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SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

June 14, 2005

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

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

June 14, 2005

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:00 p.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

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

Members Absent:

[None]

V. Invocation

An invocation was given by Fire Chief Stan Holden.

VI. Approval of the Agenda

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- B. Tabled or withdrawn items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

CHAIRMAN ANAYA: Are there any tabled or withdrawn items?

ROMAN ABEYTA (Deputy County Manager): Yes, Mr. Chairman. We have some minor amendments. The first under XI. Consent Calendar, E. We amended the agenda to remove the amount. Then under XII. D. 6 we added a Resolution requesting authorization to reimburse County for funds it intends to advance for capital expenditures related to the

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construction of roads located within the county.

Then under XIII. A. 1, we added that today's action would be a final action on the ordinance if the Board acts on that. Then item XIII. A. 3, we're going to move that to item XII. D. 2, Matters from the County Attorney, because that doesn't require a public hearing. Then XIII. A. 4, that request is going to be tabled. And we got a request for tabling item XIII. A. 7 from the applicant. Other than that there are no further changes.

CHAIRMAN ANAYA: Okay, let me see if I get this straight here. What I just heard you say is we're going to table everything and go home. Okay, you're adding a resolution - you're adding a number XII. D. 6?

MR. ABEYTA: Yes.

CHAIRMAN ANAYA: You're tabling, under XIII. you're going to do final action A. 1?

MR. ABEYTA: Yes. We added the words final action to that.

CHAIRMAN ANAYA: Under XIII. A.3, you're going to move it to XII. E.2?

MR. ABEYTA: Yes. Matters from the County Attorney.

CHAIRMAN ANAYA: You're tabling XIII. A. 4?

MR. ABEYTA: Yes.

CHAIRMAN ANAYA: And XIII. 7?

MR. ABEYTA: Yes.

CHAIRMAN ANAYA: Is that it?

MR. ABEYTA: That's it.

CHAIRMAN ANAYA: And I'd also like to table XIII. 5 until September. I know they still need some stuff taken care of. They need to get with the residents. So if everybody would agree to that. Does anyone have any other questions?

COMMISSIONER CAMPOS: Regarding your suggestion for tabling, have you talked to these folks?

CHAIRMAN ANAYA: On 5?

COMMISSIONER CAMPOS: Yes.

CHAIRMAN ANAYA: Yes. They called me.

COMMISSIONER CAMPOS: They did call you.

CHAIRMAN ANAYA: Yes, sir.

COMMISSIONER CAMPOS: Longanecker, the applicant, says that they do want a -

CHAIRMAN ANAYA: They would like to be heard on I think September. Any other changes to the agenda? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, staff has recommended tabling case A. 2 under public hearings, XIII. A. 2.

MR. ABEYTA: Mr. Chairman, that's a recommendation that's in the packet from the Land Use Department that that case be tabled.

COMMISSIONER SULLIVAN: That's what I was bringing up. XIII. A. 2.

COMMISSIONER CAMPOS: Is that the Oshara Village?

COMMISSIONER SULLIVAN: Correct.

COMMISSIONER CAMPOS: It doesn't say anything here in the packet, Commissioner. Where did you come up with that?

COMMISSIONER SULLIVAN: Yes it does, on page 5.

COMMISSIONER MONTROYA: It does in the staff recommendation.

COMMISSIONER SULLIVAN: It says in staff's opinion there are outstanding issues that need to be resolved before final plat approval. Staff recommends the case remain tabled until such time as the issues are addressed.

CHAIRMAN ANAYA: Okay. Can I hear from Dolores?

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Sullivan, we have discussed the outstanding issues with our staff and with the internal staff, Public Works. We've got letters from the City of Santa Fe, and their traffic engineering department and also from the Department of Transportation since the staff report has been compiled and we would recommend to hear this case.

CHAIRMAN ANAYA: Okay.

MS. VIGIL: Thank you.

CHAIRMAN ANAYA: Thank you. Any questions?

COMMISSIONER SULLIVAN: Mr. Chairman, I have some questions. Yes, I do. I don't know what letters they have but they're not in our packet and we have a requirement that materials in the packet be placed in three days ahead of time, by Thursday at the close of business. These were not in my packet, and these are the traffic items, among others, not the least of which is the sewer system, which is undecided, haven't been resolved. Now, either we hear these important cases on the fly with people throwing papers in front of us during the public hearing, or we have a chance to review them, digest them, ask questions and consult the staff ahead of time if we need to. I don't think we should make important decisions on the basis of papers dumped on the podium the day and hour of the final plat hearing. We're considerably away from final plat at this point and the issues indicate that in here.

MS. VIGIL: Mr. Chairman, Commissioner Sullivan, I did receive a letter from Doug Sayre in the Utilities Department that did address the wastewater conditions and the system that they're proposing, and he did outline some issues. I received that today myself and they have made copies for your review.

COMMISSIONER SULLIVAN: And that does not meet the requirements, Mr. Chairman, of our resolution with regard the public hearing packet material. That's a County resolution. It's very specific. Those materials that are going to be heard have to be in the packets and available to the public and the Commission by close of business Thursday before the meeting. That's a resolution. I'm not just making it up. That's been in place for at least four years.

CHAIRMAN ANAYA: Okay, any other comments to Dolores? Okay, we've got on the agenda the proposed amendments and withdrawn items. Is there any other withdrawn items?

COMMISSIONER VIGIL: Question.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Just probably to Roman, with regard to item 6 on the reimbursement for the roads that you're including, and perhaps Steve, you need to address this too. If we take action, or do we need to take action, and if so, do we have appropriate notice on this?

MR. ABEYTA: Mr. Chairman, Commissioner Vigil, this has been on the agenda 24 hours in advance, which is proper notice, and this is something that the Commission has been talking to us about getting done. It's related to the road projects and the bond that we need to do, and so that's why we put it on kind of at the last minute for this meeting, but it is something that the Commission has been pushing us to work towards.

COMMISSIONER VIGIL: So your answer is yes. That it did receive appropriate notice.

MR. ABEYTA: Yes.

CHAIRMAN ANAYA: Thank you, Commission. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, as to XIII. A. 2, what's the discussion at this point? To table or to allow the applicant to speak to the issue as it comes up on the agenda?

CHAIRMAN ANAYA: At this point it was to be tabled. There's been a recommendation from Commissioner Sullivan to table it because the fact that the Commission, along with the public, did not get the proper paperwork in time and that we don't want to just be up here and be handed a bunch of papers and shuffling through it. I wasn't aware of that myself. I thought everything was on the go-ahead for this, but it's up to the Commission. They either want to hear it or not hear it.

COMMISSIONER CAMPOS: Mr. Chairman, my suggestion is that we leave it on the agenda as is and let the applicants argue that issue. I'd like to hear more about it than just tabling it at this point.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Well, naturally I disagree since I made the suggestion, but I think we have two alternatives here. This is clearly against our rules, published rules. Ms. Vigil has just testified what that has changed the staff's recommendation from a tabling to having it heard are some letters which she just received today, among other things. Now, that's the difference between a complete application and an incomplete application, and we either just hear these multi-million dollar development projects on the fly, disregard our own published regulations, which puts our decision up for potential litigation by any opponents of the project, or we follow our own regulations.

I'm not seeing anything that's much simpler than that and there's nothing in this packet, either from the City Traffic Engineer, from the County Traffic, from Doug Sayre, regarding wastewater, there's none of those items in this packet and quite frankly, I would like some time to review them and discuss them with staff. It's in District 5. It's in the area that I represent.

It's a large development. This is a final plat approval. We're not talking about master plan approval. We're not talking about preliminary approval. We're talking about a final approval and it's really not ready until one hour, or maybe one hour, before the Commission meeting. I think we need to send a message to applicants that packets need to be complete and don't put staff in the position of having to have this issue decided each time we review a development.

CHAIRMAN ANAYA: Thank you, Commissioner.

COMMISSIONER VIGIL: Mr. Chairman, I think we need to hear the project. At least the applicants are here and they're entitled to a hearing. This isn't the only case we get last-minute memos and information from and I don't know even if the resolution has control that we should isolate and treat this particular applicant differently than we do other cases that come before us while we receive information at the time of the meeting. I'm not sure how we could remedy that. But my feeling is that they're here we need to hear them and we should move forward with that. So you may need a motion as to whether or not it should be tabled.

CHAIRMAN ANAYA: What I need now is a motion to approve the agenda as amended, including withdrawn items or not. I'm looking for a motion.

COMMISSIONER SULLIVAN: Mr. Chairman, I move to approve the agenda as amended by staff and including tabling of item XIII. A. 2 on the basis that the submittal is not in compliance with the Board of County Commissioners public regulations with regard to public notice and packet deadline materials, critical information.

CHAIRMAN ANAYA: Okay, there's a motion. Is there a second? The motion dies for lack of a second. Is there another motion?

COMMISSIONER VIGIL: Mr. Chairman, I move that we approve the agenda with all the changes that have been recommended by staff and with the recommendation that you have made regarding the Longanecker suit, that the Oshara Village be included at the hearing today.

CHAIRMAN ANAYA: Okay. Is there a second.

COMMISSIONER CAMPOS: Mr. Chairman, I'm willing to second it but -

CHAIRMAN ANAYA: I'll second it for discussion.

COMMISSIONER CAMPOS: Okay, for discussion, Mr. Chairman. If we get to the point, once we start hearing it that we do need a table, I think that might happen. It's something we need to consider.

CHAIRMAN ANAYA: All somebody would have to do is motion to table.

COMMISSIONER CAMPOS: Okay.

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

The motion to approve the agenda as amended passed by majority 4-1 voice vote with Commissioner Sullivan casting the dissenting vote.

VII. Approval of Minutes

A. May 10, 2005

COMMISSIONER CAMPOS: Move to approve, Mr. Chairman.

COMMISSIONER MONTOYA: Second.

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

The motion to approve the May 10th minutes as submitted passed by unanimous [5-0] voice vote.

VIII. Matters of Public Concern -NON-ACTION ITEMS

CHAIRMAN ANAYA: Anybody from the public who would like to come before the Commission with any concern in Santa Fe County? Or in the state of New Mexico? Or the Country?

COMMISSIONER SULLIVAN: No, no, no. Don't get to that.

IX. Matters from the Commission

A. Resolution 2005-78. 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 (Commissioner Montoya)

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. This resolution before you, number one, it needs to be amended in a couple of places. Under the actual heading where it begins with "of the Northern Pueblo Tributary Water Rights Association" that should all be stricken, and on the second page, on the "Now, therefore..." paragraph number one, same language, "of the Northern Pueblo Tributary Water Rights Association" and all of the other would remain the same.

What this resolution is is Santa Fe County supporting the efforts of all of the parties involved, including the governments of the four Pueblos as well as the City of Santa Fe and Santa Fe County primarily in requesting that the Bureau of Reclamation, which publicly has already stated that they are in support of including the 2990 acre-feet of water that has been allocated for Indian water rights settlements, to be included as part of the Aamodt negotiations. This is something that has been discussed among the Pueblos and again City and our representation at the table for the Aamodt settlement that we need to consider those, and right now, the state of New Mexico, the Governor's office, is not willing to consider those, saying that they've already been allocated previously to the Taos settlement. This is simply asking that

this amount of acre-feet, whatever it may be, that we may be able to obtain, be considered for that. And I stand for any questions.

CHAIRMAN ANAYA: Any questions of Commissioner Montoya?
Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman and Commissioner Montoya, I know you've worked really hard on this and I truly support it. As a matter of fact I want to mention that both Commissioner Montoya and I were at the press conference when the governor released the information of the conceptual approval and so was our County Manager and our County Attorney and our contract attorney, John Utton. And it was received very well, both by the press. We need to move forward. I think this is a step towards that. Commissioner Montoya, I guess the only question I have for you is the 2990 acre-feet per year, is that a set number? Is that a proposed number? Do we need to include it here?

COMMISSIONER MONTOYA: That is a set number that has been allocated by the Bureau of Reclamation.

COMMISSIONER VIGIL: Okay.

CHAIRMAN ANAYA: Any more questions? Comments? Is there a motion?

COMMISSIONER CAMPOS: Motion to adopt, Mr. Chairman.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Motion and a second.

The motion to approve Resolution 2005-78 passed by unanimous [5-0] voice vote.

IX. B. Update by Frank DiLuzio on 211 Program (Commissioner Vigil)

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I'd like to introduce Frank DiLuzio who is in charge of the 211 program, a program that some of you may be somewhat familiar with. He's been a key person and pivotal in pushing forth that program in our community. There are communities throughout the State of New Mexico that have successful 211 programs. I think Bernalillo County is one of them. Frank has agreed to give us at least a 10-minute presentation on an update of that. This is a countywide project, intended to be a regional project in the future and I think its roots are with homeland security but ultimately it has a broader definition. I'll let Mr. DiLuzio speak to it and he's willing to do about a 10-minute presentation. Thanks, Frank.

FRANK DILUZIO: Thank you. Thank you, Mr. Chairman, Commissioners, Commissioner Vigil. Thank you for the opportunity. Before I came over today I did a quick query of the Internal Revenue Service's website and there are over 1200 tax-exempt organizations in the Santa Fe area, and many of those, certainly not all, but many of them provide some form of health and human services and those can be basic needs like food pantries, food banks, sheltering, rent, mortgage, utility assistance programs, physical and mental health programs, Medicaid crisis intervention type programs, counseling, support

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groups. Certainly, a lot of programs providing support for older Americans and persons living with disabilities, programs like respite care, home delivered meals, assisted technology, and certainly a lot of programs that directly support our families and our community. Childcare opportunities, mentoring, tutoring programs, summer camps, after-school programs.

While this creates a wealth of opportunities for our citizens to improve their lives, it also creates a complex environment in which to find those services with really no clear pathway for typical citizens to quickly and easily find the services they need. What 211 provides is an opportunity to provide a timely connection between community members in need of service and service providers in the community. It provides the entire community with one easy to remember toll-free number to dial. That number gets them phone access to a trained information referral specialist. These specialists know the services, know the social service landscape in the community, and work one-on-one with those callers to clarify what their need or range of needs are, and then carefully and thoughtfully match those needs with available services in the community.

It also creates a single, central directory of services, something that doesn't exist now. If you were try to find out how many services of a particular type are there in the community, that's difficult to obtain. So this creates a directory that's available for everybody. It can be a good avenue for collecting data on available services, as well as tracking who's looking for what services and with what regularity they are finding those services on the community. And most importantly, through doing some retrospective surveying of clients you can determine what luck they're having in actually getting those services, not just finding them. And then trying to identify why they're unable to obtain them in some cases.

You can help identify gaps in service. If you get a lot of calls for a particular service but you can't find a place to refer those callers, it tells you there's a need for that service in the community. And 211 can be a very sensitive indicator over time for an emerging need. If you begin getting requests for services that typically you hadn't gotten in the past or hadn't gotten as frequently as you're getting now, it can be an early indicator that some condition somewhere in the community has begun to change and maybe could be addressed.

It's also an opportunity for those wanting to volunteer in the community with volunteer opportunities. Right now I believe there are a lot of people in Santa Fe who do volunteer their time and many others who are looking for opportunities, but there's no one place to go and sort of find out what kind of opportunities there might be that sort of parallel the interests of a particular community member that wants to volunteer. And 211 delivers direct benefits to local governments and provides local government a reliable place to refer callers to. I know the County, the City, the state and certainly all the non-profits in town regularly receive calls from people looking for services that they do not deliver. So 211 provides an opportunity then to refer those callers to the County, with a reliable resource in the community that can help them out in those cases where they're looking for services that aren't County-based.

It certainly can provide data collection and planning opportunities as I've discussed before to look at emerging needs, gaps in service, those types of things. 211 centers around the country are proving to provide an avenue to divert calls from 911 centers that are not

emergency calls but people in need looking for services, and nationally the experience is beginning to look like that diversion rate can be in the seven to ten percent range. So the chance to expand, essentially, the capacity of a 911 center by diverting calls that are now going some place else. 211 can be a very valuable disaster resources in terms of providing centralized relief and recovery information to communities. 211 was very instrumental in disaster recovery and relief in Florida last year during the hurricane season. Those counties and regions that had 211 in Florida, the 211 centers handled all the call volume of people looking for sheltering, drinking water, access to federal disaster relief programs, that type of information. So instead of calling local government, emergency operations centers, 911 centers, they were instructed to and generally called the 211 center in their community to get that information.

The advantage of having 211 is you expand and grow an up-and-running service, as opposed to trying to construct a service on the fly in the midst of a disaster to provide that information to community members. And it can be a public health resource. 211 centers across the country provided central information on accessibility to flu vaccines this last year when there was a time frame when the vaccine was in short supply. So again, instead of community members calling County health departments, the hospital, their physicians, other places in the community, there was one place that was sort of tracking the availability of the vaccine, requirements to be vaccinated, that type of information, making it available.

So that's sort of 211 in a synopsis on what it can and will do for Santa Fe County. So where we are today is United Way of Santa Fe County has hired staff and they've gone through most of their training at this point. They've been diligently meeting with non-for-profit agencies out in the community and will continue to do so for some time to come and they've got about 60 percent of that work done, the database populated with about 60 percent of the services are. And with 60 percent population that database already has 250 services. So even today if we were to implement today or go live, community members could dial three digits and have access to information about 250 community services. We think that number will be over the 300 mark, perhaps closer to the 400 mark by the time we are fully implemented. The technology is in place and it's all operational at this point, but there's still work we need to do. We need to wrap up our database work over the next six to eight weeks. We are going to conduct some additional trainings, more specialized training for our staff. We're working on and we'll need to finalize public information and education campaign and produce those materials so the public's well informed, understands what 211 offers, understands when you call 911 and when you call 211, those kinds of informational items.

We plan to start with a soft launch probably late July and we will begin to advise local non-profits that they can start referring calls our way so we can test all the technology before we go live. And then we're hoping to have a full-scale launch in late August. That would be our time frame.

I want to thank the County Commission and the County staff that's been working with us on 211 over the last year. The state legislature two sessions ago approved about \$30,000 in capital outlay money. Those dollars flow to the County and the County staff was very instrumental in helping us find the right hardware and software and materials we needed in the

capital outlay area to get those pieces in place. So I really appreciate those efforts.

So once again, we really look forward to continuing this relationship with the County, to continue to build it, to build a partnership and to have 211 up and running before the summer is over in Santa Fe and eventually to grow that program to where we will serve nine counties in northern New Mexico as our funding stream allows us to do that. I'd stand for any questions.

CHAIRMAN ANAYA: Thank you, Frank. I believe we passed a resolution on 211, didn't we? Recently?

COMMISSIONER VIGIL: We did.

CHAIRMAN ANAYA: So we strongly support it. I think it's a great idea. Are there any other questions?

COMMISSIONER VIGIL: One quick one, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: What did you say the amount of non-profit service through the IRS was?

MR. DILUZIO: Well, the IRS directory has over 1200 tax-exempt organizations in the Santa Fe area. Certainly they're not all health and human service but a good number of them are. So we do have a wealth of resources in the community and often the challenge is finding the service you need when you need it.

CHAIRMAN ANAYA: Great. Any other questions? Thanks, Frank.

MR. DILUZIO: Commissioners, thank you very much.

CHAIRMAN ANAYA: Okay, Commissioner Vigil, we'll start with you on the Matters from the Commission. Do you have anything?

COMMISSIONER VIGIL: I do, Mr. Chairman, and some of the questions I've already had responded to. I guess principally, I wanted to ask the County Manager if we've got any kind of an update on the scene shop. That's the film initiative between the County and the college, moving forward with that. I know the college was trying to allocate funding through the Governor's office and the last I heard, legal was trying to address some kind of an instrument to make that partnership occur.

GERALD GONZALEZ (County Manager): Mr. Chairman, Commissioner Vigil, I think your information is as recently as mine is. My understanding is that legal is also working on something. How far along that is I don't know but we can get a report from them at some point if you like.

COMMISSIONER VIGIL: Okay. At least maybe for the next meeting.

MR. GONZALEZ: Sure. Glad to do that.

COMMISSIONER VIGIL: I no longer have my connections at the Community College so I'd like to get my updates through the County.

I think I'd like to direct staff to, at some point in time, start looking at the water conservation ordinance. Looking at today's packet of information and the recycling resolution that we're going to be taking action on and reviewing some of the other ordinances that have been a part of our packet, if it's possible, now that we've approved some additional FTEs to our Water Resource Division, I'd like to get the water conservation ordinance on the radar

screen for an update and perhaps a review. We need to stay on top of the water issue, so if you could direct staff at some level to get that taken of. And I think that's it, Mr. Chairman.

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

COMMISSIONER CAMPOS: Mr. Manager, the Santa Fe Business Park and the State Land Office, we've been talking for months about redoing the contract so that it would be business-friendly. Any updates?

MR. GONZALEZ: Mr. Chairman, the last I heard we were still waiting for a response from the State Land Office and I don't know that we've had one. I did run into Commissioner Pat Lyons and the Association of Counties convention and he indicated to me that they were working on it but I understand they've also had a change in their general counsel there which may have delayed their response to us. Their former general counsel, as I understand is no longer there.

COMMISSIONER CAMPOS: What about any time line? Do you have any idea when they may respond?

MR. GONZALEZ: No, but we can give them a call and kind of rattle their chains and see if we can't get a response from them.

COMMISSIONER CAMPOS: Because I think the Commissioner was here months ago and he promised to make some changes in the short term, right after the legislature and it's still lingering.

The other issue is the County surveyor. I think I raised the issue a few months ago. I asked staff to get back to me on how we can eliminate the position of County Surveyor. I have not heard back. Is there anyone who can address that at this point?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Campos, the County Surveyor, that office is created in state statute. The only way to eliminate that position would be to lobby the legislature and get them to repeal those statutes.

COMMISSIONER CAMPOS: I understand that we're one of the few counties that has a County Surveyor.

MR. ROSS: We're the only one.

COMMISSIONER CAMPOS: Now, other counties don't have to have one, right?

MR. ROSS: No, any county in the state can have one.

COMMISSIONER CAMPOS: If they want one, but they don't have to have one.

MR. ROSS: No one has run for the office is my understanding, in any of the other 32 counties.

COMMISSIONER CAMPOS: So simply no one has run for the position?

MR. ROSS: That's correct.

COMMISSIONER CAMPOS: So we have to have one by state law?

MR. ROSS: Yes. If somebody runs and wins the position, it's statutorily -

COMMISSIONER CAMPOS: So then it's a legislative issue?

MR. ROSS: Yes.

COMMISSIONER CAMPOS: Okay. Mr. Manager, I think I would like to put that on our legislative agenda. That's all I had, Mr. Chairman.

MR. GONZALEZ: We'll add it.

CHAIRMAN ANAYA: Commissioner Campos, could you tell me or the Commission why you – do you think the surveyor is not doing his job or the job that is set out?

COMMISSIONER CAMPOS: No, this is not critical of our current surveyor. I think we've addressed this issue in the past and staff has been of the position that it serves no useful function for us. There had been discussions a couple of years ago about getting rid of the position but it was never pursued. We're the only county with a County Surveyor and we really don't need one. We could get that done by contract services and save some money.

CHAIRMAN ANAYA: What if we had the County Surveyor come to a meeting and just inform us on what he's doing. There could be some things out there that are very important that he's doing that we're not aware of. I'm not aware of what's going on but I would like him to have at least the opportunity to come before the Commission and let us know what's going on.

