean up. I don't know if Gerald, or Roman, you want to respond on what kind of ideas or we can get with Molly later on to see how we can work these things out.

**GERALD GONZALEZ:** Mr. Chairman, members of the Commission, we'd be glad to visit with her. We have talked internally about perhaps trying to provide some volunteers from among the County employees to participate as kind of a representation of the County's decision to go ahead and do what we can with respect to supporting this effort and we'd also be glad to talk to Molly about any other thoughts she may have as well.

**CHAIRMAN ANAYA:** Great. Is there anybody, Commissioners, want to comment?

**COMMISSIONER VIGIL:** Thank you, Molly. I'm glad you're still with solid

waste management and litter pick-up. Molly's got a distinguished honor of being a founder of Santa Fe Beautiful, and that's a wonderful program that's expanded in our community. Is May 24<sup>th</sup> the day? So that is, I believe, a BCC meeting day? Is that not correct? Perhaps we could take a break and go out and pick up litter.

MS. HARRIS: I have a mile marker saved just for the Commissioners.

CHAIRMAN ANAYA: They'd better be clean.

COMMISSIONER VIGIL: I actually just finished participating in the San Ysidro river clean up last week and would love to be a part of it personally. I don't know if it's possible because of the BCC meeting.

MS. HARRIS: We'll see if we can coordinate something.

COMMISSIONER VIGIL: Okay. I think one of the ways we can really help is through volunteerism and through marketing it within the county. And of course I think I'll defer to Gerald and in his wisdom he can decide how we might be able to work this out with employees because that is a workday.

MS. HARRIS: Absolutely.

COMMISSIONER VIGIL: And hopefully the County will be able to step up to the plate and be able to afford some kind of a trade-off for this. So we look forward to working with you and believe in partnerships and know that clean-up of litter can only happen if we all work together on it. Thanks for being here.

MS. HARRIS: Thank you, Commissioner,.

CHAIRMAN ANAYA: Thank you. Anybody else? Thank you, Molly, we'll get with the Manager.

MS. HARRIS: Thank you so much. I'll get with Gerald.

CHAIRMAN ANAYA: Thanks for being here. Okay, Rebecca. It's Highway Department Day, I guess.

REBECCA MONTOYA: Excuse me, Mr. Chairman. It's Transportation.

CHAIRMAN ANAYA: I owe you a dollar.

MS. MONTOYA: Good afternoon. Thank you for the opportunity of addressing you here this afternoon. I'm Rebecca Montoya, adjutant secretary for the Department of Transportation, and I too came to extend an invitation to you all to participate in our National Transportation Day, which is on May 20<sup>th</sup>, and it's also Ride Your Bike to Work Day. And I hope that if you don't ride a bike you can still come during your lunch hour if any and participate. It will be Transportation Day. We're celebrating on May 20<sup>th</sup>, and it's from 10:00 am to 1:00 pm. You can take your lunch hour and come and join us and have lunch with us. It's at the Department of Transportation, 1120 Cerrillos Road, the Joe M. Anaya Building.

We have lots of events and activities planned throughout the day. We have many displaced equipment. We will be having a raffle for a bicycle, a mountain bike, provided by All Aboard America, who is our public transportation. We also have safety – click it or ticket. We're going to have demonstrations on that. The ignition interlock. And we will have displays on DWI. We will have the Aviation Division display and many other things, car show, and Park 'n' Ride will carry their bicycle to show how it will benefit commuters.

The other good thing about this is KSWV will be providing a live broadcast so if any of you have any comments to make about the County or anything that you all are doing regarding transportation, if you let me know we'll allow you some time for that. So basically, that's all I have. I'd also like to invite the public that's here to join us and come over on May 20<sup>th</sup> and celebrate Transportation Day. I'll pass this out for you all for your information. We hope to see you there and take time to come during your lunch hour to see us. Thank you.

CHAIRMAN ANAYA: Thank you, Rebecca, and I see Jose Morfin's there, your back-up. He's also here with the Transportation Department. Thanks for being here, Jose.

MS. MONTOYA: Jose Morfin is our ombudsman and he handles all the employee relations for the department.

CHAIRMAN ANAYA: Okay. Thank you. Any questions or comments of Ms. Montoya? Thank you very much.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for Gerald or Roman. These are two significant, important dates. Is our website interactive enough to put announcements on the websites for these two dates?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, yes, and we'll be sure to do that.

COMMISSIONER VIGIL: Thank you very much.

CHAIRMAN ANAYA: Good idea, Commissioner. Okay, anybody else like to speak to the Commission? We missed one item and we'll go back to the Consent item, Consent Calendar withdrawals. Were there any withdrawals?

#### **VI. C. Consent Calendar: Withdrawals**

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I need to withdraw A.

CHAIRMAN ANAYA: Withdraw A. Okay. Is there a motion to amend the agenda then? A second motion to withdraw A?

COMMISSIONER CAMPOS: So moved.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

**The motion to approve amend the agenda to isolate VI. C. A for discussion passed by unanimous [5-0] voice vote.**

#### **IX. Matters from the Commission**

**A. Resolution 2005-57. A Resolution Dedicating the Eldorado Senior Center as the "Ken and Patty Adam Senior Center" (Commissioner Sullivan)**

CHAIRMAN ANAYA: IX. A, B, and C pretty much have something in common and we have senior citizens here from the Town of Edgewood and that area and we have senior citizens from the Eldorado area and we probably have senior citizens from all over Santa Fe County here. So I want to welcome you. We've got a resolution dedicating the Eldorado Senior Center as the Ken and Patty Adam Senior Center, which Commissioner Sullivan and Montoya will be talking about. So please don't leave after you hear these things. We've got a proclamation declaring May 25, 2005 as Senior Citizens Day in Santa Fe County, and we also are going to honor Dorothy Brown who turned 100 years old. So stick around. We've got some exciting things coming your way.

So first of all we will start with item IX. A, a resolution dedicating the Eldorado Senior Center as the Ken and Patty Adam Senior Center. Commissioner Sullivan, would you like to start off?

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman, for that great Jay Leno introduction. I apologize. I'm battling with laryngitis today, so I'm saving my little bit of voice left for this presentation right here. So the meeting will go much more quickly for the rest of the Commissioners this evening. But I want to start off, and in fact I'm going to ask Commissioner Montoya to read a resolution. But I'm going to start off just simply by saying that one of the first things that I had the opportunity to do over four years ago when I became a new County Commissioner was to select a person for the Senior Advisory Committee. I didn't know what the Senior Advisory Committee was, what it did, who they were, who ran it, who was on it or anything about it.

So I needed to learn very quickly so that I could make a recommendation for someone from my district and the Eldorado area. It did not take me very long to learn that the person that knew all about senior activities was Patty Adam. For some reason she wasn't at that point in time on the senior committee although I believe she had been in the past. So I was able to convince her and we were fortunate to appoint her again to the senior committee where she served, as she always has, with her husband Ken in just an outstanding fashion.

Since then we've undertaken other things, not the least of which is the lobbying for a new senior center, the architectural design and input from the community on that center, her providing meals on wheels to other seniors there in the Eldorado/285 area. The programs that she has supported are many and with that brief introduction, perhaps I could ask Commissioner Montoya to read the resolution.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman, Commissioner Sullivan. This is a resolution dedicating the Eldorado Area Senior Center as the Ken and Patty Adam Senior Center. It reads:

Whereas, we honor and respect our senior citizens throughout Santa Fe County and

the nation; and

Whereas, Ken and Patty Adam moved to New Mexico 31 years ago from Berkeley, California; and

Whereas Ken and Patty Adam were avid skiers and hikers who are now both in their late 80s, have four children, two boys and two girls; and

Whereas, Patty Adam has been the voice for the senior community in the Eldorado area and it was her initiative to bring a senior center to the Eldorado community to benefit all seniors; and

Whereas, Patty Adam has been instrumental in working with the County, City and State government, not only to build a senior center but also to provide meals on wheels and transportation for all seniors; and

Whereas, Ken and Patty Adam, despite their own health and safety, will travel on bad weather days to make sure other seniors get the daily meals that they depend on, offer transportation, and check on their well-being; and

Whereas it is fitting and proper to dedicate the Eldorado Area Senior Center in honor of Ken and Patty Adam for their role in bringing the senior center in honor of Ken and Patty Adam for their role in bringing a senior center to the Eldorado community; and

Now, therefore be it resolved by the Board of County Commissioners of the County of Santa Fe that the Eldorado Area Senior Center shall henceforth be known as the Ken and Patty Adam Senior Center. Be it further resolved that the Santa Fe County Project and Facilities Management Department is directed to obtain and place a sign at the building that reads: Ken and Patty Adam Senior Center, named in honor of Ken and Patty Adam, strong voices for seniors in the Eldorado area.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. Could Ken and Patty Adam go ahead and come forward?

COMMISSIONER SULLIVAN: Patty is also a very eloquent spokesperson so I'd like her to say a few words.

PATTY ADAM: Thank you. Well, I certainly didn't expect to be limping around with a cane when it finally happened. But thank you all very much. It's most kind of you. I really must object. There are so many people that have worked on this and I think they worked just as hard as I have if not harder, so can't we name it for all of us? My daughter tells me that down in Mexico there's a senior center named La Senilia. That might be a good name for us, don't you think? But thank you so much. I'm most shocked.

CHAIRMAN ANAYA: Thank you, Patty. You deserve it.

MS. ADAM: Well, we've eaten a lot of lunches in the name of the senior center, haven't we? I guess we're the most senior. That's the only excuse for this.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan, Commissioner Montoya, for doing that.

**IX. C. A Proclamation Declaring May 25, 2005 as "Senior Citizen Day in Santa Fe County" (Commissioner Anaya)**

CHAIRMAN ANAYA: Gerald Gonzalez, do you want to go ahead and read the proclamation for us?

MR. GONZALEZ: Thank you, Mr. Chairman, Commissioners, citizens of Santa Fe County. I think we see as the previous presentation illustrates being senior does not always mean being older. Proclamation:

Whereas, as our population of senior citizens continues to grow, we the people of Santa Fe County recognize the many important contributions of the older citizens of Santa Fe County; and

Whereas, as senior citizens have endured, preserved and prospered during the worst and best of times this nation has faced and in so doing have brought a wealth of invaluable experience and leadership skills to future generations; and

Whereas, seniors in Santa Fe County continue to demonstrate a great passion for continuing their commitment to the betterment of our community through active participation and volunteer programs, recreational and social activities, and their support of the education of our youth and overall community; and

Whereas, Santa Fe County places an important value on our older residents and thanks them for the lessons they have taught us and the strong values they have instilled in our families that continue to benefit our community; and

Whereas, the Board of County Commissioners of Santa Fe County continue to help fund senior service programs and continues to initiate support for all senior citizens in our community; and

Whereas, Santa Fe County commends our older citizens for their many contributions and the tremendous impact these members have made on our quality of life in the community; and

Whereas, the Board of County Commissioners of Santa Fe County encourage all of Santa Fe County to show great honor and respect to our senior citizens;

Now, therefore, we the Board of County Commissioners, hereby proclaim the 25<sup>th</sup> of May, 2005 Senior Citizens Day throughout Santa Fe County.

CCHAIRMAN ANAYA: Thank you, Gerald, and let's give all the seniors a big hand. That proclamation will also be read on May 25<sup>th</sup> at the Sweeney Convention Center where they're going to have Senior Day and we hope to see you all there. I won't be able to make that; I'll be out of town but that's why we wanted to bring it forward. So thank you all again.

**IX. B. Honor Edgewood Resident Dorothy Brown on her 100<sup>th</sup> Birthday  
(Commissioner Anaya)**

CHAIRMAN ANAYA: I have a proclamation here that I'd like to read and then - it's a proclamation:

Whereas, Ms. Dorothy Brown of Edgewood, New Mexico has reached her centennial birthday; and

Whereas, we honor, respect, and are grateful for the contributions that elders continue to make in our community. They enrich our lives and their life experiences and stories will be cherished for generations to come; and

Whereas, in various ways our community elders enhance the lives of the citizens in our community; and

Whereas it is essential to recognize members of our local community who continue to enhance the quality of life for our county residents, especially those who have lived not decades, but rather an entire century; and

Now, therefore, we the Board of Santa Fe County Commissioners hereby proclaim the 27<sup>th</sup> day of April, 2005 as Dorothy Brown Day throughout Santa Fe County.

That's her birthday so that's why we did that. So Dorothy, congratulations and we've got a little surprise for you. Before we go into that I would like to recognize, just change the subject a little so I don't forget - my cousin, Charlie Anaya - Charlie, could you please stand up? Charlie Anaya worked for the County for 27 years and retired from Santa Fe County. So thank you for being here, Charlie.

[Mariachis serenaded Ms. Brown accompanied by Commissioner Anaya on the guitar.]

DOROTHY BROWN: This reception to me is overwhelming and I appreciate it so much. I love New Mexico and all its people and I can't thank you enough. Words can't express my appreciation for all you've done for me.

CHAIRMAN ANAYA: You're welcome. We have a beautiful cake that the County purchased and it's right in the hallway over here. So help yourself to the cake. We've got to continue with our meeting but thanks again, Dorothy. Thank you, seniors for showing up. Edgewood, Eldorado, thank you all very much. Charlie, take care. Good to see you again.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: In the heat of the moment I neglected to make a motion, going back to IX. A. for the resolution on the dedication of the Eldorado Senior Center. I'd like to make a motion that we adopt that resolution.

COMMISSIONER VIGIL: Second.

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

**The motion to approve Resolution 2005-57 passed by unanimous [5-0] voice vote.**

**IX. D. A Resolution Supporting Federal Funding for Cooperative Extension Service and Agricultural Experiment Stations (Commissioner Anaya)**

CHAIRMAN ANAYA: Does the Commission have any questions on the resolution?

COMMISSIONER MONTOYA: Mr. Chairman, move for approval.

CHAIRMAN ANAYA: There's a motion. Is there a second? I'll second it. Any discussion?

COMMISSIONER CAMPOS: Mr. Chairman, could you give us just a brief statement on it?

CHAIRMAN ANAYA: Pat, why don't you go ahead and just brief the Commission.

PAT TORRES (County Extension Agent): Mr. Chairman, members of the Commission, over the years some of these federal funds that have come down to the state level and redistributed out to support the cooperative extension service at the County level have been eroding gradually and as a matter of fact, for instance, funding for agricultural experiment stations for this year had actually been zeroed out in the president's budget. That has been restored and there has been speculation that at the federal level even some of that support for cooperative extension service is kind of being targeted for future years as well.

So whenever some of this erosion occurs, in some other states, actually the counties have been picking up some of that funding. And the funding, as we well know here in New Mexico doesn't come by very easy. Therefore what we're trying to do is we're trying to get ahead of the game by taking some of these resolutions maybe to our congressional delegation and even take it to the Secretary of Agriculture at the federal level, Secretary Johanns so in turn he can even present it to the president making him aware that these are critical funds that are needed down at the grass roots level, so that we can continue providing timely, research based information to the folks of Santa Fe County and New Mexico and of course the work that's conducted at experiment stations is some of that research based information that we in turn disseminate. So we want to make sure that they basically go hand in hand. So in a nutshell that's why this particular resolution has come about. I'd entertain any questions that you may have.

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

**The motion to approve Resolution 2005-58 passed by unanimous [4-0] voice vote. [Commissioner Sullivan was not present for this action.]**



**IX. F. Adopt the "Code of the West" to Santa Fe County  
(Commissioner Anaya)**

**CHAIRMAN ANAYA:** A little background that I'm familiar with as Code of the West is something that I would like to adopt because so many people come from out of the state and they move into Santa Fe County and they expect to have the same services as where they're from. For example, I get calls like, why isn't my road graded or paved? And we're working on that but we just don't have enough funding. Why doesn't the sheriff drive by my house every day? Issues like that.

So what I'd like to do is I'd like Jennifer Jaramillo to come forward and just tell us, maybe answer any questions that the Commission might have because she's been looking into this. It's not the County Code. It's just the Code of the West. It's a simple way of saying you're not going to get the same services in the rural area as you do in the city. So Jennifer, if you'd like to come forward, and if you want to add something to what I just spoke on or you want to wait for the Commission to ask questions.

**JENNIFER JARAMILLO (Constituent Services):** Mr. Chairman, Commissioners, I just want to give you a little history on what I know about the Code of the West. When I was asked to research this about six weeks ago by Chairman Anaya, I've been looking it up. It's actually written by a former Commissioner, his name is John Clark, and he's a former Commissioner of Laramie County in Colorado. He's the one that actually wrote this for Laramie County. He took the name "Code of the West" from the novel by Zane Grey, who is a famous Wild West writer. Since then, since Laramie County adopted this Code of the West, many other counties throughout Colorado have adopted this, counties through Montana, counties through Arizona, through Texas, and what Commissioner Anaya's vision is to get this through various counties in the state of New Mexico.

So I know there were some concerns maybe on some copyright. Laramie County does not have a problem with us or any other counties taking this document and tweaking it, so to speak, to pertain to more Santa Fe County issues and the name Code of the West is known as Code of the West because it's the rural way of thinking, it's the rural way of living. I stand for questions.

**CHAIRMAN ANAYA:** Any questions of Jennifer?

**COMMISSIONER MONTOYA:** Mr. Chairman, then, this Code of the West, does it have to go by that title? Could we call it the Code of Santa Fe County?

**MS. JARAMILLO:** Personally, I like the Code of the West because that's something, it's been adopted already by so many other various counties throughout the western states. Like I said, from Texas over, and it's known as the Code of the West. A lot of people when they're just talking about the Code of the West, they actually are familiar with this actual document. So I think to change it, it might confuse people but I think that's up to you as the Board if you want to change that. This is based off of the Zane Grey novel, *Code of the West*.

**CHAIRMAN ANAYA:** Yes, and I think if we change the name - I'm open for suggestions, but I think if we change the name then it doesn't have the same meaning. You

said, Jennifer, that they adopted it in Texas, Arizona, Colorado, and New Mexico is part of the west. So I think that that's an appropriate name. Commissioner Montoya.

COMMISSIONER MONTOYA: Code of the Southwest?

COMMISSIONER VIGIL: Yes. To me it connotes and it denotes guns and rifles, and we're also bows and arrows here. So I think there is some tweaking that needs to be done with regard to that and I think it is a marketable tool, but we are in the southwest and I think the southwest needs to be denoted more in this than just west. There are some people who don't even think New Mexico is in the United States.

COMMISSIONER MONTOYA: That's the truth.

COMMISSIONER VIGIL: It is. I think there is some tweaking that needs to be done, Jennifer. I like the intent. I really like the idea. I think it's a marketable tool but I do not think it's as tailorized to Santa Fe County as I would like to see it. I also think we need to look at it in terms of a caveat and a disclaimer because may rely on some of the language here in order to make decisions on their own property and may misinterpret it. So disclaimers do need to be a part of this and people should know that they need to come to Santa Fe County and to our Land Use Division with this.

I think it does need more tweaking. Another concern I have with it is I guess I learned that this is intended to be distributed to realtors. I don't know if we have the Realtors Association on board with that. I think it's a piece of information that can be disseminated. I'm not too sure we have a structure in place as to how or whether we have agreements or if we're just going to adopt it and hope that it happens and send it out. So I just think there's some more work that needs to be done to it in order for it to be the effective tool it can potentially be.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. And right now, I'm not talking about - I would like it to go to the realtors but we'd have to make it an ordinance. Right now, I'm just trying to get it adopted by the County. But that is something that I think, this Code of the West would be handy for a realtor to hand out to a person that purchases a piece of property in Santa Fe County so that they know that when they buy this piece of property they have to drill a well to get water and that the County's not going to hook it up. I'm just talking in certain instances, that this is a private road and the grader and the Public Works does not go down that road and blade it. They need to know these things before they purchase pieces of property and that's not getting done. People are buying property and they're saying, well nobody told me that the Sheriff's Department doesn't come down this road or certain instances. So, Pat Torres, did you want to comment on something?

MR. TORRES: Thank you, Mr. Chairman, members of the Commission. It's actually kind of nice to see one of these pieces of material being put together for dissemination. Actually, from time to time I do get calls from folks who have moved into the area and aren't familiar with rural living in New Mexico. As a matter of fact you'd be surprised as to how many folks who have been in New Mexico for a while, maybe even born and raised here, don't understand some of the legal implications, living in rural communities. For instance, a lot of folks aren't aware of the fence-out, that New Mexico is a fence-out state when it comes to livestock coming onto their property and so forth.

So like I say, I think it's certainly a very educational piece for the general public. In visiting with my supervisor he's indicated that this is something that is being distributed by several extension offices throughout the western region, and with that said I too would like to offer my support in terms of disseminating some of these to some of those newcomers as well.

**CHAIRMAN ANAYA:** Commissioner Sullivan.

**COMMISSIONER SULLIVAN:** Mr. Chairman, I think in reading this over there's a lot of good information and we could actually, if we wanted to, reference it to certain sections of the County Code and people could go and learn a little more about some of the issues that you bring up here. The big problem I have with it is that it focuses entirely on the rural part of Santa Fe County. But more than half of the county part of Santa Fe County is urban, and has water service and in many cases even sewer service, and traffic problems and all kinds of problems. So I think that what this does is it portrays all of Santa Fe County as being rural. The great percentage of Santa Fe County area-wise is rural. That's great. That's a great heritage that we have. But a larger and larger portion of Santa Fe County is urban and I think what we could explain in a document like this, regardless of the title, is just that. That you can live in Santa Fe County and have urban amenities, bike trails and ease of access to commercial shopping centers and paved roads and so forth.

But if you go outside the urban areas in the Extraterritorial Zone areas then you're going to be in the real county part of the county and in those areas - and we could certainly cite statistics that we only have 12 sheriff's deputies to handle 1900 square miles and things of that nature so when you call the sheriff he's not going to be at your doorstep within 10 minutes. That's the impression I got when I read it was that it did a good job with what a part of the county represents but it didn't emphasize that there's a lot of Santa Fe County that's urban and has some amenities and you should take a look at that and decide where in Santa Fe County you'd like to live. We'd like to have you in either area.

**CHAIRMAN ANAYA:** In this area, what we're speaking about is the rural area.

**COMMISSIONER SULLIVAN:** And that is not clear.

**MS. JARAMILLO:** And Commissioner Sullivan, Commissioners, we can definitely tweak this a little bit more to make that point, that if you're in the urban part of Santa Fe County, well, sure you're going to have these amenities but that's what the purpose of the Code of the West was written for by this Commissioner John Clark because he had the same issues in his county and it was for the people who were in the rural part that you may not get cable TV and you may not have cell service and you may not have all the luxuries that you would think you would have because you are in more of a rural part of the county. A lot of our constituents that call have these issues and want to know why they don't get cable hook-up and why they don't have a DSL line and why they don't have all these things, and it's because they're in the rural part of the area. It's supposed to be more of a light-hearted way of looking at life in the county and just looking at this, some of them look really obvious, but people from California - and I can say that because I'm from California - people from California, from New York, they don't understand that there's million dollar homes that are still off dirt roads.

And it's just because that's the way that it is in the rural parts of Santa Fe County. So that's what the Code of the West was designed to do was really focus to the rural residents.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I'd also like some more input from our Land Use staff because as I read some of these - I like Commissioner Sullivan's idea to be able to incorporate some of the citations and reference some of the Code with regard to that. But I think this kind of a tool is very useful if someone wants to read a lot. We might even consider condensing it and doing something bulletin like. I'd like to see if we come up with something, get it placed on the Internet. I also think there are other ways of disseminating it. Have you gotten any cooperation from realtors in terms of have you addressed the issue of dissemination?

MS. JARAMILLO: Commissioner Vigil, Commissioners, we have not contacted any realtors or gone to that point yet because we wanted to get to this point and then disperse it from there and talk to maybe the Realtors Association. Maybe go to one of their meetings and talk to them about it, see how they felt about it. But we haven't gotten to that point yet.

COMMISSIONER VIGIL: I'd like to see a structure in place to see how this would be disseminated. I think it should be packaged in that way because I don't want us to be at a place where we're enacting things that sound good but don't have substance or the structure behind them to actually be effective. So while this in my mind sounds good, it looks like we could do something with it I think we still need some more staff review of it. I'd like to see comments from staff, particularly Land Use and find out if there's a way we could tailor this for Santa Fe County. So with that, Mr. Chairman, I'm going to motion that we table this perhaps until the next meeting to get more feedback. I'm sorry, Jennifer. Did you want to say something?

MS. JARAMILLO: I just want to say one thing, Commissioner Vigil, Commissioners, we did have a committee that we put together that looked at the Code of the West. We had all the departments that were involved with this. We had Land Use, Fire, Public Works, anyone that had any issues with this. Legal. And we did sit down and we did make some changes. What Land Use did do, Dolores Vigil actually took it to some of her staff and they started putting all kinds of codes and things all throughout this and really, what the point of this is is to be separate from our Land Use Code. We want to keep our Land Use Code here and do the Code of the West over there because if we start putting little codes here and there and that wasn't the purpose of having this Code of the West. If you like, I can show you the notes of everything those been supplied -

COMMISSIONER VIGIL: Have those notes been incorporated into this document?

MS. JARAMILLO: Not in the typed document but they're all hand-written. And I have all those which I could supply.

COMMISSIONER VIGIL: I'm not asking about the notes; I'm asking what the notes intended to do to change the document. Have they been incorporated? Are all those

changes in this document that we have in front of us?

MS. JARAMILLO: No. They're not in there.

CHAIRMAN ANAYA: Thank you, Commissioner. And I don't want to – we can go back and look at it. We have department heads at the table and we talked about it and that's why I went about it that way so the department heads could look at it, put their input in and then I e-mailed it out to the Commissioners so they could look at it so that we could – I don't want to seem like we're rushing something through. I think this is a simple document. I don't want to start putting things in that's not going to make it simple. It's just if your dog chases cattle, it's liable to get shot. And it says that in there. And it's pointblank and that's the law. And there's a lot of simple things in there that we need to let the public know. I don't want to turn it into some big County Land Use Code because it's just a very simple thing. So there's a motion on the table to table. Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: There's a motion and a second for more review.

**The motion to table consideration of the Code of the West passed by unanimous [5-0] voice vote.**

CHAIRMAN ANAYA: Okay. Jennifer and Pat and maybe the rest of the staff, go back to the table and see what you can do to address some of the concerns that the Commission had and then we'll put it on the next agenda or maybe the following. And we'll talk about it some more. Thank you, Commissioners.

**IX. G Resolution 2005-\_\_ . A Resolution Supporting the Conceptual Proposal of the Northern Pueblo Tributary Water Rights Association Regarding the Aamodt Water Settlement and Urge the Bureau of Reclamation and the State of New Mexico to Provide Apportionment of San Juan-Chama Water to the Aamodt Settlement (Commissioner Montoya)**

COMMISSIONER MONTROYA: Thank you, Mr. Chairman, Commissioners. This resolution is something that was developed as a result of some of the discussion that's been ongoing as part of the Aamodt settlement. The salient issue that needs to be discussed and I believe Commissioner Campos said he received – did you all receive a copy with the revised, with number 3 with the underlined bold? *[Exhibit 1]* That's the only addition and it's the therefore be it resolved piece, That the Board of County Commissioners of Santa Fe County supports the concept that 2,990 acre-feet per year of San Juan/Chama project water that the Department of Interior set aside be made available for Indian water rights settlement in northern New Mexico, including the proposed settlement in the Aamodt case and an expected resolution in the Abbott case, which is in Taos.

The reason for this being, just a little background, the Bureau of Reclamation has made it clear that this 2,990 acre-feet is available for any Indian settlement, Indian water rights settlement in northern New Mexico. The thing that has not been clear is that the governor's office, apparently about 15 years ago, there was an agreement made and I think it was probably a verbal agreement made at the State Engineer's Office at that time that that 2,990 acre-feet would be only appropriated for the Taos Indian water rights settlement. As recent as February, in talking to the area director from the Bureau of Reclamation, he's made it clear that those 2,990 acre-feet should be on the table for any water rights settlement.

So what this would do, along with the Pueblo of Nambe, Pueblo of Tesuque, Pueblo of Pojoaque, Pueblo of San Ildefonso, in their discussions have agreed and want to have that put on the table as part of the water rights settlement which would help in terms of the acquisition of certain water rights that are being required right now as part of the overall settlement. This would just allow another avenue to be considered for the acquisition of additional water rights. So I would stand for any questions, Mr. Chairman.

CHAIRMAN ANAYA: Any questions on the resolution? Hearing none, what's the pleasure of the Board? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, the question I have is it seems that the resolution is structured that if we support the 2,990 being allocated to the northern Pueblos, then the Pueblos will withdraw their objections to the draft environmental impact statement. And that may be a good deal. I don't know. I haven't been a part of all those discussions. But there's no place here for the Pueblos to sign. And I think we make resolutions all the time and the second half of them doesn't get done, which is that we get equal commitments out of the Pueblos. Where is their commitment to this?

COMMISSIONER MONTOYA: Mr. Chairman, Commissioner Sullivan, my understanding is that each Pueblo government will adopt a resolution similar to this.

COMMISSIONER SULLIVAN: Well, I would - well similar. I would suggest a clause that says that this will not take effect until adopted by all affected Pueblos and their respective governments.

COMMISSIONER MONTOYA: I don't think that's going to be a problem.

COMMISSIONER SULLIVAN: Because we do things on our side. They say, you agreed that 2,990 was to be allocated for Taos and so forth and they forget that agreements have two sides to them.

CHAIRMAN ANAYA: Commissioner Sullivan, so would you feel comfortable with all of the Pueblos that he mentioned would be on the same document that we would all sign?

COMMISSIONER SULLIVAN: They wouldn't have to be on the same document but it would have to be the same document. If it's a similar document then that's a different document. And if the Pueblos are going to wordsmith it and make it to their liking then it's not the same document. Just to put everybody on the same document and add a sentence that says once it's executed by all parties it becomes effective.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I would – I'm not comfortable. I don't know the full implications of this resolution. It came up recently. I would prefer a tabling and at some point a discussion with staff to understand the implications of this. I'm not sure where the negotiations – I know Commissioner Montoya is very involved; I'm not. I don't feel comfortable. I just want to ask if there are any Commissioners who would favor tabling.

CHAIRMAN ANAYA: I would favor that too. Right now I'm not too up to speed on exactly that this is. So I would be in favor of that so that I can be up to speed and find out what's going on. I'd feel more comfortable.

COMMISSIONER CAMPOS: Anybody else? I'll move to table then.

COMMISSIONER MONTOYA: Second.

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

**The motion to table the resolution concerning the San Juan/Chama apportionment passed by unanimous [5-0] voice vote.**

MR. ABEYTA: Mr. Chairman, if we may, I would ask that we go to item X.A, the Presentation for employee of the quarter because we have staff that's been waiting from our Human Resources Department.

CHAIRMAN ANAYA: Okay. If that's okay with the Commission.

**X. Presentations**

**Presentation by Steve Ross for Bernadette Salazar, Employee of the Quarter, First Quarter of 2005**

MR. ROSS: Mr. Chairman, members of the Commission, as you know, the County has a program where we recognize an employee of the quarter. This recognition is given to employees who show special dedication to the County and to their job. It comes along with eight hours of administrative leave, a parking permit in the back parking lot, a framed certificate signed by all the members of the Board and an article in our County newsletter about their accomplishments.

We're here today to recognize Bernadette Salazar as the employee of the quarter for the first quarter of 05. As you recall, our last recipient was our County Manager, Gerald Gonzales, of this award. How the recipient is chosen is a bit of an involved process. Department heads typically nominate a person and all the nominations are given to a committee of their peers and the fellow employees vote in the winning person. I happened to nominate Bernadette Salazar for some assistance she's provided to my office and it turns out that she was the nomination selected by this group of employees and I'm very happy about that.

Let me just tell you why I nominated her for the award. And I'll just read from my

nomination real quickly. Bernadette has been assisting the legal department for over one year handling a very difficult and complex case in which violations of the Federal Fair Labor Standards Act have been alleged against the Fire Department. The case arose because of a very complex pay scheme at the Fire Department. In connection with the County's defense of the case, Bernadette assisted the legal department and outside defense counsel to determine what each employee had been paid and Bernadette also generated extremely complex and detailed spreadsheets to demonstrate various scenarios to assist in the defense of the case. The work involved going over each and every time sheet of every employee at the Fire Department for three years. The information from the time sheets then had to be entered into a database and then transferred to a very complex spreadsheet prepared by an expert employed by our defense counsel. She also gathered information for outside defense counsel, the expert and assisted in answering complex legal interrogatories related to the case and assisted the legal department in its efforts to assess the County's legal position.

Now, what's unique about all this work that Bernadette assisted me with is that there's only a handful of attorneys in this state who are comfortable dealing with FLSA matters and over the period of the last year and a half Bernadette has become an expert in her own right in this area and it's something that's way, way, way above and beyond the scope of her duties in the personnel department and it's something that I wanted to recognize myself because it's such an amazing accomplishment that a person could grasp the situation as well as she has and actually become an expert in her own right in the matter.

Now, she's done all this, she's assisted the legal department in addition to her regular duties, and in addition to raising three children, Samantha, Taylor and Santiago, and in addition to serving as a T-ball coach and equipment manager for her daughter's team, and -this is the one that really kills me - she's also going to school in the evenings and on weekends earning a master's degree at the College of Santa Fe. So her dedication to her family and to her personal advancement and her dedication to the County are something I thought should be recognized. So with that, Bernadette Salazar, employee of the quarter.

**CHAIRMAN ANAYA:** Bernadette, go ahead and come up.

**MR. GONZALEZ:** While we're making the presentation, Mr. Chairman, I just wanted to observe that one of Bern's characteristics that has endeared her to our County family is that she's one of the most up people that I've ever worked with. When you consider where she works and what she deals with I think it's incredible that she's able to do not only her job, not only stay cheery, but cheer everybody else up at the same time.

**CHAIRMAN ANAYA:** Bernadette, thank you for all your hard work. We really appreciate it and I know everybody in the County appreciates it too and keep up the good work.



**X. B. Presentation of Santa Fe County Employee, Jayla Ortiz-Ranked Fifth in the World in the Women's International Boxing Association (WIBA) Valerie Espinoza**

VALERIE ESPINOZA (County Clerk): Mr. Chairman, Commissioners, as elected officials we need to take stock in our employees and encourage them to pursue their careers and their goals. We need to allow our employees to prosper and grown. A good public servant looks out for their employees as well as serving. So thank you for allowing me to do something special for our Santa Fe County's million dollar baby. She got that name from Commissioner Vigil.

I want you to know that Jayla is currently ranked number five in the nation by the Women's International Boxing Federation. She also holds the New Mexico State belt from 2000 and this is our state champion belt. She has won numerous successful fights and she too is working on a bachelor's degree in criminal justice. Her grandparents are here. They raised her and deserve a hand. And their names are Ralph and Josie Ortiz. Her trainer is here, Mark Montoya. I'm also her trainer, by the way. I want to especially thank Rob Yardman for his time and talent in preparing this video. He has a way of capturing those special moments time and time again for all of us here. On behalf of the members of the Donor's Athletic Boxing Commission, Alberto Leon and Trina Ortegon have also wished Jayla well and congratulate her on her achievements. They wish they could have been here. They had planned to be here but something came up and apparently Trina has sparred with you before.

Anyhow, again, thank you for this opportunity. I just want to help Jayla maximize her potential. And here's why. We're going to have a live video. I hope we're ready for it.

CHAIRMAN ANAYA: Valerie, thank you.

[A video presentation followed.]

MR. GONZALEZ: There are three things I'd like to say about Jayla. One is that she has tremendous focus, which you will know if you've ever looked her in the eye. She has a beautiful smile and almost no ego. I think that's amazing. So I told her, that makes her my hero.

COMMISSIONER VIGIL: Mr. Chairman, I'm going to take the liberty of just saying a few words. I want to thank Valerie for bringing Jayla's accomplishments to our attention, and I think I want to underscore what our County Manager also said. Jayla, without the ego, what you're showing more than anything else and what I see in you is the passion. And when you're as impassioned as you are, it's an honor to be in that presence. Please stay with that passion. Continue to make us proud and Valerie, thank you for looking into the scores of our County employees and creating an opportunity to recognize such an outstanding accomplishment. I have a question for Jayla. Jayla, how often do you practice?

JAYLA ORTIZ (PFMD Department): Usually five days a week but when we're getting close to a fight, about six weeks before the fight we'll train every day.

COMMISSIONER VIGIL: And I know just from speaking to her that she practices in a basement at La Cieneguilla and just wherever she can. What a truly successful

story and a wonderful example that you're setting for all of us to follow your passion. Keep it up. I'm so excited to know about you.

MS. ORTIZ: Thank you, and I thank all the Commissioners and Valerie and my bosses. I guess they left. That make it possible with the training and stuff. Thank you. I thank everyone. This is a great recognition and I'm proud to work with the County. Thank you.

CHAIRMAN ANAYA: Thank you. Jayla, about a year ago or a year and a half ago I told the Commission, I believe, and the staff, that we want to go nationwide. I didn't know it was going to be boxing, but heck, we'll do boxing. Congratulations and thanks. That was a good presentation. Valerie, thank you.

**IX. H. Resolution 2005-59. A Resolution Urging Congress and the Bush Administration to Seek a Two-Year Extension of the Deadline of the Help America Vote Act and Support Full Funding (Commissioner Montoya)**

COMMISSIONER MONTOYA: Mr. Chairman, I stand for any questions.

CHAIRMAN ANAYA: Any questions? What's the pleasure of the Board?  
Move for approval. Is there a second?

COMMISSIONER MONTOYA: Second.

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

**The motion to approve Resolution 2005-59 passed by unanimous [5-0] voice vote.**

**IX. I. Resolution 2005-60. A Resolution Supporting the Restoration of Funding to the Department of Homeland Security's Office of Domestic Preparedness' Grant Programs (Commissioner Montoya)**

COMMISSIONER MONTOYA: Mr. Chairman, I believe this is pretty self-explanatory, I think in terms of the department that it affects here in Santa Fe County would be our fire response, our emergency response. So I would move for approval on this.

CHAIRMAN ANAYA: There's a motion. Is there a second? I'll second it. Any discussion? I want to thank Commissioner Montoya for bringing this resolution forward.

**The motion to approve Resolution 2005-60 passed by unanimous [5-0] voice vote.**

**IX. J. Resolution 2005-61. A Resolution in Support of the Implementation of Renewable Energy and Energy Efficiency in Santa Fe County Buildings (Commissioner Montoya)**

COMMISSIONER MONTOYA: Mr. Chairman, the reason I move this forward is that I think particularly in this day and age with some of the advanced technology and advanced energy systems that we have out there that as the County government we need to start looking at alternative means of energy. This information was provided by one of the I think still members of the Energy Task Force, Mark Sardella, in terms of what we would consider or what we should consider and what we could look at. And I think in particular, the specific instance that we have now of a Public Works and possibly a judicial complex, we'll need to discuss that. It may or may not happen. I don't know. But anyway, we need to look at renewable energy and energy efficiency within our new County building and then consider any potential retrofits that may be possible with existing buildings as well. So I would move for approval, Mr. Chairman.

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

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Any more discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Two questions. Where did the ten percent generate from, and secondly, what is a silver leadership certification?

COMMISSIONER MONTOYA: Mr. Chairman, I do not know the answers but I can get them for you from Mr. Sardella.

COMMISSIONER SULLIVAN: Okay. You think silver leadership is something that's conferred by PNM or I just wondered what it entailed.

COMMISSIONER MONTOYA: I really don't know.

COMMISSIONER SULLIVAN: Sounds nice.

COMMISSIONER MONTOYA: Sounds good. I really don't know.

CHAIRMAN ANAYA: Okay, any other comments?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: When Public Works first came up as a project there was a discussion that we had here at the Commission a couple years ago about implementing certain energy efficiencies and I think staff decided against them because it was too expensive. So if we pass resolutions we may have to revisit. I don't know how far those plans are along the road but it's more expensive and it's going to increase the budget. I think it's the right thing to do but staff took the position: I want a bigger building. And I think at that time the County Commission went along with that maybe three years ago. So maybe we need to revisit Public Works energy designs because they have had an architect working on them and there's some plans already in process.

CHAIRMAN ANAYA: Okay. Commissioner Campos, that's a good comment. We don't want to keep adding stuff on top of it but if we're saving energy it's also a good thing. Did you want to comment, Rudy or James? You were walking up here.

RUDY GARCIA (PFMD Department): Commissioners, we actually did have a meeting this morning with our architectural firm, our Finance Department, Public Works Director and a few other people and we did bring up to the architect that we are still looking at renewable energy of some sort and we will actually bring an update to the County Commission hopefully within another month or so as to where we are with our Public Works project and what the cost of some sort of alternative energy might be. But we actually are designing that building and we do speak today for energy efficiency such as different types of windows, the way the building is actually located, so on and so forth.

CHAIRMAN ANAYA: Okay. Good. Thank you. Any other comments?

The motion to approve Resolution 2005-61 passed by unanimous [5-0] voice vote.

**IX. Matters from the Commission**

CHAIRMAN ANAYA: Do we want to go back to Matters from the Commission? Commissioner Vigil, do you have anything?

COMMISSIONER VIGIL: I will wait, if you come back to me.

CHAIRMAN ANAYA: You'll wait.

COMMISSIONER VIGIL: I'll defer to Commissioner Sullivan.

COMMISSIONER SULLIVAN: You pass, you lose. I've just have one thing. You should all have gotten a memorandum from the legal staff regarding the draft thoughts on the Eldorado water project and possible County participation. So I would ask if you all, some time by the end of this week could get your comments back to Mr. Ross about that. It was a fairly detailed step by step process that would be necessary to go through involving appraisals and other things like that. But what I'd like to do is get it at least in a format that everyone is in general in agreement with and then have Mr. Ross present it to the district and have them comment on it or take it to the next step if they want to. Did anybody have a chance to go through that yet? It's kind of involved. It's not as simple as the first one was but hopefully it's better. So if you could get your comments back on that - I haven't finished mine yet either but I hope we can move that forward.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Was that all you had?

COMMISSIONER SULLIVAN: That's all.

CHAIRMAN ANAYA: Thank you. Commissioner Campos, do you have anything today? Thank you. Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, just about ten items here.

CHAIRMAN ANAYA: Okay. Start from number nine.

COMMISSIONER MONTOYA: Just to briefly update the Commissioners here. We had our New Mexico Association of Counties meeting last Friday on May 6<sup>th</sup> and not a whole lot came out. We had a legislative review which was kind of important because there were some pieces of legislation that were significant in terms of County activity, one of them being the County and Municipal Public Records Act. That was supported a lot in terms of advocacy from the County's side from Erle Wright and he was recognized at that meeting.

The other one just to bring to your attention was House Bill 336, which is the County Quality of Life, in the form of a tax, I believe, which allows counties to implement up to a ¼ percent tax to fund such things as preserve culture, cultural diversity, enhance the quality of cultural programs, foster greater access to cultural opportunities and promote culture to further economic development. So that's just something that came into law.

I just wanted to also mention that on May 25<sup>th</sup> on Seniors Day, it happens to be my dad's birthday also so it's going to be - I wish I could be there also but I will also not be able to attend the senior luncheon and banquet. I just want to recognize my dad for his upcoming birthday as well. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, and happy birthday to your father.  
Commissioner Vigil.

COMMISSIONER VIGIL: I think I'll pass till next meeting.

CHAIRMAN ANAYA: Okay. I have two short things. I want to first send our condolences out to Mike Romero, who works for PFMD. His mother passed away yesterday and we want to send our condolences out to Mike.

I just was handed some of the things that the Senators and Representatives helped us in our capital outlay and I don't have a total number here, but I wanted to thank Senator Grubestic, Senator Rodriguez, Representative Trujillo, Representative Varela, Representative Wirth, Senator Griego, Senator Martinez, Representative Lujan, Speaker of the House, Representative King, Representative Nick Salazar, Representative Cathy McCoy, Representative Jeanette Wallace and the Governor for helping Santa Fe County with all of its projects that we need help with. What I would like to do, and I don't know how the Commission feels, but we need to maybe have another reception where we bring them in and thank them for everything that they have done for Santa Fe County. And maybe Gerald we can talk about it and see what we'd like to do. But not just thank them when we need something but thank them after they give us something. So thank you all, Senators and Representatives, Governor, for all the things that you provide for Santa Fe County.

**XI. Consent Calendar**

- B. Request Authorization for Acceptance and Approval for Project Agreement 05-PT-63-091 from the New Mexico Department of Transportation / \$18,750.00 (Sheriff's Office)**

CHAIRMAN ANAYA: Is there a motion to approve the Consent Calendar?

COMMISSIONER MONTOYA: So moved.  
CHAIRMAN ANAYA: Motion. A second?  
COMMISSIONER SULLIVAN: Second.  
CHAIRMAN ANAYA: Any discussion?

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

**XI. A. EZ Case # 04-4210- Jeanniene Schmitt Family Transfer (Approved)  
(Land Use Department)**

COMMISSIONER SULLIVAN: Mr. Chairman, I just had one concerns with the way this was written on the order and it's on item 3 on the first page where we said that the BCC added a condition that neither lot shall be further split. I think in these cases, and it's true with all of them, we need to add the language that the applicant agreed to the conditions. It seemed to read like we dictated these conditions and there was no agreement to them, but in each case we ask if the applicant agrees and if they don't we discuss it and debate it. So I would amend this order just perhaps after condition 5 - or maybe after condition 13 - well, I don't know where to put it. I'll leave that up to legal. But I would recommend adding somewhere in here that the applicant agreed to the conditions, not only 1 through 13 but also the condition that neither lot shall be further split. Mr. Ross, does that work?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I think that's a very good idea. I don't see where this particular order has even been reviewed by my office either.

COMMISSIONER SULLIVAN: I don't see your Hancock on it.

MR. ROSS: There's some pretty significant typographical errors in there. Why don't we work on this for a while. Get it into my office and work it over a little bit.

COMMISSIONER SULLIVAN: Mr. Chairman, I'll move to table.

CHAIRMAN ANAYA: There's a motion to table.

COMMISSIONER MONTOYA: Second.

**The motion to table Consent Calendar item XI. A. passed by unanimous [5-0] voice vote.**

CHAIRMAN ANAYA: So you'll take care of that, Steve?

MR. ROSS: Yes.

CHAIRMAN ANAYA: Thank you.

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

**A. Project & Facilities Management Department**

**1. Request Authorization to Accept and Award a Professional**

SFC CLERK RECORDED 06/16/2005

**Service Agreement with Jon Alejandro & Associates, Professional Architectural and Engineering Services for Phase I of the RTC Project at the Youth Development Facility**

SUSAN LUCERO (Finance Director): Members of the Board, Mr. Chairman, we are requesting authorization to enter into a professional services agreement #25-170-COR with Jon Alejandro and Associates for the architectural design services of phase 1 of the residential treatment center for our Santa Fe County Youth Development Program. Phase 1 was to include architectural design of demolition services on an existing structure and new construction of administrative offices of the treatment center. The method of purchase determination was based upon the requirements of a small purchase requiring architectural services costing less than \$25,000 per Sections 13-1-66.1 and 13-1-125 of the New Mexico State Statutes.

Informal verbal quotes were acquired by the Project and Facilities Management Department to provide the required services ranging from \$60 to \$125 per hour. The selected contractor's hourly rate was at \$60 per hour, not inclusive of GRT. We are hereby requesting authorization to award the PSA to Jon Alejandro and Associates in the amount of – and there is a correction on this amount -- \$20,195.96, inclusive of gross receipts tax. And I stand for any questions on the procurement portion.

CHAIRMAN ANAYA: Thank you, Susan. Any questions of Susan?  
Hearing none, what's the pleasure of the Board?

COMMISSIONER MONTOYA: Move for approval.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Second. Any discussion?

**The motion to award the RTC contract to Alejandro & Associates passed by unanimous [5-0] voice vote.**

**XI. A. 2. Request Authorization to Accept and Award a Professional Service Agreement with Edward Aragon of Aragon Architects, Professional Architectural and Engineering Services for Phase II of the RTC Project at the Youth Development Facility**

MS. LUCERO: Mr. Chairman, members of the Board, this second PSA is also connected to the Youth Development Program for the residential treatment center. This is with respect to Professional Services Agreement #25-171-COR, with Aragon Architects for the architectural design services of phase 2 of the treatment center for the Youth Development Program. Phase 2 was to also include architectural design as well as civil, mechanical and engineering services and construction administration for the dormitory and living area wing of

SFC CLERK RECORDED 06/16/2005

the treatment center. Again, the method of purchase determination was based upon the requirements of a small purchase, requiring architectural services costing less than \$25,000 per Sections 13-1-66.1 and 13-1-125 of the New Mexico State Statutes.