COMMISSIONER CAMPOS: This doesn't affect his term. He would finish his term. He's in the second term, I believe. So it wouldn't affect his term. It would affect the future. That's all I'm suggesting.

CHAIRMAN ANAYA: So would you not want him to come forward anyway?

COMMISSIONER CAMPOS: If you'd like.

CHAIRMAN ANAYA: I don't know how the Commission feels.

Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I have a little bit of knowledge with regard to that, having done some research on the statute. I can't remember the date it was but sometime back, what the New Mexico legislature did is they provided the opportunity for counties to opt out of the statutory requirement that each county have a surveyor. For some reason or another, it hasn't been explained to me, Santa Fe County did not opt out. So I think that, by default, kept us under the authority of the statute, allowing us to have a County Surveyor.

The counties throughout the state don't have one because they asserted that option and we didn't. I don't know what the history is. So in some sense we are the only county that has one and I agree with you, Mr. Chairman, that perhaps this would be a good time to have the surveyor come forth and give us an assessment of his responsibilities to the County.

CHAIRMAN ANAYA: How does the rest of the Commission feel? Is that okay to bring him forward?

COMMISSIONER CAMPOS: I think we should have this discussion. If we don't need a position, if it's going to save us some money, why have a position? Most counties figure that they don't need it. Our staff figured that we didn't need it either but I guess we didn't opt out as Commissioner Vigil noted, and that's why we have one.

CHAIRMAN ANAYA: Gerald, could you put him on the agenda for the next meeting or whenever you feel so inclined.

MR. GONZALEZ: We'd be glad to invite him, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. I just want to say I'm pleased to be back from the land of the midnight sun. I was on vacation for two weeks, not at government expense. I recommend Alaska to all of you, our 49th state, which only became a state, by the way, in 1959, on the Fourth of July, 1959. It's a beautiful area and if we would like to have some NACo meetings in Alaska I'd be glad to put myself on the list to attend them and go back there.

I would add also that the state of Alaska has a very interesting peculiarity which I would mention to you and want to be sure that our state legislators don't hear about it. They have managed to construct their state capitol in a town that is totally inaccessible by vehicle. The City of Juneau, which has 33,000 residents, is totally inaccessible by vehicle. It has 45 miles of roads which go into dead-ends, the mountains and into the water. So in speaking with a few residents and bus drivers in Anchorage and other areas, they were highly critical of having to pay some \$350 to Alaska Airlines to fly to Juneau and back to testify or to lobby the legislature. Alaska Airlines, by the way being the only provider of air service in Alaska.

So we of course have a little bit more convenient location here in Santa Fe. We do have a road between here and Albuquerque. I just don't want that to get out. They may have our roads cut off.

CHAIRMAN ANAYA: We just don't have no parking though.

COMMISSIONER SULLIVAN: There seems to be plenty of parking in Juneau, of course with having no roads to get there that helps it. The other thing, and the second to last thing I'd like to mention is on our May 18th meeting, Gerald, we discussed at length - of course that was a special meeting regarding the corrections facility - we discussed at length some of the past conferences that we've had with Judge Hall and our district court judges. I asked if you would write him a letter asking him what the status of their promise to partner with us on this electronic monitoring program to reduce the jail times before people get to get a hearing. And I haven't seen a copy of the letter yet. Is that in progress?

MR. GONZALEZ: It's in process. The draft is still being reviewed but should go out shortly.

COMMISSIONER SULLIVAN: So within some time this week?

MR. GONZALEZ: Yes.

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

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan. Commissioner

Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. A couple of items. We just recently returned from the Land of Hobbs, not Oz. It felt like Oz but it was Hobbs, where we had the New Mexico Association of Counties annual convention. I wanted to first of all start out by congratulating Commissioner Anaya on your election to the Western

Interstate Region Board and also to our County Assessor who's not here, but I want to congratulate him anyway, Benito Martinez, who is the new president for the New Mexico Association of Counties.

There were a number of issues that were discussed down there, one of them being endorsing Governor Richardson's Investment Partnership II, GRIP II for the roads and I would like to bring this forward maybe at our next meeting for the Commission to consider, passing that resolution as well. It was passed by all 33 counties within the association.

The other piece of news is that all counties are going to be paying two to three percent more for the dues to the association, so ours was capped, I believe, so we will be paying a little more this coming year. The other piece of information, and this is actually from the last National Association of Counties Board meeting that I attended, and that's that the prescription drug program is going to be open to all counties throughout the country. This is something that has been piloted in about 33 counties throughout the country, San Miguel County here being one of them. I would like for us to pursue this so that we can make prescription drug cards available to people who are uninsured or potentially underinsured, and we were reminded about ten times by past president Leroy Garcia that this also has coverage for pets, so for those of you who have pets, this is the version of Peticare that we can use in terms of coverage for animals as well.

The last thing that was discussed was the resolutions, and I'd like to make this copy available for all of the Commissioners so that they can see what resolutions are on there as potential priorities for the association. So I'll give this to you, Gerald. And I have one request and that's I received a call this morning from a constituent requesting why they haven't been communicated through the Land Use Department. They have been on the docket since March, the issue having been passed at the CDRC at that meeting. My understanding is that subsequent meeting is at the next land use meeting of the Commission these things should be brought forward. So since March and to this date they have not been on the calendar to be heard. So I would like to know if this is a special occurrence or this is an occurrence that is ongoing that needs to be addressed. So if I could have a memo by Friday stating whatever findings you have in this regard I would sure appreciate it. That's all I have, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. I also attended the meeting in Hobbs. I thought it was a great meeting, the New Mexico Association of Counties, and I want to thank our past president from our neighboring country, Commissioner Leroy Garcia. I think he did a wonderful job, and I want to congratulate our new coming president, just kind of echo what Commissioner Montoya said about Benito Martinez. I think he's going to do a great job for the New Mexico Association of Counties. I also want to congratulate Commissioner Montoya who ran unopposed as our urban representative for the National Association of Counties. Congratulations, Commissioner Montoya.

I've got some new hires here that I'd like to just read out so bear with me if I get the name a little mixed up. In the Finance Department we have Phillip Hernandez, Raymond Herrera, and Crystal Trujillo.

From the Community Health Development, we have Adam Bailey.

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From the Land Use Department we have Glenda Romero, Melissa Antol, and Jonathan Salazar.

From the Public Works Department we have Christen Martinez, Isaac Romero, Chyleen Anderson, Daryle Garris, Beatrice Myers, Richard Salopek.

From PFMD we have Dennis Larranaga.

From the Clerk's office we have Gilbert Martinez, Julie Reyes, Janelle Valdez, Amy Lynn Valone.

From the Treasurer's office we have Patricia Romero. From the Assessors, Jessica Beardsley and Daniel Romero. From the Sheriff's Department, Mia Barela, Paloma Rivera, Clyde Segura, Anita Villegas. Corrections Department, Collin Bertola, John Twitty, Vincent Romero, Anthony Ramon, Pamela Mondragon, Andrew Martinez, Lawrence Lucero, Raymond Gurule, Kim Fallon Sandoval, Shyama Creaven, Kathy Albrecht, Robert Apodaca, Rick De Luna, Geralda Lambert, Vilma Salinas, Adrian Zazueta. And from Housing we have Duncan Sill. So thank you and welcome to Santa Fe County.

X. Presentations

A. Presentation on Legislative Matters by Chris Turner of the Ferguson Group [Informational packet attached as Exhibit 1]

GREG WONG: Mr. Chairman, members of the Commission, thank you for giving us this opportunity to provide a quick update on federal appropriations matters as well as to brief you on how Santa Fe County might itself benefit more from representation in Washington, DC. My name is Greg Wong. I'm a partner with the Ferguson Group in Washington, DC. We're a federal affairs consulting firm, joined by one of our senior staff members, Chris Turner. Our firm specializes in assisting local governments – cities, counties, local government agencies, in securing federal funding assistance and in achieving policy and regulatory objectives.

As some of you know, for the past several years I've been working with both the City and the county on the Buckman Diversion project. We've probably brought in about \$7 million in federal funding and it's been an exercise in creative funding, since there really isn't a particular agency account or program to do the kind of design and evaluation planning and even construction for that project. We had to be very creative about getting even those dollars. What we have this year is legislation out there for its rural water projects so it would apply for Buckman and for many other areas in the county and the state of New Mexico to bring financing for water development in rural communities and there is a provision in there that basically says that Santa Fe is also a rural community. I want to thank Mr. Domenici for that.

I've also been working with your Clerk just on a pro bono basis to look at the Help America to Vote Act and how the funding authorities in there might be applied to the recently enacted state legislation to ensure that there's a paper trail, to ensure that folks are – it's just

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more reliable system of voting. So our scope is broad and certainly we're interested in helping any way that we can.

I know that your budget is tight just like many other communities across the country and additional expenses for consultants, for lobbyists, for advocates, may seem like a luxury, but I believe that it's precisely when budgets are tight that it's most important to consider making the investment, increasing your ability to access new funding resources at the federal level. As sort of a broad example, in each of the past three fiscal years, our clients together have secured roughly half a billion dollars in federal funding. It's 150 clients. And this does not include funds authorized but not yet appropriated and it doesn't include funds that have come through competitive grants where we also do a lot of assistance in sort of helping people go after those things which you probably have folks here that go after the grant process all the time.

And on a client by client basis we have close to a 95 percent success rate. In that I mean that 95 percent of our clients have secured at least one of their federal objectives each year. It's a fairly good success rate even among our core of folks in Washington, DC. So you say, how do we achieve this level of success? There's three things. We know the legislative process and the federal agency programs and accounts. We have people either having served in Congress or having served in agencies at some point in time. We only pursue objectives that are viable. We are very, very careful to evaluate feasibility and likelihood of success when a client says, I'd like to go after this type of a funding. We're not going to say, sure, we'll get that, knowing that you probably can't. We're only going to really help you focus on the things that there is likelihood of success at the federal level.

The third thing is we have in 25 years of doing this have built up a good understanding of local government budgets and objectives so that we can work with you closely and understand your processes and needs in terms of developing that federal agenda, that federal list of objectives. And I know you have good relationships with your congressional delegation and your members are well placed. From our practice, we wouldn't spend any of a client's dollar or their time, your dollars, on going to your members and saying, gosh, Santa Fe County is a great place. You really ought to help them out. Certainly we make the visits and we use your presence in Washington to enforce requests that are made through their offices, but our main objective is to work not only as a resource to you and your staff, but also as a resource to those members.

We help them and their staffs identify the specific accounts, the issues with the agencies that may have to be overcome in order to get funding, and we use our relationships with other members of Congress from other parts of the country, with chairmen of committees and that type of a thing to expand the reach of your members. So I can introduce Mr. Udall to the subcommittee chairman that is funding water projects, for instance.

And as a final note, before I turn it over to Chris who's going to give a little more detail about some of the specific areas and the levels of funding that may be of interest or applicability here in Santa Fe. I wanted to say that our firm and our staff work as closely as possible with you and your staff. You always know what we're doing when we're doing it and this gives a

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measure of ongoing transparency and accountability that I think in the County's past experience with lobbyists and with many others in our profession that you don't often get in terms of really, really knowing and having your staff always know exactly what we're doing and be involved in all of the decision making that we do when we're out there.

So with that I'll turn it over to Chris to give some examples of funding and then certainly we'd be happy to answer any kind of questions that you have.

CHAIRMAN ANAYA: Thanks, Greg.

CHRIS TURNER: Good afternoon, Mr. Chairman, Commissioners, My name is Chris Turner and I'm with the Ferguson Group as well. I am here to sort of go over some of the nuts and bolts of the appropriations process and areas where I think Santa Fe County could be most effective in pursuing federal funding. Primarily, I understand that you have an issue with a jail and funding for the jail and the ability to either take over the jail or support the jail. There are several avenues of federal funding that you can pursue in the federal government to support that activity. Primarily, for bricks and mortar funding, there's a very limited amount of money. You would have to contract directly with the US Marshals Service who provides funding for the number of beds they would guarantee to occupy, which could in turn be used to construct a jail. That, along with a much smaller program within the Immigration and Naturalization Service are two of the only areas to get money to construct a jail. However, what we can do is take a look at the operating budget of the facility and find other programmatic activities that we can make a federal nexus with and pull the money that the County would be spending for that project and replace it with federal dollars. For example, programs relating to alcohol abuse among inmates, programs relating to the relationship and bond between mothers that are incarcerated and their children. Those types of programs do have federal funding so if those are the types of programs going on in the jail now, you can replace those programs with federal dollars.

One need only look at Lea County within the state to see where this has been successful. Lea County was able to replace the money they were using for their alcohol abuse program with federal dollars. They in turn took that money and put it into the further construction and expansion of their jail. It's a successful method that can be used to augment the funding needed for the jail.

Additionally, transportation dollars. I'm aware that both road construction, road paving and other similar issues are of need to the County. There are several areas of federal funding to secure that type of money. A \$2 million request would not be unreasonable to secure money for both paving, for safety enhancements, potentially sidewalks, for any traffic calming that might be needed. I know that the county is growing now at a rate that is faster and exceeds the city. Commissioner Sullivan was nice enough to inform me of that on his last trip to DC.

As that continues and as that grows, there will be traffic problems related with that growth and federal funding is available for traffic calming circles, for speed bumps, for all of those types of things that the County normally has to come out of pocket with, there are federal funds available for that. You need only ask for them.

Additionally, in the transportation arena there's funding for transit facilities, modifying

the current bus system, making the buses smaller, more efficient, making systems and paratransit operations to reach to the rural parts of the county. There's funding available for that. The Santa Fe Trail, I know that the City and County have been working on entering into an agreement for funding the enhancement of the Santa Fe Trail. There is funding in two different areas for trail enhancements from the federal government. Again, these are tax dollars that the citizens of Santa Fe County are already paying to the federal government. You just have to go back and ask for it and ask for it in the right way to have that funding come back to you in Santa Fe.

Rural development issues: There's funding for firehouses, for courthouses, for community centers, for recreational centers in rural areas. Anywhere from between a \$200,000 earmark all the way up to a \$1 million earmark for the construction of a new pool and facility for the rural part of the area. A new fire station. A new courthouse if needed. A community center. All of those things, again, have a federal nexus and they sound like things that might be within the realm of Santa Fe County's needs and wants and desires.

Business development - there is funding for business development and business incubators. I don't know much about the program you're working on relating to the Community College and the expansion of the film industry here. However, if there is a business incubation element of that, there's funding from the Department of Commerce to fund that. There are communities that I've worked with in Florida that have been successful in securing that. Again, you just have to ask for it.

Socially, I am aware that you just approved an underage drinking grant that you're receiving from the federal government. I think it was for \$27,000, \$28,000 to explore underage drinking activities where within Santa Fe County. Two things about that. Number one, you went through an extended grant process, presumably, to receive that funding. If you went through a line item process, you would both receive more money for it and not have to compete against the other cities and counties within the country to enhance and expand that program. Additionally, an earmark for \$450,000 to \$750,000 for a senior center or for a senior wellness center within the county is certainly not out of the question and is the type of project that's earmarked every year in the United States Congress.

As far as law enforcement goes, there are plenty of opportunities to enhance the Sheriff's office and the way that they're operating and functioning. In-vehicle police cameras, better 911 systems, computers in each patrol car to help relay information back to the city center and out to emergency services or out to the jail or wherever else the information needs to go. There are many communities across the country that have received funding for this and those projects range between \$100,000 to \$1.5 million earmark.

Additionally, programs for juvenile justice, between \$250,000 and \$400,000 earmarks can be reasonably expected within programs to help prevent gang activity or to help prevent juvenile delinquency programs such as after-school basketball programs, programs such as summer camps. Those types of activities are funded through that account and receive a high level of earmarks. Also, I was interested to hear earlier about the 211 program that the County is supporting. It just so happens that I represent a county in Florida that is using the 211

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program that was devastated by one of the first hurricanes to go through, Hurricane Francis. I've been working with them on two levels to secure funding for 211 services. Number one, as an earmark through the aforementioned community oriented policing services program where you can get police technology and I'm pursuing that as sort of a spin-off of the 911 calls that would be redirected to a 211 service.

Additionally and of interest and note, Senator Clinton has a bill to authorize and support 211 grant activity across the country, and she's looking for additional co-sponsors and support on that legislation to in turn all that to be earmarked for specific funding for cities and counties across the country. So again, in taking the County's budget, along with the programs you have, I can also go through the individual line items in the budget where you might have funding opportunities with a federal nexus, find a federal program for that and allow the County to reprogram that money into areas where there is no federal opportunity. And with that I would love to entertain any questions from the Commission about potential projects, funding, costs, anything.

CHAIRMAN ANAYA: Thank you, Chris. Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, thank you Chris. Thank you, Greg. What over counties in the state of New Mexico do you represent, and what percentage of your clientele is local government? Two questions. Sorry.

MR. WONG: On the second question, I think about 85, 90 percent of our clients are local governments. That includes water districts and authorities of that type. So they are, like in some states like California they are a chartered form of local government. They have taxing authority and what not. About 85 or 90 percent of our clients -- that is where we specialize and where our emphasis is. In New Mexico, we really -- it's the work I've been doing here in Santa Fe, both for the City and County that has been our New Mexico focus.

COMMISSIONER VIGIL: Okay. The areas that I have concern with that I think we can connect with the federal government are of course with our jail operations which you have referred to. I'm also wondering if there's monies available for open space, which is a program that we've prioritized in Santa Fe County, and if it is currently available. I guess a secondary question is is it too late to get into the coffers for this year's allocations?

MR. WONG: On the open space question, yes. We have helped communities all over the country develop open space. In rural areas it's easier. There's the USDA nexus, which is for rural issues. And then in more urban areas we've used a number of different revitalization, economic development or even on the environmental side, using environmental funding to develop and maintain open spaces. With regard to this year's process, yes, both the House and Senate have drafted their initial draft of most of the bills, but what they've done, by pushing the earmarking or the actual dividing up of real discretionary spending to be put to congressional priorities, that has been left to the end of the process. It's a political and a strategic move on the part of the appropriations committee in the sense that this way they can move forward, get the bills done quickly, to the point where you have a reconciliation between the House and Senate versions, a smaller number of members in those reconciliation of conference committees and they have already made some cuts as to sort of for instance on the

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House side, with the State Tribal Assistance Plan, which has traditionally been a House prerogative in the sense of that's where those earmarks come out of, they said, look, we're not going to post any earmarks in our bill. We're going to set aside \$200 million and in conference, we're going to make those decisions.

So in that sense, I think it's a viable option now for an issue that is newly emergent. You can go to Mr. Udall and more particularly Mr. Domenic and Mr. Bingaman and say, look, this just came up. And it's something that is a critical budget issue. It's something that the federal government has had an interest in and more likely in some of the health and community areas, to be able to get some funding at this late date and it would be because they haven't done the earmarks yet and they won't until September, October. So that would give us time to develop support for it and to convince them of the need and the fact that we didn't know this was coming until now.

COMMISSIONER VIGIL: Solid waste management is another area that I'm interested in and I know Santa Fe County's efforts for federal support in the past have created some support at some level but one of the messages that we've gotten from Congress and through our previous federal legislative lobbying efforts, oftentimes when we request money for solid waste are needs are more programmatic and their dollars are more infrastructure. Do you have a clear distinction of where, if we needed program monies we'd be able to search for those?

MR. WONG: I think it still holds that a lot of the solid waste money is for infrastructure. There's a lot, again, the rural development money out of USDA is a where a lot of that would come from for solid waste. And yes, they are looking at development of the infrastructure and less for the programmatic side for the cost of operation. The federal government likes to be able to put money into something, see it through, see it done, and then see the local government manage and operate it on an ongoing basis. So generally the distinction they would make across the board.

And that would be an area as Chris talked about is we'd have a million dollar need there and in our estimation if you can't find a particular federal account for that, a federal authority to cover that, then we'll help you look deeper into your own budget and pick out something else that you're paying for that does have federal funding and in a sense it will allow you to reprogram those monies. It's freeing up local dollars to be used for things where there is not a federal component.

COMMISSIONER VIGIL: Just one more question, Mr. Chairman. What is your fee?

MR. WONG: Our general fee is \$10,000 a month, and that's a flat retainer that is inclusive in the sense that we sit down at the beginning of the year or in December, before the next year, to work with you, with your department heads to develop what we call a federal agenda of funding and for that fee we'll generally go to five to seven key project items. What I've done, I've had a client that had a list of 30 things, but they all could be lumped together under various elements of Corps of Engineers flood control funding. So I put together a program that was just one item, a long-term program for small projects of flood control for this

city in Georgia so that they could go back every year and say we're continuing to work on this project. We estimated it would cost \$20 million and we're looking for one, two, three million dollars a year to complete the federal portion of that project.

So when I say five or seven, it fits in that same category, so you would be looking at a major criminal justice program, state tribal assistance grants, economic development, the water project, those broad categories is what we would look at as one item.

CHAIRMAN ANAYA: Okay, Greg, what I'd like to do, if there are any other questions so we can wrap this up. We've got a long meeting and I know the Commission will have questions and maybe you could - it's probably in your packet where they can reach you. Were there any other comments? Thank you all very much for coming. I know there's a lot of things in there that we need for this County. We need for seniors, we need for youth, and this Commission will be discussing to talk about if we would hire you, I don't know, maybe in the executive session or not, but we will get back with you.

MR. WONG: Thank you very much.

CHAIRMAN ANAYA: Thank you for coming.

XI. Consent Calendar

- A. Resolution 2005-79. A Resolution Requesting an Increase to the ¼ % Fire Tax Fund (222) to Budget for Expenditure Insurance Recovery Revenue in Fiscal Year 2005 \$3,366.51/ (Fire Department)**
- B. Resolution 2005-80. A Resolution Requesting an Increase to the Section 8 Voucher Fund (227) to Budget Additional Subsidy Revenue Received from the US Department of Housing and Urban Development and a Transfer to the Housing Enterprise Fund (517) to Budget Administrative Fee Revenue Received from the US Department of Housing and Urban Development for Expenditure in Fiscal Year 2005 /\$74,204.55 (Housing Department)**
- C. Request Approval of Findings of Fact for EZ Case # DL 04-4210 Jeanniene Schmitt Family Transfer (Approved)**
- D. Request Authorization to Accept and Approve Grant Agreement #06-262-6001-0053 from the New Mexico Department of Tourism /\$7,000 (Public Works)**
- E. Request Approval to Re-award Contract # 2549 with Roto-Rooter for Valle Vista Sewer Rehab (Utilities Department)**

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER MONTOYA: So moved.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

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

XII. Staff and Elected Officials' Items

A. Fire Department

1. Ordinance 2005-4. An Ordinance Declaring Hazardous Fire Conditions and Imposing Restrictions on Fireworks, Open Fires, Smoking and Other Ignition Sources within Santa Fe County

CHAIRMAN ANAYA: We're going to be real brief because we've got a long day.

HANK BLACKWELL: (Fire Marshal): Mr. Chairman, members of the Commission, this is the same thing we put before you every year. This is here to justify this. I do want to let you know that the reason I handed that out is there are a couple of minor changes that were made by legal on page 2. It had to do with just making some clarifications in the language. In item F, there was a term, it was called a misdemeanor. I think the word petty misdemeanor was put in there. In item G, the statement not so adjudged was included. On item H we simplified it, just said it will take effect and shall remain in effect for 30 days because we cannot approve a fireworks ban according to state law for increments any larger than 30 days. So that if we extend this we'll come back before you in a month and ask that we have another 30-day extension, and that's per state law.

CHAIRMAN ANAYA: So you're asking for an extension? Or what are you asking for?

MR. BLACKWELL: No, that was the change made in the ordinance, just to clarify the fact that we're asking that we enact this emergency ordinance now, which will also ban fireworks. But we can only ban them for 30-day periods. So if we need to extend that, because we're still in these conditions, we'll come back before you in 30 days and that little statement clarifies that on the last item of the emergency ordinance. I'll stand for questions.

CHAIRMAN ANAYA: Okay. Any questions of Hank?

COMMISSIONER MONTOYA: Mr. Chairman, move for approval.

COMMISSIONER VIGIL: Second.

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

COMMISSIONER SULLIVAN: This would take effect immediately?

MR. BLACKWELL: Yes, sir.

COMMISSIONER SULLIVAN: Under the prohibitions, there are prohibitions on smoking except in vehicles, on campfires or open fires of any kind. I assume that's unless they get a burn permit from the Fire Department? Or that's total prohibition?

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MR. BLACKWELL: Mr. Chairman, Commissioner Sullivan, we will not issue burn permits during restriction time so it will mean that it's all restricted.

COMMISSIONER SULLIVAN: And then smoking within campgrounds or any wildlife area except the closed vehicles. Unauthorized use of off-road vehicles, motorbikes and chainsaws. What is an authorized use of a chainsaw versus an unauthorized use of a chainsaw?

MR. BLACKWELL: Mr. Chairman, Commissioner Sullivan, that chainsaw, it would have to be on County property, that's where our jurisdiction stands and it would have to have an approved spark arrester, which is the same requirement that the Forest Service has now. Same thing for an off-road motorcycle. They'd have to have the right kind of exhaust system and spark arrester to be able to operate those.

COMMISSIONER SULLIVAN: Okay. So all of these prohibitions are only on County property.

MR. BLACKWELL: All of the prohibitions for operations in those parks, yes sir. But as far as open burning, that's anywhere, even private property.

COMMISSIONER SULLIVAN: And fireworks is anywhere.

MR. BLACKWELL: Correct. Yes, sir.

COMMISSIONER SULLIVAN: How do we enforce this? If there's a fire then we obviously know that someone may have broken the law but in terms of prevention, how do we deal with that?

MR. BLACKWELL: Mr. Chairman, Commissioner Sullivan, what we do is if we respond to illegal fireworks or a burn and find out that it's unpermitted, at that point in time the responding fire district then either notifies one of our regional medic crews that can write warnings, or one of our code enforcement officers is paged and at that point in time they respond to that event and deal with it appropriately. Starting on July 3rd we'll actually begin doing patrols, not only with the fire department but also normally the Sheriff's Department actually identifies several Sheriff's officers that help us on the evenings of July 3rd and July 4th. So we actually do patrols to do that.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other questions? Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, thank you. Hank, I have a question on the unauthorized use of off-road vehicles. Every time we enact this ordinance this ordinance goes into effect. And correct me if I'm wrong, Steve Ross, but it seems to me that this is the only authority we have in citing the unauthorized use of off-road vehicles. Is that correct?

MR. BLACKWELL: Mr. Chairman, Commissioner Vigil, to my knowledge yes, and that's only during burn restrictions and it authorizes either the Sheriff's Department or it authorizes our office if we consider it a fire risk or a source of ignition in one of those areas that we can then restrict that use. But to my knowledge, that's the only time we can do that.

COMMISSIONER VIGIL: And perhaps Steve this is a project for later because the use of unauthorized vehicles also occurs off fire season so perhaps, I don't know if our Code rewrite or at some level we need to look at that because we hear from constituents who complain about unauthorized use of off-road vehicles. If we don't have any authority we can't

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help them, so perhaps there's something that can be done. Do you have any comments on that, Steve?

MR. ROSS: Mr. Chairman, Commissioner Vigil, we also have the Motor Vehicle Code, which has some prohibitions on the use of off-road vehicles, for example, on the road. So there is some enforcement capability already present in the state statute but we'll certainly look at it. We've already talked about taking a look at this ordinance in the off season, in the non-fire season and trying to improve it so we'll also look at that issue as well.

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

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

COMMISSIONER CAMPOS: Mr. Chairman, do we need a public hearing. Question to legal.

MR. ROSS: Yes.

CHAIRMAN ANAYA: Anybody from the audience want to speak on this case? Hearing none, roll call.

The motion to approve Ordinance 2005-4 passed by unanimous [5-0] roll call vote, with Commissioners Anaya, Campos, Montoya, Sullivan and Vigil all voting in the affirmative.

XII. B. Public Works Department

1. Ordinance 2005-5. Request Final Action Regarding Ordinance to Be Known as "Comprehensive Solid Waste Management Ordinance" (One Public Hearing Required) [Additional material attached as Exhibit 2]

AURALEE ASHLEY-MARX (Solid Waste Director): Chairman Anaya, Commissioner Campos, Commissioner Montoya, Commissioner Sullivan and Commissioner Vigil, thank you for taking the time to hear our proposal regarding potential changes in the Solid Waste Ordinance, 2002-10. For those in the public I hope this will be an informative presentation of the information today. We are here today to ask for final approval for a replacement of the existing solid waste ordinance.

For those who may not be aware we operate seven regional transfer stations including sever recycling centers, three brush collection and three waste areas and we also manage tires, scrap metal and appliances and used motor oil. Currently all the solid waste not diverted go to the Caja del Rio landfill.

In 2004, the County with 21 full-time staff managed almost 15,000 tons of waste. We recycled 1224 tons of recyclables. We handed 82,000 customer trips. That represents 2,956 loads of either recyclables or waste to the landfill and we devoted 5,654 tons of

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brush and tree waste. Those were chipped and given to the public for free.

The current solid waste ordinance governs that any changes to the ordinance must come at the recommendation of the County Manager and for final approval by the Board of County Commissioners. This includes any subsequent fees adopted by the ordinance or included in an ordinance.

Why are changes needed? First off, we need to improve customer service. The current ordinance currently places unrealistic restrictions on customers. They're only allowed one permit a year. There is no provision if it's lost or stolen for replacement, so in the past it's been difficult to get a replacement. If a 24-trip card is used up there's only two options. They must purchase a two-trip card, which allows them two trips for \$10 a trip. They may purchase bag tags, or they may use the Caja del Rio on a cash basis. In the current ordinance the punch cards are punched for each trip, however, there was no definition of what a trip equaled.

Additionally changes are needed to improve the operations at the facility. The existing ordinance is outdated in the fact that there were some items, because of mainly the pinon beetle, there were items that weren't included that require management at diversion. So this particular version updates the missing items. And some of the items included lacked specificity or clarity which caused some frustration of users and our staff, because sometimes it was hard to interpret exactly what the rules were.

We also need to improve enforcement. The existing ordinance was limited in scope. It was very general. The enforcement sections were scattered throughout the ordinance, and consequently it was sometimes difficult to get magistrates to approve penalties because it was hard to know what to apply to what violations. It did not provide an adequate foundation for our compliance staff to reference when back-ups or problems arose.

Another big one is we need to mitigate some budget and fiscal impacts. The current permit fee system provides a small portion of the revenue of the following costs that we need to pay for. Of course landfill disposing fees, O & M of the facilities, staffing of the facilities, transportation costs, capitalization of equipment, revenue, we need to generate revenue from recycling, and we're also responsible for the long-term post-closure and care of the Agua Fria landfill.

We have to, to improve enforcement we've created a schedule of offenses and each individual penalty is outlined in the enforcement schedule with specific first, second and future violations of what will happen. Some of the major changes that were added were obtaining permits under false pretenses and misuse of the permits, or even counterfeiting, unbagged waste, delivery of prohibited materials, which there were no list of prohibited materials in the last version of the ordinance, intentional disposal of waste in recycling bins, harassing or assaulting a County employee, unauthorized disposal of papers and cardboard in wastes and delivery of large loads.

Paper in our waste stream: Paper, currently, according to EPA statistics, and these can vary. Some say as high as 40, others say as low as 30, but approximately 35 percent of the waste stream in its entirety is paper. And 18 percent of that is paperboard and

paperboard packaging. So a significant portion of the waste stream could be diverted from the landfill. That is why we're encouraging recycling in this ordinance by mandating that paper waste go in as cardboard and mixed papers be recycled instead of placed in solid waste binds. And this is to both generate revenue. We currently can get \$70 a ton for cardboard, or we estimate at the current rate we could earn up to potentially \$20,000 which could be used to help fund the purchase of boxes. If it's mandated we are hopeful that that could double.

The current permit system allows for one annual permit, which is \$25 for 24 trips, a two-trip card, and you can purchase as many of those as you'd like, or five bag tags for \$3.25.

Our permit proposal that we'd like you to consider today is we've outlined three potential annual permit scenarios, 24 trips for either \$35, 24 trips for \$52, or 24 trips for \$70. And residents would be allowed to purchase two of those to meet their needs for an entire year. In addition we realize not everyone may be able to afford even the \$35 so we've also proposed for flexibility, a 10-trip card for \$20. They would be allowed, if they wished four per year and they could use that in conjunction of they wanted, if they wanted to switch to a \$35 later they could. We're not limiting them to one category. This would be good for seasonal residents, people who move into the county late in the fiscal year, or say a senior citizen who generates a small amount of waste.

Additionally, to address recycling, there are costs incurred so we are encouraging recycling by offering a trip card for \$15, which will be good for one year. It would not be punched. It's an admission ticket to the facilities, basically. In addition, the permit in the law basically allowed permit cards to residents only, so we have included for small businesses because they are generators that need to have their waste managed, we are proposing a 24-trip card for small businesses, for \$50 and they could receive two of those per year.

A trip definition. As I said before that was not defined in the previous ordinance. This will prevent a lot of confusion, both at the transfer station and among customers, and we will have a schematic something similar to this posted so customers will understand. But a typical load, if you look at the slide, would be the benchmark load is the pickup truck filled to the level even with the cab. That would be equal to one punch and the equivalence therefrom. Two punches would be loaded with a one-axle trailer, or an oversized load in a pickup, and three punches would be an oversized load in both a truck and a two-axle trailer. Large loads would be banned. They would have to go to the landfill because we incur significant costs in handling that waste.

The estimate revenue that would be generated based on the scenarios as outlined here, would be at the \$35 rate it would be \$341,000. At \$52, \$462,000, or at \$70, it would be \$562,000.

We have asked for five additional staff persons to man the stations. We currently have a 72-hour deficit in hours each week that we don't have a person to fill so we're filling with overtime and anyone that can work on their day off. So pay for the additional

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requests in this budget year we would need the \$70 card to do that and pay the landfill fees.

Justification for the permit: We need to begin to fill the gap between the average trip weight and the landfill disposal fees. We're not even covering under the current permit the landfill fees. Again, as I spoke before, we need to hire additional staff to fill the hourly deficit. We also need to cover salaries for two operators and we need another compliance officer. We have one to handle the entire county, and we don't have a full six-day coverage to help reduce or catch illegal dumpers. We also need to help reduce the budget gap between the revenue generated and the general fund expenditures that we need to run the department.

This next sheet is a summary and I won't go into each line, but in our current budget, the full cost accounting is \$265.17. Our next year's budget is anticipated it will be \$292.04. So to put this into perspective, if the current permit system would stay in place, residents would be getting a real value of \$265.00 for \$25.

This year we've generated \$226,900+ in revenue from the sale of permits. Our landfill fees alone, just for fees for disposing of the waste, is \$371,700. As you can see we have a gap just meeting our disposal costs. If you add in capitalization it comes to \$2.65 million and again, that works out to be \$265 per user.

This table summarizes the average usage at each transfer station. This is based on actual trips and weight, and I would just use the Eldorado station as an example. In 2004, the average customer brought us 271 pounds per trip. The current cost of that trip, based on a \$25 punch card is \$1.04, the cost to landfill - and this is for landfilling only, is \$3.26 for that same load. If a person were to bring us 24 average loads, that works out to be 6,511 pounds, which would be a landfill cost of \$78.13. If you deduct the \$25 for the permit, that means general fund is covering \$53.13 for that customer, that average customer at Eldorado.

As you can see we are not coming close to paying for landfill fees. The average of all transfer stations the general fund has to cover is \$70.20.

In comparison to other counties in the area, what would our proposed fees, how would they match up? For example, if you look at the second column, and the annual rate is based on if the customer were to purchase two permits in a year, not a single permit. But it still works out to the same monthly rate. So at the \$35 rate, the monthly rate would be \$5.83. If it was at \$52 it would be \$8.67 and if it was at \$70 it would be \$11.67. Sandoval County also offers drop-off transfer stations. They charge \$3 a trip for their monthly charge is \$12. Bernalillo County just raised their fees on June 1st of this year. They raised it to \$4 a cubic yard. You can see that's an average weight of \$32 a month but they have told me that's because the average trip there is \$8, it's actually the double quantity because their loads have been large.

Torrance County also operates eight transfer stations, they charge and bill by the quarter, so their monthly charge is \$11.32. So you can see by benchmarking at the \$70 range you're in the range and if you were to select one of the other options it would be

under what the counties around us are doing.

We've also compared it with the City of Santa Fe which has curbside pickup which is \$12.78 a month. And I would include two other communities, Rio Rancho and Los Alamos.

I would like to recommend that you authorize the replacement of the existing ordinance. We would recommend this because it does include additional options for county residents. It gives them the option to choose what's best for them. It would increase the revenues generate. It would help us with enhanced enforcement and it would help us to tighten the definitions to help with the smooth operation and alleviate frustration of both operators and customers. Thank you very much for your consideration. Do you have any questions?

CHAIRMAN ANAYA: Thank you, Auralee. Any questions of Auralee? I have some questions. Under this new ordinance, you're telling me that you're going to make people dump their cardboard in recycling, and if they don't, you will fine them and under the fine they could possibly - what is the penalty?

MS. ASHLEY-MARX: The penalty would be, there would be first off, on that particular violation we would issue a warning first and before we issued any citation, we would have a significant education campaign to let people know that we are doing that. Again, we'd have a phase-in period. Once that was over, people would be issued - we'd have like handout cards that would be warnings. We need to recycle these materials. And then at some point we would decide citations would be issued for individuals we felt were just not complying. Most people generally now seem very positive and aren't recycling much of this material now.

CHAIRMAN ANAYA: Okay. I don't agree with that anyway. You have under here, under the pictures of the trucks with half loads, you have a picture of a truck with a load of material and it's a one-punch. Then you have a truck overloaded with two punches. I think in order to keep that simple - I don't care - I think you should just have a truckload, one punch. How are you going to know - the guys going the extra mile to try to make one trip to the dump or to the transfer station, and doing his best. I think that if he pulls up and he's got his truck loaded, whether filled to the brim or not, I think it should be one punch.

MS. ASHLEY-MARX: We have to make a comparison because we are paying by the pound at the landfill.

CHAIRMAN ANAYA: I realize that.

MS. ASHLEY-MARX: And an individual, we often have three or four cars with three bags and then one truck that's like in the load that's shown under the three-punch load. We just didn't feel it was fair, either to the individual with three bags being charged the same rate as an individual with maybe close to 5,000 pounds on a trip. And this is a volumetric consideration. It feels it's free. If you bring more and we pay more, that's fair to give two punches instead of one. Especially now that we would allow them to have two cards in a year. That would cover those large loads that people have, say, during

spring cleaning or fall clean-up. Or even yard waste clearing in the summer.

CHAIRMAN ANAYA: Yes, but he could have a load of brush piled high and it doesn't weigh nothing.

MS. ASHLEY-MARX: Well, brush is actually allowed in the ordinance, allows for greater loads to be delivered because we're diverting that waste.

CHAIRMAN ANAYA: Okay. Well, I don't agree with that either. My personal opinion on this is, I know you all went through a lot of work and hard work to get this to present it to the Commission, but I think that we need some input from the community. This is all what you see, and yes, it's strict. To me, this is strict. This is too strict. People that are going to the transfer stations, first of all, don't want to go to the transfer station, then they get approached, then they're there with the landfill guy that punches tickets, and then he's telling them, look, I'm going to punch your ticket twice because of this, this. It gets them frustrated and then that's where the confrontation. And I realize what you're trying to do is we need to educate the public. But what I would like to see, and I don't know how the Commission feels, is that we go to the public and have a committee set up to see how we can make this more friendly. This is not friendly, I do not think.

MS. ASHLEY-MARX: Just for clarification, the ordinance spells out specific rules and the schematics that are shown would be posted at the station so people would be informed at the time of entry, which isn't the case now. I feel that I've talked to a lot of people and I know that there's some discussion that some of the punches have been arbitrary and that one attendant punches different than the other. And that's one of the reasons we wanted to address this in the ordinance, so that we could allow an even playing field at all stations and between all customers. I think that's real important to be fair to everyone.

CHAIRMAN ANAYA: I think that there's too many rules to just go to the transfer station and throw your trash. We're making it difficult for the public and they don't want it to be difficult. They want it to be easy, and I don't know what the easy answer is. I know you need money. I know that. I know that you need money to operate and to operate successfully. But by just raising the fees and putting strict fines on everybody if they don't have their load tarped is not the way that I think the County should go.

MS. ASHLEY-MARX: There's one other consideration that I didn't discuss in the slide show, is we are regulated by the New Mexico Environmental Department. They have specific guidelines for transfer stations as far as what you can and can't do. All of our stations are registered, which means we have to stay within certain tonnage guidelines, certain operation criteria. It's even down to things like keeping certain waste separated from the tipping pit like the brush waste or the recycling. There are specific guidelines we have to follow.

Some of the guidelines we needed to improve in the enforcement to make sure we were staying in compliance so that we did not get any violations and/or possible fines from

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NMED when they inspect. So it's not just – the rules are not just of our making. We are making sure that we're staying in compliance with state and federal regulations.

CHAIRMAN ANAYA: And I understand that completely. But my concern is that I'm a part of the La Cienega task force clean-up committee, and the more rules that we put on people on how they're going to dump their trash, the more they want to just go behind the tree and throw their trash and throw it in arroyos and we're trying to clean up. Even the governor and Rhonda Faight, and I can name the state departments, how people are trying to clean up New Mexico, and we're trying to clean up Santa Fe County, and I'm not saying that you're wrong, that you have done wrong. That is your department and you're trying the best you can to run that department and I agree with you, but we've got to look into it further and that's just coming from me. I don't know how the rest of the Commission feels, but I don't want to make it rougher on the public. I know that the transfer station employees are getting harassed and that's not good, but we need to figure out ways to make it a win-win situation for your department and for the residents of Santa Fe County.

MS. ASHLEY-MARX: I would address that, Chairman Anaya, respectfully saying that if we approval of this ordinance it is my opinion that illegal dumping will be helped curbed for the following reasons. One, we would potentially be able to get a second enforcement officer. We would be able to enhance our participation on the task force efforts that we've been holding for illegal dumping. We would continue to operate the stations that we need to on a six-day schedule. We would be able to keep expanded hours. We would be able to expand infrastructure and boxes to collect as much waste as we can to prevent those that are dumping from doing so. Additionally, we would make extra efforts, which we do now, but we would be able to expand the efforts to do the amnesty days, the clean-up programs, both in the fall and the spring, and those fees would be waived at the landfill.

We've already got an agreement in place for that. So I believe that this, rather than making dumping worse would be a good deterrent and a step forward to help keeping Santa Fe County clean.

CHAIRMAN ANAYA: Okay. Any comments from the Commission?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Auralee, regarding the phase-in period, what sort of time are you talking about for the phase-in period?

MS. ASHLEY-MARX: For the recycling portion or for the entire –

COMMISSIONER MONTOYA: The entire enchilada.

MS. ASHLEY-MARX: By law, this wouldn't go into effect for 30 days. I would be certainly open to the Commissioners' input on what they feel would be a reasonable phase-in for I'm assuming the enforcement portion to take place.

COMMISSIONER MONTOYA: So we'll tell you how long?

MS. ASHLEY-MARX: Yes, if you felt that was necessary. That would be

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for the enforcement portion.

COMMISSIONER MONTOYA: Right. Okay. So along those same lines, what type of education is going to be provided to the constituents that I have that are telling me that \$25 is too much right now. We ought to lower it right now. Whatever you do, don't increase it.

MS. ASHLEY-MARX: We would be willing to have this public forum at multiple locations within the county if that would be desired to educate the public about what the costs are of recycling and solid waste. We would of course hand out materials as we have been at the transfer stations. Again, we would publicize it in the newspaper. On the Internet site we've tried to keep that updated so people can go right on line after hours. We would use a multiple effort and we just hired a staff member that will help in that effort to assist us with education efforts and beef that up.

COMMISSIONER MONTOYA: And then the last question that I have is is any of the additional revenue generated going to go to upgrading any of the facilities? Maybe specifically Jacona?

MS. ASHLEY-MARX: The bond money that was passed - I'll defer to James on that.

JAMES LUJAN (Public Works Director): Mr. Chairman, Commissioner Montoya, is your question - it will be an operating cost in the future, but the upgrading of Jacona, we have a plan with the bond.

COMMISSIONER MONTOYA: Oh, we do.

MR. LUJAN: Yes. Yes. All the transfer stations, they've set aside a portion for Public Works facilities which include the transfer stations.

COMMISSIONER MONTOYA: Okay. Just a general comment regarding this whole replacement of the existing ordinance with this one. I think this is probably the most information that I've been given in the three years that I've been on the Commission and I appreciate the information given to me because it's educated me in a way where I have not been given this information before. I feel informed now. I feel confident that if you do the same job that you're talking about with us as we do with the public that this is going to be a much easier sell than it otherwise would be because of the way it's been broken down here So I appreciate the efforts that you've gone to establish this and I think it's something that we need if we're ever going to stop subsidizing it with funds and then people ask why aren't our roads getting improved? Why isn't anything getting improved? Well, it's going to solid waste and the jail, it's going everywhere but where it should be because we're subsidizing everything. So I really appreciate this and I would be glad to host any forums in District 1 that would be helpful in educating the constituents because I know that they're going to be vocal and oppositional to any sort of increase.

MS. ASHLEY-MARX: Thank you, Commissioner Montoya.

CHAIRMAN ANAYA: Anybody else? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Auralee, could you explain to me how the brush provisions work in relation to that picture of the trucks loaded? In the definitions? If

I'm loaded up like that pickup truck that's overloaded with brush, how many punches is that or what does that cost?

MS. ASHLEY-MARX: Okay, in your ordinance brush has been specifically separated out under the - if you look under the definitions of trip, and there was a version of the ordinance placed in your box today, and the version today has that on page - it starts on page 12. It's called land-clearing debris on this particular version of the ordinance and that particular stipulation starts on page 13. We realize that brush is a special waste and it's a high volume, not necessarily a heavy weight material but it can pile up high in a car. So we have allowed a greater volume and weight per punch for that material than we do for solid waste. So, for example, the example given for the overloaded vehicle that got two punches in the second vehicle would be charged for each successive increment of 1800 pounds which is a volume based on a typical cab of a pickup truck.