A fixed price contract was requested by the PFMD Department to provide the required services in an effort to meet critical time lines necessary for the official opening of the residential center. We are hereby requesting authorization to award Professional Agreement #25-171-COR to Aragon Architects in the amount of \$19,748.75 inclusive of GRT. I stand for any questions related to the procurement process.

CHAIRMAN ANAYA: Thank you, Susan. Any questions? Hearing none, what's the pleasure?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Susan, or maybe this is for Steve. Both of these are actions or agreements pertaining to the residential treatment center and to the renovation of it. The only thing I wanted to be sure of, Mr. Ross, is that we're not artificially dividing these contracts, which is I believe prohibited by the procurement code.

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I don't know too much about that particular aspect of it. I do know that these two gentlemen associated a little bit on the project but as I understand it they have independent firms.

COMMISSIONER SULLIVAN: Well, my understanding is that the code does not allow for a particular project, for you to artificially divide it in order to get the fees below \$25,000.

MR. ROSS: That's correct.

COMMISSIONER SULLIVAN: So, on the surface, it seems to me that we have one project which is rehabbing the center. And I think that includes phasing it, or calling it phase 1 or phase 2 or part 1 or part 2 or part B. If it's all the same integral project one portion of which is reliant on the other portion, I'd just like to get a comfort level here that this is not artificially divided.

MR. ROSS: Well, as you recall, Commissioner Sullivan, originally we were only going to do phase 1 and then we were going to do phase 2 internally. That's correct, right? It became evident that we didn't have the skill or people to do phase 2, so that kind of came up later. So at least for that reason I don't think that we're artificially dividing it.

COMMISSIONER SULLIVAN: So you're comfortable with it?

MR. ROSS: Yes, I'm comfortable with it.

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

CHAIRMAN ANAYA: Let me just correct Steve. We do have the skill. We probably just didn't have the time.

MR. ROSS: I'm sorry, Commissioner. That's of course correct. I understand we were having to demolish eight or nine-inch concrete walls because it was built as an adult jail facility and we didn't have the ability to do that.



CHAIRMAN ANAYA: Thank you, Steve. Any other questions or comments? Hearing none, what's the pleasure of the Board?

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Vigil, seconded by Commissioner Montoya. Any more discussion?

**The motion to approve the contract with Aragon Architects passed by unanimous [5-0] voice vote.**

**XII. B. Sheriff's Office**

**1. Request Approval of Fiscal Year 2006 HIDTA Grant Agreement #I5PSNP573Z With the Office of National Drug Control Policy for \$244,064/ Region III Drug Task Force**

RALPH LOPEZ (Region III Program Manager): Mr. Chairman, Commissioners, I oversee both the HIDTA and DCSI grant. What we're asking for is approval for the grant application for the up and coming fiscal year, which requires Mr. Gonzalez' signature.

CHAIRMAN ANAYA: Thank you, Mr. Lopez. Is that all you want to add to it?

MR. LOPEZ: If there's any questions pertaining to HIDTA. It's on a reimbursement. Santa Fe County has been the fiscal agent for the last 15 years and this is the amount we have been funded for the last 15 years.

CHAIRMAN ANAYA: Okay, any questions of Mr. Lopez?

COMMISSIONER MONTOYA: Mr. Chairman, Mr. Lopez, how extensive does this funding go into northern Santa Fe County and what types of activities are conducted as a result of this funding?

MR. LOPEZ: Back in 1999 we were declared HIDTA by Senator Pete Dominici. And what he did as a result of that there were two counties that were declared HIDTA, Santa Fe County and Rio Arriba County. The majority of the investigations or the majority of the funding is actually in Santa Fe County. We just completed a major operation that was worked in conjunction with DEA and FBI where the majority of the operation was Santa Fe County and Bernalillo County, which is also a designated HIDTA. The state of New Mexico has 13 HIDTAs.

COMMISSIONER MONTOYA: So how much of this funding is utilized to conducted activities in northern Santa Fe County? Chimayo, La Puebla, Cuarteles?

MR. LOPEZ: To put a percentage to it, we work, right now we're I want to say at least 85, 90 percent of it is going into the counties, into Santa Fe County.

COMMISSIONER MONTOYA: To that area?

MR. LOPEZ: Yes, sir. Of course you have a fine line that borders both Rio Arriba and Santa Fe County, so any operation that we work in conjunction with federal entities, but it always involves the two counties.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. Thank you, Mr. Lopez.

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER MONTOYA: Move for approval, Mr. Chairman.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Second by Commissioner Vigil. Any more discussion?

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

**XII. B. 2. Resolution 2005-62. A Resolution Designating the County Manager or His Designee as the County's Authorized Representative/Official for Purposes of HIDTA Grant Award Number I5PSNP573Z /Region III Drug Task Force**

COMMISSIONER MONTOYA: Mr. Chairman, move for approval.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: And a second. Any discussion?

**The motion to approve Resolution 2005-62 passed by unanimous [5-0] voice vote.**

**XIII. C. Matters from the County Manager  
1. Updates on Various Issues**

MR. GONZALEZ: Mr. Chairman, Commissioners, I just wanted to let you know the Projects and Facilities Management Department Director process is proceeding in terms of selecting a new director. The interviews for that position will begin tomorrow. We have a committee that will be doing the interviews and that committee will include at least one person who is not a regular County employee in order to make sure we kind of keep the process broad.

I also wanted to simply reflect that the applications that we received for the constituent services representative position have been ranked and the information that was requested by the Commission at the last meeting, I think it's reflected on the sheets that we passed out to each of

you, so you may have seen them already in your box. If you haven't, please check your Commissioner box. The information is in there. We'd love to have feedback from the Commissioners in terms of how they want to proceed with the interviews and how to narrow the process down.

Thirdly, I simply wanted to indicate that we have our study session on budget and financial matters set for May 19<sup>th</sup>. Just in brief, the agenda for that meeting will include sort of a summary of where we are with respect to the Corrections Department, particularly the adult facility, given the notice received from MTC indicating that they were going to terminate their contract and what the implications could be for the budget process based on that, and we'll be looking for some direction from you as Commissioners. Just make sure that we're proceeding in the right direction and the way that we're doing our analysis of that issue. We'll also have a general review of what our current budget status is for this fiscal year, an indication of what we're looking at for the next fiscal year. As you know, we're trying to move into a two-year budget process so we'll have some data also on fiscal year 07 as well as 06. We'll also cover bonding issues, just to give you a perspective on the A to Z of bonding and where we are in that process. We'll take a look at the proposals or the status of the judicial facility and kind of recap where we are with respect to that, and then cover any other matters that you think need to be covered.

CHAIRMAN ANAYA: Thank you, Gerald. Any questions of Gerald? Roman, did you have anything?

MR. ABEYTA: Mr. Chairman, only that I received an update from Wayne Dalton in our Land Use Department regarding our water meter database and I'll provide that in your in-boxes for your information.

CHAIRMAN ANAYA: Thank you.

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

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

**Commissioner Montoya moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2, and 8) to discuss the matters delineated above.**

**Commissioner Campos seconded the motion which passed upon unanimous roll call vote with Commissioners Campos, Montoya, Sullivan, Vigil and Anaya all voting in the affirmative.**

[The Commission met in executive session from 5:15 to 7:25.]

**Commissioner Campos 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.**

CHAIRMAN ANAYA: I'd like to apologize to the public for us taking so long but there's just a lot of issues on our plate and we need to really talk about them. I thought we were going to be out earlier.

MR. ROSS: Mr. Chairman, you might want to state for the record that the only matters we discussed in the closed session were those stated in the motion.

CHAIRMAN ANAYA: Yes, we did. Thank you. Didn't we?

COMMISSIONER CAMPOS: My motion was - you stated the reasons why and I so moved, using your language as part of my motion.

CHAIRMAN ANAYA: Thank you.

### **XIII. Public Hearings**

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

##### **1. Ordinance 2005-\_\_ . An Ordinance Amending Ordinance 2002-13, An Ordinance Addressing Water Conservation for All Residential and Commercial Uses of Water Within Santa Fe County (Wayne Dalton)**

WAYNE DALTON (Special Projects Coordinator): Thank you, Mr. Chairman, Commissioners. Staff was directed by the Commission to request that all new construction within Santa Fe County be required to install a recirculation pump. On April 21, 2005 the CDRC met and acted on this ordinance. It was the decision of the CDRC to table this ordinance.

In order to provide a sustainable resource for all county residents and sufficient water it is imperative that we conserve our water resources. However, since it is known that most users run directly from the tap to the sewer while waiting for hot water, it can be concluded that new homes shall be constructed to minimize this waste. The requirement limits the amount of time necessary for hot water to reach the tap by requiring installation of a hot water recirculation device in all new construction of single family and multi-family residential units will significantly reduce water waste. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay, is there any questions of Wayne? Go ahead, Commissioner Montoya.

COMMISSIONER MONTOYA: Wayne, could you tell me why the CDRC decided to table it at their last meeting as opposed to taking any sort of action? Some of the discussion that occurred?

MR. DALTON: Mr. Chairman, Commissioner Montoya, the CDRC had some issues of the ordinance and one of their issues was enforcement, how the County plans to

enforce this ordinance.

COMMISSIONER MONTOYA: Kind of like our water meters?

MR. DALTON: That's correct. Another issue was cost of these systems, and another issue was are we going to require these to be installed in mobile homes?

COMMISSIONER MONTOYA: Okay.

MR. DALTON: Any basically, that's all the concerns the CDRC had.

COMMISSIONER MONTOYA: Mr. Chairman, Wayne, was there any discussion regarding affordable housing and how this may impact a unit in terms of maybe taking it out of the affordable housing market?

MR. DALTON: Mr. Chairman, Commissioner Montoya, there was a little discussion on that issue. That issue was brought up by the CDRC.

COMMISSIONER MONTOYA: Okay. And can you comment on that? Just in terms of will it take it out of an affordable housing range.

MR. DALTON: Mr. Chairman, Commissioner Montoya, as the ordinance was written right now it would not be. It would be required in affordable housing. I believe that would be up to the discretion of the Board, whether or not they would require that to be taken out of the affordable housing.

COMMISSIONER MONTOYA: Will it keep it affordable, by making it mandatory?

MR. DALTON: Mr. Chairman, Commissioner Montoya, I believe it would keep affordable housing affordable. From the people I've talked to, new houses within the city and the county are actually plumbed with recirculating lines so that right there would reduce the cost of installing one of these systems.

COMMISSIONER MONTOYA: Okay. But how much do they have to pay to put in those lines and a whole system on a new construct?

MR. DALTON: Mr. Chairman, Commissioner Montoya, I don't have the cost of what the plumber actually charges to install those lines, but I know the installation of the pump would cost approximately \$185 for the pump itself. I'm not sure what extra charges are charged in order to plumb those houses with recirculating lines.

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

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Wayne, I just wanted to make one point clear. In the recommended language that you've added to the water conservation code, and by the way, the water conservation code applies to affordable housing, does it not?

MR. DALTON: Mr. Chairman, Commissioner Sullivan, yes it does.

COMMISSIONER SULLIVAN: The water catchment and the cisterns and the things like that.

MR. DALTON: That's correct.

COMMISSIONER SULLIVAN: It, I think, gives the homebuilder the option to do anything that will meet that requirement of providing hot water to any tap within five

seconds. So it doesn't need to be a recirculation pump. It says, "All residential dwellings must have installed a hot water recirculation system or other device that provides hot water to any tap in the unit within five seconds. If it's a small unit with only a couple of fixtures, I've seen advertised units that just tap on to cross over on the plumbing lines within the bathroom itself and they don't even have a recirculation line. So it would just be a matter of adjusting the cost, to which would be more cost-effective, I think.

So that seems to be pretty broad, giving the builder the incentive and the option to be creative, I think. I think that's a good provision of the suggested ordinance.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. Wayne, I had requested at the last meeting that we get some information from other communities who have actually implemented ordinances and I notice in the packet you have a sample ordinance from Sierra Vista. Is that correct?

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

COMMISSIONER VIGIL: And where is Sierra Vista?

MR. DALTON: Sierra Vista is located in Arizona.

COMMISSIONER VIGIL: Okay. And how long has this ordinance been in effect there?

MR. DALTON: Mr. Chairman, Commissioner Vigil, I believe it's pretty recent.

COMMISSIONER VIGIL: And is this a municipality or a county?

MR. DALTON: Mr. Chairman, Commissioner Vigil, it's actually the City of Sierra Vista.

COMMISSIONER VIGIL: Okay. Do you have any information as to how this ordinance has impacted the community?

MR. DALTON: Mr. Chairman, Commissioner Vigil, I've not talked to anybody within that community so I really couldn't answer that question, how it impacts that community.

COMMISSIONER VIGIL: And Mr. Chairman, members of the Commission, I really like what's happening with this ordinance. I think it should be a part of our consideration for water conservation. However, I don't, in this particular packet of information have sufficient information to make a judgment call tonight. While we have some general information with regard to the cost, one of the concerns I have is what this cost is going to be in the long run in terms of utility costs for the homeowner and how specific is that to our community. We have some general costs for installation but I'm not real comfortable with not having knowledge of how this is going to affect utility costs. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil. This is a public hearing. Would anybody in the audience like to speak on this case? Okay, I have a few comments. I spoke with Fermin Aragon at the State Construction Industries Division, who is the division director over construction, and J.T. Baca who is in charge of the plumbing, and

Jon Alejandro who is in charge of the manufactured housing, and they have some good ideas. They think this is a good ordinance, but they had some suggestions. And my suggestion would be, for the Commission, is to have this go back to the CDRC and invite those individuals that I just named so that they can come before the CDRC and give them their input. And in the meantime you can take up some of the issues that the Commissioners have, for example, check into Sierra Vista and to check into the costs that Commissioner Vigil brought up. So that's my suggestion. How does the Commission feel. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I agree. We need to look at this a little more carefully. I like the idea but I don't want to send it back to the CDRC. I want staff to interview and have a discussion with these folks and come with some ideas because I think we'll give it better turnaround that way.

CHAIRMAN ANAYA: Okay, that's not what I proposed.

COMMISSIONER CAMPOS: No, I'm saying I like your idea generally. We do need some more input but going back to the CDRC, I don't agree with that.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, I would agree with that too. I think we'd be glad to massage this just as much as we should but I think this is the place to do it right here.

CHAIRMAN ANAYA: Okay, two for not going to CDRC and so far one to go to CDRC.

COMMISSIONER VIGIL: I don't think it's necessary to go to the CDRC. My understanding is part of the problem they had is going to be the same issues that we're having. We might be duplicating our own work here, so I think if you bring it back to the BCC we won't be doing two things.

CHAIRMAN ANAYA: Commissioner.

COMMISSIONER MONTOYA: It doesn't matter.

CHAIRMAN ANAYA: Okay, it looks like you've got clear direction. So just go talk to these individuals and come back to us.

COMMISSIONER SULLIVAN: Mr. Chairman, I move to table to the next land use meeting.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and a second.

COMMISSIONER SULLIVAN: With the direction that staff consider the Commission comments and bring it back to the Commission at that time.

CHAIRMAN ANAYA: Thank you, Commissioner. There's a motion.

COMMISSIONER SULLIVAN: That would be for information only? We've just had our public hearing. Do we need to do more public hearings?

COMMISSIONER CAMPOS: I think by postponing it we continue our public notice, don't we, Mr. Ross?

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

COMMISSIONER CAMPOS: So we've had public notice.

COMMISSIONER SULLIVAN: So it will be a technical review. Or do we do another public hearing?

COMMISSIONER VIGIL: I recommend we do another public hearing. I have received some e-mails with some significant input and I think it's necessary to always keep it open for the public comment.

CHAIRMAN ANAYA: Okay. Another public hearing.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Just regarding, Wayne, any other water conservation measures that we're looking at. We've implemented cisterns, talked about different ideas. I guess I'd like to see what we're talking about and then what the costs are going to add up to for new construction and see if we're - we're already priced out of the market. That's the reality, and if we're going to do that even more I'd like to know what impact that's going to have. So if we could maybe take a look at all of what we're doing for water conservation.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd just make a comment. I think that's a good point. I think that what you'll see is because bearing in mind that the County water system charges the same rates as the City water system does is that the savings in the actual water will most likely offset or even better the costs of the electricity to run the pumps. But that's something that's pretty easy to calculate that out.

CHAIRMAN ANAYA: You got that?

MR. DALTON: Yes.

CHAIRMAN ANAYA: Okay, so there's a motion and a second by two Commissioners over on this side.

**The motion to table the water recirculation ordinance passed by unanimous [5-0] voice vote.**

- XIII. A. 5. EZ Case # S 96-1212 Las Campanas Estates VIII, Units 1, 2, & 3 Las Campanas Limited Partnership (Michael D. Baird), Applicant, is Requesting an Amendment of the Plat/Development Plan for 104 Residential Lots, to Permit Guest Houses. The Property is Located off Las Campanas Drive Within Section 11, Township 17 North, Range 9 East, (Commission District 2)**

COMMISSIONER SULLIVAN: Mr. Chairman, with your permission I'd like to recuse myself from this case.

CHAIRMAN ANAYA: You bet, Commissioner. Joe.

JOE CATANACH (Review Division Director): Thank you, Mr. Chairman, Commissioners. On April 12, 2005 the BCC tabled this request in order for the applicant to



address the minimum allocation of water that would be needed for a guesthouse and I would only reference you, if you need to refresh your mind on the discussion to the April 12<sup>th</sup> minutes from last month that are in your packet. The discussion that took place last month had to do with this request to have guesthouses and this subdivision phase of Las Campanas Estates VIII, Units 1, 2, and 3 is an existing subdivision that was approved by the Board in the time period from 1996 to 1998 the BCC granted final plat/development plan approval for Estates VIII Subdivision and that consists of 104 residential lots in three phases.

The applicant did not request guesthouses at that time and therefore allocated .25 acre-feet of water rights for each lot to serve the single main house on the property. Please note that the master plan approval granted by the BCC in 1992 allowed for guesthouses based on available water rights of .50 acre-feet to support a main house and guesthouse and many subdivision phases within Las Campanas are approved for guesthouses. I might add at this point that I did include a copy of the master plan development agreement that established certain terms and conditions between Las Campanas and the County and one of those terms and conditions being that if you're going to have a house and guesthouse you need to provide at least .50 acre-feet of water and that's what - that development agreement I did include in your packet.

Like I say, there are already many subdivision phases within Las Campanas that are approved for guesthouses. Recently, the BCC has reduced the allocation of water from .50 acre-feet to .40 acre-feet for recent subdivision approvals within Las Campanas. The reduction of water was based on consideration for water conservation and with the understanding that occupancy of a guesthouse should not be full time and permanent and therefore would not need a .25 allocation.

These subdivision phases that the Board approved recently, the allocation of water on these prior subdivision phases that I'm talking about, the allocation of water was .25 for a single house on the lot, .40 for a house and guesthouse, and one of these particular subdivision phases at Las Campanas recently got approved. They were going to have horse stables so the Board at that time allowed .50 acre-feet for a lot that was going to have a house, a guesthouse, and horse stables. But anyway, that just gives you a little background information as to prior actions that the Board has taken on recent subdivision approvals within Las Campanas as it relates to the allocation of water for a house and a guesthouse and including the horse facilities.

This particular subdivision phase does not include horse facilities. It's strictly a request to allow for a guesthouse on each of the 104 lots of this subdivision. The allocation of water for the requested guesthouse is .15 acre-foot per lot for a total of 15.6 acre-feet to serve the 104 lots. The applicant has submitted an outline of acquired water rights that have been committed for the Las Campanas development and I've included that water rights schedule in your packet and that water rights schedule outlines water rights that have been committed and the remaining balance that is available. The State Engineer has previously verified that the water rights are approved for the Las Campanas development. The applicant does have a sufficient amount of water rights to serve the requested guesthouses. Staff recommends approval subject to the

following conditions, the conditions being that there be appropriate documents for amending the subdivision plats and the homeowner covenants and the disclosure statement, an updated water rights schedule, and condition 2, submit confirmation from the City that this request does not conflict with relevant agreements. And that letter is also in your packet, a letter from the City confirming that this request for water rights does not conflict with any agreements that Las Campanas has having to do with the amount of water that can come out of the Buckman wells that are being leased by Las Campanas from the City of Santa Fe. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Okay. Thank you, Joe. Any questions of Joe?

COMMISSIONER MONTOYA: Joe.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, again Joe, your recommendation is for -

MR. CATANACH: To allow the request for guesthouses based on an allocation of .15 per lot water right that would be needed to serve a guesthouse for each of the 104 lots. So that would be a total of .25 for the main house, .15 for the guesthouse for a total allocation of .40. I'm proceeding forward on this recommendation based on recent subdivision approvals that the Board has granted Las Campanas as I had just mentioned.

COMMISSIONER MONTOYA: Okay. Mr. Chairman, Mr. Ross, what consequences, in terms of liability could the County potentially face should we negatively act on this recommendation?

MR. ROSS: Mr. Chairman, Commissioner Montoya, I don't know if we want to discuss that here. I will say that it appears that there's a whole series of contracts that the County has entered into with Las Campanas. Failure to adhere to the terms of those contracts might subject the County to litigation. I don't want to go any further than that. To be directly responsive to your question, because I don't think that's a good idea to get in public.

COMMISSIONER MONTOYA: All right. Thank you. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. So any other comments of Joe? And Joe, between this and what we heard the last time has not changed.

MR. CATANACH: That's correct, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Joe. Okay, is the applicant here? State your name and address for the record.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 N. St. Francis, Santa Fe, New Mexico, 87505. We also have Chuck Dumars in attendance again as well as Harry Turner from Las Campanas. He's the president and CEO. He'll be speaking after me. I just want to encapsulate the discussion again. Back in 1992, of course we had the master plan/development agreement that state that .5 allocation per lot with a house and guesthouse in Las Campanas. And of course that's with the available water rights.

Estates VIII came through back in 1997 and at the time Las Campanas didn't have the water rights so the plat was recorded with .25. Since that time Las Campanas has acquired the

water rights and wishes to change the plat from .25 allocation to .5, I'm going to correct that in a second, and a guesthouse. In an effort to be a good neighbor of course we've now changed our allocation from .5 down to .4. So that's essentially the gist of the case.

Now, last month, two issues were brought up that I thought were good points from two Commissioners. The first was Commissioner Campos and he said, well, why don't we take it down from .4 to .375 -

COMMISSIONER CAMPOS: .35

MR. HOEFT: .35. And we have discussed that and looked at that discussion and feel that we're pretty confident with the number that we have at .4. I'd like to kind of comment on two things. One is that if you really add up the numbers here and look at the difference between those two calculations, we're talking in the area of about three acre-feet. If you change the allocation from .4 to .35 - I thought it was .375. I'm sorry, Commissioner. It's about two to three acre-feet. That's just putting things in context here.

The second thing I'd like to comment on is today I went down to Sangre and I talked with Antonio Trujillo who is the guy we do all of our water service requests with Sangre and I said okay, if I've got a lot that's greater than 10,000 with a guesthouse, what would be my allocation? .44 is what he said, based upon the standard Sangre form. And I said, well, surely that must be antiquated. Those numbers are old. He said, no, those are the numbers. I said surely you must be in the process of revising those based upon current standards. And he said, no. The City of Santa Fe feels confident with a lot that's greater than 10,000 square feet and a guesthouse, that's a .44 allocation. We're coming in with .40. Again, our master plan was originally approved at .5.

The second comment I'd like to point out is Commissioner Montoya made a good comment that, well, why don't we take a look at the plat? Why don't we see if there are some lots that can be eliminated for a guesthouse, based upon topography, based upon size, and we did take the time to go through the plan and thought that pretty much as the plan stands it's good. That all lots are capable of supporting a guesthouse. The lot sizes are fine; the topography supports guesthouses.

So we also thought that maybe if we take a look at the percentage of guesthouses in Las Campanas that would shed a little bit more light on the topic. There's 15 percent of the houses in Las Campanas have a guesthouse. So if you take that into account you're thinking, well, gee, why don't we only ask for 15 percent? We can't. Each of the lots that we're asking for, the 104, need to have an allocation as requested for marketability and from an entitlement standpoint. Now, I don't know if it lends you a sense of comfort that only probably, based upon historic evidence, 15 percent of those are ultimately going to have a guesthouse, but that's what our historic numbers show.