COMMISSIONER SULLIVAN: So I'm trying to envision what -

MS. ASHLEY-MARX: So just for clarification, if a truck came in loaded above the cab, not a whole lot above the cab, that would be one punch. If it was a huge load significantly, just bulging out the sides, which they sometimes are, that would be two punches. But they are allotted a larger load than a normal garbage waste load.

COMMISSIONER SULLIVAN: Well, if it's up to 12.44 cubic yards of brush, then it's one punch, right?

MS. ASHLEY-MARX: Yes.

COMMISSIONER SULLIVAN: So is the truck in the picture that's overloaded, is that more or less than 12.44?

MS. ASHLEY-MARX: These were drawn to garbage, not brush. I didn't draw sketches for the brush, so I would estimate in the two-tripper, with the brush it's like the one that's over the height of the cab, would be that long one.

COMMISSIONER SULLIVAN: Run that by me again. So that this volume of trash would be two punches, but this volume of brush would also be two punches?

MS. ASHLEY-MARX: Actually no. You would get more for one punch with the brush. So actually that would be a one punch for brush.

COMMISSIONER SULLIVAN: So how does - and understanding that you want to make it easier for people to understand and the operators to assess when the vehicle come in, How do you reach 12.44? That's pretty accurate for brush.

MS. ASHLEY-MARX: Right.

COMMISSIONER SULLIVAN: I'm not even going to get into how you came up with that.

MS. ASHLEY-MARX: Okay.

COMMISSIONER SULLIVAN: But is this vehicle less than 12.44? Is that what you're saying?

MS. ASHLEY-MARX: Yes, that's the equivalent. And just to explain how we came up with that figure, a typical pickup truck is the baseline and that's 8 feet long, 6 feet wide and 4 feet high for garbage and for brush it would go higher than that. So it was

a calculation backed out based on cubic yards of a typical pickup truck.

COMMISSIONER SULLIVAN: Okay, so if this pickup came in with the material bulging out the sides and as high as it is on this truck with brush, would it still be a one-puncher or a two-puncher?

MS. ASHLEY-MARX: Yes, it would be a one-puncher.

COMMISSIONER SULLIVAN: It would still be a one-puncher. So pretty much everything that you could jam into a standard pickup truck, brush-wise I'm looking at now, would be a one-puncher. But you could tarp and so forth.

MS. ASHLEY-MARX: Right. Right. And we do get many that are that plus a trailer of one type or another pulled behind.

COMMISSIONER SULLIVAN: Okay, so if the trailer is pulled behind, then we're into what?

MS. ASHLEY-MARX: The multiple punches, based on the size of the trailer, whether it's a one-axle or two-axle.

COMMISSIONER SULLIVAN: So if it's one axle - again, I'm just dealing with brush. I understand the other part and I don't understand the brush part. And it's a one-axle trailer with brush, what's that going to be? Two punches?

MS. ASHLEY-MARX: With the truck filled and the trailer filled, that would be two punches. If it's just like some people haul their barbecue and then pull a trailer with the brush behind, if it was a one-axle trailer it would be one punch. They're often 16 feet long.

CHAIRMAN ANAYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Go ahead.

COMMISSIONER CAMPOS: I'd just like to state the fact that I think it's a very well thought out ordinance proposal. I think it's in the public interest. I think we should act on it now. I think it makes sense. I think it alleviates many of the problems that Commissioner Anaya and all of us are very interested in solving. It's not easy to tell the public that they have to pay for the service, even a little bit more because it's worth a lot more. We're charging just a very small fraction of what this is.

The other issue is the general fund. We've talked about in our budget hearings about the general fund and how we need to be very careful with our huge investments in the jail and other areas, that we have to have this fund start paying for itself, at least more than it has been in the past. So I would think we need to adopt this tonight. That would be my suggestion.

MS. ASHLEY-MARX: Thank you, Commissioner Campos. And thank you for your comments, Commissioner Sullivan.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Auralee and James, I really want to applaud you for taking the efforts to do this. This County has taken a leadership role in solid waste management by providing the infrastructure. However, managing solid waste has been a

huge problem for us and it becomes more problematic when we hear from constituents who say I went out to the solid waste station and nobody was there. Well, if we don't have the manpower to provide the service, the infrastructure does us no good.

According to the figures you've given me it seems to me that the general fund is actually providing for ¾ of each citizen's trips or service for each citizen. That really slants this budget in the favor of the County footing most of the bill for this whereas the benchmarks that you have provided us with neighboring counties, most of those counties allow for the fees for service to actually foot most of the bill. And I think that's all you're asking us today.

Solid waste management in the previous ordinance that we had nowhere near, in my mind, had the clarity that you have presented. So I do agree with Chairman Anaya that perhaps we do need more input and I am amenable to perhaps having another public hearing, but I think we need to move on this otherwise we're going to get caught up in the same problem that we're having when we hear constituents say don't raise the fees, you have to balance that with the constituents who say I need to be out there; make this service available to me more. The other thing I like about this is it starts addressing recycling a lot more than what we have. It starts addressing hazardous materials and the distribution of that. None of that is clear in this current ordinance that we have and we need to move forward. Solid waste needs to be managed by this County so we have to step up to the plate. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. So okay. What I'm hearing is if we pass this then we would be passing this and this document? Both of them?

MS. ASHLEY-MARX: Just the ordinance. The slide show was just to help you understand the issues and changes that were involved in the text of the ordinance.

CHAIRMAN ANAYA: Okay, so the way I feel about this is I think - and have we had any public hearings on this?

MR. LUJAN: Mr. Chairman, you need to open a public hearing. This is open for a public hearing when you open it. We did our presentation, now the public hearing takes place now.

CHAIRMAN ANAYA: So other than this, we haven't had any public hearings.

MR. LUJAN: No, this is the first one.

CHAIRMAN ANAYA: That's what I'm getting at. I'm saying this might be a great, a good ordinance but when we do the Code rewrite, we go out to all the communities and we have meetings and invite the communities and have their input so that they don't have to come here and voice their opinion here. So that's all I'm saying is that I think, before we do any adopting, we need to go to those communities and hear their concerns and they might be able to help us out with this ordinance. This is open to a public hearing. Is there anybody from the public that would like to come forward. Go ahead and come up.

BOB SWEENEY: Thank you, Commissioners. My name is Bob Sweeney.

I'm a resident of Santa Fe County. I have a statement in favor of fee changes for solid waste management. I can either read it to you or if you want to save time I'll just leave a copy with the recorder. [Exhibit 3]

CHAIRMAN ANAYA: A statement of fee changes?

MR. SWEENEY: It's in favor of fee changes for solid waste management.

Yes.

CHAIRMAN ANAYA: Go ahead and read - you don't have to read the whole thing but maybe just key on it to the main points.

MR. SWEENEY: Just the good parts.

CHAIRMAN ANAYA: Yes, the good parts.

MR. SWEENEY: One common argument in funding suitable solid waste facilities has to do with cost. I think this is the result of public misunderstanding of what is involved with waste management. Finding out what's involved is an easy matter for anyone interested in doing so. The argument the waste management costs are too high simply doesn't hold up when compared to the future costs of doing it wrong again. If it costs x-number of dollars for a household or business to dispose properly of its waste, then that's what it costs, and the generators of that wastes have to pay the bill. If the bill is too high, generate less waste. Increased recycling is an excellent way to accomplish this.

Another argument against increasing fees for waste disposal and/or recycling is that some citizens will resort to illegal dumping. I think this argument is generally invalid and has been blown out of proportion. Yes, some will dump illegally to save a few dollars for themselves. However, the more this is done the more likely it is that they will be caught and the fines for this should be high enough to discourage them. Thank you for your consideration of my support in setting what fair and appropriate rates are needed for recycling and waste disposal.

CHAIRMAN ANAYA: Thank you, Bob and maybe you could run copies of that and give them to Auralee and to the recorder. Or somebody from staff, could you do that for us. Thank you, Bob. Is that all you have?

MR. SWEENEY: That's all I had.

CHAIRMAN ANAYA: Camille.

CAMILLE BUSTAMANTE: Mr. Chairman, Commissioners, thank you for the time to speak on this today. I appreciate it. I'm hear essentially because of the concerns that came up with regard to the punitive nature of this particular ordinance. The rest of it, with regard to fee changes and structure, I understand that the program has not paid for itself and I commend the effort that the County is taking in addressing those issues. It's time and it's a good measure. It's a good step forward. I also commend strongly the efforts to increase the recycling. Recycling can bring the revenue that has been disclosed here.

But as a professional in hazardous and solid waste for the last 13 years and longer than that working in community organizing objectives in the county and in northern New Mexico, one thing that is absolutely painfully clear is that things work better with sugar than with a club. And the punitive nature will have the effects that have been stated,

specifically in the area of La Cienega. We already know that there are people who have difficulty utilizing just a transfer station the way things are and to add yet more punitive element without the education behind it is problematic and only has potential to create a worse situation.

Now, saying that, that does not take back the perspective that the recycling capability is absolutely of value to pursue, but there are ways to do it that are not punitive that show the value to the community, that include the community in determining how and why it is valuable to take such measures.

In two years as recycling coordinator at Los Alamos and the first year working with Los Alamos County and the second only with the laboratory, and I recognize that the industry, as opposed to community efforts are very different, we were still able to increase the recycling rate from 15 percent to 82 percent in a two-year period without punitive measures, simply by encouraging people to recognize where the values are in doing so, identifying benefits for the community for doing so. The \$15 dollar pass for recycling in itself might encourage people enough to, and if that's advertised correctly and provided to the community correctly, might encourage people to divert rather than to go through something that's going to get punched.

But the punitive nature, to say that you will be penalized at the end of the day, it strikes a bad chord in the neighborhood. It is the type of thing that will absolutely turn people away, and we have worked so hard to get people who had already made a practice to dump behind the trees. And I can speak from absolute experience, who are now seeing that there's value to showing up to the transfer station. That is the type of thing that we have to avoid and I believe that the punitive nature of this particular ordinance has a potential to take us several steps backwards, whereas I think that the built-in incentive to have a path that allows you trips without having to get it punched and you start recognizing that if you're diverting, that might encourage people to divert and recycle more.

So there's an opportunity here but there's also an opportunity for a hindrance. This can be done poorly, the way it's presented, if it has the punitive enforcement as it's been stated here, a portion if it, I believe that it will be problematic. I have already spoken to community members who believe it will be problematic. I really encourage a second public hearing, if not a third. If not, going into community centers and saying look folks, what do you think. But really the punitive nature will be problematic and I appreciate your time.

CHAIRMAN ANAYA: Thank you, Camille. Any other -

COMMISSIONER VIGIL: Questions for Camille, Mr. Chairman.

CHAIRMAN ANAYA: Okay.

COMMISSIONER VIGIL: Camille, thanks for explaining your experience.

I actually have a question for you specifically. It sounds like you have worked with communities with regard to this. The punitive nature, perhaps maybe we need to re-evaluate it. I'm really not sure. The problem I have with enacting these kinds of ordinances is that if don't have some kind of an enforcement mechanism in there we're back to where we really don't have the authority to fulfill what it is we're trying to do. My sense is one

of the things that is done, and I'm not sure if you're opposed to the actual severity of the punitive portion of this or other enforcement mechanisms. Perhaps that needs to be clarified more.

What I'm concerned with is we need to put some enforcement mechanisms in there and I don't think - I think I'm amenable to and I don't think it's anything that we couldn't do without some kind of a grace period where the educational component would be a part of this process. I know when the City of Santa Fe enacted the cell phone ordinance they had a large grace period for the educational component before enforcement went into place. So I'm really reticent to move forth on something that doesn't have at least some piece of enforcement. How could you respond to that for me?

MS. BUSTAMANTE: I hear what you're saying and I understand and respect the view that it would need to have some enforcement piece to be successful but I don't believe in initiatives such as recycling that have up to this point been voluntary in the county to put mandatory teeth into something is taking ten steps forward and in an effort to take steps forward that will be a throwback. It has been at this point just an option. And again I truly believe that putting enforcement and putting in something that encourages any community work, any community work at all, that comes from the heart of the community, that is seen as a value for the community will happen without having to have enforcement when the community sees value in those objectives.

And frankly, I come from a very biased position. I believe strongly in the value that recycling can bring to the County. Paper is worth money. I've seen it, and I've seen it to my own budgets and other things that I can revenue streams from. But to take that from, yes, we all understand that and take it out and enforce it to community members who supposedly wouldn't be able to understand a value to doing that and somehow identifying a way to share the benefits of what that might mean and I'm not saying that revenue streams come in high enough to share the commodities with the constituencies but if there are way that the constituents can see and identify or create, maybe define for themselves the value for what it would mean to divert from the landfill, from disposal, why I would want to separate my cardboard and see a benefit, opposed to I'd better separate it or I'm going to get spanked are two very different things.

Right now the enforcement nature really puts that you're in trouble if you don't do it as opposed to this is the value in doing it and if we do it this way, these are the benefits to my family. And I do believe enough in the people of this county and I believe that they are able and capable of understanding the value of such measures. I don't believe that everything has to be run with a club and everything would have to be through enforcement. I think there are other ways to do it. And again, I mentioned 15 to 82 percent with no enforcement, with no regulatory, with no mandate. Voluntary, 15 to 82 percent within the organization I was working within. Then again I recognize that municipal issues are very different, but I do see enforcement as problematic as compared to getting someone to feel that that's what they need to do and what the value is and see a value and create a value for what that would mean to them. I hope that answers your question.

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COMMISSIONER VIGIL: Thank you, Mr. Chairman. Recycling is a component that we do need to look at. However, I think there's a bigger issue here and that's the fee imposing and the enactment of the ordinance. So perhaps the enforcement piece is something that can be worked on.

MS. BUSTAMANTE: Other than that, Mr. Chairman, I support those elements. It is the enforcement arm of the recycling capability that worries me. The rest of it I feel is well written and I appreciate your time. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you, Camille. Go ahead and come forward, ma'am.

ENGLISH BIRD: Good afternoon. My name is English Bird. I'm a Santa Fe County resident and use the Eldorado transfer station. My comments will tie into the fees and as well as the recycling. I have a background in recycling, working on a statewide organization, but my views are just as a citizen who uses it. The fees I think if they were passed it will bring a wonderful opportunity to educate residents about the real cost of your trash and where it goes and the subsidy that's going on from the County. It also will bring a wonderful opportunity to highlight what diversion can do and how it can save money or even make money.

I think that education is key. I'm not sure where I stand on the negative, the whole part with the fines and everything as far as the mandate on recycling. I think that education can go a really long way with proper signage. Since Auralee has been working with the different transfer stations it's like night and day. The recycling has a presence. There are people that actually talk to you now. So I think the focus should be on more diversion and recycling for sure, with great information, like so much in this report, if it could be summarized somehow with the residents. I think that would be so valuable and that could either be at the transfer stations, when the permit increases are announced, which people will probably want to know about, but it seems like a great opportunity combined. That's all I have to say.

CHAIRMAN ANAYA: Thank you, English. Any questions of English. Okay, anybody else? You going to repeat something? Come on up, Bob.

MR. SWEENEY: Thank you, Mr. Chairman. Again, my name is Bob Sweeney and I would like to speak for my wife who unfortunately had to leave before she could read this herself. Shall I read this? *[Exhibit 4]*

CHAIRMAN ANAYA: Go ahead. Just summarize it maybe.

MR. SWEENEY: I'm attending this meeting but I'm writing this letter in case I have to leave before the issue is heard. While I recognize an increase in fees or taxes is never a popular action, there are times when increases are necessary. I believe this is one of those times. Sadly, I believe the public has little understanding of the process to dispose of their waste. Indeed, a bumper sticker I say said "Throw it away? There is no away." I hope you reflect on that statement.

In many cases the public puts a host of items in their trash can, makes the can available to the trash hauler, or takes it to the landfill/transfer station and gives no further

thought. Indeed, I think some citizens believe that it is their right to dispose of trash or at least a duty of government to take it from there. As you well know, this is not the end of the story. Many hands handle the trash and the place where it is ultimately buried or perhaps recycled must meet many expensive requirements or processing fees. I believe what would help this process is to educate the public about what it takes to dispose of their trash. There have been articles in the last few months in the local print media but never enough. I personally will work to assure more.

But I think the time to deal with adequate disposal and recycling is now. As with most services, they will only cost more and require greater effort a year later. I hope you will support the fee increased proposed by the solid waste director. Thank you.

CHAIRMAN ANAYA: Thank you. Thank your wife too. Anybody else?

Auralee.

MS. ASHLEY-MARX: I'd just like to clarify just a couple of points on the violations. Yes, there is a fine for throwing papers in the pit. It is \$25 which is the least expensive fine that we mandated. We also said that it would be a written warning and we have full intention to do a full education effort. I'm at the transfer stations and the landfill on a regular basis. It is absolutely mind-boggling when you see how much cardboard and papers are in the waste stream and when you see how much money is being thrown away. I have met with many residents and spoken to them and asked them very nicely, would you please consider recycling these materials; we really need the revenue. If we had the revenue we could purchase more boxes and improve the services you give us. I have people turn to me and say, you don't make me; I won't do it. And that hurts me. I was hoping there would be an ethic out there where people would say, yes, I want to do the right thing. I want to help lower costs.

The reason I made the tough decision to include that in this ordinance is that I feel that there are some people that we will have no choice but to ask them politely, educate them, but in the end it will only take a fine to encourage them to get on board. Additionally, the penalties and violations, also which is very necessary increases the violation for illegal dumping. That has been very necessary to discourage that. We also need to strengthen the unbagged waste and the uncovered loads because both of those items are causing a significant littering problem in our county which has incurred lots of clean-up costs. So I urge you to pass the penalty portion of this ordinance. Thank you.

CHAIRMAN ANAYA: Thank you, Auralee. Any other comments? Greg.

GREG SHAFFER (Assistant County Attorney): Mr. Chairman, I worked with Auralee on the ordinance that you're considering this evening. I just wanted to make a procedural note, namely, the version of the ordinance that was passed out this afternoon as well as the one that was in the packet set the cost per the 24 punch permit at \$35, so if it was the pleasure of the Board to enact the ordinance and go up to one of the higher levels that Auralee outlined in the power point presentation, which I think was \$52 and \$70, that would have to be included in any motion that passed the ordinance, that that section be amended.

On a related note, and just discussing this with Auralee, there would need to be made a corresponding change to the price that is charged for small generators of commercial waste. If you will, they kind of go in lockstep. So currently, if the residential rate is \$35 for a 24-punch card, the rate for the corresponding small generator of commercial waste 24-punch card is \$50. So if you would raise the residential to \$52 the small generator permit would come up to \$74. If you raised the residential to \$70, the small generator of commercial waste would come up to \$100. And with that procedural comment I'd stand for any clarification questions you might have.

CHAIRMAN ANAYA: Thank you, Greg. Any questions of the attorney? Okay, hearing none, are there comments or would you like to go to a motion. I'll entertain any motion.

COMMISSIONER CAMPOS: I'd just like a little discussion from the Commission, Mr. Chairman.

CHAIRMAN ANAYA: Okay.

COMMISSIONER CAMPOS: Concerning the rates proposed, \$35, \$52, and \$70, plus an additional \$20 I believe for the small commercial business at each level. I think we should increase it beyond the \$35. I think it's way too low. The cost per person is \$265. Even if we went to \$70, that's a very reasonable rate. That would be my comment.

CHAIRMAN ANAYA: Okay. Any comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think we have two things here. There's a valid concern that the public be a part of the process and also I know that the solid waste is on a time deadline and they've had to extend by 30 days anyway their annual application for punch cards, people that apply for them because they don't know what the fee for them is going to be. I'm of an inclination that we might do both. I think that we do need to look at something beyond \$35 quite frankly. I'm not certain what that is. I don't have a good feel for that. I certainly think we do need to do some increase. So I could certainly support making the change to the ordinance as proposed here at the \$35 level now, and then at the same time, going out to the public with this additional information that you see here and being quite honest with the public and saying, look, we're proposing to up it to \$70 and here's why, and here's what we think is needed to make this a sustainable operation.

From \$25 to \$35, I don't think is going to cause a major revolt. From \$25 to \$70 is going to be problematical. But the other provisions I think outweigh that. I think the clarity involved in defining what loads are and how they can manage them would be useful to pass that even if we didn't change the fee, because that's a real hole that we have to deal with right now.

CHAIRMAN ANAYA: You're talking about the loads.

COMMISSIONER SULLIVAN: The load size and how you calculate it, the discretion that's given to the operators that may vary differently in how they interpret it. So I guess that would certainly be an area that I would consider would be a nominal increase now, and because they need a decision right away, at this level and with this

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ordinance. Then a public information program, go right back to them saying we upped it \$10 but quite frankly the staff recommendation is that it needs to go up \$70. And we're considering that seriously and here are the reasons why. And have yet another public hearing concurrent with that rate increase.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I think I'm in agreement that there does need to be some kind of an increase, but what does concern me is that despite our efforts in noticing this we really don't have much comment from the public and we do have such a wide and vast community that this will impact. So I have one question from Auralee that I need perfect clarity on. Which one of the options, Option 1, Option 2, or Option 3 would be the option that would take this division out of the red?

MS. ASHLEY-MARX: In order to pay for the five additional staff we have requested and to pay the landfill fees, but not for the capitalization or the improvements, we would need \$70.

COMMISSIONER VIGIL: Okay. So that would be the recommendation you would go out for if we decided to have public hearings.

MS. ASHLEY-MARX: Yes, exactly.

COMMISSIONER VIGIL: Okay. So Mr. Chairman, I guess I'm amenable to enacting one of the options. I clearly would like to resolve this issue but I know we're going to have residents out there who are going to be concerned about the increase in fees. This is only a change to behavior but many people really need to be fully informed when it affects their pocketbooks. So my sense is as much of a community outreach that we can provide, I think we should go with that. How we do that and meet the deadlines, I think Commissioner Sullivan has probably proposed the best way to do it at this point in time. You need this done, Auralee, before the next -

MS. ASHLEY-MARX: The County fiscal year starts on July 1st and permit sales have always been tied to the fiscal year. We are delaying by 30 days because we could not by law, we cannot enact, if this is passed today for 30 days anyway. So we have given current permit users a grace period, currently through July 31st to allow them to continue to use the system.

MR. GONZALEZ: Mr. Chairman and Commissioner Vigil, it's my understanding, because of the way we operate off the cycle that if we set the fee, for example at \$35 and we're talking about going up to \$70 in the future, because of the way we do the billing for the fees, that the \$70 would then not become effective until the following fiscal year unless we made some special provision. Do I understand that correctly, Auralee?

MS. ASHLEY-MARX: That's the way it's currently set up, yes.

COMMISSIONER VIGIL: Thank you, Gerald, for clarifying that. Then my proposal to comply with these discussions is perhaps we should raise it to the minimal requirement or the minimal recommendation that they've made, which is the \$35 fee, and start the educational process between now and next year and look at a \$70 increase.

CHAIRMAN ANAYA: Okay. Any other comments?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: You know, I stated earlier that I think there does need to be some sort of an increase, and again, without the education and the information being given to the public, I think to go beyond Option 1 at this point would just not be very wise in terms of going any higher than that. I think again, with this information it's certainly educational in terms of what's in here so that people understand exactly what it takes to run this type of a business. Without knowing what this business costs to run, people are thinking, well, we're paying too much as it is.