So in sum, we'd just like to say that .4 is the allocation that we're still on the board for us requesting this evening. The last comment I'd like to make is, again, if you take into account the total request, not to get into the numbers too much, but we're asking for 15.6 acre-feet of water. Fifteen percent of 15.6 acre-feet of water is again, two to three acre-feet. With that I stand for questions. And also I'd like to introduce Harry Turner. He's the president and CEO of

Las Campanas and he'd like to make a few comments. Thank you.

CHAIRMAN ANAYA: Is there any questions of Scott?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Scott, currently 15 percent have guesthouses now of the ones that are built out, of the lots that are built on > ?

MR. HOEFT: Yes.

COMMISSIONER MONTOYA: Are the rest of those lots eligible for a guesthouse?

MR. HOEFT: Yes.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner and Thank you, Scott.

Harry, did you want to swear yourself in?

[Duly sworn, Harry Turner testified as follows:]

HARRY TURNER: I'm not quite as tall as Scott. I apologize. Mr. Chairman, members of the Commission, I appreciate the opportunity to speak to you this evening. I want to start off by saying Las Campanas feels as though we want to be a very integral part of the County of Santa Fe and we want to be good neighbors. We want to be good stewards. And as Scott had said earlier, when we brought this application before you, our contractual right is for .5 acre-feet. We relied upon those representations to purchase water rights for all the units at Las Campanas. The last application that came before you we agreed to .4. We've come in with this application also at .4 which is a 20 percent reduction off the top. We have looked at some of the issues that were brought up in the last meeting and we feel very, very strongly that .4 is the number that we need and that we obviously have a right to.

Based upon our development agreement we've done a lot of things. We've made a lot of commitments. We've upheld ours. We hope this Commission will do the same. We're in total compliance with the settlement agreement with the City of Santa Fe. Our request is consistent with the master plan agreement. The construction at Las Campanas has created thousands of jobs and we anticipate thousands of more jobs being created in the next several years as build-out completes. Our spending is in the hundreds of millions and we just ask this Commission to approve our request.

CHAIRMAN ANAYA: Thank you, Harry. Any questions of Harry?

Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Harry, for being here. Thank you, Mr. Chairman. Getting back to the scenario of the 15 percent homes that you currently have that have guesthouses, those homes that do not have guesthouses, when those homes turn over, do they have the option of a guesthouse? Is a guesthouse in perpetuity?

MR. TURNER: Yes.

COMMISSIONER VIGIL: Okay. And how much of your development remains to be built out?

MR. TURNER: I'm going to speak in general terms. We have sold roughly -

we have approvals for 1717 units. We have sold plus or minus 1000 of those, maybe 1100. So we're - I think the last count we had 630 units left to sell. What has been - of the lots that have been sold we have plus or minus 500 homes that are either constructed or in the process of being constructed.

COMMISSIONER VIGIL: So I guess, when your development is finally built out how many units do you anticipate may be sitting out there?

MR. TURNER: We have the right to build 1717. If you're talking about how many of those may have guesthouses -

COMMISSIONER VIGIL: No, I'm just talking about units. Well, let's do get into the guesthouses. Are each one of these units going to be available for a guesthouse?

MR. TURNER: In this application, yes, ma'am.

COMMISSIONER VIGIL: Nothing further, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Vigil.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Turner, you're asking for 104 guesthomes. I see you have rooftop harvesting now that will be applicable to these homes?

MR. TURNER: Yes, sir.

COMMISSIONER CAMPOS: You'll use rooftop harvesting to get outdoor water?

MR. TURNER: In all new construction we require the catchment systems.

COMMISSIONER CAMPOS: Okay. And you have regulations, and I guess our County regulations that limit outdoor watering, and the amount of grass or plants that you can plant?

MR. TURNER: In every application before our design review board, Commissioner, we have a requirement that a water budget be provided, which would include landscape.

COMMISSIONER CAMPOS: And what is that water budget?

MR. TURNER: The water budget is, they would have to live within whatever the allocation is for that platted lot.

COMMISSIONER CAMPOS: But you have restrictions on outdoor watering, do you not?

MR. TURNER: We have an agreement with the City and the County and to be technical I'd have to ask Chuck Dumars or Mickey Baird who is in the audience.

COMMISSIONER CAMPOS: Let me ask another question. I assume using efficient appliance indoors.

MR. TURNER: We do. We've tried to do many things to be conscious of water use. We've realized savings in many areas. To date, we have realized significant savings and again, the application before you is one of just under 16 acre-feet of water which we have purchased the water rights to.

COMMISSIONER CAMPOS: I understand that. Mr. Catanach, as far as

outdoor watering restrictions, limitations, on this particular phase or whatever you want to call it, what are they?

MR. CATANACH: Mr. Chairman, Commissioner Campos, I believe that Las Campanas incorporated into their covenants the standard County water conservation measures. I'm thinking that for the most part it specifies low water landscaping and it might restrict the size of – they may have, the covenant may include that you can only have a certain size of non-native lawn.

COMMISSIONER CAMPOS: So so many square feet and only certain types of grasses that do not use a lot of water. Is that a fair –

MR. CATANACH: Yes. Commissioner Campos, pretty much the standard County water conservation measures.

COMMISSIONER CAMPOS: And those are the conservation measures as they exist today?

MR. CATANACH: Well, no. Those County water conservation measures have changed somewhat within the last, I'm going to say year or two years. So most of Las Campanas water conservation measures are probably from the old – before the water conservation ordinance came into effect. The new water conservation ordinance.

COMMISSIONER CAMPOS: Would the new ordinance apply to this new development?

MR. CATANACH: Yes, Mr. Chairman, it should apply to this new development.

COMMISSIONER CAMPOS: Okay. So basically, Mr. Turner you're asking for .4 acre-feet of water per DU with a guesthome, that's about 11,000 gallons per month. Do you think you need 11,000 gallons per month?

MR. TURNER: Yes, sir.

COMMISSIONER CAMPOS: Tell me, with your efficient appliances, with your outdoor watering limitation and with your rooftop harvesting, why do you need 11,000 gallons a month?

MR. TURNER: I think there's another issue, Commissioner, that from a marketability standpoint, what we need to be able to do is put all of our lot owners or single family residences on equal economic footing. And that is an issue if you look at just the standards that the City of Santa Fe applies to large lots, which they define as a little over 10,000 square feet, our average lot size in this subdivision is over 40,000 square feet, we think we're being very reasonable in our request, especially given the fact that we have a contractual right to more water than that.

COMMISSIONER CAMPOS: I don't think you've made an argument that you need this water. I think that with all these regulations you really don't, but you're wanting to have them anyway. Is that about what your argument is?

MR. TURNER: I'm not making an argument for that. I'm making an argument for our contractual right that we have and the marketability of our lots.

COMMISSIONER CAMPOS: Now, you operate a utility company?

MR. TURNER: We do. The homeowners association does.

COMMISSIONER CAMPOS: The homeowners. Do you have figures as to what the dwelling units are using? Actually using?

MR. TURNER: Yes, we do.

COMMISSIONER CAMPOS: What are they?

MR. TURNER: Right at .42.

COMMISSIONER CAMPOS: .42, and these are DUs with guesthomes or just average?

MR. TURNER: Average. Again, with an average lot size of probably 2.5 to 3 acres.

COMMISSIONER CAMPOS: But the lot size doesn't matter when you have restrictions as to outdoor plantings and watering. That's more open space than anything else. I don't buy that argument. But you're using – you're saying 15 percent of your homes do have guesthomes.

MR. TURNER: Approximately, yes.

COMMISSIONER CAMPOS: So most of your homes do not and yet you're using a lot of water per DU.

MR. TURNER: We've got some units that do have guesthouses that have stables. Again, if you look at just the standards that the City goes by, they differ with I think your assumption that the lot size doesn't make a difference.

COMMISSIONER CAMPOS: Yes, we're not in the city, regulating in the city. We're regulating in the county. We may have different standards than they do. So I guess my question last time was, we asked you to talk to the officers and the board to see if they would be willing to come down to .35 because they don't need .4. That's 11,000 gallons of water a month. I just don't see how you can use it. Water that you don't use somebody else can use. It's a valuable commodity and it seems to me that sharing is better than not sharing.

MR. TURNER: One of the things that should be noted and to date, through some of Las Campanas' efforts by providing specific product types we have realized again to date a savings of about 53 acre-feet of water for smaller units on small lots that don't have any – that don't have room for guesthouses and I do believe that the City standards – I know that we're in the county – do have some validity. And we have talked with our officers and our corporate people. We've talked to our partners and .4 acre-feet is what we feel that we need and we feel it's fair.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Campos. Is there anybody from the public that would like to speak either for or against this proposal? Come forward, sir.

MR. TURNER: Mr. Chairman, members of the Commission, thank you very much.

CHAIRMAN ANAYA: Thank you, Harry.

[Duly sworn, William Kalinowski testified as follows:]

WILLIAM KALINOWSKI: Good evening. My name is William Kalinowski.

I'm a homebuilder here in Santa Fe. Commissioners, I'm a homebuilder, as I said, out in Las Campanas and elsewhere in Santa Fe, building residences, and I'm here to advocate, as I understand it, Las Campanas' position in terms of allocating four acre-feet for the homes in question. As someone who's involved in employing on the average of 60 to 70 people at any time, building houses in the city and county, I feel that Las Campanas is an excellent business partner for the entire community. The jobs that are being created by Las Campanas are not jobs which are low-paying jobs but tend to be jobs which are middle class jobs and sustaining any number of families throughout the area.

Additionally, if it is a fact that this is merely a reallocation of water within Las Campanas which they have a legal right to I think we can all benefit from an economic point of view by not only sustaining the development in Las Campanas but actually fostering it, creating more jobs and more opportunities for people in Santa Fe. Lastly, I'm involved in purchasing some - potentially purchasing some of the lots in question and one of the big considerations on my part is the amount of water that's available for these homes and certainly going down from four acre-feet and not being able to have the guesthouse puts in jeopardy, from my perspective the possibility of purchasing lots within this particular segment of Las Campanas. So I wanted to share those thoughts with you.

CHAIRMAN ANAYA: Thank you. Any questions of William? Come forward, sir.

[Duly sworn, Don Wiles testified as follows:]

DON WILES: Mr. Chairman, Commissioners, I'd just like to say something on behalf of the development. I've been there since the early 90s, the beginning and just as far from an environmental standpoint, I've seen all these water conservation techniques that we've talked about, including the recirculating pump, which I think substantially reduces the utility costs, by the way, the savings on the hot water is very significant. I'd just like to say that I think one of the things here is that if you're going to develop land in the county, Las Campanas is an excellent way to do it, because it's a big tax base. The people there that I've built for, and I've built several custom homes out there up in the twenties, they really do care about the land. They conserve and they're a good addition to the community.

I think it's important also what Harry brought up about the fairness of trying to sell these lots. People just look at that, whether they use that water or not. A lot of people probably won't hit that. We don't know that. But I think from a sales standpoint it's very important. I'd support it for that reason. I had another thought that I'm trying to think of right here.

CHAIRMAN ANAYA: While you're thinking of that, you said, up in the twenties, what does that mean? Back in the twenties.

MR. WILES: No, I think I've built like 20 custom homes.

CHAIRMAN ANAYA: Oh, up in the twenties. Okay.

MR. WILES: So I've kind of seen the development. I feel like I'm a part of it. I've been in Santa Fe for 20 years and I think it's probably one of the finest developments in the West. Everybody understands the water situation. We went through five years of a horrible drought. Maybe we'll get lucky and get some decent - but I think all these things, there are



low-flow toilets out there now, recirculating pumps, harvesting - everybody's trying to save water in Santa Fe. I know I support it as a builder. Plumbers are becoming more aware of it. I think you'll see with your other ordinance, with the recirculating, if the plumbers get used to doing that, that cost will be very minimal. It's like when radiant heat started, it was more expensive. Now it's probably actually cheaper. So some of the building techniques. So I think that's what I'd like to say. Thank you for your time.

CHAIRMAN ANAYA: Don, I've got a question. The homes that you've built, did you put in recirculating pumps?

MR. WILES: Every one of them.

CHAIRMAN ANAYA: I would imagine that all of them over there are recirculating.

MR. WILES: Yes, you have long runs and that's really wasteful. So I don't know anybody that isn't doing it. But even in your smaller homes and two-story homes, it's just a minimal cost. It's just a small pump. It hardly draws any wattage. You connect and run a few copper lines and save a lot of water. So I support that too. That's something to consider.

CHAIRMAN ANAYA: Thank you, Don.

MR. WILES: Thank you.

CHAIRMAN ANAYA: Any questions of Don? Okay, any other comments from the public? Okay, the public hearing is closed. Did you want to comment on something.

[Duly sworn, Chuck Dumars testified as follows:]

CHUCK DUMARS: Just to put some things in the record if I might before we close the hearing in its entirety. I've provided to Mr. Ross, and I hope you all have a copy of a document called Compilation of County Commitments, Water supply for Las Campanas. *[Exhibit 2]* It contains nine documents, actually ten counting the surface point of diversion document. All of those collective establish, I think, beyond peradventure that there has been a contractual commitment to allow .5 acre-feet for the lots with guesthouses.

The important document though I think is the master plan development agreement. And that's an unusual kind of document and I can say that I'm on both sides of these issues. Our law firm represents, we're counsel for a municipality and we regulate developers on that side of it and they're very sophisticated and not used as much any more, but they're binding contracts. This master plan/development agreement has actually been construed by the district court here in Santa Fe.

About a year and a half ago, maybe two years now, the City of Santa Fe and the County, joining as a plaintiff, sought to enforce the master plan development agreement against Las Campanas. That portion of it, which obligated Las Campanas to ratchet down its water use in direct proportion to the City's drought declarations. That agreement was relied on by the City and the County and the court found it to be a valid, binding agreement, and ultimately, while the County was not a party to the settlement, Las Campanas agreed to reduce its water use in direct proportion in times of drought following all the City guidelines and County guidelines. So in terms of drought and what happens in times of shortage, it is clear that Las Campanas is exactly the same as the City's drought stages and the County's. So there's no

doubt that the people of the area are obligated to reduce their water usage. So that's been construed and it's a binding contract, found to be so by the district court where the County tried to enforce it against Las Campanas.

I think it's important though to understand Las Campanas' position here. In that case, the other thing that happened was that the City of Santa Fe argued that the Buckman lease, which Las Campanas had relied on, was void because there was insider dealing in the Public Utilities Commission. That argument was rejected by the court and not resolved. But in the process of doing that we were obligated in preparing for that case to look at the opportunity costs of Las Campanas if they don't have the water and its effect on their sales. And what we found that is you can't raise money, you can't raise revenue, if you can't rely on 17 years of commitment for certain quantities of water. So the difficulty is you don't just start the development today, you seek investor money way back when. They're committed to it; they're relying on it, and yet suddenly your sales drop off because you can't do what your agreements allow you to do, then you suffer damage and that was exactly the analysis we went through in the City's attempt to void the lease.

We looked a great deal at those opportunity costs. So here, Las Campanas is in kind of a bind because they've committed, they've got contractual commitments. People expect to have those quantities if they're going to invest in the development and live out there and they're relying on it. It would be incredibly difficult and tragic if somehow that process was interrupted and caused injury to Las Campanas. I totally understand the points of all the Commissioners including the points eloquently made by Commissioner Campos about the need to save water, but I can tell you that in times of drought Las Campanas ratchets its use down exactly like everybody else.

If you look at document 10, that document is transfer of all of the water rights out of the aquifer to the surface diversion. So the water that will be taken will be shared as among the entire Rio Grande River system. There will be no effects on acequias or any tributary uses once those water rights are put there. And I would also point out that Las Campanas was the first applicant to start that surface diversion project. In document number 9, Las Campanas is paying for all the County's cost in the environmental process, the NEPA process. And that document states very clearly that in exchange for payment by Las Campanas, Las Campanas continues its commitment to 709.5 acre-feet of water, which is .5 acre-feet per lot. But they've cut it back to .4. Hopefully, as all of these technologies develop, there will be less and less use out there and throughout the region.

We're just starting. We have a situation here, we have a contractual commitment and the board has considered and concludes they need it in order to protect their investment in this case. I will tender into the record this document.

CHAIRMAN ANAYA: Commissioner Montoya, a question?

COMMISSIONER MONTOYA: Yes. Mr. Dumars, regarding the last comment you made regarding the 735 acre-feet that is calculated at .5 per unit, does that mean at some point you may come back seeking additional units for the unused water?

MR. DUMARS: No, that does not mean that, and that's an excellent question,

Mr. Chairman, Member Montoya. In fact, a number of the units have already been put in place that only have the .25 entitlement. They don't have a guesthouse. That will never change for that because that was a different product. At that time Las Campanas didn't have the water rights to even authorize a larger amount. So there are a number of units and Mr. Turner pointed out that already, because of the number of units, of lots that we know will not have guesthouses, Las Campanas' expected use at full build-out is down about 53 acre-feet. I did some calculations, and I think our accountant looked at this also.

If you look at full build-out and if every single lot in the future had .4, the total use is only going to be about 600 acre-feet because of the previous savings. So it's not going to be the 709 predicted and permitted based upon Commissioner Sullivan's report, which predicted, which said .5 was required for guesthouses. I think it will be substantially smaller. I'm hoping that true and you'll get plenty of opportunity. I deal with these people and I know that their door would be open to sit down with any Commissioner at any time and talk about water conservation and show what we're trying to do out there. That's really - but as it stands right now, there are at least 53 acre-feet saved because there will never be a guesthouse on those lots already and you can't have one.

COMMISSIONER MONTOYA: So Mr. Chairman, Mr. Dumars, what happens with those savings on those?

MR. DUMARS: What happens is, probably in the future Las Campanas won't be asking for that much water at the end of the day. You could take your 709 and subtract 50 off the top because those houses are all built in place and have .25.

COMMISSIONER MONTOYA: Then we'd be able to use the water for other purposes?

MR. DUMARS: It will be available in the aquifer, it will be available wherever anybody else wants to use it. For every drop that we don't use there, and in fact in this case it will be available in the river because the water is going to come out of the Rio Grande.

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

CHAIRMAN ANAYA: Thank you. Any more questions? All right, what's the pleasure of the Board? You've heard both sides. You've heard from the public. Is there a motion?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: I just wanted to make a comment before I make a motion. I think one of the things that people need to realize is that there are certain developments in this county that accommodate different lifestyles, different challenges, if you will, as to who's going to be purchasing these properties. The reality is Las Campanas never has and probably never will be considered an affordable housing development. In reading these back from '91 when Commissioners back then in 1991 entered into these agreements, clearly they were binding agreements that they entered us into for as long as Las Campanas is around. I think in terms of everyone, residents here would like to see affordable housing and hopefully we will continue to pursue that but the reality is it's not going to happen in Las Campanas.

That's the reality. So we need to look at how we're going to do it elsewhere.

I think in terms of the Buckman Direct Diversion project, we're certainly a partner along with the City of Santa Fe and Las Campanas in this effort and I would like to continue that relationship in terms of making sure that that Buckman Diversion project comes on line because lord knows we certainly need that water and it's going to need to involve the three entities between the City, the County and Las Campanas. That's another reality; that is a partnership.

Mr. Chairman, again, based on the documents that we have before us, the commitments that were made before us, whether we like them or not, are legal, binding documents. I am not in a position nor am I elected to put the County nor the residents of this county in a position where we may be liable for certain issues that are part of the legal documents that are going to put us in jeopardy of any sort of a lawsuit. So with that, Mr. Chairman, I would move for approval as staff has recommended, with their conditions.

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

COMMISSIONER VIGIL: I may be willing to second, but -

CHAIRMAN ANAYA: I'll second it for discussion.

COMMISSIONER VIGIL: Okay, I have a question based on the affordable housing issue and I guess it would go to you, Harry. Commissioner Montoya has actually just characterized the fact that Las Campanas is not an affordable housing place. However, I'm familiar with the fact that Las Campanas did make an affordable housing contribution which usually came into community. To me, at some level that represented your interest in contributing to the issue of affordable housing to the entire project of it. Is that something Las Campanas would still consider?

MR. TURNER: Well, when we made the contribution to the affordable housing component of the County's request back in '91, '92, '93, whenever that was, I wasn't here then but I know we made a \$2 million contribution to satisfy the request and the condition of the approval of the development agreement. We feel that that commitment has been satisfied. However, in saying that, whether it's affordable housing, whether it's water conservation, whether it's any other issue that is good for the county, we feel that we're open for discussion at any point, at any time.

That just is not a part of this particular submittal but I would welcome with open arms you or any of the other Commissioners to come in and speak with us at any time on any issue.

COMMISSIONER VIGIL: So I guess, Mr. Chairman, Harry, if I'm to assume or deduce from what you're saying, Las Campanas would still be willing to be a partner in donating some funding for affordable housing. You just don't want to attach it to this approval. And you would move forth in good faith towards that end.

MR. TURNER: [audio difficulties] the County and the City. And we do many, many things from a charitable, from a good will standpoint again. We would be open to talk about any issue that's good for this region because we believe that if it's good for the region it will be good for Las Campanas. To be specific, to say we'll enter into negotiations on affordable housing or on anything else, I can't do that from - in this particular arena. But

again, we feel that we're partners with the County and the City on a long-term basis. I think we've tried to prove that in the past and we certainly see continuing that. I don't know if I've answered your question.

COMMISSIONER VIGIL: I think you have. Thank you, Harry.

CHAIRMAN ANAYA: Okay. Any other comments? I wrote down some comments here and it might duplicate some of the ones Commissioner Montoya said. But we've got both the City and County staff that are in agreement of this proposal. They went from .50 to .40 acre-feet. They've done water conservation measures. They've got the recirculation pumps, the rain catchment systems and they're working closely and want to work closely with the City and the County on the Buckman Diversion project. So personally I think they've met a lot of the issues that we're talking about and gone over and above. So with that, there's a motion and a second and we've had our discussion. If there's any more - if not, what's the pleasure of the Board?

**The motion to approve EZ Case #S 96-1212 passed by 3-0 voice vote with Commissioner Sullivan having recused himself and Commissioner Vigil abstaining.**

- XIII. A. 6. LCDR Case # V 05-5080 Mathew L. Griego Family Transfer. Mathew L. Griego, Applicant Requests a Variance of Article XIV, Section 6.4 (Zoning Densities) To Divide 5.384 Acres into Three Tracts for the Purpose of a Family Transfer. The Tracts will be known as Tract 2-A (1.0 Acres, More or Less), Tract 2-B (1.0 Acres More or Less) and Tract 2-C (3.384 Acres More or Less). The Property is Located at 09 Camino Loma, Which is Located Within the Historic Community of La Cienega/La Cieneguilla, Within Section 6, Township 15 North, Range 8 East (Commission District 3)**

CHAIRMAN ANAYA: Vicente, before you start, I have a question. If it's a traditional community, why are we hearing this when it could be  $\frac{3}{4}$  acres? Or am I misunderstanding?

VICENTE ARCHULETA (Review Specialist): Mr. Chairman, you're misunderstanding.

CHAIRMAN ANAYA: Okay. Go for it.

MR. ARCHULETA: On April 7, 2005 the La Cienega/La Cieneguilla Development Review Committee recommended approval subject to staff conditions. Mathew Lee Griego, applicant, is requesting a variance of Article XIV, Section 6.4 of the Land Development Code to divide 5.384 acres into three tracts for the purpose of a family transfer. The property is located in the Basin Fringe Hydrologic Zone where minimum density is 12.5 acres per dwelling with water restrictive covenants, or 6.25 acres for family

transfers. The property is just outside the La Cienega traditional community where the minimum lot size is .75 acre per dwelling.

Article XIV, Section 6.4.3 states maximum density in the Basin Fringe Zone shall be 50 acres per one dwelling unit. With proof of a 100-year supply through a geo-hydrologic reconnaissance report and application of water use covenants, the maximum density may be increased to one dwelling unit per 12.5 acres. If an adequate 100-year supply of water and no impairment to neighboring wells is proved by an onsite geo-hydrological well test, land may be further divided to a maximum of 2.5 acres per dwelling unit. Density adjustments above one dwelling units per 50 acres must follow requirements as outlined in Articles III, Section 10, and Article VII, Section 6 of the Code, as amended, along with all requirements outlined in this ordinance. The maximum density shall not be increased even when community water and sewer systems are provided except where density transfer is used to protect sensitive lands or preserve community assets as described in Section 6.6 and gross density is maintained.

The application was reviewed for the following: existing conditions, access, water supply, liquid waste, solid waste, fire protection, terrain management, and archeological and environmental impact.