I think the other piece, I certainly agree with Commissioner Vigil. Without any sort of enforcement end to any ordinance, I liken it to speeding. If you put a highway system out there and no speeding signs well then people are going to continue to speed. They do anyway with signs so even the signs don't help a whole lot. But I think we need to have some sort of enforcement so that people get the message that this is something that we're serious about in terms of the way we're going to enact and enforce and implement this particular ordinance. So I would be in favor of Option 1 at this point and the community education being something that we do heavily during the next period of 12-18 months before we look at any other increase.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, just a comment. People I think in the county realize that it's expensive to pick up and process trash in a rural setting. It's very expensive. And I think when you live in the county you have to accept the responsibility for the costs you incur and trash is a very serious problem. And recycling is a very important thing that we need to do. It's expensive. What I would suggest is if you guys just want to do \$35 because you think the reaction may be too strong, let's enact \$35 now and in one year, \$70. Or \$35 now and \$53 in a year. But let's enact it tonight so that we know that in one year it will step up.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner Campos. I think that by adopting this ordinance, and I'm glad to hear that some of the Commissioners are willing to take this document on the road to our communities and let them look it over and explain to them why we might be needing this increase. I think by adopting this right now we just completely left the whole county out of the procedure. And I thank the public for coming but there's a lot of people that can't come to Santa Fe and don't come to Santa Fe so we need to go to them and explain what we are doing and maybe they'll understand and they'll say, oh, okay. Now I understand. But they don't understand right now. I don't understand. I'm beginning to understand.

I think from what I'm hearing from the Commission, are you talking about the Option 1 meaning the green, adopt the whole green piece?

COMMISSIONER CAMPOS: The \$35?

CHAIRMAN ANAYA: The \$35, the \$20 residential ten-trip card, the

recycle card, the small business card for \$50, the bag tags for \$5? Is that what I'm hearing?

COMMISSIONER CAMPOS: That's what the ordinance says right now, but I'm suggesting as an other idea to make effective that July 1, 2005, but July 1, 2006 we could go either to \$52 or \$70 and we could decide that tonight.

CHAIRMAN ANAYA: I'd prefer not to decide that tonight. I think that I know that we're struggling. And then another thing is we need to go and explain why. People call me and say, I pay taxes. What do my taxes do? I pay taxes. We should be able to throw our trash for free. We need to explain to them what their tax money does. We need to go out there to these communities and we need to schedule it and explain to people. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think what's important, and I think you're right that the big issue will be the dollar amount. And I think the proper education, the changes and the recycling issues. In Eldorado recycling is very important because the private hauler has stopped doing recycling and they need a mechanism to handle recycling other than throwing it in the trash. Because they still have trash pick-up, they pay for trash pick-up through the private hauler but they have no way to get rid of their recycling. So what they're doing with recycles now is they're throwing it in the trash.

CHAIRMAN ANAYA: Right. I think that's a good idea.

COMMISSIONER SULLIVAN: So I think the ordinance provisions will not be as controversial as just the fee itself. And I told the electric company that I pay taxes and that didn't sit too well with them either. I pay taxes but they still send me an electric bill and told me I had to pay it. So I think that 90 percent of the public discussion will revolve around the fee and I think that we go right to the public, quite frankly after approving the green option and this ordinance, with the red option and saying this is what we're proposing. So we give them the worst case scenario and say this is what we need to make a good program and make it self-sustaining. And then at the Commission's option, we either select that or we select the \$52 or we select nothing. So we leave it as is at the \$35 for the next year or however long we want to. But I do think we need to make these ordinance changes and at least a modest fee structure change at this point in time. I don't think I can sign on with Commissioner Campos on doing it all at this point in time. I think that may be just a little overwhelming for everyone to pick up on.

CHAIRMAN ANAYA: Okay, is there a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, I would move for approval of the ordinance as presented by staff.

CHAIRMAN ANAYA: The ordinance?

COMMISSIONER CAMPOS: With the \$35 option

COMMISSIONER SULLIVAN: Yes. What Mr. Shaffer just said is that the ordinance that staff has presented here, and it was in our packets - it's slightly amended that they gave to us, includes the new fees, the \$35.

CHAIRMAN ANAYA: So you don't agree to taking this out and explaining

to the public what this exactly is?

COMMISSIONER SULLIVAN: No, I agree to taking it out and explaining it but -

CHAIRMAN ANAYA: After we pass it.

COMMISSIONER SULLIVAN: After we pass it, because that's what I was trying to explain. I think the ordinance provisions are not going to be as controversial as the money. And I think that's what people are really going to focus on and I think an explanatory process to these new changes. If we get something in this ordinance that is just an absolute crisis item, when we come back next year we can change the ordinance. And if we are going to change the fee we have to have an ordinance and a hearing anyway and we can delete that item or we can modify that particular item and I'm certainly willing to do that.

CHAIRMAN ANAYA: Okay, say it.

COMMISSIONER SULLIVAN: Well, that was motion, was to approve -

COMMISSIONER VIGIL: I'll second it.

CHAIRMAN ANAYA: Motion and a second. Any discussion? Okay, I don't agree with that. I think that we're putting the cart before the horse. I think the public should have a chance to look at this ordinance and we should get more input on it.

The motion to approve Ordinance 2005-5 passed by majority [4-1] voice vote with Commissioners Campos, Montoya, Sullivan and Vigil voting in favor and Commissioner Anaya voting against.

XII. C. Utilities Department

1. Consideration of Water Service Agreement with Oshara Village, Phase I

STEPHEN WUST (Water Resources Director): Thank you, Mr. Chairman. The generation of this water service agreement came from the discussion of the water budget presented by Oshara Village. Originally they had been allotted 30 acre-feet of water, which their proposed water budget, the County staff disagreed with that water budget and after much discussion and support from the Commission, Oshara has agreed to provide additional water rights for an additional water allotment to make up the difference between what the estimated water budget is from Oshara and what the estimated water budget is from County staff, and that amounts to 11 acre-feet of water.

That necessitated a second water service agreement, one in addition to the original 30 acre-foot water service agreement for the 11 acre-feet, and that's what is being presented to you. That water service agreement was pretty much written by the County Attorney, Steve Ross, so it is in conformance with the needs and requirements of the County. It requires Oshara to bring forth 11 acre-feet of water rights which they are in the process of doing right now.

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However, the water service agreement does not address where they come from or what kind of arrangement Oshara will do to get them. It just commits them to do it and that is what is in front of you today for your consideration and decision.

CHAIRMAN ANAYA: Any questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Steve, I'm confused by the 11 acre-feet, and I'm looking at page 5 of the water service agreement and my understanding is that Oshara has agreed that they need a total of 41 acre-feet, and that's consistent with the water budget that was also approved by this Commission for La Pradera, which was .16 for residential and a 20 percent line capacity factor. And that was also your recommendation, correct?

DR. WUST: Correct.

COMMISSIONER SULLIVAN: Okay. So that's where the 41 acre-feet came from, was from your recommendation.

DR. WUST: That is correct.

COMMISSIONER SULLIVAN: Okay, now page 5 refers to Oshara being paid back if necessary for 11 acre-feet of so-called stand-by capacity. Now, I don't know that this is stand-by. We disagreed with Oshara. Our County staff feels that they need 41 acre-feet so basically, we're saying you need 41 acre-feet but if your projections are better than our projections we're willing to rebate you that for another phase of the project. Is that kind of your strategy here?

DR. WUST: That is correct.

COMMISSIONER SULLIVAN: Okay. Now, what I don't understand is, and going back and we have to go back to your approval letter or your recommendation letter of February 14th, just a couple months ago, and you indicated in that letter, and I can refer the Commission to it. It's back in the Oshara hearing packet; it's not in this packet. But you said Oshara has requested 32.38 acre-feet. That's their water budget. Is that still their water budget or what they think they can accommodate? And you're saying it should be 40.78 acre-feet and you say the difference is 8.4 acre-feet. Are we still working with those numbers?

DR. WUST: Mr. Chairman, Commissioner Sullivan, basically, what comes out of this water service agreement is different. They've got 30 acre-feet already and -

COMMISSIONER SULLIVAN: So there's a difference between what they've got, which happens to be 30 acre-feet that they bought under the 500 acre-foot wheeling agreement, and what their water budget is. Now, the fact that they've got 30 acre-feet, and they bought into the County water system deal a number of years ago and received that allocation, seems to be confused with what their proposed water budget is. So that's why I want to be perfectly clear. Their proposed water budget is 32.38 acre-feet. Is that correct? Is that still the number?

DR. WUST: I'm not quite sure, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me refer you to the - is the February 5th letter the most recent numbers?

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DR. WUST: I'll agree with those numbers. I'm trying to separate the water budget. I would agree with you. Those are the numbers we came up with in the water budget. What this water service agreement is trying to address is basically saying with our water budget, the water budget of the County, they needed a total of 41 acre-feet to bring forward. They already had 30. All this water service agreement is trying to address is the additional 11. The fact that it was put in here is saying an estimated water budget -

COMMISSIONER SULLIVAN: That's not stand-by. My point is your 8.4, if we were to agree to this water service agreement, we should only - even their water budget is about 32 to 33 acre-feet. And the difference you've indicated in your memo is 8.4 acre-feet. That's the difference between your recommendation and their submittal. So we shouldn't be agreeing to give them 11 acre feet of so-called stand-by capacity back. The maximum we should be giving them back if they achieve it, if they achieve their water budget, which I don't think they will. It's way understated, would be 8.4 acre-feet.

DR. WUST: I understand what you're saying, Commissioner Sullivan. Basically this was the way I viewed it. I'd be happy to let Steve Ross address how the legal language came out. But in my memo, basically, what I said was - and I tried not to deal with the numbers, I just basically said once they get a handle, once we all get a handle on enough statistical data to determine how much water they're actually going to be using, the difference between that number, projected to the full build-out and the amount of water they've brought forward would be the amount, in essence, rebated. And it wasn't tied to any number, because it very well may be not a difference between an average of .12 acre-feet per household or .16. It may be at .14, which means it will be some number in between 8 and zero. In fact there's also a provision in my memo that says if it turns out they're using more than even what we thought, .16 acre-feet per household, they've got to bring forward more, additional water rights to make up that difference. So in the language I used I tried to keep it just to say when we find out how much, that's what's either going to be credited to debited to Oshara and how it came out in the legal language I think was just a difference again of trying to deal with the 11 acre-feet which was the difference between what they had and what they need to bring forward.

But in my proposal, in my memo, which by the way Oshara agreed to. They said we agree with all the provisions of the memo. Basically once the data come forward and we can get a handle on what the water budget actually will be, the difference between that and the total amount of water that they're required to bring forward, which at this time is 41 acre-feet, will be what could be credited, or debited if in fact the water budget is more. So I tried to keep away from the numbers.

COMMISSIONER SULLIVAN: I understand. But the water service agreement as you have it here, does that also include that if it increases they have to provide more than the 41? I didn't read that in here.

DR. WUST: It's not in the water service agreement.

COMMISSIONER SULLIVAN: It's not in the water service agreement. So what you recommended they have not agreed to.

DR. WUST: They have not put it into words.

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COMMISSIONER SULLIVAN: It's not in the water service agreement, which they've agreed to, obviously. Okay, so that's an issue. But still getting back to the difference. I think we're confusing here the 30 acre-feet which happens to be the amount of water rights that they have. They're not even water rights; they're a water contract amount for delivery from the Santa Fe County Water Department. The water rights are actually the City of Santa Fe's; they're not theirs. That amount is 30 acre-feet. That has nothing to do with the water budget. The water budget is about 32.38 acre-feet. So I don't see that even they said we don't anticipate any less than 32.38. So I don't see why we would agree to rebate to them 11 acre-feet when the difference between those two numbers is only 8.4 acre-feet as you've stated in your memo.

DR. WUST: I think I'd like Steve Ross to address the legality. I didn't view it that way. I didn't view that it was going to be an all or nothing. We'll either rebate them 11 acre-feet or nothing.

COMMISSIONER SULLIVAN: No, I understand it could be a portion. I'm talking about the bottom. The baseline shouldn't go below 32.38. That's their own water budget. Why we agree to rebate them below that? See what I'm saying? That's my point. I'm not saying it's an all or nothing. If it's somewhere in between then the rebate would be somewhere in between. I think there should be a provision here if it's more, they need to provide more, and I think that if we're going to use those numbers, we use the numbers that are in your memorandum, which is that 8.4 difference. And maybe Mr. Ross, do you recall how that played into the agreement?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, I used the numbers from the staff report which is 30.56 acre-feet.

COMMISSIONER SULLIVAN: Well, the staff report is 32.38. That's Steve Wust's numbers.

MR. ROSS: I was using the staff report that land use developed and it was 30.56 acre-feet.

COMMISSIONER SULLIVAN: Now where is - can you point that out?

MR. ROSS: Page 4 of the staff report.

COMMISSIONER SULLIVAN: The staff report of the Oshara hearing?

MR. ROSS: So that's why you see 30 acre-feet and 11 acre-feet. My assumption when drafting this was that the 11 acre-feet of water was solely back-up water. There are a number of typos in those two paragraphs which I was going to talk to you about.

COMMISSIONER SULLIVAN: Can you point the 30.5 - page 4 of the staff report on this item?

MR. ROSS: On the Oshara Village item later in the agenda.

COMMISSIONER SULLIVAN: Okay. Because my staff report on the Oshara Village just has three pages. Oh, no. That's the water conservation ordinance amendment.

MR. ROSS: It's after the next brown page.

CHAIRMAN ANAYA: Commissioner Sullivan, are you going to -

COMMISSIONER SULLIVAN: Well, I think this is very important. I know we have a lot of time, Mr. Chairman, when you have incomplete submittals and

Commissioners don't have time to review them ahead of time and work with staff. And I'm sorry, but these are important items. We're entering into a water service agreement that not only commits the County to provide water, but they don't have enough water and we're going to give it to them out of our supplemental agreement with the City. It also provides that. So that extra 11 acre-feet isn't coming from Oshara, it's coming from us. We're proposing to do it. And Oshara will eventually catch up with that by getting additional water rights and transferring them to the Buckman Direct Diversion. So this is a doubly nice deal, but I'm still not understanding where 30.56 acre-feet - I see it in the staff estimate but I think that's a typo. It's 32.38 and the difference is 8.4.

So to summarize, Mr. Chairman, I would recommend two important changes to the - three changes to the water service agreement. Number one, I'd suggest that the so-called stand-by be 8.4 acre-feet instead of 11. Number two, I'd suggest a provision be added that the applicant is required to provide not only, not only get a rebate for what goes below 41, but to provide water rights for anything that goes above 41. So it's fair; it works both ways. You get a rebate, you also pay if you go over. And number three, I would suggest that the applicant be required to get those 11 acre-feet. The State Engineer indicates that no application has been made to the State Engineer, that he get those 11 acre-feet prior to final plat approval, as we have in our current ordinance. Those are the three things that I think are most important.

CHAIRMAN ANAYA: Okay. Are there any other comments from the Commission?

COMMISSIONER MONTOYA: Mr. Chairman, I have a question for Stephen. I guess number one is what memo is Commissioner Sullivan referring to that you wrote. Because I don't have anything that you wrote in my packet. I have the memo from Mr. Ross and then the water service agreement.

DR. WUST: Mr. Chairman, Commissioner Montoya, it's not a memo regarding the water service agreement. It's a memo regarding the development application from Oshara from way back when. It was one of my - I think I've had a couple reviews of their proposal on their water budget and their water availability. It's been through the history of this permit application review. So I believe he's referring to one of those earlier ones.

COMMISSIONER MONTOYA: So it wasn't in our packet then. It wasn't relative to this water service agreement.

DR. WUST: That's correct, because it was in a previous packet from a previous Commission meeting.

COMMISSIONER MONTOYA: Okay. And then the second question that I have is in regards to, we have an approved agreement as to form from Steve Ross, our attorney, but what is your recommendation regarding this was as the Utility Director?

DR. WUST: Mr. Chairman, Commissioner Montoya, I have some issues with it but I don't think any of them are fatal. One of them was that - and I believe it meets the needs of the County and that's been with discussions with the County Attorney. I think there was some confusion generated and we've seen it this evening by calling it back-up water. I would have preferred a cleaner version where we just said this is a water service agreement for

a certain amount of water. It's supplemental to an earlier service agreement and therefore they have a water service agreement for a total amount of water of 41 acre-feet. That pretty much would have resolved where everything's coming from and going to. But that's in the language and I've been assured by legal that it's not going to make a difference to the water service agreement.

The other concern I had was something that Steve suggested could be resolved as a condition of the permit, that what happens if this 11 acre-feet water rights transfer doesn't happen, and it's not in the water service agreement and I'm a little concerned about that because that puts the onus on the permit application process and developing the platting and things like that. I would have liked to have seen something within the water service agreement itself. For example, it was suggested early today that we the County Utility could just say this water service agreement is null and void and therefore we don't owe you any water but by then people are living in those homes and we're certainly not going to shut them off because something failed in this service agreement.

But if the appropriate conditions of the permit development review application works that could be resolved but again this was a short time frame for all of us and I agree with Commissioner Sullivan. It would have been nice to have some more time to get this thing all perfect, but I believe it's do-able as-is but it has some features I would have suggested changes for, given the opportunity.

COMMISSIONER MONTOYA: But nothing fatal?

DR. WUST: Mr. Chairman, Commissioner Montoya, I don't believe there's any fatal flaws in here, with the appropriate conditions put on the development permit.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments? Are we going to have the applicant coming forward? Is that what we need to do?

MR. ROSS: You could, Mr. Chairman.

CHAIRMAN ANAYA: Does the Commission want to hear from the applicant? What's the pleasure of the Board?

COMMISSIONER VIGIL: Mr. Chairman, I'd like the applicant to respond to Commissioner Sullivan's recommendation that they provide water rights for anything that goes above what we're currently advocating.

PETER GOULD: My name is Peter Gould. I'm here representing the Oshara Village project. I worked with Steve Ross drafting this water services agreement. I understand that sometimes legal language can be a little bit dense for all of us, but in direct response, Commissioner Anaya, to Commissioner Sullivan's concerns, I just spoke with my client. There's no intent here to whipsaw the County. As a matter of fact we have worked really closely with the County. We got this to them better than a week ago in a final draft state. There might be a couple of typos but nothing important. And we are completely willing to agree to what Commissioner Sullivan suggested about the 8.4 in terms of the stand-by water agreement. There's no wish for us to leverage the County or to use the County's water in a way that would be unfair. We're also willing to agree to amend it to, if we need more than 41 that we would

obtain further water rights. But during the process of negotiating this agreement 41 was always considered the top level so it was not an issue that we were presented with before tonight but we're clearly – if it does require more to serve this project we will agree to that kind of amendment.

In terms of the third issue which Commissioner Sullivan raised which is that the agreement should not be approved until the State Engineer's Office finally approved that transfer of water rights, we would respectfully disagree with that. The water rights that we have obtained for transfer are vested water rights from Pena Blanca. The State Engineer's process though, it's not a fast process and we couldn't begin that process of transferring those water rights from Pena Blanca to the diversion until we had some reasonable certainty that his project was going to go forward. We've done that process. My understanding is that in the last couple of weeks with the State Engineer's Office, we are working with the State Engineer's Office to get that approved.

If you look at page 3 of the agreement, subsection B, Oshara has agreed to transfer 11 acre-feet of water rights to the County, and those water rights would be parked at the City wells until such time that they would be transferred to the diversion. So there is a commitment in this agreement that we would fulfill the obligation for the full 41 if in fact in reality we were able to beat that water budget and come in at a lower number. The agreement also provides that those – in other words, if the whole 11 is not needed, whatever's not needed could be used for further phases at Oshara. The reference to stand-by is really to cover any possible water capacity needs in the interim of the application and the approval of the transfer, but we don't think that will ever come to pass because this project is not going to be started if approved right away. Ground is not going to be broken for another eight or nine months. Water service at a level of 41 acre-feet wouldn't be needed for three or four years out at the earliest.

So we believe with the timing of the beginning of the State Engineer process, all the 11 acre-feet will be covered and we have committed to transfer those to the County. The County will have those even if we're not using them. Then there will be a process to return them if they're not needed. Thank you very much. And if Mr. Herdman could add to that and I could answer any questions. Mr. Herdman has been involved in this process quite a bit longer than I have. I was brought on board to help with some of these water issues. But if you have any questions, I would like to reserve a little time for Mr. Herdman. And I'd be willing to answer Commissioner Sullivan's questions or Commissioner Vigil's question.

CHAIRMAN ANAYA: I don't believe he has any right now.

FRANK HERDMAN: My name is Frank Herdman. I represent Oshara Village LLC, applicant. I just wanted to add one additional fact and that is the application for the transfer of the water rights has been submitted to the State Engineer. A copy of the date-stated application has been given to the Land Use Department. Thank you.

CHAIRMAN ANAYA: Thank you, Frank. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Following up on Commissioner Vigil's question, then if you build out within three to four years and your 11 acre-feet that you're applying to the State Engineer for is not approved, what happens?

MR. GOULD: We have committed in this water service agreement to basically transfer 11 acre-feet to the County. That's why we haven't referenced a particular application. We are committed to do that. We can't build this project out if the water's not there. So we have a great incentive to do this. But we will make sure from whatever source we need to do that that 11 acre-feet will be transferred.

COMMISSIONER SULLIVAN: Okay, so then would you agree then to a reduction in phase one until that 11 acre-feet is approved. Because I'm seeing a very strong possibility that you won't have this approved by the time the Buckman Direct Diversion is on line, and let's say it's not. Then I don't think you should build out more units that you would have under the County's estimate of .16 times the 30 acre-feet you have. Do you understand what I'm saying?

MR. GOULD: I understand. In other words, what you're asking for is a pro rata reduction.

COMMISSIONER SULLIVAN: Exactly.

MR. GOULD: I'm not authorized to make that concession but certainly, my understanding is that's more of a land use issue rather than a water service agreement issue. My understanding is all the principles are here and they can discuss that with Dr. Wust and certainly we're willing to try to move this project forward. I can't make a specific commitment on that.

COMMISSIONER SULLIVAN: It's the only way I can see to respond to Commissioner Campos or whoever's question it was that what do you do if you don't get the 11 acre-feet. Because in the interim you're using the County's 11 acre-feet. The County's 11 acre-feet goes away as soon as the Buckman Direct Diversion comes on line, which is projected to be 2008, only three years from now. So if that 11 acre-feet goes away, and you have 44 homes, or 50+ homes relying on that 11 acre-feet, and you don't yet have your 11 acre-feet approved by the State Engineer, for whatever reason and in the packet we have it says no application has been made and I'm of course glad that you're now made one, but that's a lengthy process. We don't know if there will objections or what the circumstances will be, whether those are valid water rights, how much the State Engineer will apply. Whether you end up with 11 - you don't end up with what you ask for usually.

I don't see any other way to protect the public than to pro rate that development phasing to not let it go beyond what Mr. Wust has projected in the pro rata amount of 41 acre-feet divided by 30. In other words you couldn't build out more than 30/41 of the project until the State Engineer gives you the green light. Does that sound reasonable to you from a pure water standpoint? We'll get to the policy standpoint here in a minute.