Staff recommends denial of the variance based on Article XIV, Section 6.4.3 of the Land Development Code which states the minimum lot size in this area is 50 acres per dwelling unit, or 12.5 acres per dwelling unit with proven 100-year water supply and water covenants, or 6.25 for family transfers. If the requested variance is approved the applicant must submit a plat for administrative approval in accordance with Article II, Section 4.3.3 and 4.3.4 of the Land Development Code. Thank you.

CHAIRMAN ANAYA: Thank you. Now, it says right here, located at 09 Camino Loma which is located within the historic community of La Cienega.

MR. ARCHULETA: Mr. Chairman, Commissioners, it is within the historic community of La Cienega. It's not in the traditional community of La Cienega.

CHAIRMAN ANAYA: Or traditional. Okay, I'm getting them confused.

MR. ARCHULETA: Right. The historic is 12.5 acres or 2.5 acres. Right.

COMMISSIONER MONTOYA: And traditional is  $\frac{3}{4}$ ?

MR. ARCHULETA: Traditional is  $\frac{3}{4}$ . That's correct.

CHAIRMAN ANAYA: Okay, any questions of Vicente?

COMMISSIONER MONTOYA: Mr. Chairman, this does say within the traditional historic community.

CHAIRMAN ANAYA: That's what it says. This one says historic and this one says traditional.

MR. ARCHULETA: The whole area is a traditional historic. This particular property lies outside of the traditional community in the historical community.

CHAIRMAN ANAYA: Okay. So we're out of the traditional but we're in the historic.

MR. ARCHULETA: It's just outside of the traditional.

COMMISSIONER MONTOYA: Where does that say that, Mr. Chairman? Because it says that it's located at 09, which is off Paseo C de Baca, within the traditional historic community.

CHAIRMAN ANAYA: That's what it says.

MR. ARCHULETA: That may be a typo on my part. It's outside of the traditional, within the historical section of the community.

CHAIRMAN ANAYA: Okay. Is the applicant here? Go ahead and come forward, sir. Do you have anything you want to add to what Vicente has talked about?

[Duly sworn, Mathew Griego testified as follows:]

MATHEW GRIEGO: Well, what's going on is all the neighbors around me, to the east, to the south, to the west, everybody around me has broken up their properties in some way. And what I'm trying to do, I'm just trying to give my daughters a piece each so that they can start their lives there. They can't afford to live in Santa Fe, so I'm trying to give them a piece of property that I purchased 20 years ago so they can start their lives right there.

CHAIRMAN ANAYA: Was your intent 20 years ago to purchase this property and divide it up for your kids?

MR. GRIEGO: Yes. My intent was to give it to my daughters.

CHAIRMAN ANAYA: And do you believe that this is a hardship case?

MR. GRIEGO: Yes, because they both live in my house. They're both over 20 years old. They both have kids and I got to get on with my life. I've got to get them out of my life. So I'm trying to give them a piece each. I don't plan on ever selling the property. The property, I bought it for them, so I want them to both have a piece of property so they can either build a home or put a modular home on it or do whatever they've got to do.

CHAIRMAN ANAYA: So your intent is to divide. Have you ever thought of just giving them a place to build? This is a question for staff. I was under the impression that he could, instead of dividing it, he could let them build two more homes on that piece of property. Is that true? Without dividing it?

MR. ARCHULETA: Mr. Chairman, no, that's not right. It's a 12.5-acre density area and he has 5.3 acres. So he would need, to be allowed to build three homes he would need 37.5 acres, according to the Basin Fringe Zone.

CHAIRMAN ANAYA: All right. Thank you. Are there any other questions?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Griego, you're saying here in your letter that you're going to do a four-lot split? Is that correct?

MR. GRIEGO: Well, I'm was turning one into two originally because one of my neighbors in front of me, when I bought the property there were five-acre lots there. The person bought the piece in front of me and he's in the traditional village so he was able to break his property into four lots. He's in the traditional village, okay? So I'm just barely out of the old traditional village.

COMMISSIONER MONTOYA: Just barely, when you say just barely -

MR. GRIEGO: I'd say 50 feet.

COMMISSIONER MONTOYA: Fifty feet?

MR. GRIEGO: Away from the traditional village line, according to the survey plat.

MR. ARCHULETA: Mr. Chairman, could I clarify that. His property actually is – one of his property lines is the boundary.

COMMISSIONER MONTOYA: Oh, it's the boundary of the traditional. Oh. So he's right on the line. Mr. Chairman, Vicente, I don't know if you can or Joe, or somebody can explain when those lines were drawn, why was that the split in terms of where we're going to go from a  $\frac{3}{4}$  to a 12.5-acre parcel? The reason I ask this is because this has happened in Cuarteles and Santa Cruz and that area too, where for whatever reason, the boundary meanders in and out all over the place and it's the same community. I couldn't get an answer then either as to why that happened in that area, other than that's the way somebody drew the line, whoever drew the line. So is that the same situation here, kind of?

MR. CATANACH: Mr. Chairman, Commissioner Montoya, I believe that the traditional community boundaries of La Cienega are the same as they were when those lines – when that traditional community was defined back in 1981. I don't think there's been any changes, even when La Cienega went through the process of establishing the traditional historic community, the larger area. I don't believe that the boundaries of the traditional community have changes from what they were in 1981. To answer your question, to try and answer your question as to how did those boundaries – how did they define the traditional community, it's been my understanding and this is kind of what I remember from looking at the general plan of the County Code is that they drew these lines based on what they thought were houses that had been on these properties for many years and I'm thinking about the way Agua Fria defined the traditional community boundary and other communities in just areas that have had homes on these properties for many years.

And so I'm guessing that certainly there had to be some understanding that the lines were not set – that there certainly could be some consideration to make adjustments of those lines because certainly, through the years, people may come to the County, come forward and say, well, I've lived on this property since the 1970s, the sixties, whatever. And again, I would only think that it's reasonable to say that at some point in time a property owner could certainly come forward or that there was some consideration that at some point there could be minor adjustments of this traditional community. And certainly it has been done and probably – I can't think right off for sure but I think it's reasonable that there probably would be some consideration that there would be minor adjustments to the traditional community boundaries.

COMMISSIONER MONTOYA: Thank you, Joe, and Mr. Chairman, Vicente, the LCDRC granted approval. Is that correct?

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

COMMISSIONER MONTOYA: Provided that Mr. Griego, you increased your lot size to 1.25 acres. Were you in agreement with that?

MR. GRIEGO: I need to run down community water up to my property line.



The County was supposed to run the water line up Camino Loma. The money was allocated for it, yet the waterline was never run up my road. Several of us gave up water rights in order to get that line run up our roadway but it was never run up.

COMMISSIONER MONTOYA: Thank you, Mr. Griego. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. Commissioner Vigil.

COMMISSIONER VIGIL: Vicente and Mr. Griego, I have some real specific questions. First of all, to you, Mr. Griego, have you live there for 20 years or purchased it 20 years ago. Have you lived there for 20 years? And currently you say you have two daughters and other family members. How many family members live in your household?

MR. GRIEGO: One of my daughters has two kids. The other daughter has one kid, so we've got - there's eight people living in my house right now.

COMMISSIONER VIGIL: How large, how many square feet is it?

MR. GRIEGO: It's approximately 1800 square feet.

COMMISSIONER VIGIL: And that's the same house you've lived in for 20 years?

MR. GRIEGO: Yes.

COMMISSIONER VIGIL: Okay. And Vicente, the applicant has described that there's lot splits going on all around him. Is he referring to the historic area?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, most of those are in the traditional community.

COMMISSIONER VIGIL: They are. Do you have a sense of how many lot splits have occurred in his area and why he's expressing that?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, there's at least three lots that I know of adjacent to Mr. Griego's property that are being split right now through an administrative approval.

COMMISSIONER VIGIL: And that's because they meet the minimum lot requirement.

MR. ARCHULETA: That's correct.

COMMISSIONER VIGIL: Okay. Then I - one of the things that we're looking at with Mr. Griego with regard to the family transfers, in deciding them, is if you consider having a waiting period on the family transfer, so that the family transfer actually stays within a family member for at least ten years and the property doesn't turn over.

MR. GRIEGO: I have no problem with that, as long as I can give each daughter a piece. That's all I want. I don't plan to sell it. They want to build their homes. They want to live there, and that's all I'm asking for. Everybody around me - there's even people that aren't in the traditional village that have broken their properties into  $\frac{3}{4}$ -acre lots, and yet I've got five acres and I can't even break it up.

COMMISSIONER VIGIL: Mr. Griego, another question that I have for you with regard to this is, do you plan on building the home for your children? Do you know what

your plans are?

MR. GRIEGO: I would like to, but if they've got other reservations, it's totally up to them. If they want to pull in a mobile home, I guess that's their business.

COMMISSIONER VIGIL: And you realize that if you pull in a mobile home you'll have to get a permit?

MR. GRIEGO: Yes. Yes.

COMMISSIONER VIGIL: Okay. I'm trying to get as much information as I possibly can, Mr. Griego, not to target you in particular, but because I just realized that a lot of the decisions we make with regard to variances don't have sufficient evidence there. So I'm trying to make sure that we have sufficient evidence to make a decision. What do you do for a living?

MR. GRIEGO: I build doors and cabinets.

COMMISSIONER VIGIL: And has that been your trade for –

MR. GRIEGO: That's been my trade.

COMMISSIONER VIGIL: And that's how you support eight people in your household? Do you get any other assistance?

MR. GRIEGO: Well, my daughter works with the Corrections Department, my older daughter. She's pretty responsible. She wants to get out of the house and start her life with her kids, but I've got to get them out myself because they're driving me up the wall.

COMMISSIONER VIGIL: Mr. Griego, do you own any other property?

MR. GRIEGO: That's it.

COMMISSIONER VIGIL: Okay. No further questions, Mr. Chairman. Thank you, Mr. Griego.

MR. GRIEGO: Thank you, Commissioner Vigil.

CHAIRMAN ANAYA: Mr. Griego, I've got a couple questions. Where does your other daughter work?

MR. GRIEGO: The other daughter, I guess you'd call her a housewife. She hangs out, takes care of her own kid. She helps my wife take care of the other two kids from the other daughter.

CHAIRMAN ANAYA: So your older daughter works for the Corrections and the younger daughter stays home and takes care of the kids.

MR. GRIEGO: Yes.

CHAIRMAN ANAYA: And you want to be able to give to your kids so that they can – they can start their own lives. You want them out of your house but not out of your life.

MR. GRIEGO: I want them out of my house but not out of my life. Yes.

CHAIRMAN ANAYA: Okay. I think before we make a decision here, I would like to wait for Commissioner Montoya to come back. He just asked if he could step out real quick and he'll be right back. So if I could hold any motions until he got back. Is there any other questions or comments that the Commission would like to make? If not we'll just take a little break. Commissioner Gonzales, would you like to –

JAVIER GONZALES: Yes, I would. I don't know Mr. Griego. I did get the chance at one point to represent him as his County Commissioner. I wanted – there are two issues here that were near and dear to my heart and maybe I can bring some clarity to what Commissioner Montoya talked about. One was the issue of family transfers. The other is the issue of the traditional historic communities. As Joe indicated, when we went through this process, creating traditional and historic communities around the county, it was with a recognition of trying to prohibit the urbanization of traditional communities.

So a great example is Agua Fria, right? Where you saw the city grow around them and the folks there initiated state legislation that was actually passed, specific to Santa Fe County that allowed the County for cause to create this traditional historic boundaries, which was in effect a brick wall from the City being able to continue to urbanize many of these traditional communities. But it did not allow for a transfer or an allotment of lowering the density lot size. That was something that the Commission had to do.

When it came to La Cienega and La Cieneguilla it was a people's committee that was basically formed that came to the Commission and said we want to draft the boundaries. We want to be able to plan out for the future of these traditional communities, and at the time, the Commission did through this process set the boundaries but the traditional boundaries were never changed. So Mr. Griego has always had to see, probably on his property line this traditional community where the minimum lot size was  $\frac{3}{4}$  acre while he was living in an area where the minimum lot size was 12.5.

So even with the fact that we created this traditional and historic area, it didn't lower his density lot sizes. But what we wanted to do is not only to preserve that community from becoming more urbanized but was about the preservation of family, and I think that was a stated commitment when we developed the traditional and historic communities was not only would you prevent the urbanization but that families that were in these historic and traditional communities would have the opportunity to do what Mr. Griego is trying to do which is to create additional lots for their families. And of course the variance is the only process that they're afforded to do that.

So I wanted to hopefully try and bring some clarity as to how maybe the traditional historic was set up. It was set up by citizen committees around the county from the needs of the communities where they held public meetings. They set the boundaries. The intent of the Commission at the time in granting it was to prevent further urbanization from occurring in these traditional communities so that you wouldn't lose the character of these communities and part of that character being the families that were in these communities as well as the lands. And for that, Mr. Chairman, I just wanted to take this time to come up and address this Commission on behalf of Mr. Griego. Again, I don't know him and he didn't ask me to speak here but he is on the unfortunate side where he's having to see lots of opportunity for families on one side of the fence, if you will, and the opportunities being limited on his side of the fence.

CHAIRMAN ANAYA: Thank you, Commissioner Gonzales. We've got a question.

COMMISSIONER VIGIL: Well, actually, it's probably for Mr. Griego, and I appreciate that, Commissioner Gonzales. Mr. Griego, and this isn't true to your area and probably Chairman Anaya, you need to be a part of this. One of the complaints I get, because I do represent Agua Fria, is as we do lot splits, I will hear that, yes, it's good to assist families with family transfers but what's happening is it's turning out to be such mixed use, because there is a structure here, and a mobile home here. And that mixed use is undesirable for comprehensive view from most community members, at least, and it's visually disturbing to some people.

MR. GRIEGO: Well, where I live right now, there's that Lake View Trailer Court, there's mobile homes around my house. A lot of mobile homes around my house. I don't - myself, I don't prefer to put a mobile home on there. I prefer to build each one of their homes, and it's going to be strictly up to them, how long they want to wait to get it done.

COMMISSIONER VIGIL: Did the LCDRC address this in any way, the mobile home versus the structure?

MR. GRIEGO: No.

COMMISSIONER VIGIL: They didn't.

MR. GRIEGO: No. All they said, Mr. Romero requested that instead of breaking it into a one-acre lot, we break it into 1.25-acre lots, and that I run the community water up to my property line, which I'm going to pretty much have to do myself since the County never ran it up our road. I'm going to have to run the water line from Paseo C de Baca over a thousand feet up to my property line and I'm going to have to pay for it out of my pocket. And I agreed to it.

CHAIRMAN ANAYA: Any other comments?

MR. GRIEGO: If I could build their homes, I would love to build their homes myself.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner. Thank you. Is there anybody else that would like to speak for or against this project? Okay, the public hearing is closed. What's the pleasure of the Board? I'll go ahead and make a motion. I'd like to approve this case with the County conditions. He says that he's going divide it up into 1.25 instead of one. Is that in the -

COMMISSIONER MONTOYA: It's in the LCDRC.

CHAIRMAN ANAYA: LCDRC, okay. I think this is a hardship case. He's got one daughter who works for the Corrections Department with two kids and he's got one other daughter that is staying home and trying to raise two kids, so I think this is clearly a hardship case and we want to try to keep the families in that area in the traditional historic to continue to hand down properties to their family members so that we can keep that tradition alive. And I think that's it. Is there a second?

COMMISSIONER MONTOYA: Second.

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

**The motion to approve LCDRC Case #V 05-5080 passed by majority 3-1 voice vote**

with Commissioner Campos voting against. [Commissioner Sullivan was not present for this action.]

**XIII. A. 7. CDRC Case # A/V 05-5020 Robert French Appeal/Variance  
Robert French, Applicant, is Appealing the County Development  
Review Committee's Decision to Deny the Placement of a Second  
Home on one Acre, Off Arroyo Cuyamungue, Which Would  
Result in a Variance of Article III, Section 10 (Lot Size  
Requirements) of the Land Development Code. The Property is  
Located at 43 Tango Road Santa Fe, NM Within Section 28,  
Township 19 North, Range 9 East, (Commission District 1)**

JOHN SALAZAR (Review Specialist): On March 17, 2005, the County Development Review Committee met and acted on this case. The decision of the CDRC was to deny the appeal/variance. The property is located, it's actually 43 Tango Road - off Arroyo Cuyamungue within the Basin Hydrologic Zone.

Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 10 acres per dwelling unit. Lot size may be reduced to 2.5 acres if the applicant signs and records water restrictions of 0.25 acre-feet per year, or with proven long-term water availability. The one-acre lot is legal non-conforming.

On October of 2004 a mobile home was moved to the applicant's property to provide emergency housing for his daughter and son-in-law who were being evicted from their home in Los Alamos. The applicant is requesting a variance to keep the mobile home on his property to allow his daughter to continue living in it. The applicant received a notice of violation from the Land Use Department after he moved the mobile home onto his property without an approved development permit. The applicant is proposing to connect the new mobile home to the existing well and septic system and has updated the current septic permit with NMED.

Recommendation: Staff recommends that the BCC uphold the CDRC's decision and deny the appeal/variance based on Article III, Section 10 of the Land Development Code which states that the minimum lot size in this area is 2.5 acres per dwelling unit with .25 acre-feet water restrictions, or with proof of long-term water availability as approved by the County. If the decision of the BCC is to recommend approval of this request, staff recommends the conditions in Exhibit E be imposed. Mr. Chairman, may I enter those conditions into the record?

CHAIRMAN ANAYA: Yes.

[The conditions are as follows:]

1. A temporary permit will be issued for a period of two years and subject to extensions for consecutive two-year periods by the CDRC. The applicant at that time must prove hardship still exists.

2. Water use shall be restricted to 0.25 acre-feet per dwelling. A water meter shall be installed for both homes. Annual water meter readings shall be submitted to the Santa Fe County Land Use Administrator by January 31<sup>st</sup> of each year. Water restrictions shall be recorded in the Santa Fe County Clerk's Office. Installation of meters for existing residential units prior to issue development permit.
3. No additional dwellings will be allowed on the property.
4. The existing driveway will serve all homes.
5. The applicant must follow all other building permit regulations including terrain management improvements as required by staff.
6. The applicant shall submit an updated Environment Department Liquid Waste Permit showing correct lot size and correct number of homes.
7. Failure to comply with all conditions shall result in administrative revocation of the appeal.

CHAIRMAN ANAYA: Did it say anything about hold on to the property for a certain amount of time? In the conditions?

MR. SALAZAR: Hold onto the property? No. The conditions –

CHAIRMAN ANAYA: Not sell it for a certain amount of years.

MR. SALAZAR: It's not a subdivision.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Just for the record, I just wanted to clarify, it is 2.5 acres. You have 2.5 in your summary but in your recommendation you have 12.5. I assume that's a typo?

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, yes, that's a typo.

COMMISSIONER VIGIL: Okay. I just wanted to clarify that for the record, Mr. Chairman.

CHAIRMAN ANAYA: His typewriter is not working too good. Any other questions? Is the applicant here? Go ahead and come forward, sir.

[Duly sworn, Robert French testified as follows:]

ROBERT FRENCH: My name is Robert French and I live at 47 Tango Road. Do you have any questions?

CHAIRMAN ANAYA: Do you have anything to add to what this –

MR. FRENCH: I came here to make a long argument about why I should be allowed to get a temporary and according to this, what Mr. Salazar is recommending and I'm willing to follow these and do it.

CHAIRMAN ANAYA: Is there a temporary on this?

MR. FRENCH: Yes.

CHAIRMAN ANAYA: You're willing to do a two-year temporary?

MR. FRENCH: When I came in, I came in naïve and I asked for a temporary permit and was told at the original meeting that they didn't want to set a

precedent. So I left thinking I was setting a precedent. And I attended a meeting or two later and found they were offering temporaries, density variances. So I'm not sure what happened in that month or so that went by but I'm willing to comply with all this.

CHAIRMAN ANAYA: Okay, is there any questions? Are you done?

MR. FRENCH: I'm satisfied with this.

CHAIRMAN ANAYA: Okay, are there any questions of the applicant?

Okay, hearing none, this is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Hearing none, the public hearing is closed. What's the pleasure of the Commission if they don't have any questions?

COMMISSIONER VIGIL: Mr. Chairman, I do have just one more question before we entertain a motion.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. French, through my reading I discovered that there was some kind of a statement made, perhaps in your letter of intent that originally you were looking for three dwellings?

MR. FRENCH: No.

COMMISSIONER VIGIL: No?

MR. FRENCH: No. I own two acres and part of my argument in the first meeting was that if I own two acres and I wanted to put three dwellings on it - that would be my house, the rent house and this one I just put on. That's three houses for two acres. And that's the least violator out there. All of my abutters have two dwellings per acre. Some three, and one might even be four. They're on one-acre parcels. I happened to buy two and had my house on one, rent house on the other. This emergency came along. I put a mobile home there and got into this mess. So that's where I'm at.

I leased .2 of an acre to that one for wastewater purposes, put in a septic tank, had the septic tank pumped and I'm expanding the drain field now. Don't know what else.

CHAIRMAN ANAYA: Why again did you want to split it? Why is it that you want to add another home?

MR. FRENCH: I have a family emergency. My daughter, she's about 48 years old. She's a grandmother herself. But she got into trouble in Los Alamos and was basically run out of town. They burned her car down in front of her house. Paint-balled the house and it's her fault. But she got a job in Pojoaque, right near where we live and they were being evicted. They shouldn't have to go move into their car. I don't have a place for them to live otherwise. I had this mobile home that I was planning to take up to Alcalde but they can't commute from out there. So I moved the house over here. It's near where she found a job and she's working. Her husband is doing odd jobs and whatever, but they can't pay rent; they just don't have the money.

CHAIRMAN ANAYA: So it's a hardship case.

MR. FRENCH: It is a hardship.

CHAIRMAN ANAYA: Helping your daughter out so she can get back on her feet, a temporary permit for two years.

MR. FRENCH: Well, two years is probably not going to be long enough. It's a pretty stiff -

CHAIRMAN ANAYA: Well, I think what you can do is a temporary permit, and I'm just throwing this out, but you can always come back to the County.

MR. FRENCH: And it says I can come back in two years and if it still exists we can go down that road.

CHAIRMAN ANAYA: So are you okay with that?

MR. FRENCH :Yes.

CHAIRMAN ANAYA: Okay. Any other questions of the applicant?

COMMISSIONER MONTOYA: Mr. Chairman, I have one for staff.

CHAIRMAN ANAYA: Commissioner, go ahead.

COMMISSIONER MONTOYA: Regarding the CDRC's decision, looking at the minutes here, it was pretty much, well, it was a unanimous vote. Could you tell me a little bit about any comments or anything that led them to that decision?

MR. FRENCH: The reason I got denied the first time?

COMMISSIONER MONTOYA: Okay, I'll hear from year and then hear from staff. Go ahead, Mr. French.

MR. FRENCH: There was a complaint. A lady lives at 40 Tango Road come in and made a rather lame complaint on me and they just said no. Since then I've had a conversation with her. She is on my side now.

COMMISSIONER MONTOYA: Okay. John, did you present the case that day?

MR. SALAZAR: Mr. Chairman, Commissioner Montoya, yes, I did. I believe it has come up in CDRC meetings before about enforcing these two-year temporary permits and keeping track of them and I believe that was an issue in the way they voted.

COMMISSIONER MONTOYA: So did they feel like the temporary permit and the water meters were going to be monitored?

MR. SALAZAR: They will have to be.

COMMISSIONER MONTOYA: Okay, and whose responsibility is it? Ours or the applicant?

MR. SALAZAR: The applicant will have to bring in water meter readings every January, I believe January 31<sup>st</sup> every year to the Land Use Director. And staff will have to keep track of the two-year time frame on the temporary permit.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN ANAYA: Any other comments? Commissioner Vigil.

COMMISSIONER VIGIL: I have a question for Dolores. Dolores, have we made any progress with regard to monitoring these temporary permits?

DOLORES VIGIL (Land Use Administrator): Not officially. It is an issue that we're working on and a policy, and we're also working on creating some type of data base that would help us flag these permits. But really right now it's out there. It's more of an honor code for them to come in and let us know that it's up but we are working on



something that would help us monitor these better.

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

CHAIRMAN ANAYA: Thank you.

COMMISSIONER MONTOYA: Mr. Chairman, on that point, how long is that going to take?

MS. VIGIL: Mr. Chairman, Commissioner Montoya, Joe was just informing me that there is something in place, but if you can elaborate a little bit more to explain it, I'd appreciate that.