MR. GOULD: Well, I can't make that commitment on behalf of my client but I will say from the point of view of this contract, as you understand being a businessman, every contract can't cover every single possible contingency. So what do you do? You put in penalties and rewards. And the penalty for us not delivering that 11 acre-feet is not having a water service agreement, because essentially, if we don't deliver that 11 acre-feet, we've breached the agreement and the County has the right to terminate. In addition, we can't build out if we don't

have a water service agreement. So we have absolutely no incentive, and I understand what you're saying, the irregularities of the regulatory process we can't control, but we've committed from whatever process to deliver sufficient water rights to service those homes under this agreement and if it doesn't come from the Pena Blanca transfer application we might have to purchase something that's already been transferred there from somebody else at a premium. But we will deliver those water rights and that's the commitment we're making with this agreement when we're signing it.

COMMISSIONER SULLIVAN: I understand that. But you understand – and I wouldn't have a problem with that if you just were waiting until you got that 11 acre-feet before you built those next 50 houses. But you're borrowing the County's 11 acre-feet, so you'll be authorized to build all of those homes and commercial immediately, however long, whether it's two years, three years, whatever the market will sustain. So we don't have any insurance. We have no protection that you wouldn't have gone ahead and used up that 11 acre-feet which then disappears when the Buckman Direct Diversion is on line. You see what I'm saying?

MR. GOULD: Well, actually you do because you can terminate the agreement.

COMMISSIONER SULLIVAN: I can terminate the agreement but I've already got 50 homes using that water. I'm not going to cut them off. They've made substantial, hundreds of thousands of dollars of investments in homes. I can't cut them off.

MR. GOULD: You don't have to terminate the agreement, but at that point you would have the leverage to say, okay, we need to pay this type of fee or whatever kind of fee. I don't want to commit my client to anticipating a breach. I think we're going to perform in good faith. I would disagree with you that there's not enough incentive in this agreement and I understand we're talking from different points of view, but I think this agreement provides all the incentive that we need to provide the 11 acre-feet. What we need to do to perhaps give additional assurances to the County – it wouldn't be responsible for me to just speak on behalf of my client but I understand your concern. Perhaps Mr. –

COMMISSIONER SULLIVAN: He can address them both. The last thing I had is that we've just recently revised our ordinance. We used to require that the permits for water be provided at the master plan stage. We now require that the permits for water for a community water system, which this is part of, be provided at the final plat phase. Now, you're not doing that, and that's the reason we made that ordinance so that we have the assurance that we've got the water before we let you go out and build houses. Now, how you're getting around that is that you're using that 11 acre-feet, you're borrowing that from the County in the interim until the Buckman Direct Diversion comes on line, and as soon as that comes on line that extra acreage that we've negotiated with the City goes away. We don't have it anymore; it's gone. We can't fine you, or whether we fine you or take you to court, it doesn't matter. That water is gone. So we just don't have it. So I know you've got every incentive to do it but we need, I think, some insurance that you're not going to use up that 11 acre-feet until you've got it.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner Sullivan.

MR. GOULD: Thank you, Commissioner Sullivan.

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CHAIRMAN ANAYA: Any other comments from the Commissioners? I hate to even say that. Any other comments?

COMMISSIONER VIGIL: I would just like John Utton to respond to – if you got a chance to evaluate this water agreement, to respond to the comments that you've heard tonight.

JOHN UTTON: Mr. Chairman, Commissioner Vigil, I'd be happy to. I took a look at the due diligence work that Maria O'Brien prepared. I believe that's what he's saying, Pena Blanca rights. Is that correct? And on their face they look like valid water rights. Of course until the State Engineer issues a permit we won't know that. I helped review that permit and am aware that it was filed and I received a copy of it just in the last few days. So I think we will hear from the State Engineer within the next year or so, depending on who protests it. But on the face they look like valid water rights.

CHAIRMAN ANAYA: Thank you, John. Okay, what's the pleasure of the Board? Is there a motion? I'll make a motion to approve. Is there a second?

COMMISSIONER VIGIL: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Short and sweet, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Does that motion include the two provisions that the applicant has agreed to, regarding the 8.4 difference and regarding the willingness to provide above the 41 acre-feet as well as be credited for below 41 acre-feet. Does that include those two.

CHAIRMAN ANAYA: I know they agreed to two and I remember the 8.4. Was that –

MR. GOULD: Yes, Chairman Anaya, if I was not clear, we are in agreement that we would change, according to Commissioner Sullivan's recommendation the 8.4. We would also agree to an amendment that would provide that we would have to provide additional water rights beyond the 11 if in fact our water budget was so way off that we were using 12, 13, whatever. Thank you.

CHAIRMAN ANAYA: Okay. I'll include that in my motion.

COMMISSIONER VIGIL: I second that.

CHAIRMAN ANAYA: And the seconder did too.

The motion to approve the water service agreement with Oshara Village passed by majority [4-1] voice vote with Commissioner Sullivan casting the nay vote.

CHAIRMAN ANAYA: I'm going to ask the Commission for direction. We have still seven items to discuss and we're already at 6:00, 6:10, and we still have to go into executive session before we go into the public hearings. I'm asking what the Commission would like to do? Just continue on or do we want to let the public know that we will possibly be back at 7:00 or 7:30? What is the pleasure?

COMMISSIONER VIGIL: Mr. Chairman, Steve, how long, how much time will we need in executive session?

MR. ROSS: Mr. Chairman, Commissioner Vigil, about an hour. And I would add that Mr. Utton is here on the very next item which I think will be a fairly quick one.

CHAIRMAN ANAYA: This next item, do we have to talk about it in executive session?

MR. ROSS: We don't have to unless you'd like to. Certainly that's your option.

CHAIRMAN ANAYA: So I'd kind of like to keep going. We have the public here but I know we have a few things that we need to talk about. Just keep going?

COMMISSIONER CAMPOS: Mr. Chairman, I would like to go to executive session at about 6:20 for about an hour.

COMMISSIONER VIGIL: I'm in agreement with that.

CHAIRMAN ANAYA: 6:20 for an hour? So we'll be back at 7:20.

COMMISSIONER CAMPOS: Let's consider C. 2 now since it should only take a few minutes and then go in.

CHAIRMAN ANAYA: So 6:30? 6:20?

COMMISSIONER SULLIVAN: And then when we come back are we going to go to public hearing?

CHAIRMAN ANAYA: Okay, 6:20, we're going to go into executive session and we'll be back at 7:20 for public hearings.

COMMISSIONER SULLIVAN: For public hearings. So we're not going to do any of the items under Matters from the County Manager?

XII. C. 2. Consideration of Water Rights Purchase Agreement with H. Jake Turin

DR. WUST: Thank you, Mr. Chairman. This one should be short. This is one of several that John Utton and I investigated in the Tesuque, Nambe, Pojoaque watershed. With your approval I'll let John Utton explain it.

CHAIRMAN ANAYA: Thank you, Steve, John.

MR. UTTON: Thank you, Mr. Chairman and Commissioners. You have in front of you a proposed water rights purchase agreement to purchase from Mr. Turin about five acre-feet, just slightly less than that from the Tesuque/Nambe system at a price that we believe is at-market or actually slightly below market. These are adjudicated water rights. Dr. Wust and I looked at the site. It's still currently in irrigation and we recommend this purchase to you. These water rights will be necessary for offsets once the County proposed its own in-basin wellfield within the Santa Fe Basin and so we will need to acquire rights such as these in anticipation of filing for those well permits. As you know, Interra is currently doing a hydrologic study of potential locations for those County wells. This would be groundwater back-up once we go to the direct diversion system. So this is a small

piece of the puzzle we're going to need to put together in order to get that State Engineer permit. I'm happy to answer any questions.

CHAIRMAN ANAYA: Any questions?

COMMISSIONER MONTROYA: Mr. Chairman, move for approval.

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

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Motion and a second.

The motion to approve the water service agreement with Jake Turin passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: I'd like to recognize Commissioner Duran in the back. Thank you for being here.

XII. D. Matters from the County Manager

- 1. Updates on Various Issues**
- 2. Possible Action on Constituent Services Position**

MR. ABEYTA: Mr. Chairman, we can move to number 2, Possible action on constituent services position.

CHAIRMAN ANAYA: I'd like to do that in executive session if that's okay with the Commission.

MR. GONZALEZ: Mr. Chairman, I can do number one very quickly I think. Item number one, first part I just wanted to update the Commission that we're losing Dan Rydberg from Public Works and we wanted to briefly recognize him for his hard work and excellent work for the County. I know James Lujan also wanted to say a few words so I'm going to ask James to come forward and as he's doing that I'll complete my updates. I just wanted to let the Commission know that the Affordable Housing Task Force is continuing to meet and do their work and internally, our County Housing Team has also been meeting on a continuing weekly basis and will continue to so we may come forward with a report from our County Team at the same time the Affordable Housing Task Force Report comes forward to the Board as well. And with that, I'll turn it over to James Lujan, Director of Public Works.

MR. LUJAN: Mr. Chairman, members of the Commission, it's on a sad note that we're going to be losing Dan. He's going to be leaving the state to move to Dallas, Texas. We've all worked with him indirectly and I just want to acknowledge him for the hard work he's done for the County. He's really added a big component to Public Works and that he's going to be well-missed.

CHAIRMAN ANAYA: Come on up, Dan. Dan, I want to personally thank you for your hard work. I appreciate very much what you've done. You're going to be

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missed.

COMMISSIONER SULLIVAN: I echo that too, Mr. Chairman. Dan's been out there in the field. He's been helping us out in the Community College District. He's been helping to unscramble the Oshara project, which unfortunately is still not unscrambled, which is why I recommended it be tabled, but he has put his best foot forward on working with the Richards Avenue Community group and has been a great help to me in that process.

CHAIRMAN ANAYA: Thanks, Dan, and if you ever need a job, come back.

COMMISSIONER VIGIL: Mr. Chairman, I just also wanted to comment that there's few County employees who go above and beyond the call and oftentimes with the needs the Commission has, going out to community meetings, you've always been there. I want to recognize that. Your availability to us has been very much appreciated and whoever is gaining you in Dallas is gaining a huge asset.

DAN RYDBERG (Traffic Engineer): I'd like to thank you very much for that. It makes me feel really good to know that you all appreciate the extra work that I put in and I want to thank you all and especially James and the Manager and the Commissioners for giving me the opportunity that they have for me to succeed. It's with your support and help that I've been able to do what I've been able to do. I will miss you all and really appreciated working with everybody. Thank you very much.

COMMISSIONER VIGIL: Thank you, Dan. Good luck.

COMMISSIONER MONTOYA: Thank you, Dan.

CHAIRMAN ANAYA: Keep in touch.

COMMISSIONER SULLIVAN: And just get those No Parking signs up in front of the church before you leave.

MR. RYDBERG: My last day is not until next Friday and you will have 110 percent of me until I leave on Friday so I'll be here for the rest of the meeting and whatever you need, I'm here for another week.

COMMISSIONER MONTOYA: So finish those speed humps.

COMMISSIONER SULLIVAN: And the No Parking signs.

MR. GONZALEZ: It looks like 2, 3, and 4 we'll be doing in executive.

Item number 5 is

XII. D. 5. Consideration of Authorization to Publish Title & General Summary of an Ordinance Imposing 1/16 Percent County Gross Receipts Tax

MR. GONZALEZ: As you recall, the Commission had requested that we bring this forward for discussion purposes and so with that I'll go ahead and turn it over to you as a body to see what thoughts you may have.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I think it's time to go into executive session and I move that we do go into executive session where we'll discuss pending and threatened litigation, limited personnel issues, discussion of purchase, acquisition or disposal of real property or water rights.

COMMISSIONER VIGIL: Second.

X. 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 Campos moved to go into executive session pursuant to NMSA Section 10-15-1-H (7, 2, and to discuss the matters delineated above. Commissioner Vigil 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 6:20 to 7:35.]

CHAIRMAN ANAYA: Let's call this meeting back to order. We had some heated discussions in there. I don't know if you saw the steam coming out of that room. Can we have a motion to come out of executive session?

COMMISSIONER VIGIL: So moved.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Where we only discussed pending or threatened litigation, limited personnel matters or discussion of purchase, acquisition or disposal of real property or water rights.

COMMISSIONER SULLIVAN: Second.

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

The motion to come out of executive session passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Are we going to - what do we need to do?

MR. ROSS: Mr. Chairman, I think we need to cover D. 2, D.3, D. 4, possibly D. 6 and E. 2.

XII. D. 2. Possible Action on Constituent Services Position

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman, and I'll try to make this as quickly as I possibly can. First of all, I'd like to thank the County Manager's staff for bringing forth some excellent candidates to be considered for constituency services. They came from a wide array of backgrounds, educational and professional experience and interviewed very well. The Commission has so much compassion for these candidates that we're trying to negotiate what's in the best interest of the County versus trying to bring forth the talents of most of these potential constituency services people.

One of the things we discussed that I will make a part of my motion is how these constituency services people are actually used and how we can best utilize them and share them between the Commission. They're all so talented in so many ways and utilizing each one of them with the particular talents that they have is something that I think the Commission is on the whole wanting to move forward with and create a sharing situation with them.

Mr. Chairman, the constituency services that I'd like to motion that the Santa Fe County Commission bring on board is a constituency services person who is highly educated. He came to us from a background with state government, with budgeting and finance experience. He has a really strong knowledge of the community, was born and raised here, has been connected with the community for quite some time, received a degree from Stanford and is quite talented in many ways. I'm proposing that the Commission bring forth, and I'm proposing that we sort of start setting a precedent for sharing constituency services by proposing that José Ramon Martinez be hired as a constituency services person, that he be shared on a part-time basis for constituency services for the Commission and on a part-time basis for another area that this Commission has taken a lot of leadership with and that's strategic planning. That is my motion, Mr. Chairman.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we discussed, and I would like it to be included in the motion that the County Manager provide us an evaluation on constituent services activities and come up with a plan as equitably as possible allocating those activities amongst the five districts.

COMMISSIONER VIGIL: I would amend my motion to include that. I think that's a fair and equitable thing to do. I think just by admitting that I just want, if the

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constituency services people are out there or any of the staff with Santa Fe County, to first of all let them know the constituency services have been such a significant part of the operations of the Board of County Commission. They've been such a needed part of it. They really are a benefit to the County as a whole, to members of the county who needs questions answered. They can't readily make themselves available to either Commissioners or any other staff people. They're a wonderful buffer for that. I think the best way we can use them is to equalize their abilities and share them as much as possible so I would amend my motion to include that.

COMMISSIONER CAMPOS: I'm okay with that.

CHAIRMAN ANAYA: Okay. Is there any more discussion?

The motion to approve José Ramon Martinez for constituency services and strategic planning passed by unanimous [5-0] voice vote.

- XII. D. 3. **Consideration of Purchase and Sale Agreement with Dogleg LLC for Property Located at 331 Sandoval Street, Santa Fe**
4. **Resolution No. 2005-81. A Resolution Authorizing Execution of the Purchase and Sale Agreement with Dogleg LLC for Property Located at 331 Sandoval Street, Santa Fe, Authorizing the County Manager to Execute Documents in Connection with the Closing of Said Transaction, and Providing for Reimbursement of the Purchase Price From Tax-Exempt Bonds or Other Financing**

MR. ROSS: Mr. Chairman, you can probably take items 3 and 4 together. These two items authorize the County to move forward and purchase the property at 331 Sandoval Street, which a lot of folks know as the Paramount. I have before you a signed purchase and sale agreement. It's signed by the sellers. They are an LLC and a trust. Both those individuals have signed the purchase and sale agreement. The terms of the purchase are as follows. The property would be purchased for its appraised value so long as the appraised value is between \$1,950,000 and \$2,150,000.

COMMISSIONER MONTOYA: Move for approval.

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

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

The motion to approve Resolution 2005-81 concerning the purchase of 331 Sandoval passed by unanimous [5-0] voice vote.

XII. D. 5. Consideration of Authorization to Publish Title & General Summary of an Ordinance Imposing 1/16 Percent County Gross Receipts Tax

COMMISSIONER MONTOYA: Move for approval of a negative referendum.

COMMISSIONER CAMPOS: I'll second that.

CHAIRMAN ANAYA: There's a motion for a negative referendum. Any discussion?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'm a little reticent to move forward on this. I'm not too sure I'm ready to vote on this. I think that there's not sufficient information with regard to the purposes of the imposition of this and I'm not sure there's sufficient input from the public and actually they're the ones that are going to be impacted by this 1/16 gross receipts tax increase. So while I think it creates a benefit I think we need to really be focused on what we're going to use this for and tell the public what we're going to use it for and move forward with full public knowledge on this.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I agree with Commissioner Vigil.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: We had a lengthy discussion about the budget and we've been having this lengthy discussion for about two or three months. It's clear that we need this 1/16 and we need it as soon as possible. I think if we don't get it we're going to have problems with our jail. All kinds of other projects are going to be falling through the cracks. We have discussed it. We have thoroughly discussed it. You have discussed it. Everybody here on this Commission has discussed it and we know that we need it. And that was the conclusion of our discussion at the last budget hearing.

CHAIRMAN ANAYA: Any more discussion?

The motion to approve a negative referendum on a 1/16 gross receipts tax failed by majority [2-3] voice vote, with Commissioners Anaya, Sullivan and Vigil voting against.

XII. D. 6. Resolution No. 2005-82. A Resolution Requesting Authorization to Reimburse County for Funds it Intends to Advance for Capital Expenditures Related to the Construction of Roads Located Within the County

COMMISSIONER SULLIVAN: Move for approval.

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

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

The motion to approve Resolution 2005-82 passed by unanimous [5-0] voice vote.

XII. E. 2. CDRC Case # S 04-5780 Reconsideration of a Request by Owner Suerte del Sur LLC, Applicant, Scott Hoeft, Agent, for Master Plan Approval for a 264-Lot Residential Subdivision on 660 Acres. The Property is Located South of Las Campanas and North of Pinon Hills Subdivision, Within Section 19, Township 17 North, Range 9 East (Commission District 2)

MR. ROSS: Mr. Chairman, as you know, the Commission denied the request for approval of this master plan some months ago. Since that time the applicant filed an administrative appeal in district court of that decision and has also threatened the County with litigation secondary to that. Some of the Commissioners had expressed an interest in revisiting that with a hope to resolve the litigation without further exposure to the County. So that's why it's here before you today. What this would do if this motion is successful is authorize staff to put this item on the land use agenda for public hearing in July.

CHAIRMAN ANAYA: Thank you. Is there a motion on the floor?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would move that we reconsider our denial of the master plan for Suerte del Sur and that we hold a hearing in July and we give proper notice to all the neighbors.

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

The motion to reconsider the Suerte del Sur master plan in July passed by majority [3-2] voice vote with Commissioners Sullivan and Vigil voting no.

COMMISSIONER VIGIL: No, with an explanation, Mr. Chairman. This is my constituency and this is my representation and I need to represent their voice and their voice is

telling me to vote now.

CHAIRMAN ANAYA: Okay. The motion passed so it will be on the July meeting.

COMMISSIONER CAMPOS: The July land use agenda.

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 to Require the Installation of Hot Water Re-circulation Systems within New Homes

WAYNE DALTON (Special Projects Coordinator): Thank you, Mr. Chairman. On May 10, 2005, the BCC heard and discussed this ordinance. The direction of the Commission was that this ordinance not go back to the CDRC for recommendation and to have staff research the following information. One, how long has the City of Sierra Vista required hot water recirculation systems within new construction? The City of Sierra Vista adopted an ordinance requiring hot water recirculation systems in 2001. The ordinance was amended in 2002 in order to rework some of its language. Staff has implemented most of that language into the ordinance that's before the Commission.

Two: How is the installation of a recirculation pump going to affect utility costs in the long run? This information has been very difficult to find. According to Donald Brush, the principal planner for the City of Sierra Vista, these pumps cost pennies a day to operate. The increase in utility bills will be minimal. In order to keep utility costs down the ordinance requires hot water recirculating systems to include time and temperature controls. Therefore, the system is only used when needed to decrease the amount of energy used within a home.

Three: How is this ordinance going to affect affordable housing within Santa Fe County? This ordinance should have little effect on affordable housing within Santa Fe County. Attached as Exhibit F is the breakdown of costs of affordable housing within the community of Rancho Viejo. All new construction is equipped with low-flow plumbing fixtures, which is required by Santa Fe County Water Conservation Ordinance 2002-13. Included within the cost of an affordable housing unit within Rancho Viejo is a cistern system and hot water recirculation system.

Santa Fe County Ordinance 2003-6 requires a cistern system to be installed in homes of 2500 square feet of heated area or greater. An affordable housing within Santa Fe County would not be required to install a cistern system due to the total heated area would be less than 2500 square feet. Thus, for example, reducing the cost of an affordable housing unit within Rancho Viejo by approximately \$4,000. Homes smaller than 2500

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square feet heated area are required to install rain barrels, cisterns or other water catchment basins to capture drainage from noted areas. Rain barrels can be purchased for approximately \$69. The only significant cost for an affordable housing unit would be the additional cost of adding a recirculating system if not already incorporated within the cost of the home. The additional cost would be \$199 to \$300 for a system that can be retrofit, and approximately \$1200 for a system to be plumbed with new construction.

Recommendation: Staff recommends approval of this ordinance. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any questions of Wayne?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Is this a public hearing? Another public hearing?

CHAIRMAN ANAYA: Yes.

COMMISSIONER CAMPOS: Because I think we should allow public comment. I don't have any questions, Mr. Chairman.

CHAIRMAN ANAYA: Any comments? Does this apply to mobile homes?

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

CHAIRMAN ANAYA: Okay. I personally think that this is just another - I think it will save water but I think if you have that circulation pump running you're going to use more gas in terms of heating your water or more electric, not in terms of the pump but in terms of heating the water heater. Plus putting more stipulations on builders and contractors and homeowners, I don't particularly agree with this. But that's my two centers.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I think this is a very important ordinance. It relates to water and saving water. We've heard evidence that we could save an average dwelling unit up to 10,000 gallons per year. This is going to help extend the life of the aquifer and as we all know, people who have wells, if it runs dry, their value, their home value plummets. So it protects the consumer. It extends the life of our aquifer. We know that these are - it's a finite resource. It's not going to last forever. We're mining them. They're not being recharged very fast, so I think it's in the interest of all people to have this type of investment. It's minor and it could save 10,000 gallons of water a year and that's a lot of water.

CHAIRMAN ANAYA: Thank you, Commissioner Campos, but I think most of the residents are putting those in now and we're not having to force them to put them in and they're putting them in. But in smaller homes, you're not going to save much. The water heaters are close to the showers, close to the kitchen. Any other comment? Commissioner Vigil

COMMISSIONER VIGIL: Thank you, Mr. Chairman, and I'm all for

anything we can do to promote water conservation and indeed at first blush it looks like we are promoting water conservation. The only problem I have with taking action on this tonight is I think we have really narrow information. We've got information from Sierra Vista. I actually spoke to the planner from Sierra Vista who stated that in retrospect, what he would have preferred to do is some kind of a retrofit program, an incentive program, rather than requiring this because they really don't have any raw data. I don't know that we have sufficient information or that we have sufficient expertise or experts that can testify to this. What I have in my packet is the land use memo, the Sierra Vista Code on water conservation, an Internet - what I'm assuming is an Internet brochure on the benefits of this recycling.

One of the issues I have with this, Mr. Chairman and members of the Commission, is on the one hand, while we are saving water, which is really, should be a principal goal, are we requiring more costs to the consumer as a result of this? Now, the preliminary information we have here says, no, it doesn't - it's not that much of a cost up front. In the long run, I don't know and I don't know that there's a community out there that has that information or can get it to us. I think what we have right now is far too narrow to create this kind of requirement. As a County, I'd like us to continue looking at this but I'd like to get some more information, Mr. Chairman.

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

COMMISSIONER SULLIVAN: I think that if we drop the ball on this now, it's going to be a long time before it comes back. I think it's a very inexpensive way to save a lot of water. You heard last month testimony from the developers and builders out in Las Campanas who said that it's a standard procedure that they put in all of their homes because they are restricted on water usage. In your packet here tonight, there's information from Wayne that these are also being used at Rancho Viejo. And these are private entities. They wouldn't put these in if it wasn't cost-effective for them to meet their water conservation requirements, and all we're saying is that that technology which is here now and is very inexpensive, be applied to other homes as well, and I think that the leadership guidance that we get from these larger developers who find that it is cost-effective to do that gives us our guidance if we have any concerns with is this a cost-effective thing to do. I would really urge the Commission to support this.

If there are amendments or if there's some tinkering we need to do with it. I'm certainly amenable to doing that. I think we should take this first step and we need to make some amendments and some modifications, but let's get it started. Then if we can do those modifications, I'm perfectly amenable to do that, because my end result is wanting to save water, but also wanting that to be ultimately more cost-effective for the consumer and I think if we look at a typical water bill in the immediate Santa Fe EZA area for a four-member family to run, often \$80 to \$100. An electric bill may run \$40 to \$50 some times. So it's not unusual that your water bill is twice your electric bill. So if I wanted to save money, one of the first places I would save it is trying to reduce my water consumption

and I think that we can take that lead. Let's start with this. It's not that invasive and if it provides some problems then let's come back and fine-tune it. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any other comments?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Wayne, did this ever go through and approved by the CDRC?

MR. DALTON: Mr. Chairman, Commissioner Montoya, this actually was heard by the CDRC on April 25th and the decision of the CDRC was to table.

COMMISSIONER MONTOYA: So it never went back to them?

MR. DALTON: Mr. Chairman, Commissioner Montoya, no.

COMMISSIONER MONTOYA: And I just want to say that on May 10th when the decision by the BCC was to not go back to the CDRC, I did not support that recommendation. I think the other thing, just in terms of the information that I have, a lot of it's anecdotal as opposed to evidence based and I'm not sure that this is something in terms of looking at the constituents in District 1 that would be something that maybe number one be affordable, and then how it would be beneficial at the same time. So I'm real leery about moving forward at this point in time with this ordinance, being that this is going to be a mandate, right? It's not going to be an option?

MR. DALTON: Mr. Chairman, Commissioner Montoya, that's true. That's correct.

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

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

COMMISSIONER CAMPOS: Mr. Dalton, is this new construction only?

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

COMMISSIONER CAMPOS: So if you're talking about new construction, you're talking about a 15-, 30-year mortgage so the cost, it may add a few pennies a month. So I don't think that's the significant factor, Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, Commissioner Campos, or a mobile home that people are barely, can barely afford to buy and then have to put in something else on it.

COMMISSIONER CAMPOS: And what if they save 10,000 gallons of water in a year?

COMMISSIONER MONTOYA: I think a lot of people don't look at it as a long-term situation. Is more in the immediate of what can I afford? What do I have right now?

COMMISSIONER CAMPOS: And the aquifer? Long-term life of the aquifer? The value of this home.

CHAIRMAN ANAYA: Okay, what's the pleasure of the Board?

COMMISSIONER VIGIL: Mr. Chairman, I'd like to motion.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: We need to work on these kinds of issues but I just don't feel comfortable that we have sufficient information. I would like to motion to continue. Wayne, you've probably done all you probably can and you're overstretched with this, but I think we need to get some raw data in here. I think we need to know how this affects utility customers and that's a critical issue that I think we've just focused on with one community and that's Sierra Vista. Perhaps we need to bring in some of the utility companies or utility representatives with regard to this so that they can provide a broader scope of information for us. It sounds wonderful and I think if I had further information and that utility issue was of a comfort level to me, I would move forward as fast with this as I possibly could but at this point in time, without having that piece of information, I would like to motion that we table this until next meeting and hopefully we can get raw data on this.

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

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion, second.

The motion to table consideration of the water recirculation ordinance passed by majority [4-1] voice vote with Commissioner Campos voting against.

- XIII. A. 2. EZ CASE # S-04-4551 Oshara Village. New Village Consulting LLC, Allan Hoffman, applicant, Lorn Tryk, agent, request final plat and development plan approval for Phase 1 of the Oshara Village Development, which will consist of 175 Residential lots and 136,00 square feet of commercial space on 74 lots, on a total of 37.78 acres in accordance with the previously approved master plan. The property is located along Richards Avenue south of I-25 in the Community College District, within Section 16, Township 16 North, Range 9 East**

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: When we approved the agenda, the first question was whether this was right for consideration because documents were provided by the developer at the very last moment, and perhaps staff or the Commission hadn't had an opportunity to review that. And I would like to have that addressed by the applicant.

CHAIRMAN ANAYA: Okay. Do you want to hear from Vicky first, or do you want to hear from the applicant? Do you remember the concerns, Lorn? You want to address those real quick?

MR. TRYK: Just real briefly, we have not submitted anything in the last

few days. I was made aware that the packet was missing the memo from the Environment Department. I think it was mistakenly characterized as missing the memo from City Traffic. It's actually in there. None of these memos are particularly recent. We have not provided anything to staff in the last couple of days. So as far as we're aware, everything was presented in a timely fashion.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: May I ask a question of Dolores Vigil?

CHAIRMAN ANAYA: You bet.

COMMISSIONER CAMPOS: I think staff did mention that they wanted to table this because documents had not been provided on a timely basis. Would you please address that?

MS. VIGIL: Yes. Mr. Chairman, Commissioner Campos, what I was addressing was there had been some issues that I felt hadn't been addressed concerning the roads. And since the staff has submitted their staff report, those issues have been addressed. And I also want to state that we did receive a comment or a memo from the Utilities Department today. [Exhibit 5] And that's one of the memos that I had said earlier that I had just received and reviewed, and I did give a copy to the applicant for review also.

COMMISSIONER CAMPOS: And were those issues adequately discussed in your staff report?

MS. VIGIL: I'd like to defer that to Vicki Lucero, please.

COMMISSIONER CAMPOS: Okay.

VICKI LUCERO (Zoning Director): Mr. Chairman, Commissioner Campos, as far as the issues that were brought up by the Utilities Division today, those were not a part of our memo, our staff memo. We just reviewed comments to that effect today. Perhaps Doug Sayre could answer questions regarding his recommendation.

COMMISSIONER SULLIVAN: Mr. Chairman?

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: One of the memos that Ms. Vigil referred to. Dolores Vigil, was Doug Sayre's memorandum regarding the wastewater treatment facilities. And I won't read it all, but his conclusion: "Based on the wastewater facilities submittals to date, and the status of the discharge plan application, approval of the final development plan at this time should only be considered with conditions that final development plat approval be considered when complete and detailed engineering plans including design calculations and soil analysis for the wastewater facility have been submitted."

I would just remind the Commission that when we did the La Pradera approvals in the Community College District that at their final plan stage they had complete drawings of the wastewater plant that they proposed. And they had a letter from the Environment Department from the permit section saying that the application was acceptable. This

particular application was just noticed on June 6. A notice just came out. So there's a public hearing process to go through, and there's even comments in the documents about the possibility of maybe connecting into the Community College District plant. So it's still quite up in the air what's going on here. And we're not at a point where we can make that decision. I just wanted to point those staff comments out to you.

CHAIRMAN ANAYA: So I guess I have a question of staff. Did they follow all the guidelines that they needed to in order for us to hear them tonight? Yes or no?

MS. LUCERO: Mr. Chairman, I think the only outstanding issue was the water service agreement, which was approved earlier this evening, and the issues regarding traffic. We've spoken with Public Works since the time that our memo was prepared, and they're comfortable with this case proceeding forward for final development plan. I did also speak with Doug Sayre before the meeting, and he is fine with this case proceeding with the condition that the wastewater treatment system has to be approved prior to plat recordation.

CHAIRMAN ANAYA: Okay. So we heard from staff that says they feel comfortable that this can go forward. I want to know from the Commission, do you all want this to go forward or not?

COMMISSIONER CAMPOS: Yes.

COMMISSIONER VIGIL: Yes.

COMMISSIONER SULLIVAN: No.

CHAIRMAN ANAYA: Okay. We'll hear it. Go ahead, Vicki.

MS. LUCERO: Thank you, Mr. Chairman. On January 11th, 2005, the BCC granted preliminary development plan and plat approval for phase 1 of the Oshara development. The BCC gave direction that the applicant and staff work out the water budget issues and come up with a back-up plan for this project, as well as adjust the buffer area along Richards Avenue. The County Hydrologist has outlined a water allocation backup plan that he feels will protect the County system. In this backup plan, he estimates that a total of 40.78 acre-feet of water rights would need to be transferred to the County in order to protect the County utility and at the same time allow Oshara to demonstrate its proposed water budget. The applicant has addressed this issue in a letter dated June 3, 2005.

In regards to the buffer area along Richards Avenue, the land use zoning map of the Community College District Ordinance, which refers to buffer areas as a fringe zone, illustrates a 200-foot buffer area along both sides of Richards Avenue. Section 13.3.C of the CCDO also states that zone boundaries in the Community College District shall be refined during the master plan, preliminary development plan, and final development plan approval process. The applicant is proposing a buffer along Richards Avenue that ranges from approximately 60 feet to 570 feet. The applicant is proposing to create a 3- to 4-foot berm along the most narrow portion of the buffer area. Landscaping will also be incorporated.

In the CCD plan, the intent of buffers is a separation or transition between existing residential neighborhoods and future village development areas. Along Richards Avenue and State Road 14, buffers preserve the traffic priority nature of these main roads, and the intent to create a boulevard rather than a roadway lined with buildings and driveways. The buffer proposed by Oshara would separate the living priority road and buildings fronting it from Richards Avenue, where traffic takes priority, with landscaping and the district trail as envisioned by the CCD plan and ordinance. It also more restrictive than the other developed areas on Richards Avenue, which do not have a buffer requirement.

The applicant is now requesting final plat and development plan approval for phase 1 at this time. Phase 1 will consist of the development of a village zone community center neighborhood that will consist of 175 dwelling units and 136,000 square feet of commercial space on 37.78 acres, as well as an additional 37.78 acres of open space parks and main plaza. Twenty-seven of the dwelling units will be affordable housing units, which is 15 percent of the total number of units, as required by the CCDO. This application was reviewed for access and roads, terrain management, open space, landscaping, archeology, water, wastewater, and fire protection.

Recommendation: Since the time that the staff report was submitted, we have had additional discussions with Public Works. As I understand, we are okay with allowing this to proceed for final development plan at this time. Therefore, staff would like to amend our recommendation and recommend final plat and development plan approval subject to conditions number 1 through 17 as listed in the staff report, and two additional conditions as follows. Condition number 18, that the applicant must comply with the conditions of the water service agreement prior to final plat recordation. And condition number 19, that if the 11 acre-feet of water rights do not get transferred, the developer will only be allowed to plat 117 lots. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Any questions of Vicki? Okay, hearing none, is the applicant here?

[Duly sworn, Lorn Tryk testified as follows:]

MR. TRYK: I wanted to just remind you of the things we were asked to do in some detail, some of which were conditions that were put on in our preliminary approval, and some which were added by staff during this process of the last couple of months. Regarding water, we were asked to start the application of transfer for the 30 acre-feet of water rights. As you heard earlier today, that application has been made to the office of the State Engineer. We were asked to execute a water service agreement. We've worked diligently with County staff, including legal staff, to get that done.

We were asked to agree to the County Hydrologist's budget, as well as his mechanism for credits and debits, if you will, and monitoring of our budget. Since it's a Spartan budget, he wanted to make sure that if we exceeded it, we were penalized. If we came in under it, we would be able to carry some of those water rights forward. We have agreed to his budget and his conditions without exception.

We were asked to further develop the commercial covenants in terms of low-water

uses in the commercial area, which we've done and staff has accepted. And we were asked to specifically enter into an agreement with Greer Enterprises, where the 30 acre-feet is coming from, so that the destiny of those 30 acre-feet would be without question. All of those have been taken care of.

It was earlier mentioned that the 375 acre-feet that us basically getting a stand-by agreement with you as part of our water service agreement would evaporate - I use that term no pun intended - once the 375 acre-feet are transferred to the Buckman direct diversion. That is actually incorrect. They do not go away. We think that you're taking a miniscule risk with the water service agreement that you've already approved. If we don't meet the budget, and we don't ever get a chance to transfer the eleven acre-feet, which you already heard earlier John Utton say are "good water rights," pre-1907 Peña Blanca water rights. He saw no problem with those getting approved by the Office of the State Engineer. This is taking a very small risk.

I say that as a preface to saying that we do have a problem with the additional condition of number 19, of limiting us to 117 lots. That was a surprise to us today. We thought we had worked out all of the contingencies of this water service agreement, and protected the County in several ways already. And it is a great burden for the project. So I want you to consider that carefully because the financial feasibility, the obtaining of financing for the infrastructure, was predicated on building 175 houses. So there's a serious concern. We think of the temporary granting, and it isn't actually granting, it's basically a stand-by agreement of those eleven acre-feet being like co-signing of a loan. And there's a very, very small chance that it would ever come into play, and only temporarily. Meanwhile, think of the opposite, which is to stand by the water service agreement that you already passed, and not force us to limit ourselves to 117 houses, sends a message that you're supporting good, sustainable development.

The second category that we were asked to analyze was the northeast connector. Staff asked us for more assurance that the northeast connector was possible, that it was really going to happen. We explained to you last time that the northeast connector, obtaining the right-of-way, while it's a condition of our recordation and we can't move forward without it, it's not something that we can petition. The City and the County actually have to petition through the Access Control Committee for that right-of-way. But staff felt it's important to have some indication that that process was going to ultimately be successful. If you recall the Extraterritorial Authority, when they granted approval to us, put in a condition that the City and the County commit to working with the Federal Highway Administration and the DOT and other entities to expedite and petition the State Transportation Committee to support the release of a right-of-way for the northeast connector. I'm reading this verbatim: "The developer will do nothing to interfere with or deter the northeast connector."

Well, since that time, we tried as much as possible to steer that ship. We went to the Department of Transportation. We went again to the City Public Works Department, entered into further discussions with them to make sure that everybody was in support of

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it. At our meetings with the Department of Transportation, they suggested that we go to the RPA, since it's a joint City-County body, to make sure that everybody was on the same page, and before we proceed to the RPA that we go to their Technical Advisory Committee. The Technical Advisory Committee includes members of City, County, and State. We've been to the TAC, and we've had them vote on it in favor of the northeast connector, and it is proceeding to the RPA for their ratification. So we have made some considerable strides in that area of obtaining the right-of-way, even though as I said before, it's not really something that's within our control.

We had a letter with some concerns last time from the City regarding traffic, particularly traffic in the area of Rodeo and Richards. Since that time, in meeting with City Traffic and them realizing that the northeast connector will now be a part of our phase 1, rather than phase 2, they have amended that letter. It's included in your staff report. And it is very positive in support of this project.

I think it's also worth noting that not only did this northeast connector show up on the Community College District Plan, but we've had a lot of support from neighbors anxious to see it happen and anxious to see it happen in phase 1 as a traffic-reliever. We were asked by Public Works to consider making another connection between the northeast connector and Richards Avenue. We're already making two. They asked for a third, which would run through the neighboring property, the Taurus property to our north. We have resisted that. First of all, we don't control the land. *[Exhibit 6]* We simply cannot comply with that request. Secondly, we have been urged by our neighbors to the north to hold off on planning that road until they can go through their master planning process.

Finally, I'd like to point out that those who are so anxious to see us make a direct connection from the northeast connector to Richards and Dinosaur Trail are hoping that this will be somehow a bypass highway. And we urge you to realize that's not going to be the case. The Community College District Ordinance asks for a dense network of small roads, rather than a few large roads. And we're already doing our part in phase 1 to create two road connections. This third one that will eventually occur in phase 2 of our project and go through Taurus will be a third. But it'll also go through a neighborhood center. So it is not going to be a more direct route. I want to point that out. We would like to see it occur in the future, but we don't think that it's significantly an improvement over what we're already intending to provide.

The last thing that we were asked to, just in general categories that we were asked to look at, was wastewater treatment. Several things. One, when we were approved at preliminary, you will recall our condition of approval was to do final working drawings before recordation, not before final plat. So we are not renegeing on a previous promise. I want to make that clear. Secondly, since the time we saw you last, we have done a whole lot more design work on this wastewater treatment plant and presented it to ED and gotten a very favorable letter back from them, which apparently you don't have copies of, and I think Anna is providing you with right now. *[Exhibit 7]*

Basically, what staff asked us to do before we came back to you is get some

indication from the Environment Department that they would be willing to approve this technology, since this is a – I wouldn't say cutting edge, but it is not the most basic of technology. This was particularly important to the County Hydrologist, our utilities director, because we're using treated wastewater for toilet flushing. And he wanted to make sure that that essential component of our water budget was going to be practical. So since then we have done a great deal more work and gotten a very positive recommendation from the Environment Department. There's no iron-clad guarantee that they'll give us a permit. It never is until they've gone through that process. But it was a very positive step for us to take.

Finally, there was mention of the buffer, and the fact that we were asked to study it again. And as staff said in their report, there is the right to refine the buffer. Our buffer varies from fairly narrow – I don't think it's actually 60 feet wide, but something under 200 feet to something close to 600 feet. We took the step on our own to go to the neighbors, talk with them, make sure that they would support our buffer. Went out, staked out the site, put up story poles, did renderings, showed them that this one block area was critical for the success and viability of our commercial area. They came back to us and said that they agreed with us. They did ask us to do a couple of things in terms of our commercial design, which you'll see in the letter from the South Richards Avenue Association. [Exhibit 8] They asked us to do some stepping back and some modifying of the second stories of those buildings.

But in general, we're in agreement with that buffer being designed as we have designed it. Again, I want to point out that to us that's critical, not only for commercial viability, but for the viability of transit. The transit company has told us that they would be willing to bring a stop into our project, rather than having one out on Richards Avenue where no one would use it, only if our commercial street and plaza are close to Richards Avenue. And I think we mentioned last time that signage is going to grow in size as we step further and further away from Richards Avenue. So I think it's an important issue to us. We're not being cavalier about it. And it's something that we've generated good support for.

So those are the things that we were asked to do last time. I think we followed through with them rigorously, got good support. Again, the only thing that I think we were not in agreement with is this new condition 19 on limiting us on our number of lots. Other than that, we've looked the staff report over in detail and agree with all the other conditions. And you'll find that many of the conditions have already been satisfied. I think all of the ones enumerated in 17, A through G, have already been satisfied. So we're getting pretty far down the road there.

Anyway, that gives you an overview of what we've been doing the last few months, and we stand for your questions.

CHAIRMAN ANAYA: Thank you, Lorn. Any questions of Lorn? Okay.
Commissioner Sullivan?

COMMISSIONER SULLIVAN: Lorn, on the setback from the commercial,

the Richards Avenue Association with whom you met recommended 140 feet from the right-of-way. Is that okay with you?

MR. TRYK: Yes.

COMMISSIONER SULLIVAN: Okay. So that's the minimum setback from the right-of-way for the commercial.

MR. TRYK: That's for buildings from the right-of-way.

COMMISSIONER SULLIVAN: Well, what would be the setback for other things?

MR. TRYK: Well, we have roads and parking closer to the right-of-way of Richards Avenue than that. They're referring to the face of the buildings.

COMMISSIONER SULLIVAN: So you're not willing - the 200-foot is what's required in map 14 on the Community College District. So you're not willing to go for the 140, then?

MR. TRYK: No.

COMMISSIONER SULLIVAN: No? Okay.

MR. TRYK: It depends on your definition.

COMMISSIONER SULLIVAN: My definition is a setback's a setback. There's no development, it's a buffer area. That would be my definition.

MR. TRYK: Then no. And that's not their intent either. And I'll let them address that.

COMMISSIONER SULLIVAN: Okay. On the issue of the setbacks for the bus, you may have seen it, I'm sure you have, I wrote a letter to the transit director asking whether that 200-foot setback would impact their providing service to your development, or would cause you to incur any additional costs. And you may recall from seeing his response that his answer was no, it wouldn't, that there would be service regardless. If you would like me to read that letter into the record, I will. If you disagree with that, I'll be glad to read that into the record. Have you -

MR. TRYK: Did you hear my comment which was that they said that they would still provide a transit stop, but if we moved further from the road, they would provide it on Richards Avenue?

COMMISSIONER SULLIVAN: That's not what the letter said. The letter said that they would provide service, and they went on to say that of course the closer service is to a population area, the more people you get voluntarily to use transit service. And that would apply anywhere, of course, where you go in a population center. If your population center was 200 feet back or if it was 140 feet back or if it were 60 feet back, as it is now, either way where that population center is, if your bus stop is closer to that center, then it's going to be more convenient for people. That's what the letter said.

MR. TRYK: Our indication from them was they could immediately provide us a stop within the development, if we were no further away than we are. They could immediately provide a stop on Richards Avenue if we moved further away. They could provide in the future a stop within the development if we moved further away. That's the

indication that they gave us.

COMMISSIONER SULLIVAN: Okay. That may be in the discussions that you had with them. It's not in the letter. The letter, I specifically asked was there anything that impacted that, and their answer was no, that they could provide the service at the 200 feet.

MR. TRYK: Your letter says: "Bus stops could be sited on Richards Avenue to serve residents of the proposed development, assuming that an accessible way connecting the stops to the development is provided."

COMMISSIONER SULLIVAN: Yes, in other words you've got a bus stop and you need a path to get people to the bus stop.

MR. TRYK: If anyone would use it, yes.

COMMISSIONER SULLIVAN: Yes. If they need it, I'm sure they will. And then also, Mr. Chairman, just a clarification. There's occasionally some confusion about the temporary water rights that the County's negotiated with the City of Santa Fe and the settlement to the San Juan/Chama diversion water rights issue. And I want to be sure that there's not any confusion about that. The 375 acre-feet that's included in the water service agreement that's available to us right now is through the City of Santa Fe. That 375 acre-feet of water rights is a temporary water right allowance that they've given us to enable development to move forward, prioritize development to move forward in the interim. That is not in any way connected to the County's resolution of the San Juan/Chama water rights issue, wherein 5,605 acre-feet was allocated to the City and the County. And we had been arguing for many, many years over how much of that was for the County and how much of that was for the City. The ultimate conclusion of that was that that 375 acre-feet, which doesn't become available until after the Buckman Direct Diversion is online, that 375 acre-feet was the settlement of that dispute. We got 375 acre-feet; the City got the rest.