MR. CATANACH: Mr. Chairman, Commissioners, when these temporary permits are granted we keep a list in the computers. Not only the staff that worked on the case but we coordinate with Code Enforcement so hopefully we have a process where Code Enforcement has a list of these temporary permits and also the development review staff is also keeping a list. That's the extent of it. I obviously want, as more and more temporary permits are approved it certainly gets more difficult to manage that and keep track of that. But right now, we're trying to keep a list of these temporary permits.

COMMISSIONER MONTOYA: About how many do we have, Joe?

MR. CATANACH: You know, Commissioner Montoya, I really don't have a number for you right off.

CHAIRMAN ANAYA: Okay. Any other comments? What's the pleasure of the Board? I'd like to make a motion to approve this with the conditions, a temporary permit. And I think this is a true hardship case. This gentleman wants to help his daughter get back on her feet. There were some wrongdoings in Los Alamos. He's trying to help her out and I think we should allow to help this gentleman out. So I make a motion to approve with conditions. Is there a second? Okay, motion dies for lack of a second. Is there another motion?

COMMISSIONER CAMPOS: Mr. Chairman, I'd like to ask Mr. Ross, do we need another motion or is that it? There was no second. They require affirmative action to grant a variance. I think that ends it.

MR. ROSS: Mr. Chairman, Commissioner Campos, unless somebody wants to propose different conditions, yes. If the motion was to approve as presented, yes, it's dead. You'd have to change it.

CHAIRMAN ANAYA: Okay, any other motion? Hearing none, then what happens? Denied?

MR. ROSS: It needs to be granted, Mr. Chairman, so it is denied. He needs a successful motion.

CHAIRMAN ANAYA: So we need a motion to deny then.

COMMISSIONER CAMPOS: Or to grant. There was no second, so that's the end of it.

MR. ROSS: Somebody could move to deny and make it clear. Mr. Chairman, what Commissioner Campos asked me is whether the failure of a motion to approve is tantamount to a motion to deny, whether they're the same thing.

CHAIRMAN ANAYA: So what do you want me to do?

MR. ROSS: Why don't you call for a motion to deny.

CHAIRMAN ANAYA: Okay, I'd like to call a motion to deny. Is there a motion out there to deny?

COMMISSIONER VIGIL: Mr. Chairman, I'm sorry. I exited the room just for a few minutes. I apologize. Are we denying this applicant's appeal? Is that what you're asking for?

CHAIRMAN ANAYA: Commissioner Vigil, I made a motion to approve with conditions and it wasn't seconded. So now we need a motion to either deny or table or go back to the drawing motion or some kind of motion. I'm just stuck up here.

COMMISSIONER CAMPOS: We don't need a motion.

CHAIRMAN ANAYA: Or it's done.

COMMISSIONER CAMPOS: Unless there's another motion to approve with different conditions, I think that's what legal counsel has stated.

CHAIRMAN ANAYA: So you're saying we don't need a motion and he's saying we need some kind of motion.

MR. ROSS: Mr. Chairman, if we get no other motion it's fairly clear what the situation is. But I was just suggesting to clarify things you could ask for a motion to deny and see if you got one.

CHAIRMAN ANAYA: Okay, to clarify things, is there a motion out there to deny? They don't want to help me there either, Steve.

MR. ROSS: Call for any motion and see what happens?

CHAIRMAN ANAYA: Is there any other motion out there?

COMMISSIONER VIGIL: I'm going to motion to approve Mr. French's appeal based on the conditions with temporary, temporary permitting, make it incumbent to Mr. French that he return to the Board of County Commission in two years to explain to us whether or not the hardship still exists. I think it's important that we help our children out when they're in emergency situations but I think even more important is that we allow them the opportunity to let them start helping themselves. So I will motion to approve.

CHAIRMAN ANAYA: Is there a second? I'll second it.

COMMISSIONER CAMPOS: Is that with conditions?

COMMISSIONER VIGIL: With conditions.

CHAIRMAN ANAYA: Is there any further discussion?

**The motion to approve CDRC Case #A/V 05-5020 failed by a tied 2-2 voice vote with Commissioners Vigil and Anaya voting in favor and Commissioners Campos and Montoya voting against. [Commissioner Sullivan was not present for this motion.]**

CHAIRMAN ANAYA: Sorry, Mr. French. It failed.

MR. FRENCH: I came here with more things to say than I said. And I thought, when he handed me this that this was a list of conditions that I would go by. And

I'm willing to do that. It says right at the top: A temporary permit will be issued for a period of two years, subject to extensions for consecutive and so on.

CHAIRMAN ANAYA: The motion failed so - what is his options there, Steve?

MR. ROSS: Well, it's really up to you, Mr. Chairman. There's really nothing else left if there's not going to be any more motions.

CHAIRMAN ANAYA: But he could -

MR. ROSS: If you want to, he could make a statement.

CHAIRMAN ANAYA: No, I'm talking about he can appeal this -

MR. ROSS: Sure. That's what you're asking me. I'm sorry, Mr. Chairman. He has the right to appeal this within 30 days to district court once we -

CHAIRMAN ANAYA: And maybe staff could give him his options. But right now, the Board denied it. Thank you.

**XIII. A. 10. CDRC Case # V 05-5050 Johnson Variance of 5-Year Exemption Mark Johnson, Applicant, Requests a Variance of Article II Section 2.3.1 g (5-Year Exemption) of the Land Development Code, to Allow the Sale of a Previously Subdivided Property that was Created Under the 5-Year Exemption. The Property is Located at 56 Cactus place Via Highway 14, Within Section 30 Township 15 North, Range 11 East (Commission District 5)**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. On March 17, 2005, the County Development Review Committee recommended denial of the request for a variance of Article II, Section 2.3.1.g of the Land Development Code. The applicant is requesting a variance of Article II Section 2.3.1.g of the Land Development Code allow the sale of a previously subdivided property that was created under 5-year exemption. On April 30, 2003, a lot line adjustment and land division created by five-year exemption was approved and recorded with the County Clerk's office, which allowed the division of 37.73 acres into three lots; one consisting of 12.67 acres and the other two consisting of 12.53 acres. Since the approval the applicant sold the 12.67-acre lot and resides on the other 12.53-acre lot.

Article II, Section 2.3.1.g specifies that the sale, lease or other conveyance of a single parcel from a tract of land, except for a tract within a previously approved subdivision within a five-year period, provided that a second or subsequent sale, lease or other conveyance shall be subject to the New Mexico Subdivision Act and these regulations provide further that a survey shall be filed with the County Clerk indicating the five-year holding period for both the original tract and the newly created tract.

The applicant runs his business and resides on one lot and an adjoining property owner who did not want any development to occur purchased one lot. Due to financial

difficulties the applicant is requesting a variance that would enable him to sell the remaining 12.53-acre lot in order for his business of 20 years to continue to move forward.

Recommendation: Staff's position is that the application is not in accordance with Article II, Section 2.3.1.g of the Land Development Code which requires the applicant to hold what remains of the original tract of land that has been divided for a period of five years or apply for approval of a summary review subdivision.

CHAIRMAN ANAYA: Thank you. Any questions of Victoria?

COMMISSIONER MONTOYA: Mr. Chairman, Victoria, has an application been submitted for review subdivision?

MS. REYES: Mr. Chairman, Commissioner Montoya, there has not been an application for a summary review subdivision. The applicant divided the land under five-year exemption without having to meet certain regulations from the summary subdivision regulations.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN ANAYA: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: Victoria, how long ago was this first subdivided?

MS. REYES: Mr. Chairman, Commissioner Vigil, this was done two years ago, in 2003.

COMMISSIONER VIGIL: Has it had any previous subdivisions prior to that?

MS. REYES: No.

COMMISSIONER VIGIL: And originally, was it subdivided administratively or did it come before the BCC?

MS. REYES: Mr. Chairman, Commissioner Vigil, it was divided administratively.

COMMISSIONER VIGIL: Okay. So that the original subdivision was within the minimum lot size and there didn't need to be a variance. And part of the administrative requirement was that these lots could not be sold within a five-year period.

MS. REYES: Mr. Chairman, Commissioner Vigil, one lot could be sold and the other one would need to be held.

COMMISSIONER VIGIL: Thank you, Victoria.

CHAIRMAN ANAYA: Any other questions? Is the applicant here? You could state your name and address for the record.

[Duly sworn, Mark Johnson testified as follows:]

MARK JOHNSON: Mark Johnson, Route 2, Box 310-D, Santa Fe, New Mexico.

CHAIRMAN ANAYA: Mark, do you have anything to add to what you want?

MR. JOHNSON: No, we've just been having a lot of problems in the last few years with our business and we need to sell this property so we don't suffer, my family. We've had it for 20 years and we couldn't foresee financial problems when we

split it up and signed the five-year variance.

CHAIRMAN ANAYA: Anything else?

MR. JOHNSON: We had one of our neighbors approach us for the piece of property and they have no intention to develop it. They want more buffer zone off of their home. They have a contiguous property.

CHAIRMAN ANAYA: Any questions of the applicant? Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Johnson, you sold one of the other pieces of property that were originally subdivided, correct?

MR. JOHNSON: Yes, I did.

COMMISSIONER VIGIL: That's the largest piece, right?

MR. JOHNSON: Yes, it was slightly larger than the other one.

COMMISSIONER VIGIL: Is there any building or units on that?

MR. JOHNSON: No. The person that bought it wrote into the contract for sale that they would not develop that piece of property for the foreseeable future.

COMMISSIONER VIGIL: What sort of business are you in?

MR. JOHNSON: We have a school supply company, a mail-order school supply business that we've run here for 20 years.

COMMISSIONER VIGIL: And is that located on the property?

MR. JOHNSON: Yes.

COMMISSIONER VIGIL: And do you have a home owner occupancy license for that?

MR. JOHNSON: Yes.

COMMISSIONER VIGIL: Okay. How long have you had that?

MR. JOHNSON: Just about 20 years.

COMMISSIONER VIGIL: Okay. And you have owned it for 20 years.

MR. JOHNSON: Yes.

COMMISSIONER VIGIL: And have you lived there for 20 years?

MR. JOHNSON: Yes.

COMMISSIONER VIGIL: Okay. No more questions, Mr. Chairman.

CHAIRMAN ANAYA: Any other questions? Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for legal. It seems to me that what's happened here, Mr. Johnson was allowed to divide property but not have to meet all the requirements of the subdivision.

MR. ROSS: Right.

COMMISSIONER CAMPOS: So would he have to - if we say you can sell this, does he have to now, at this point, meet the requirements of the subdivision?

MR. ROSS: Well, I suppose that the eventual result of a denial of this application would throw him into the summary review process.

COMMISSIONER CAMPOS: If we deny him he has to come back with a different application.

MR. ROSS: With a different application.

COMMISSIONER CAMPOS: Asking for a subdivision.

MR. ROSS: If he wanted to do it now he always has the option of waiting the addition three years he agreed to.

COMMISSIONER CAMPOS: That's right. He can wait three years.

MR. ROSS: I'm not sure that this is properly characterized as a variance.

COMMISSIONER CAMPOS: I don't either.

MR. ROSS: I think it maybe should be viewed by this body as a relief from a condition as opposed to a variance.

COMMISSIONER CAMPOS: This five-year thing, five-year exemption, is that state law?

MR. ROSS: It's not state law. This particular case, the applicant agreed to this. State law is that you can't subdivide the retained parcel in five years. But he's not proposing to subdivide the retained parcel. He's proposing to sell the parcel he created two years ago.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN ANAYA: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: What is the value of the property you're trying to sell?

MR. JOHNSON: Oh, it would probably be about \$130,000.

COMMISSIONER VIGIL: And what is the value of the property that you sold, the original?

MR. JOHNSON: We sold the previous one for \$120,000.

COMMISSIONER VIGIL: Okay. No more questions, Mr. Chairman.

CHAIRMAN ANAYA: This is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Hearing none, the public hearing is closed. What's the pleasure of the Board? Do we have a motion? We just don't want to make motions.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Victoria, regarding the last sentence, beginning on the last paragraph. Since the approval, the applicant sold the 12.7-acre lot – so it was one lot of 12.67 and then two at 12.53. So he sold the 12.— Okay. All right.

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER VIGIL: I have some more questions. I think we probably will be ready for a motion here soon, but let me ask some more questions and whoever would like to respond to this. What was the rationale behind putting a five-year waiting period on this? Does anybody know?

MR. JOHNSON: I was informed that it was a requirement for me to split these lots. We had two previous lots. One at approximately 15 acres and one of approximately 23 acres that we wanted to turn into three 12.5-acre lots. And when I want

through the subdivision survey and all that it told me that I had to sign this agreement in order to do this.

COMMISSIONER VIGIL: Who told you you had to sign this?

MR. JOHNSON: Emilio Gonzales.

COMMISSIONER VIGIL: Joe, did you want to add to that?

MR. CATANACH: Mr. Chairman, Commissioner Vigil, the staff is proceeding based on the language that's in the staff report, so it's page 2 of the staff report and I think you asked the question how did this five-year condition come up. The staff is proceeding based on that exact language which comes out of the County Code for exempt subdivisions. It lists - there's a list of what, under state statute of what is considered exempt from subdivision requirements. And the exact language is just that language right at the top of page 2 where it starts off with Article II, Section 2.3, that's the language that staff is working off of of how this five-year condition came about.

COMMISSIONER VIGIL: So that explains it - that entire section is unexplainable to me. I don't understand, even if it is in the Subdivision Act why we're requiring a five-year waiting period when we subdivide with a minimum lot size.

MR. ROSS: Mr. Chairman, Commissioner Vigil, this is exact language from the Subdivision Act and the way I read it is completely different from the way Land Use reads it.

COMMISSIONER VIGIL: Would you explain how you understand it?

MR. ROSS: I read it as the retained parcel, in other words the parcel that he has but he has not sold, the one he wants to sell now, can be sold immediately upon dividing it under a one in five exemption, and that the five-year holding period applies to his land, the land he lives on. He can't further subdivide that parcel.

COMMISSIONER VIGIL: Okay.

MR. ROSS: Land Use has read this completely different for many years and that's why he was told what he was told.

COMMISSIONER VIGIL: I guess that's why I'm searching for some rationale as to why he would be required. I can understand how when we do family transfers, because those family transfers go and get results that we really want to create some restrictions to turning that land over into the market because it's intended to be for a family. But this was not a family transfer. It was an appropriate, legal lot size subdivision so my legal hat is telling me we need to approve this. I'm going to motion that we approve it.

CHAIRMAN ANAYA: There's a motion for approval. Is there a second? I'll second it. Any further discussion?

**The motion to approve CDRC Case #V 05-5050 passed by unanimous [4-0] voice vote. [Commissioner Sullivan was not present for this action.]**

SFC CLERK RECORDED 06/16/2005

**XIV. ADJOURNMENT**

Chairman Anaya declared this meeting adjourned at approximately 9:25 p.m.

Approved by:

  
Board of County Commissioners  
Mike Anaya, Chairman

Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
VALERIE ESPINOZA  
SANTA FE COUNTY CLERK



SFC CLERK RECORDED 06/16/2005



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See page  
2

# SANTA FE COUNTY

## Resolution No. 2005 -

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**A Resolution Supporting the Conceptual Proposal of the  
Northern Pueblo Tributary Water Rights Association  
Regarding the Aamodt Water Settlement and Urging the  
Bureau of Reclamation and the State of New Mexico to Provide  
Apportionment of San Juan - Chama Water to the  
Aamodt Settlement**

---

**WHEREAS**, Pueblo of Nambe, Pueblo of Tesuque, Pueblo of Pojoaque, and Pueblo of San Ildefonso, make up the Northern Pueblos Tributary Water Rights Association ("the four Association member Pueblos");

**WHEREAS**, the four Association member Pueblos are parties to the longstanding Aamodt adjudication;

**WHEREAS**, the four Association member Pueblos are seeking to secure a firm water supply for their future while attempting to work with all non-Pueblo parties to arrive at a regional water supply solution and to find practical, cost-effective solutions to the difficult water supply concerns that everyone faces;

**WHEREAS**, the four Association member Pueblos recognize and support Santa Fe County and the City of Santa Fe's need for a secure water supply and stand ready to work with them in the course of addressing the regional water supply concerns facing our respective entities;

**WHEREAS**, the four Association member Pueblos strongly believe there are viable approaches to enable Santa Fe County and City of Santa Fe to obtain the San Juan-Chama Project water while also allowing the Aamodt Pueblos and the Pueblo of Taos to utilize a portion of the uncontracted San Juan-Chama water supply together with other secure rights so that the long-term needs of the Pueblos, Santa Fe County, and the City of Santa Fe are met;

A Resolution Supporting the Conceptual Proposal of the Northern Pueblo Tributary Water Rights Association Regarding the Aamodt Water Settlement and Urging the Bureau of Reclamation and the State of New Mexico to Provide Apportionment of San Juan - Chama Water to the Aamodt Settlement

**WHEREAS**, there are practical and hydrological approaches that would benefit all parties that have not yet been fully explored;

**WHEREAS**, one issue that high level United States Department of Interior officials continue to raise with the Aamodt Pueblos is that the Department of Interior has set aside 2,990 acre-feet per year of San Juan-Chama Project water to assist in providing needed water supplies for Indian water rights settlements in New Mexico.

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of County Commissioners of Santa Fe County:

1. Supports the conceptual proposal of the Northern Pueblo Tributary Water Rights Association regarding the Aamodt Water Settlement, which includes a commitment by the parties, including the pueblos, to support Santa Fe County and City of Santa Fe Buckman Diversion Project, the Draft Environmental Impact Statement, and the renewal or conversion of Santa Fe County and the City of Santa Fe's San Juan-Chama water;
2. Urges the United States Department of Interior's Bureau of Reclamation to address the regional water supply concerns facing our respective entities and look for alternative means to mitigate the concerns raised by the Pueblos with the Bureau of Reclamation regarding renewal or conversion of all of the existing San Juan-Chama water service contracts; and
3. **Supports the concept that the 2,990 acre-feet per year of San Juan-Chama Project water that the Department of Interior has set aside be made available for Indian water rights settlements in Northern New Mexico, including the proposed settlement in the Aamodt case and an expected resolution in the Abbott case.**

**AND FURTHER, BE IT RESOLVED**, that the Board of County Commissioners of Santa Fe County requests that the State of New Mexico work with the Pueblos, Santa Fe County, and the City of Santa Fe in ensuring that all governmental entities in the region have a secure water supply available to them.

SFC CLERK RECORDED 06/16/2005

Rev

**PASSED, APPROVED AND ADOPTED** this 10<sup>th</sup> day of May, 2005.


**BOARD OF COUNTY COMMISSIONERS**

\_\_\_\_\_  
Michael D. Anaya, Chairman

**ATTEST:**

\_\_\_\_\_  
Valerie Espinoza, Santa Fe County Clerk

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Stephen C. Ross, Santa Fe County Attorney

SFC CLERK RECORDED 06/16/2005



**LAW & RESOURCE  
PLANNING ASSOCIATES**

*A Professional Corporation*

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## Compilation of County Commitments

Water Supply for lots at Las Campanas  
Establishing and Contractually Committing to a  
Water Budget for Las Campanas of .25 a/f/a Lots  
With Individual Residences  
And .5 a/f/a for lots with Guest Houses

May 4, 2005

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Harry B. Montoya  
Commissioner, District 1

Virginia Vigil  
Commissioner, District 2

Michael D. Anaya  
Commissioner, District 3



Paul Campos  
Commissioner, District 4

Jack Sullivan  
Commissioner, District 5

Gerald T.E. González  
County Manager

**MEMORANDUM**

**DATE:** APRIL 12, 2005

**TO:** BOARD OF COUNTY COMMISSIONERS

**FROM:** JOE CATANACH, SUBDIVISION REVIEW DIVISION DIRECTOR

**VIA:** DOLORES I. VIGIL, LAND USE ADMINISTRATOR (D)

**RE:** EZ CASE S 96-1212 LAS CAMPANAS ESTATES VIII, UNITS 1,2,3

**ISSUE:**

Las Campanas Limited Partnership (Michael D. Baird), applicant is requesting an amendment of the previously approved plat/development plan for 104 residential lots, in order to permit a guest house on each lot. The property is located off Las Campanas Drive within the five mile Extraterritorial District.

**SUMMARY:**

In the time period from 1996 to 1998 the BCC granted final plat/development plan approval for the Estates VIII Subdivision consisting of 104 residential lots in three phases. The applicant did not request guest houses at that time and therefore allocated .25 acre feet of water rights for each lot.

Please note that the master plan approval granted by the BCC in 1992 allowed for guest houses based on available water rights of .50 acre feet to support a main house and guest house, and many subdivision phases within Las Campanas are approved for guest houses. The BCC has reduced the allocation of water from .50 acre foot to .40 acre foot for recent subdivision approvals within Las Campanas. The reduction of water was based on consideration for water conservation and with the understanding that occupancy of a guest house should not be full time and permanent, and therefore would not need a .25 allocation.

The allocation of water for the requested guest house is .15 acre foot per lot for a total of 15.6 acre feet to serve the 104 lots.

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**RECOMMENDATION:**

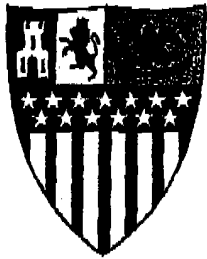
The applicant has submitted an outline of acquired water rights that have been committed for the Las Campanas development, and the remaining balance that is available. The State Engineer has previously verified that the water rights are approved for the Las Campanas development. The applicant does have a sufficient amount of water rights to serve the requested guest houses. Staff recommends approval subject to the following conditions:

1. Submit appropriate documents for amending subdivision plats, homeowner covenants, disclosure statement and updated water rights schedule.
2. Submit confirmation from City that this request does not conflict with relevant agreements.

**EXHIBITS:**

- A - Applicants letter
- B - Water rights schedule
- C - Vicinity map

SEC CLERK RECORDED 06/16/2005



# City of Santa Fe, New Mexico

200 Lincoln Avenue, P.O. Box 909, Santa Fe, N.M. 87504-0909

Larry A. Delgado, *Mayor*  
Mike P. Lujan, *City Manager*

**Councilors:**

- Carol Robertson-Lopez, Mayor Pro Tem, Dist. 4
- Patti J. Bushee, Dist. 1
- David Pfeffer, Dist. 1
- Karen Heldmeyer, Dist. 2
- Rebecca Wurzbarger, Dist. 2
- Miguel M. Chavez, Dist. 3
- David Coss, Dist. 3
- Matthew E. Ortiz, Dist. 4

Joe Catanach, Subdivision Review Director  
Santa Fe County  
102 Grant Avenue  
Santa Fe, NM 87504-0276

Re: EZ Case S 96-1212 Las Campanas Estates VIII, Units 1,2,3

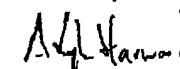
The Santa Fe County Memorandum of April 12, 2005 recommends that the City of Santa Fe provide confirmation that the request presented by Las Campanas does not conflict with relevant agreements.

The City Attorney's Office does not object to the request presented by Las Campanas in the above-captioned EZ Case, and is of the opinion that it does not conflict with the Settlement Agreement.

The City and Las Campanas entered into a Settlement Agreement on September 30, 2003 regarding potable and treated effluent deliveries as part of settling the Case No. D-0101-CV-2002-01878. That Agreement, in part, addresses the delivery of Buckman Permit Groundwater for Domestic and Commercial Uses on page 5 of the Settlement Agreement. The quantity provision of that section states, in part, that "... the maximum annual water use authorized by the restrictive water use covenant applicable to each lot ..." shall be used to compute the potable water deliveries.

Nothing in this letter abridges, amends or otherwise alters the terms and conditions of the Settlement Agreement.

Sincerely,

  
Kyle Harwood  
Assistant City of Santa Fe Attorney

Cc: Dolores Vigil, Land Use Administrator, Santa Fe County  
Steve Ross, County Attorney, Santa Fe County  
Galen Buller, Director, Sangre De Cristo Water Division, City of Santa Fe  
Anne McLaughlin, Director, Planning and Land Use Division, City of Santa Fe

SHC CLERK RECORDED 06/16/2005

*"Committed to our community, and making a difference"*





June 27, 1991

BOARD OF  
COUNTY  
COMMISSIONERS

Raymond M. Chavez  
District No. 1

Nancy Rodriguez  
District No. 2

Linda Grill  
District No. 3

Richard D. Anaya  
District No. 4

Betty Platts  
District No. 5

Gil D. Tercero  
County Manager

R.T. Frye  
Las Campanas de Santa Fe  
218 Camino La Tierra  
Santa Fe, NM 87501

Dear Mr. Frye:

This letter provides assurances by the County of Santa Fe To Dutch Meadows Limited Partnership, the entity that is developing the project in Santa Fe County called Las Campanas de Santa Fe and to its heirs, successors, and assigns, as follows:

The County agrees that the 40-year lease between Dutch Meadows and the City of Albuquerque for the use of San Juan Chama water to offset the impact of pumping from the Buckman well field on the Rio Grande is sufficient for the first twenty-five (25) years of the lease term. The golf courses of the Las Campanas de Santa Fe project may be operated during that term under that Albuquerque lease, upon approval by the State Engineer, as set forth in and in accordance with the County Development Review Committee (CDRC) final development plan approval of June 27, 1991.

When the conditions set forth in the CDRC's final development plan approval of June 27, 1991 are met, no further requirements for golf course approval for the East Course will be made by the County, nor will any further requirements as to water supply for the Las Campanas de Santa Fe project or any particular portion of the project be required by the County, except those set forth in the CDRC's final development plan approval of June 27, 1991. Dutch Meadows will not


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be obligated by the County to acquire by option, purchase, or otherwise any water rights for this project other than those required under the CDRC's final development plan approval requirements of June 27, 1991.

It is understood that none of the conditions for approval set forth in the approval developments of June 27, 1991, adopted by the CDRC foreclose Dutch Meadows from selling, assigning, or otherwise conveying any of the assets described in said letter to any other person, corporation, partnership, or other legal entity, so long as the conditions set forth in those CDRC approval requirements are met. This letter is intended to deal with certain topics not included in CDRC approval of June 27, 1991, such as the requirements as to water supply for the entire Las Campanas de Santa Fe project or any particular portion thereof in addition to the East Golf Course. However, nothing in this letter is intended to conflict with the conditions set forth in the CDRC's final development plan approval of June 27, 1991. In the event that any conflict does exist, the terms of the June 27, 1991 CDRC final development plan approval shall prevail.

Very truly yours,

SANTA FE COUNTY

BY:   
Terrence P. Brennan,  
Santa Fe County Attorney

cc: Louis Stelzner

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AGREEMENT

The County of Santa Fe, New Mexico, by and through its Board of County Commissioners ("County") and Dutch Meadows Limited partnership, a New Mexico limited partnership, owner of the project commonly known as Las Campanas de Santa Fe ("Applicant") hereby agree as follows:

WHEREAS, The Santa Fe County Development Review Committee ("CDRC"), on the 27th, of June, 1991, heard the application known as "CDRC" case #OD 89-108: the Ranch at Santa Fe/Las Campanas" requesting preliminary and final development plan approval to allow the construction of the East Golf Course as part of the first phase development, which development was previously granted preliminary development plan approval in 1989; and

WHEREAS, The CDRC granted final approval on June 27, 1991 of the Applicant's proposal, subject to twenty-three (23) requirements which were set forth by the Santa Fe County Land Use Administration Staff; and

WHEREAS, among those requirements were certain stipulations regarding water availability at the above described project which exceeded the requirements for the East Golf Course, and, in fact, satisfied requirements for the entire project, as proposed by the Applicant; and

WHEREAS, Applicant is in agreement with the requirements and stipulations regarding water availability of the

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CDRC's final development plan approval of June 27, 1991; and

WHEREAS, a letter was sent from Santa Fe County Attorney, Terrence P. Brennan to R.T. Frye of Application on June 27, 1991 stating that "When the conditions set forth in the CDRC's final development plan approval of June 27, 1991 are met, no further requirements for golf course approval for the East Golf Course will be made by the County, nor will any further requirements as to water supply for the Las Campanas de Santa Fe project or any particular portion of the project be required by the County, except those set forth in the CDRC's final development plan approval of June 27, 1991. Dutch Meadows will not be obligated by the County to acquire by option, purchase, or otherwise any water rights for this project other than those required under the CDRC's final development plan approval requirements of June 27, 1991."

NOW THEREFORE, in consideration of Applicant's agreement with the requirements of the CDRC's final development plan approval of June 27, 1991, and in further consideration of the County's agreements wet forth herein, the parties agree as follows:

1. If the requirements of the CDRC's final development plan approval of June 27, 1991, referenced above, are fully met and complied with by the Applicant, then no further require-

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ments as to water supply for the Las Campanas de Santa Fe project as shown on the approved amended development plan of February 23, 1989, or any particular portion or phase thereof will be imposed by the County; and

2. If the requirements of the DCRC's final development plan approval of June 27, 1991, referenced above, are met, the Applicant will not be obligated by the County to acquire by option, purchase or otherwise any water rights for the above described project other than those required under the DCRC's final development plan approval of June 27, 1991; and

3. Applicant may rely on this agreement in its continuing development of the Las Campanas de Santa Fe project; provided, however, that nothing in this Agreement forecloses the County from requiring a greater water supply if the master plan for the project is changed to require a larger quantity of water than that stated in the hydrologic report; and

4. The execution of this Agreement by the undersigned parties has been duly approved and authorized by the appropriate parties of the Applicant any by the Board of County commissioners of the County of Santa Fe, New Mexico at its August 13, 1991 meeting.

5. This Agreement between the parties hereto is binding upon, and inures to the benefit of, the parties hereto, their successors and assigns sin interest, is specifically enforceable, is governed by the laws of the State of New Mexico, constitutes the entire agreement of the parties with respect

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to the subject matter hereof, and may be modified only in writing signed by the parties.

6. Applicant and its agents and employees are not employees of Santa Fe County. Applicant and its agents and employees shall not accrue leave, retirement, insurance, or any other benefits afforded to employees of Santa Fe County as a result of this agreement.

7. Applicant warrants that it presently has no interest and shall not acquire any interests, direct or indirect, which would conflict in any manner or degree with performance of services required under this agreement.

8. This agreement shall not be altered, changed or amended except by an instrument in writing executed by the parties hereto concerning the subject matter hereof.

9. This agreement shall be governed by the Laws of the State of New Mexico. No prior agreement or understanding, verbal or otherwise, of the parties or their agency as to water, shall be valid or enforceable unless embodied in this agreement.

DATE: \_\_\_\_\_, 1991

COUNTY OF SANTA FE, NEW MEXICO,  
a political subdivision of the State  
of New Mexico

By SANTA FE COUNTY BOARD OF COUNTY  
COMMISSIONERS

BY:   
RAY CHAVEZ, Chairman

SHC CLERK RECORDED 06/16/2005

Applicant:

DUTCH MEADOWS LIMITED PARTNERSHIP, a  
New Mexico limited partnership

BY: *Lyle H. Anderson*  
LYLE H. ANDERSON, General Partner

By LYLE ANDERSON, 89-1 LIMITED  
PARTNERSHIP, an Arizona limited  
partnership, general partners

BY: *Lyle H. Anderson*  
LYLE H. ANDERSON, General Partner

Date: August 20, 1991

STATE OF NEW MEXICO  
COUNTY OF SANTA FE

The foregoing instrument was acknowledged before me this 20<sup>th</sup> day of August,  
91, by Lyle H. Anderson, General Partner.

*Anna Ruby Jimenez*  
Notary Public

Commission Expires:

3/11/95



OFFICIAL SEAL  
ANNA RUBY JIMENEZ  
NOTARY PUBLIC - STATE OF NEW MEXICO  
Notary Bond Filed with Secretary of State  
My Commission Expires 3/11/95

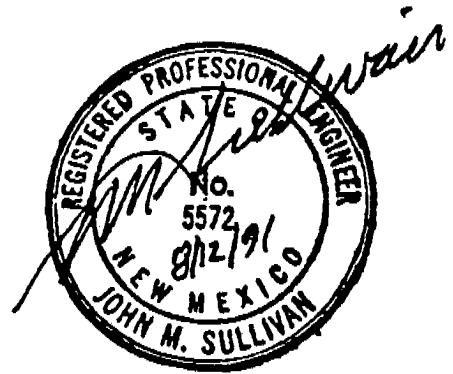
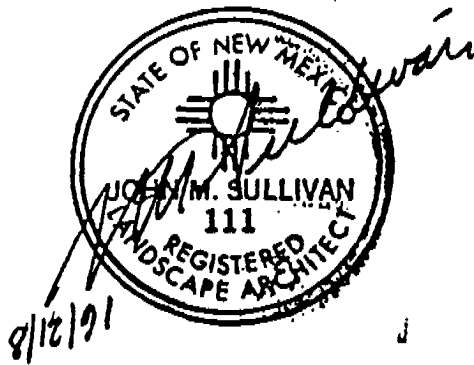
SHC CLERK RECORDED 06/16/2005

WATER USE BUDGET

LAS CAMPAÑAS DE SANTA FE

Santa Fe County, New Mexico

AUGUST 1991



PREPARED BY

**sullivan design group, inc.**

**consulting engineers**

SANTA FE, NEW MEXICO

SFC CLERK RECORDED 06/16/2005



WATER USE BUDGET  
LAS CAMPANAS DE SANTA FE

August 1991

I. Introduction

This report provides an estimate of water usage for the portion of Las Campanas de Santa Fe formerly known as The Ranch at Santa Fe. The development under study comprises 3,548.8 acres in Santa Fe County, New Mexico, and is projected to ultimately consist of 1419 lots, two 18 hole golf courses, a driving range, a clubhouse, a tennis facility and an equestrian center. A location map is included in the Appendix.

Adjacent to and to the east of the 3,548.8 area parcel are three additional development parcels called Estates I, Estates II and Plazuelas de La Tierra. These parcels are projected to contain, respectively, 142 lots, 156 lots and 86 lots, for a total of 384 lots. These lots will be served by the Sangre de Cristo Water Company, and thus are not included in the water usage estimated in this report. These lots will, however, contribute treated sewage effluent to the irrigation system for the two golf courses.

All parcels are planned for full on-site sewage collection, treatment and disposal. Estimates of domestic demand, treated wastewater production, rainfall and lake evaporation are documented in a companion report titled "Las Campanas Subdivision Water Study", dated June 25, 1991, prepared by Gordan & Associates, Inc., Consulting Engineers, Santa Fe, New Mexico (Appendix "D").

II. Residential Use - Interior

Sangre de Cristo Water Company estimates (ref. Mr. Frank Bailey, P.E.) that water usage averages 110 gallons per capita per day (gpcd) on a city-wide basis, with an average of 2.3 persons per household. This equals 0.28 acre feet/year (AF/yr).

The developer has undertaken detailed studies of water usage at its Arizona development, and has determined interior usage to average 136 gpcd, summarized as follows:

<u>Use</u>	<u>GPCD</u>
Toilet	28.0
Shower	36.4
Bath	34.4
Toilet Leakage	1.7
Faucets	10.0
Clothes Washer	14.3
Dishwasher	5.2
Water Softener	5.0
Cleaning	<u>1.0</u>
Total	136.0

The 136 gpcd figure seems to be a reasonable number to use, given the larger-than-average size homes anticipated at Las Campanas. It translates to 0.35 AF/yr.

Santa Fe County stipulates a minimum water usage for planning purposes of 0.25 AF/yr., assuming water conservation measures are required, which will be the case at Las Campanas. If guest houses are permitted, another 0.25 AF/yr. must be added. Since there will be no restriction on the construction of a guest house at Las Campanas, 0.50 AF/yr. per residence is assumed for the worst case scenario, multiplied by 1419 lots equals 709.5 AF/yr. for the entire development.

The 0.50 AF/yr. factor includes both interior and exterior uses.

Based on a brief review of one nearby subdivision, Tano Road, approximately 25% of the properties have guest houses. For the purpose of this report we will assume the same occupancy of 2.3 persons and 136 gpd per residence, although the average occupancy and usage might be less for a guest house.

The most probable usage figure for interior residential usage would thus be  $0.35 \text{ AF/yr.} + 25\% \times 0.35 \text{ AF/yr.} = 0.4375 \text{ AF/yr.}$  per lot, at 100% occupancy.

The above figures all assume 100% occupancy. Given the nature of this type of recreation based development, the developer has experienced average occupancy rates of 50% during December through March and 90% during April through November, giving a yearly average of 76.7%.

The guest house usage is probably overstated since one can assume that per capita usage would be less due to the smaller size of the residence. The percent of time occupied would probably also be less than for the homeowner. No adjustment has been made to compensate for this, given the lack of any concrete data at this point in time.

Thus, the most probable usage figure for interior residential water use, adjusted for anticipated occupancy, would be 0.4375 AF/yr. x 76.7% x 1419 lots = 476.2 AF/yr. for the entire development.

### III. Commercial Use

Commercial water usage for the clubhouse, tennis facility and equestrian center is estimated to be 16,000 gallons per day based on the developer's previous experience with like facilities. This totals 17.9 AF/yr.

### IV. Golf Course Consumptive Use

Based on previous experience, the developer estimates a consumptive use of 572 AF/yr. for two 18-hole golf courses. This usage occurs during the months of April through October. The estimated usage is broken down as follows:

<u>Month</u>	<u>Acre-Feet</u>
April	39
May	71
June	106
July	126
August	113
September	76
October	<u>41</u>
Total	572

By way of a rough check of these figures, a newly constructed nine hole southwest style golf course (i.e. not wall to wall irrigation) in Alamogordo uses approximately 316,000 gallons per day in the peak summer months of July and August. For 36 holes, this translates to 123 AF per month, very close to the developer's estimate, which is based on Arizona golf courses, with the consumptive use modified for Santa Fe climatic conditions.

The tees and greens will be seeded with 100% creeping bentgrass. The fairways will be seeded with three fescue mixtures (85%) and creeping bentgrass (15%). The rough will be seeded with a mixture of four fescues (75%) and Kentucky bluegrass (25%).

The currently designed irrigated areas for the two golf courses are summarized below. The East Course is currently under construction, so the design is set. The West Course is in the preliminary design stage. The East Course also includes the driving range which serves both courses.

903021

MASTER PLAN  
 DEVELOPMENT AGREEMENT  
FOR LAS CAMPANAS DE SANTA FE

THIS DEVELOPMENT AGREEMENT is entered into this 3rd day of March, 1993, by and between THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY, New Mexico (the "County") and LAS CAMPANAS LIMITED PARTNERSHIP, a Delaware limited partnership (the "Developer").

RECITALS

1. On April 14, 1992, the Board of County Commissioners of the County approved the Master Plan for the 3548 acre tract of land located in Sections 7, 8 and 9 of Township 17 North, Range 9 East, and Sections 2, 3, 10, 11, 12, 13, 14 and 15, Township 17 North, Range 8 East, N.M.P.M., Santa Fe County, New Mexico, known as Las Campanas de Santa Fe (the "Project"). This approved plan allows for large scale mixed use development which includes a total of 1419 residential lots, two golf courses, two golf course maintenance facilities, a clubhouse with dining facilities, a tennis center, an equestrian center, a sales office, a hospitality house and a wastewater treatment facility. The Master Plan was recorded on March 5, 1993, in Book 244, Pages 039-049 of the real property records of Santa Fe County.

2. The Project has received the following comprehensive plan approvals:

- A. Preliminary Development Plan Approval (County Development Review Committee - January 30, 1986);

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Commissioners.

903024

B. All matters, requirements and conditions concerning the water system and water supply for the Project are governed by 1) that certain Agreement between the County and the Developer (at that time the Developer was identified as its predecessor Dutch Meadows Limited Partnership) dated August 19, 1991, 2) that certain approval letter dated September 10, 1991, from Gilbert Chavez to Michael D. Baird, as amended, which is incorporated in part at pages 14 through 16 of this Agreement; and 3) the Amendment of August 19, 1991 Agreement between the County and the Developer, dated January 22, 1993; all of which documents are incorporated herein by reference.

C. The probable use in the Project water usage budget of August 1991 is accepted as part of the approved Master Plan. The sole exception to the Budget is that, upon submission for preliminary plat approval for any residential subdivision phase of the Project, the Developer shall demonstrate to the County that it holds an option to purchase surface water rights on the main stem of the Rio Grande to the extent of .50 acre feet of permanent rights for each lot of that phase on which a residence and a guest house may be built and .25 acre feet of permanent rights for each lot of that phase on which only a residence may be built. As part of the submittal for final plat approval for each residential subdivision phase of the Project the Developer shall demonstrate to the County that it has acquired at least the above stated quantity of permanent surface water rights on the

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main stem of the Rio Grande as approved by the State Engineer for each lot of that phase.

D. Beginning with the residential subdivision phase known as Estates III, the Developer shall require both by design guidelines and by restrictive covenants water conservation measures applying to interior and exterior usage, including low-flow fixtures and toilets, water conserving appliances, restricted landscaping and interior and exterior water metering. At the time that Estates IV and other later residential subdivision phases are submitted for preliminary approval, the water rights requirements per lot set forth in Paragraph C above may be adjusted upward (but not down) based on the historical water usage of residences with guest houses and residences without guest houses on prior residential subdivisions of the Project beginning with Estates I. That adjustment will be made if and when the historical water consumption data is sufficient, representative and reasonably applicable to the next phase under consideration. Should the data not be a reliable guide, the requirement will remain at the minimum levels set forth in Paragraph C above.

E. Developer shall obtain surface water rights on the main stem of the Rio Grande to supply the non-residential phases of the Project. These water rights shall be in accordance with approved water budgets for each such phase. Developer shall demonstrate to the County that it holds an option to purchase such water rights prior to submission of a development plan for

County, New Mexico, constitute covenants running with the land and are binding on the successors in interest and assigns of the parties hereto.

903045

3. Writing for Modification.

No modifications of this Development Agreement shall be valid or binding unless executed in writing and signed by the parties hereto. No waiver of any one of the provisions of this Development Agreement shall constitute a waiver of any other provision. The provisions of this Development Agreement are severable. This Development Agreement constitutes the entire agreement between the parties on the matters referenced herein.

4. Governing law.

Unless preempted by federal law or regulations, the laws of the State of New Mexico and the ordinances of the County of Santa Fe shall govern the validity, construction, interpretation and enforcement of this Development Agreement.

IN WITNESS WHEREOF the parties have executed this Development Agreement as of the day and year first above written.

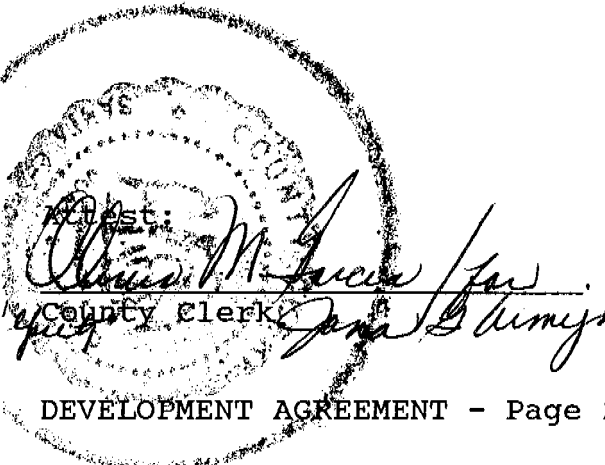
COUNTY OF SANTA FE, NEW MEXICO,  
a political subdivision of the  
State of New Mexico

By  
SANTA FE COUNTY BOARD OF  
COUNTY COMMISSIONERS

By Raymond M. Chavez  
RAYMOND CHAVEZ, Chairman

APPROVED AS TO LEGAL FORM

By Terrance Brennan  
TERRANCE BRENNAN  
COUNTY ATTORNEY



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903046

LAS CAMPANAS LIMITED PARTNERSHIP,  
A Delaware limited partnership

By: Las Campanas Corporation,  
A New Mexico corporation  
General Partner

By John Nye  
JOHN NYE, Vice-President

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JOHN W. SHOMAKER, INC.  
GEOLOGY-HYDROGEOLOGY

2703 BROADBENT PARKWAY NE, SUITE D  
ALBUQUERQUE, NEW MEXICO 87107  
(505) 345-3407, FAX (505) 345-9920

RECEIVED MAR 23 1993

March 22, 1993

Joe Catanach, Assistant Land-Use Administrator  
Santa Fe County  
P. O. Box 276  
Santa Fe, New Mexico 87504

Re: life of water-supply, Las Campanas

Dear Mr. Catanach:

Mr. Baird has asked me to confirm in writing the opinion I gave on the telephone last week as to the life of the water-supply available to Las Campanas.

My understanding is that the supply is supported by a State Engineer Office permit to divert the required water from wells, which in turn is, and will be, supported by permanent water rights as required to offset depletion of the Rio Grande, Tesuque Creek and the Pojoaque River. The life of a supply for Las Campanas is thus associated with the continuing availability of water in the stream system, and I believe the supply has an indefinite life.

As to whether the supply will last 100 years, I believe that water will be available for at least 100 years, but the points of diversion, i.e., the individual wells now producing the water, may change in that time.

Sincerely,

JOHN W. SHOMAKER, INC.

John W. Shomaker

JWS:js

cc: Malcolm Patten  
Michael D. Baird, Esq.

1057753

AGREEMENT

THIS AGREEMENT is entered into by and between The County of Santa Fe, New Mexico, by and through its Board of County Commissioners (the County) and Las Campanas Limited Partnership (Las Campanas).

1. The 3548 acre tract at Las Campanas has received Master Plan approval from the County for 1419 residential lots, plus two golf courses, clubhouse and other amenities. Pursuant to that approval the County and Las Campanas have entered into a Master Plan Development Agreement for the orderly development of this property.

2. In order to insure a permanent water supply to the Las Campanas residents, Santa Fe County has required Las Campanas to acquire perpetual surface water rights on the main stem of the Rio Grande in an amount sufficient to meet the total consumptive use demand of the approved lots in the 3548 acre tract, plus acquire sufficient rights on the surface water tributaries to the Rio Grande to offset the long term impacts of its pumping from the Buckman well field. The County also has required Las Campanas to provide financial surety for implementation of a water delivery and potable water treatment system ("Replacement Delivery Facility") to bring water to the property. The perpetual water rights are to be obtained before plats and development plans are submitted for final approval to the Extraterritorial Zoning Commission. The Replacement Delivery Facility is to provide a long range alternative to Las Campanas' lease of pipeline facilities, wells, booster stations and related structures from Sangre de Cristo Water Company, if needed. Las Campanas will

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1057754

assure that the Replacement Delivery Facility shall be sufficient to serve Las Campanas' residential and commercial uses and, at Las Campanas' option, the Replacement Delivery Facility will be sufficient to serve Las Campanas' recreational uses including both golf courses, amenities and common areas. The Replacement Delivery Facility shall be capable of providing at least 735 acre feet of water per year plus, at Las Campanas' option, the amount of water required by both golf courses, amenities and common areas after taking into account effluent that will be available for reuse on the golf courses and common areas. Of this 735 acre feet of water, 709.5 feet shall be allocated to residential use, with the remainder to be allocated to the clubhouse and other commercial use.

3. Las Campanas has provided the County with an engineering estimate that the cost of building a new well field and pipeline from the Rio Grande to Las Campanas sufficient to serve all Las Campanas' proposed uses as contained in the Master Plan, including both golf courses, amenities and common areas, together with water treatment facilities, would be approximately Six Million Two Hundred Fifty Thousand Dollars (\$6,250,000.00). This amount includes a fifteen percent (15%) reserve for contingency. The County has verified this engineering estimate through an independent consultant.

4. Pursuant to negotiations with the County, Las Campanas has agreed to provide financial surety for a Replacement Delivery Facility to serve Las Campanas in the total amount of Six Million Five Hundred Thousand Dollars (\$6,500,000.00) as follows:

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A. Beginning with Las Campanas Estates IV and prior to recording of each subsequent residential phase of development, Las Campanas will post and/or provide the County with one or more of the following types of financial surety: appraised real property, a cash escrow, bond, irrevocable letter of credit or other financial surety ("Financial Surety"). Any financial instrument of surety shall be renewed or replaced with other surety prior to the expiration of the term thereof. The Financial Surety shall be in the amount of Five Thousand Dollars (\$5,000.00) per approved lot. Las Campanas may, from time to time, alternate the type(s) of Financial Surety among those specified above. Subject to County approval, Las Campanas may provide real property as Financial Surety, based upon eighty percent (80%) of its appraised value, up to fifty percent (50%) of the total amount of the Financial Surety to be provided. Such approval shall not be unreasonably withheld. Cash escrows, bonds and irrevocable letters of credit are hereby deemed to be cash equivalents which may be freely substituted for real property or for each other as long as the total amount of Financial Surety required herein is satisfied.

B. Upon the sooner of (a) the recording of subdivision plats for seven hundred (700) lots, beginning with Estates IV or, (b) January 1, 1999, Las Campanas will provide the County with Financial Surety for the balance of the \$6,500,000.00 (\$6,500,000.00 less the amount provided as Financial Surety in paragraph 4A, above), adjusted by a percentage amount equal to the increase in the Means City Cost Index published in the Means Building Construction Cost Data Annual Edition during the period from the date of this Agreement to the date the balance of the Financial Surety

is due.

C. In the event Las Campanas provides real property as the Financial Surety, it shall provide updated appraisals at least annually and shall provide a mortgagee's title insurance policy on each lot showing the County as insured in the amount of the appraised value. In the event the appraised value of the real property provided as Financial Surety decreases over time, the County may require Las Campanas to provide additional real property or to substitute another type of Financial Surety in a form, type and amount acceptable to the County.

5. The Replacement Delivery Facility contemplated by this Agreement may include any one or combination of various alternatives, at the option of Las Campanas. Such alternatives include, but are not limited to, construction of a new pipeline from the Buckman vicinity of the Rio Grande to the Las Campanas Development, provision of water service by a publicly regulated water utility, the County, the City of Santa Fe, or extension of Las Campanas' existing pipeline lease with Sangre de Cristo Water Company or successors for a term of years consistent with the County's planning requirements. Las Campanas shall have the right to choose the alternative to be used, subject to approval by the County. Such approval shall not be unreasonably withheld.

6. If the Replacement Delivery Facility actually used costs less than the amount of the Financial Surety provided, the balance thereof plus accrued interest not previously distributed in accordance with this Agreement shall be released to Las Campanas after the County has approved the design, capacity, construction and other

relevant factors regarding the Replacement Delivery Facility; such approval shall not be unreasonably withheld.

7. If Las Campanas elects to provide appraised real property as the Financial Surety, Las Campanas shall grant a first deed of trust to certain residential lots selected by Las Campanas in favor of the County. The trustee of said deed of trust shall be reasonably agreed upon by the parties. Said deed of trust shall specify that Las Campanas shall be allowed to post and substitute appraised lots as Financial Surety with the prior written consent of the County, as long as the total value of the Financial Surety posted or provided meets the amount of Financial Surety specified in paragraph 4, above. Such consent shall not be unreasonably withheld. Such substitution shall be accomplished by means of written notice from the County and Las Campanas to the trustee of the deed of trust instructing it to effectuate the substitution and to fully release the lot(s) substituted from the deed of trust, along with any amendments or supplements to the deed(s) of trust which may be required to perfect the deed of trust for the substitute lots. The County agrees that it shall attempt to process all requested releases and/or substitutions of lots within three days of receipt thereof.

8. If Las Campanas elects to provide Financial Surety, in whole or in part, through the deposit of cash into a cash escrow, the escrow agreement shall contain the following terms:

A. The escrow agent shall be Seafirst National Bank, P.O. Box 24425, Seattle, Washington 98124-0425 (the Escrow Agent). The County may, upon

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reasonable notice, request the designation of an alternative escrow agent acceptable to Las Campanas.

B. The escrow agreement shall continue until the earlier of: a) a Replacement Delivery Facility is operable, b) a substitute Financial Surety is provided in accordance with this Agreement, or c) the County calls on the Financial Surety as provided in this Agreement.

C. The Escrow Agent shall invest any escrow deposits in U.S. government or U.S. government agency securities. The government secured investments shall be determined by Las Campanas in its sole discretion as long as they are fully guaranteed. All interest on said investments shall accrue to the benefit of Las Campanas and shall be delivered to Las Campanas as it is earned.

D. All expenses of the deed of trust and escrow, including costs of foreclosure, shall be paid by Las Campanas and neither Las Campanas, the trustee, nor the Escrow Agent shall charge any fee, expense or other cost to the County.

9. Upon approval of this Agreement, Las Campanas shall tender the Financial Surety for Estates IV in the amount of Four Hundred Ninety Five Thousand Dollars (\$495,000.00). (99 Lots X \$5,000.00 per Lot).

10. The Financial Surety shall be used exclusively to provide a surety for the design, construction, development and implementation of a Replacement Delivery Facility for Las Campanas.

11. If a Replacement Delivery Facility is not operable by January 1, 2002, the County may at any time thereafter require Las Campanas to promptly establish such a

facility and to make sufficient water rights available to serve Las Campanas residential and commercial uses. If at such time sufficient water rights have not already been provided to serve the Las Campanas property as required by the Master Plan Development Agreement and this Agreement, Las Campanas shall provide sufficient water rights to the Replacement Delivery Facility to support a total pumping capacity of 735 acre feet per year to be used exclusively at the Las Campanas property. Las Campanas may withdraw and rededicate, if necessary, all or part of the water rights from the Buckman permit number RG-20516 to the Replacement Delivery Facility to satisfy this obligation. Upon Las Campanas' failure to establish a Replacement Delivery Facility by January 1, 2004, the County may at any time, as its sole remedy for such failure, call upon the Financial Surety and construct the Replacement Delivery Facility itself. In such event, Las Campanas or its successor(s) in interest shall continue to own and be responsible for payment of operating and maintenance expenses for that portion of the Replacement Delivery Facility designed to serve both golf courses, amenities and common areas. Such usage shall be to the extent effluent is not available from Las Campanas. In no event shall the County be required to acquire or provide water rights for such uses. It shall be Las Campanas' responsibility to provide a sufficient water supply, after the application of all available treated effluent, to serve both golf courses, amenities and common areas; such water supply shall be in addition to any water rights acquired by Las Campanas for its residential and commercial uses.

12. The County may, at its own cost, increase the size or capacity of any

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Replacement Delivery Facility. In such event the County will then own clear and outright an undivided interest in the Replacement Delivery Facility equal to the percentage of the increase in total capacity paid for by the County.

In the event the County elects to increase the size or capacity of any Replacement Delivery Facility, both Las Campanas and the County shall be responsible for payment of their respective shares of all operating and maintenance costs associated with the Replacement Delivery Facility. Fixed operating and maintenance costs shall be allocated to the parties based upon their respective percentages of ownership in the Replacement Delivery Facility. All costs directly related to the volume of water transported shall be allocated to the parties based upon their respective percentages of the total volume of water transported; such allocation of costs shall be made at least annually. Subject to applicable law the County may charge other users, except Las Campanas, for the delivery of water using its portion of the Replacement Delivery Facility.

13. If Las Campanas constructs a Replacement Delivery Facility, the Financial Surety shall be promptly released from time to time as the design, construction and completion of such Replacement Delivery Facility proceeds, for so long as the balance remaining in the Financial Surety is sufficient to complete construction of the Replacement Delivery Facility, exclusive of any increase in size or capacity by the County. Any releases shall be based upon actual construction or other relevant costs as certified in writing by a licensed engineer of Las Campanas' choice. The County agrees that it shall attempt to process all requests for releases

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within fifteen (15) days of receipt of certification.

14. Las Campanas hereby grants to the County an option to purchase the undivided portion of any Replacement Delivery Facility constructed or acquired by Las Campanas for its residential and commercial uses (the "Residential Share") for the sum of One Dollar (\$1.00), provided the County shall first form a water utility with the legal right and obligation to provide residential and commercial water service to the Las Campanas property and shall agree to provide residential and commercial water service to the Las Campanas property. In the event the County elects to exercise the option to purchase the Residential Share, both Las Campanas and the County shall be responsible for payment of their respective shares of all operating and maintenance costs associated with the Replacement Delivery Facility. Fixed operating and maintenance costs shall be allocated to the parties based upon their respective percentages of ownership in the Replacement Delivery Facility. All costs directly related to the volume of water transported shall be allocated to the parties based upon their respective percentages of the total volume of water transported; such allocation of costs shall be made at least annually. Any purchase of the Replacement Delivery Facility by the County pursuant to this provision shall be subject to applicable easements, liens or contracts in existence at the time of purchase, but free of all indebtedness. The Residential Share shall be used by the County exclusively to provide residential and commercial water service to Las Campanas; provided, however, that any upgrading or increase in capacity paid for by the County shall not be restricted to exclusive use at Las Campanas. This purchase option shall expire on

the later of January 22, 2013, or the date of completion of the infrastructure for the last residential phase of the Las Campanas property as certified by Las Campanas' engineer. If the Residential Share is conveyed by Las Campanas to the Las Campanas Homeowners Water Cooperative or other homeowners association, such conveyance shall be expressly subject to this option. Las Campanas reserves to itself the remainder of the capacity of the Replacement Delivery Facility constructed or acquired or otherwise established by Las Campanas, except for any capacity owned by the County pursuant to its option to upsize (under Paragraph 12 hereof), to provide its own water service for the golf courses, common areas and other recreational uses at the Las Campanas property. In the event the County exercises its option to purchase the Residential Share, Las Campanas may continue to use its share of the Replacement Delivery Facility to transport water for service by Las Campanas for both golf courses, common areas and other recreational uses at the Las Campanas property.

15. All notices required or permitted to be given hereunder shall be in writing and directed to the persons and addresses set forth below. All notices shall be hand-delivered, sent by Federal Express or other nationally recognized overnight delivery service, or sent by certified mail, return receipt requested. All notices shall be deemed received 1) when delivered or 2) one business day after being deposited with an overnight delivery service or 3) three business days after mailing.

The address of the County for all purposes under this Agreement and for all notices shall be:

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1057763

Santa Fe County  
c/o County Attorney  
102 Grant Avenue  
Santa Fe, NM 87501

The address of Las Campanas for all purposes under this Agreement  
and for all notices shall be:

Las Campanas Limited Partnership  
c/o Don Hegland  
777 108th Avenue NE, Suite 1800  
Bellevue, WA 98004

With a copy to:

James W. Johnson, Esq.  
Fennemore Craig  
Two North Central Avenue, Suite 2200  
Phoenix, AZ 85004-2390

16. This Agreement is binding upon and shall inure to the benefit of the parties hereto and to their respective successors and assigns.

17. The terms of the Master Plan Development Agreement dated March 3, 1993, shall remain in full force and effect.

18. Compliance by Las Campanas with this Agreement and the Master Plan Development Agreement of March 3, 1993 shall constitute compliance with all conditions relating to water supply and water delivery facilities needed for the approval of all existing and future subdivisions up to the 1419 residential lots, two golf courses, clubhouse and other amenities for which master plan approval has been obtained.

DATED this 18<sup>th</sup> day of May, 1994.

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1057764

COUNTY OF SANTA FE, NEW MEXICO,  
a political subdivision of the  
State of New Mexico

By SANTA FE COUNTY BOARD OF  
COUNTY COMMISSIONERS

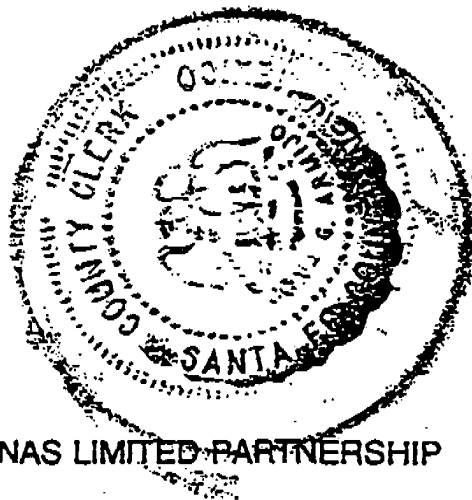
By: Linda Grill  
LINDA GRILL, CHAIRPERSON

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

By: Terrence P. Brennan  
TERRENCE P. BRENNAN,  
County Attorney

ATTEST:

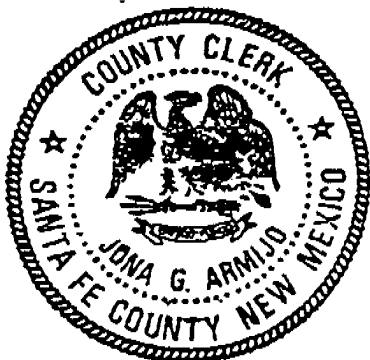
Jona G. Armijo  
Jona G. Armijo,  
County Clerk



LAS CAMPANAS LIMITED PARTNERSHIP

By LAS CAMPANAS CORPORATION,  
General Partner

By: John M. Nye



COUNTY OF SANTA FE 863 JSS 261  
STATE OF NEW MEXICO  
I hereby certify that this instrument was filed for  
record on the 19 day of 11/27 A.D.  
19 94 at 2:27 o'clock p.m. and  
was duly recorded in book 10574 page  
753 of the records of Santa Fe County.  
Witness my Hand and Seal of Office  
Jona G. Armijo  
County Clerk, Santa Fe County, NM  
Margaret Ruesch  
Deputy

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**AGREEMENT REGARDING BUCKMAN DIVERSION PROJECT**

**THIS AGREEMENT** is entered into as of this 30<sup>th</sup> day of October, 2001, by and between the County of Santa Fe, New Mexico, by and through its Board of Commissioners (the "County") and Las Campanas Limited Partnership, a Delaware limited partnership ("Las Campanas").

**RECITALS**

**WHEREAS**, the County and Las Campanas have previously agreed to and share a common goal of developing a surface water supply at the Rio Grande for the purpose of serving their respective water systems; and

**WHEREAS**, the County and Las Campanas, along with the City of Santa Fe (the City), have each filed an application with the USDA Forest Service (Forest Service) and USDI Bureau of Land Management (BLM) for a special use permit for a river diversion project in the Rio Grande near the Buckman Well Field, along with accompanying pipeline(s) and treatment facilities (hereinafter referred to as "the Project"), to satisfy that common goal; and

**WHEREAS**, as part of their commitment to work jointly on the Project, the County and Las Campanas wish to agree on the responsibility for payment of certain preliminary costs associated with the development of the Project.

**NOW, THEREFORE, THE PARTIES HEREBY AGREE AS FOLLOWS:**

1. **Commitment to Work Together for Development of a Joint Water Supply.** The County and Las Campanas agree to work together in good faith on the planning, approval and construction of the Project for the purpose of obtaining a reliable water supply capable of addressing their respective water needs. For purposes of this Agreement only, the County's and Las Campanas' total needs to be addressed by the Project, and the Initial Allocations to each party, are defined as approximately Thirty Five Hundred (3500) acre feet per year, including sufficient water to meet their peak flow demand, which includes Seventeen Hundred (1700) acre feet per year for the County and Eighteen Hundred (1800) acre feet per year for Las Campanas. In the event there is excess supply capacity available from the Project, it is the County's and Las Campanas' intention that each participant in the Project will be entitled to share in that excess capacity in proportion to its Initial Allocation.
  
2. **Costs of NEPA Compliance and Conceptual Engineering.** Las Campanas agrees to be responsible for and to pay for its and the County's proportionate share of the costs of obtaining compliance with the National Environmental Policy Act (NEPA), specifically including the cost of an

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Environmental Impact Statement (EIS), leading up to permitting of the Project. For purposes of this Agreement only, the proportionate share of the NEPA costs shall be determined by negotiations between and among the County, Las Campanas and the City. Las Campanas also agrees to pay for the County's share of any conceptual design work for that portion of the Project which includes a diversion structure and sedimentation pond.

- 3. **Satisfaction of 1994 Agreement.** The County acknowledges and agrees that the Project, if completed no later than December 31, 2008, with the capability to sufficiently serve Las Campanas' residential and commercial uses for no less than 735 acre feet per year in accordance with paragraph 2 of the Agreement between the County and Las Campanas dated May 18, 1994, will satisfy Las Campanas' obligations under such agreement for obtaining a Replacement Delivery Facility to supply domestic water to the Las Campanas development.
- 4. **Amendment.** Any amendment to this Contract shall be in writing signed by the Parties.

IN WITNESS WHEREOF, the parties have executed this contract effective as of the date first stated above.

COUNTY OF SANTA FE

ATTEST:

  
 \_\_\_\_\_  
 Paul Duran, Chairman  
 Board of County Commissioners

  
 \_\_\_\_\_  
 Rebecca Bustamante, County Clerk

Finance Department Approval:

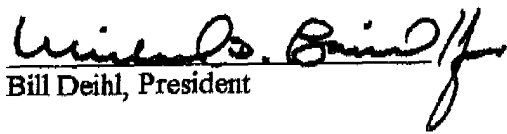
Approved As to Form:

  
 \_\_\_\_\_  
 Katherine Miller, Finance Director

  
 \_\_\_\_\_  
 Steven Kopelman, County Attorney

**LAS CAMPANAS LIMITED PARTNERSHIP,**  
a Delaware limited partnership:

By Las Campanas Corporation,  
its sole general partner

  
 \_\_\_\_\_  
 Bill Deihl, President

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NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE POINT OF DIVERSION  
FROM GROUND TO SURFACE WATER, SEE ATTACHED SPREADSHEET EXHIBIT C

1. APPLICANT

Name: Las Campanas Homeowners Cooperative Association Work Phone: (505) 922-6435  
Contact: Michael D. Baird, Esq. Home Phone:  
Address: 218 Camino La Tierra  
City: Santa Fe State: NM Zip: 87501

2. LOCATION OF EXISTING POINT OF DIVERSION

SEE EXHIBIT A

A. LOCATION OF WELL (Location a, b, c, d required, e or f if known)

- a. 1/4 1/4 1/4 Section: Township: Range: N.M.P.M. in County.
- b. X = feet, Y = feet, N.M. Coordinate System Zone in the U.S.G.S. Quad Map Grant.
- c. Latitude: d m s Longitude: d m s
- d. East (m), North (m), UTM Zone 13, NAD (27 or 83)
- e. Tract No. Map No. of the Hydrographic Survey
- f. Lot No. Block No. of Unit/Tract of the Subdivision recorded in County.
- g. Other:
- h. Give State Engineer File Number of existing well:
- i. On land owned by (required): Bureau of Land Management
- j. Is well to be plugged or capped? No If not, state for what use retained: Wells with not be capped and will continue to be used for all purposes permitted under RG-20516

2005 FEB - 2 AM 10: 22

OFFICE OF STATE ENGINEER  
SANTA FE, NEW MEXICO

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NEW MEXICO OFFICE OF THE STATE ENGINEER
APPLICATION FOR PERMIT TO CHANGE POINT OF DIVERSION
FROM GROUND TO SURFACE WATER, SEE ATTACHED SPREADSHEET EXHIBIT C

3. MOVE TO POINT OF DIVERSION (A, B, C, or D required, E or F if known)

- A. 1/4 1/4 1/4 Section: Township: Range: N.M.P.M. County.
B. X = 1666501 feet, Y = 1760306 feet, N.M. Coordinate System Zone in the U.S.G.S. Quad Map Grant.
C. Latitude: 35 d 50 m 16.6 s Longitude: 106 d 9 m 41.1 s
D. East 395106 (m), North 3966399 (m), UTM Zone 13, NAD 27 (27 or 83)
E. Tract No. Map No. of the Hydrographic Survey
F. Lot No. Block No. of Unit/Tract of the Subdivision recorded in County.
G. Other:
H. Give State Engineer File Number if existing diversion: SP-04842
I. On land owned by (required): United States Forest Service
J. Source of surface water supply:
a. Name of ditch, acequia, or spring:
b. Stream or water course: Rio Grande
c. Tributary of:

4. QUANTITY

Diversion Amount: acre-feet per annum
Consumptive Use: 687.5396 acre-feet per annum

5. PLACE OF USE

SEE EXHIBIT B

3548 acres of land described as follows:

Table with 5 columns: Subdivision of Section (District or Hydrographic Survey), Section (Map No.), Township (Tract No.), Range, Acres. The table contains several rows of blank lines for data entry.

Who is the owner of the land? Las Campanas Limited Partnership

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NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE POINT OF DIVERSION  
FROM GROUND TO SURFACE WATER, SEE ATTACHED SPREADSHEET EXHIBIT C

6. PURPOSE OF USE

Domestic:  Livestock:  Irrigation:  Municipal:  Industrial:   
Commercial:  Other (specify): \_\_\_\_\_  
Specific use: \_\_\_\_\_

7. REASON FOR CHANGE

Application is hereby made to change point of diversion for the following reasons: Las Campanas Limited Partnership is contractually obligated to the County of Santa Fe as part of the County's approval of the subdivision to construct a water facility that does not utilize the Buckman wells and/or delivery system and that will provide a permanent water supply. This is the beginning of that process.

8. ADDITIONAL STATEMENTS OR EXPLANATIONS:

Las Campanas Limited Partnership proposes to transfer these rights to a surface point of diversion in a manner that promotes efficiency, conjunctive use of water, sustainability of supply, guards against drought and minimizes effects on other users as required by law. See Exhibit D, attached hereto.

ACKNOWLEDGEMENT

I, Michael D. Baird, Esq. (Please Print) affirm that the foregoing statements are true to the best of my knowledge and belief.

  
Applicant Signature

SHC CLERK RECORDED 06/16/2005

File Number: (See Exhibit C) into SP-04842

**NEW MEXICO OFFICE OF THE STATE ENGINEER  
APPLICATION FOR PERMIT TO CHANGE POINT OF DIVERSION  
FROM GROUND TO SURFACE WATER, SEE ATTACHED SPREADSHEET EXHIBIT C**

**ACTION OF STATE ENGINEER**

This application is approved/denied/partially approved provided it is not exercised to the detriment of any others having existing rights, and is not contrary to the conservation of water in New Mexico nor detrimental to the public welfare; and further subject to the following conditions: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Witness my hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 20 05

\_\_\_\_\_, State Engineer

By: \_\_\_\_\_

SEC CLERK RECORDED 06/16/2005

File Number: (See Exhibit C) into SP-04842

Trn Number: \_\_\_\_\_

Form: wr-16

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**EXHIBIT A**

1. The common identification for the Move - From Place of Use is as follows:

The Move - From land is located in Santa Fe County, approximately 15 miles northwest of the City of Santa Fe, New Mexico or approximately 2.3 miles south of the Town of White Rock, New Mexico.

2. Existing permitted wells authorized under the Buckman Permit are as follows:

Well Number	Subdivision	Section	Township	Range
RG-20516-S	NW ¼, NW ¼, NE ¼	1	18N	7E
RG-20516-S-2	NW ¼, NW ¼, SE ¼	1	18N	7E
RG-20516-S-3	SW ¼, SE ¼	1	18N	7E
RG-20516-S-4	NE ¼, SE ¼	1	18N	7E
RG-20516-S-9	NW ¼, SW ¼, SW ¼	31	19N	8E

The remaining permitted wells authorized under the Buckman Permit are located under the New Mexico Coordinate System, Central Zone, (UTM Zone 13), as follows:

Well Number	X - Coordinate (ft.)	Y - Coordinate (ft.)
RG-20516-S-5	527,167	1,759,246
RG-20516-S-6	527,865	1,757,053
RG-20516-S-7	529,304	1,758,756
RG-20516-S-8	525,349	1,758,340

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**EXHIBIT B**

1. The common identification for the Move - To Place of Use is as follows:

The Move - To land is generally located within Santa Fe County, northwest of the intersection of Camino La Tierra and the Santa Fe Relief Route ("New Mexico Highway 599" or "Veterans Memorial Highway"), at a distance of approximately 12.5 miles from Santa Fe Plaza or 13.1 miles from the intersection of New Mexico Highway 284 and New Mexico Highway 599.

2. Below is a chart of the township, range, section and quarters of Las Campanas.

17	8	2	1	3	1, 3
17	8	2	3	1, 3, 4	
17	8	2	3	2	1, 3, 4
17	8	2	4	3	
17	8	2	4	4	1, 3
17	8	3	4	3, 4	
17	8	3	3	4	2, 4
17	8	10	2, 4		
17	8	10	1, 3	2, 4	2, 4
17	8	11			
17	8	12			
17	8	13	2, 4	2, 4	1, 3
17	8	13	1, 2		
17	8	14			
17	8	15	1	2, 4	2, 4
17	8	15	2		
17	8	15	3	2	2, 4
17	8	15	4	1, 2	
17	9	7			
17	9	8	1	1, 3, 4	
17	9	8	1	2	1, 3
17	9	8	2	3	
17	9	8	3	1, 2, 3	
17	9	8	3	4	1, 2
17	9	8	4	1	1, 2
17	9	17	1	1, 3	2, 4
17	9	17	1	2	1, 3, 4
17	9	17	1	4	
17	9	17	2	3, 4	
17	9	17	3	1, 3	2, 4
17	9	17	3	2, 4	
17	9	17	4	1	
17	9	17	4	2	1, 2, 3
17	9	17	4	3	1, 2, 3

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