The 375 acre-feet that Oshara will be making use of in the water service agreement is the 375 - that's a totally different 375. Because if it weren't, you couldn't use it. You'd have to wait until the Buckman Direct Diversion was online. That 375 is the temporary water that we negotiated with them so that some developments could move forward while they were getting water rights. That 375 does go away at that point. And I want to be very clear that the Commission understands that that water service agreement is not an agreement with Oshara for eleven acre-feet in perpetuity, going beyond the BDD, the opening of the Buckman Direct Diversion. At that point, you have to have your eleven acre-feet in place. And that was the concern that we discussed earlier. So I would take exception to your comment that it's not temporary. I was on the negotiation team for that for over a year, intimately involved in it, as were other members of the Commission, and it is temporary. I just want to clear the air on that.

I have some other questions later, Mr. Chairman, after the public hearing. But that's it for now. Thank you.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan.

COMMISSIONER VIGIL: I would just like Steve Wust to respond to Commissioner Sullivan's characterization of that 375 acre-feet. Is it your understanding that it's temporary? Or is it finite or is it forever or what?

DR. WUST: Mr. Chairman, Commissioner Vigil, Commissioner Sullivan was correct. It's a bridge, basically, from the City to account for what will be San Juan/Chama water in the direct diversion. However, the water that the City is bridging with is not water, in the strict accounting sense that will be used to supply the developments from the Buckman direct diversion. That's why we're asking to bring in water rights. If we were just making an arrangement that they would get a piece of the 375, and we're assuming that rolls over into San/Juan Chama, they would need water rights, because that's what we have. But we're trying to supplement our capacity within the direct diversion project way beyond the 375. And we're asking developers to bring in water rights to help us be able to reach that capacity.

So in essence, what's going on is the eleven acre-feet that Oshara is requesting is part of the bridge. That bridge goes away, and if they have the water rights in place in time, it rolls over into the eleven acre-feet they've put into the Buckman project, which is different from the San Juan/Chama water. And if they don't have their water rights or any other development doesn't have their water rights at that time, it's not assumed that that's going to roll over into the San Juan/Chama portion of the direct diversion. And so the wet water, the allotment, does go away, because it's rolling over to a different place. And we don't want to assume, he's correct, we don't want to assume that a developer can just assume, "If I don't have my water rights, I'll just take it out of the San Juan/Chama portion of the direct diversion." Because that's not the same allotment coming from the City during this bridge time.

COMMISSIONER VIGIL: Okay.

DR. WUST: I hope that cleared it up somewhat.

COMMISSIONER VIGIL: At some level. So this eleven acre-feet water that we're requiring is a good thing?

DR. WUST: Mr. Chairman, Commissioner Vigil, that is absolutely right, and we do it with all developers. That is that we do not want to be allocating our San Juan/Chama portion of the direct diversion just to anyone without some kind of compensation to help us reach our full - I believe our full capacity of the direct diversion is 1,700 acre-feet. But we've got to make up that difference between 1,700 and 375 in the water rights. We're buying some ourselves, but just like we do with roads or infrastructure, we require that developers contribute to that portion so we can supply them with water.

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

CHAIRMAN ANAYA: Okay. This is a public hearing. All those in favor or that want to speak against this case, could you please come forward? Not all at once, now. Go ahead, ma'am, come on up. If you could just state your name for the record and talk directly into the mike so that everybody can hear you.

LOUISE WILLIAMS: Thank you for the opportunity. My name is Louse Williams, and I have lived in the neighborhood along with other neighbors that are here present with me today. I'm not directly on Richards Avenue, but however on the northeast corridor that's being discussed for road easement and access. And I am not speaking against the development of the capacity building that's needed on Richards Avenue. I mostly wanted to talk in terms of the northeast corridor, and recognize that people need to have access and ways to get in and around, and very much supportive of the County taking a stance to require that developers do look for more than one alternative to move traffic, and not necessarily high-moving traffic through neighborhoods.

So we are in a neighborhood where we, as I was looking at the plan in the back, not having had the opportunity to look at the packet which you have which is much more extensive, but looking at the packet in the back, recognized that one of the options was to take a look at Rabbit Road. And Rabbit Road I just want to mention to the County is a road that already has a bottleneck on it as it comes onto St. Francis, and asking that the County do continue to ask developers to be responsible to looking for a variety of easements and ways to move traffic instead. And I recognize that there was one discussion of not only two roads, and Public Works is asking that they look to a third alternate. And that may not happen until phase 2 or at another point in time, but I do thank you for looking at not wanting to put high-traffic roads through the neighborhoods. We already to have bottlenecks that are in place.

And if the County needs to work with the other entities, federal state entities to try to see if we can get right-of-way access from Richards directly onto I-25, we'd be very much in support of that, encourage that. I know it's been a discussion topic for a long time. And I didn't hear that conversation come up today, about getting traffic onto Rabbit Road, but I did see it in the packet in the back, and I speak to concerns that high-moving traffic would be a concern of ours in the neighborhood. If that had a little bit of a rise, if there wasn't planned development to include traffic lights, making sure traffic is not moving too fast, there I see room for accidents. When we are moving off Old Galisteo Road and Old Galisteo coming onto the frontage road, it's difficult for us to see traffic coming from the west, moving east towards south St. Francis and getting on St. Francis. We'd be concerned about high traffic and fast-moving traffic. And there is a bottleneck on south St. Francis moving north on St. Francis. So I just want to express concern that we do need to have various ways to move traffic from Richards Avenue instead of just looking at two or three avenues, and encouraging developers to take the steps of developing those additional arteries. Thank you.

CHAIRMAN ANAYA: Thank you, Ms. Williams, thank you very much.

MS. WILLIAMS: I appreciate that.

CHAIRMAN ANAYA: Anybody else want to speak? Okay, anybody want to speak in favor of this? Can I see a raise of hands of who's in favor of this project? Do you all want to speak, or do you want to have a representative to speak for you? I just want to make sure you're not repeating yourselves. So you can come forward if you want to speak. If you all want to stand up, we can swear you in at one time, that'd be great. The ones that want to speak, raise your right hands. Thank you. Go ahead. Come forward, sir. You all can come up

and sit here in the front. That way we can move this along. Could you just state your name?

[Duly sworn, Tom Noblock testified as follows:]

TOM NOBLOCK: My name is Tom Noblock, I'm at 35 Encantado Loop in Eldorado. I teach at the Community College. I do Radio KSFR at the Community College. I'm the co-founder and co-director of the Youth Radio Network Santa Fe. I want to live in Oshara Village. I've testified about sustainability about this project in the past to you, and I'm just going to say the more it gets delayed, the less affordable it gets for somebody like me, for somebody like a lot of the people that want to live here. The affordable housing is a great part of this, and the more it gets delayed, the less affordable it is. And I appreciate your listening.

CHAIRMAN ANAYA: Thank you, Tom. Next?

[Duly sworn, Robert Garcia testified as follows:]

ROBERT GARCIA: Mr. Chairman, Commissioners, my name is Robert Garcia, 8 Spirit Run Place, Santa Fe. And I'm speaking tonight on behalf of the South Richards Avenue Association. Some of you may know I'm also the chair of the Community College Development Review District, but I'm not speaking for them tonight. Even though this is in the Community College District, it's actually also within the EZA, so they have reviewed this project, not this committee. But I am speaking on behalf of the South Richards Avenue Association.

Some of you may recall that about three years ago, I believe it was about three years ago, we spoke in opposition to the master plan that was eventually adopted for this particular site. So you may ask why are we tonight speaking in favor of this one? Basically, it's because we think this is a much better plan. And we'd like to see this move ahead, because we think it's going to be a really good example for the rest of the development in the Community College District to have to live up to. Specifically, we support it because we think it's in keeping with the Community College District plan.

I want to clarify the issue on the setback, that our letter – and I think you all have the letter, it was sent to you signed by our president, Ms. Jane Petchesky. Regarding the setback, what it says is that we support the lesser setback along the block closest to Richards Avenue as requested. We estimate this to be about 140 feet from the edge of the right-of-way. Now, we all went out there on site, so we saw exactly where the buildings were proposed, and that's what we're supporting. So the 140 feet is an estimate.

Now, we did feel very strongly – originally when it was presented to us, we were told that it was being measured from the center of the road. Our understanding is that's not in keeping with the ordinance and needs to be measured from the edge of the right-of-way. We think that's an important precedent that you keep in mind for all developments. But we were on-site. We saw where the proposed buildings are to be, and we support that setback. Nobody at that time knew why there was 140 feet, 120 feet, 160 feet, we just estimated it to be 140 feet.

However, that support is contingent, as I believe Mr. Tryk mentioned, on – they have very nice drawings similar to that. They're nice-looking buildings, but it's all kind of a straight, flat front, and we wanted that broken up, both in distance and in height. And they have agreed

to that. So that's very nice looking, but we want a little more variety, and they've agreed to that. And we'll work with them as the final site plans are developed. But I just wanted to try to clarify that on the setback issue.

We also support the concept that the setback itself could be used for temporary uses. And what we had in mind by that is in other words, if there's a restaurant there and they wanted to have some temporary outdoor dining, say on the other side of the street, kind of extend the feeling of community, that was fine with us, as long as it's just temporary.

We strongly support the construction of what is being called the northeast connector. In fact, that's something that we pushed for from the very beginning. It is part of the Community College District Plan. Originally they proposed that it be done on phase 2. We said that was unacceptable to us, it had to be part of phase 1. And they have agreed with that. And we urged that it be a slow-speed, meandering road. We urge that - we support the Community College District Plan concept of many different roads, many small, slow-speed, meandering roads, giving people lots of opportunities to get from wherever they are to wherever they need to go. What we don't want is for twenty years from now, Richards Avenue to look like Airport Road or St. Francis Drive. We don't want to repeat that. We think we can do better in the Community College District. The Community College District is the designated growth area for the county. We know that. That's fine. But we want it to be growth that the community's going to be proud of. We want the County to be able to point to that and say, "We did a great job out there, and this is what we want in other places."

We urged the construction of roundabouts on Richards Avenue, not signalized intersections. We think that'll go a long way to creating a slower speed, much safer, more visually positive street out there. And we strongly urge the construction of a new road, which I think has been alluded to tonight, which would connect the northeast connector to the one down the east side of the Oshara property to connect to the Community College itself and even the east side of Windmill Ridge at Rancho Viejo. We think that'll take a lot of pressure, a lot of traffic, off Richards Avenue.

We know Richards Avenue, it's going to be a major street. But as the Community College District grows, it cannot be the only street connecting the city of Santa Fe and the northern part of the county with the Community College District. There has to be more than one way into the Community College District. That's clearly the way to go, and the applicant has said that they would support that, work with the County to accommodate that.

Finally, I did hear discussion tonight of the third connection, which I guess would kind of be opposite Dinosaur Trail. And we're very much in support of that happening also. But it is true, we have not seen - the South Richards Avenue Association has not seen any specific plans as to exactly where it would be, what the configuration would be, what impact it may have on trails, both pedestrian, bicycle, and equestrian, and equestrian trails are very important out there. We don't know what impact it's going to have on drainage. So it's fine with us that it be required to be built, but we think it should be part of phase 2 or when the Taurus property comes in for development so that the community and the public and the neighborhood have an opportunity to review the specifics, rather than just requiring that something be built without

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knowing exactly what it's going to be.

So overall we support what you have before you tonight. We feel the applicants have been very positive about working with the neighbors. The South Richards Avenue Association urges your approval. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Garcia. Next.

[Duly sworn, Daniel Pivern testified as follows:]

DANIEL PIVERN: Hello Mr. Chairman and Commissioners, my name is Daniel Pivern. I live off Rabbit Road in Arroyo Hondo West. I've been in Santa Fe for thirteen years, and the last two years I have lived out in the Arroyo Hondo West community.

When I heard about Oshara being developed, I was concerned about five- and ten-acre beautiful lots with hundreds of wellheads scattered out amongst the pinon and juniper. And I was very, very concerned about it. And the more I learned about Oshara, the more and more encouraged I become. And I'm very supportive of the development. I think that, like the first lady who came up concerned about the traffic, I see that Rabbit Road turning into the northeast connector and meandering slowly to the plaza is something that my family and I will very much enjoy going to visit the plaza. I think that the water responsibility is extremely important. And I appreciate the fact that local businesses will be primarily occupying the storefronts, along with the residences.

I grew up in rural Colorado. I've seen sprawl damage communities. The community I grew up in was a very small community. A lot of the agricultural land I grew up on is now gated communities and big boxes and large franchise businesses all around. I think that sprawl without consciousness can really create separation in a community. And I really fully believe that Oshara will encourage inclusion and unity, and I look forward to visiting it often. Thank you for your time.

CHAIRMAN ANAYA: Thanks, Daniel.

[Duly sworn, Charles Bensinger testified as follows:]

CHARLES BENSIGNER: Mr. Chairman, members of the committee, my name is Charles Bensinger, I live at 41 Azul Loop in Eldorado. I worked on the original Community College District Plan back in the year 2000. And a tremendous amount of work went into that plan. It's a very good plan, particularly the sustainable guidelines in it, which I had a major role in drawing up.

Now, I think the sustainability guidelines, they're not just about conserving natural resources or using them more effectively. They're also about creating a living environment that proposes to maximize the quality of life. When we talk about that, we're not talking about excessive, wasteful, or extravagant quality of life. We're talking about something that's supremely sensible and cost-effective. And that, I believe, is what Oshara can show us, that it can serve as a model for a supremely sensible and cost-effective way of living. And I think we really need more of those models. So I urge you to approve this project. I think it's a really good one, and it'll do much to benefit the citizens of Santa Fe. Thank you very much.

CHAIRMAN ANAYA: Thank you, Charles.

[Duly sworn, Adil Rizvi testified as follows:]

ADIL RIZVI: Mr. Chairman and members, my name is Adil Rizvi. I'm the president of Design and Development Corporation. This is the corporation that's in the process of acquiring the Taurus property, which is a 64-acre property that's located on Richards Avenue and south of the freeway. I have meet with Mr. Alan Hoffman and the Oshara - his design team. I strongly support what he's planning.

I am an engineer with a master's degree from the University of New Mexico, and I've been a developer and an engineer in the state for the past twenty years. I have reviewed these plans, and they look very good, and I strongly support it. We look forward to working with him with our 64 acres, and also work on the third connection, which has been a topic of discussion today. We think we will be able to link Oshara and the Taurus property and create a very good community with local roadway networks and other amenities. So I strongly support this project, and I think they've done a wonderful job in designing it. Thank you.

CHAIRMAN ANAYA: Thank you, Adil. Next.

[Duly sworn, Evelyn White testified as follows:]

EVELYN WHITE: My name is Evelyn White, and excuse me, I have a bit of sore throat. Commissioners, this is an eco-village project, and I really believe that in this time on this planet we all have to learn how to do things differently. We have to learn how to work together. We have to learn how to save water, and really do things differently. I think this is a really good project, and they really are doing things differently.

Commissioner Sullivan, I'm a little disappointed when I see your stance with the project. I find myself wondering if you're opposed to all new building projects or if maybe you don't like someone who's a part of it. But I do find myself wondering what it is that you're so opposed to, and why you wouldn't support a project that is trying to conserve water and really trying to do the best that it can to bring people together, to integrate all kinds of new ideas. So I'd really love to see all of you Commissioners supporting this. It's something that can be a great example for not only Santa Fe, but for other parts of the country. If it's a successful project, as it appears it has the potential to be, it could attract all kinds of attention, positive attention, for the city of Santa Fe, county of Santa Fe.

So I would encourage you to support the project, and not support things like high-speed roads that would really affect the feeling of a village. I really like the idea of a village. I think we need to create communities that are more connected, and a high-speed road through the village wouldn't support that. So that's another point. So please support it. Thanks.

CHAIRMAN ANAYA: Thank you, Ms. White. Okay, two more people? Two, three? Three.

[Duly sworn, Eric Wirrel testified as follows:]

ERIC WIRREL: Good evening, Commissioners. My name is Eric Wirrel, I'm with the Federal Highway Administration. I've been asked to be available to make some comments on roundabouts, which several people have requested in this neighborhood, I guess. And just in general, I wanted to come out with a comment that the Federal Highway Administration strongly supports roundabouts. We're promoting them nation-wide. If I'm able to, I'd like to hand out some flyers to you all. Safety-wise in the United States, the Insurance

Institute for Highway Safety has indicated that serious injuries at roundabouts versus any other type of intersection have gone down 76 percent, fatalities down 90 percent, pedestrian injuries down 30 to 40 percent. Capacity-wise, efficiency-wise, they allow approximately a thirty percent increase over a signalized intersection as far as the efficiency of flow.

Anyway, we're trying to promote them in New Mexico. New Mexico DOT is now considering them at any new intersection. Any new signalized intersection, they're considering a roundabout first. They're going to build their first one this summer at the Route 66 Casino, which is a long way from Santa Fe, I know. But I just wanted to make a general comment in support, and be available if anyone had any questions.

CHAIRMAN ANAYA: Thank you, Eric. Appreciate that. And yeah, you can hand those out. Take a look at them.

[Duly sworn, Diego Mulligan testified as follows:]

DIEGO MULLIGAN: My name is Diego Mulligan, and I live at 159D Calle Ojo Feliz in Santa Fe, Santa Fe County. Mr. Chairman, Commissioners, I rise in support of the Oshara Village, not as a broadcast journalist, but as the newly appointed president of the New Village Institute, which at this point is a new non-profit organization which will be working on water conservation education for the residents and businesses in Oshara. That will not be our ultimate aim. We aim to support the development of healthy communities everywhere, but we're starting with what's real and what's in front of us. And Oshara looks like it's going to be the best opportunity to create the kind of model that we can then learn so much from and apply in other parts of the county and the state and the country.

Oshara has some of the most innovative and restrictive water covenants of any development that I've ever seen. And we would like to help the residents and businesses achieve those ambitious goals. We think they are achievable, but we believe that it's really essential that they get the kind of technical support and education that they need so that they don't grudgingly get brought into this kicking and dragging, but that they embrace the ideas behind it, and have the support to actually make it work for them.

I also am very concerned about the Community College District plans that might be compromised if a high-speed road that is traffic priority is forced through Oshara and the current Taurus Ranch. I would much prefer, based on the information that I have, a network of smaller living priority roads, which I believe is what the Community College District actually recommends.

One other thing that is a concern to me at this stage too is the proviso added on, and I don't have all the details on this at this point, but I believe it might be provision 19, that would remove or let's say knock back the number of dwelling units from 175 to 117 because of the concern about the water provision. And I have to confess that I am not a water expert in this, and I am just as confused as the rest of you are in some of these areas. I have a lot to learn about it, but what I do know is that with fifteen percent of the Oshara homes being designated for affordable homes, we will be losing their eight affordable homes as a result of that one decision. They will be pulled back from 25 affordable homes to 17 officially affordable homes, which Homewise and Habitat for Humanity will be cooperating with the developers to create.

And that is also of great concern to me.

I am a great supporter of roundabouts as well. I've spent a lot of time in different parts of the country and the world where they are used quite effectively. And I really think we ought to consider the difference between signalized Richards Avenue that would have several stoplights with traffic going from zero to sixty, zero to sixty, zero to sixty, zero to sixty, rather than having a road that has a design speed of approximately 35 miles an hour, with a decrease in that speed down to 15 or 20 for the roundabouts. I think it's going to create a much safer and quieter environment, something better for our children, for our community, and also will serve as a model for future developers. Thank you very much for your great efforts in understanding this innovative project. I'll be probably talking with you more as the project advances. Thank you.

CHAIRMAN ANAYA: Thank you, Mr. Mulligan. One more speaker.

[Duly sworn, Jeremy Damien Terrell testified as follows:]

JEREMY DAMIEN TERRELL: Hello, my name is Jeremy Damien Terrell, and I'm a property owner along Old Galisteo Way. When I first heard of the Oshara project, I felt that it was a very good, sound project. And I look forward to working with them to connect a pedestrian trail along the Arroyo Hondo, and connecting open space from their property and mine. I reside along the eastern border, and as Robert Garcia mentioned, talking with the network of roads. I fully promote them working to put a road along their eastern border, and would be willing to work with them on that. In addition, provided that the Old Galisteo Way Users Association would be interested, I'd be willing to connect through my property that road and the new road along the eastern border. That will help create more of this inter-connectivity of a lot of these dead ends in the Community College District. Thank you.

CHAIRMAN ANAYA: Thank you, Jeremy. Okay, that closes the public hearing. Lorn, did you have any comments?

MR. TRYK: I just wanted to point out that if you agree with us that the northeast connector connection through the Taurus property is appropriate to being a part of phase 2 rather than phase 1, and give us time to work out an alignment between us and the Taurus property owners, it does violate possible condition 15.i, which says "Compliance with applicable review comments from County Public Works." Since the packet includes this letter recommending that we make that connection, I'm just concerned that if you were to pass this with that condition without commenting on that connection that that would in a sense force us to build it in phase 1. So I'm just pointing that out, because it is a condition in the staff report, and I did earlier say that we didn't have any problem with the conditions as written. So I just want to point that out.

CHAIRMAN ANAYA: Repeat that - tell me that again, I didn't -

MR. TRYK: Okay, if you look at 15.i, compliance with applicable review comments from County Public Works, and if you look in your packet, there is a letter from County Public Works recommending this connection to Dinosaur Trail through the Taurus property. And I didn't think about the fact that if we say we're in agreement with all the conditions as written, that means we're in agreement with that road connection, and we've

already said we'd like to do that in phase 2.

CHAIRMAN ANAYA: Got you. Could you tell me a little bit about – actually, Ms. Williams had a concern about Rabbit Road. Could you address that?

MR. TRYK: I wasn't really aware of what the condition was that she was talking about on the eastern end of Rabbit Road as it approaches St. Francis Drive, but I understood her comments to mean that she wanted to work with the County to improve that condition. That's something that's off the Oshara property. So what we've been doing is concentrating on the alignments within the Oshara property, and then how it affects those first couple of houses when it comes onto the interstate right-of-way and into that frontage road section. So I didn't understand that to be something that we could do much about. More that the County could do something about.

CHAIRMAN ANAYA: Okay. Any questions of the applicant? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Tryk, on the northeast connector, one of the conditions is 9.c, conditional dedication of the northeast connector to the County. And in your initial master plan application, I think you made it very clear that Oshara was going to be responsible for building the northeast connector. Is that still the case?

MR. TRYK: Yes, that's correct.

COMMISSIONER SULLIVAN: Okay. Just want to be sure. And that doesn't just mean on Oshara property? That means building --

MR. TRYK: No, the whole thing. It's just that the Public Works Department has commented that it's appropriate that if --

COMMISSIONER SULLIVAN: No, I understand your comment on 15.i.

MR. TRYK: No, what I'm saying is that they think it's appropriate that it be conditionally dedicated, and that they'll probably end up taking that road over. But it doesn't mean we wouldn't build it.

COMMISSIONER SULLIVAN: No, I'm talking about the northeast connector that you're talking about now that goes all the way up to the public roads connecting to St. Francis. That will be built as a part of phase 1 by Oshara?

MR. TRYK: Correct.

COMMISSIONER SULLIVAN: And then that right-of-way for that, which I think was 50 feet as I recall, will be dedicated to the County?

MR. TRYK: Correct.

COMMISSIONER SULLIVAN: Okay. Because I don't see in the conditions, and I wanted to ask either you or Vicki, but I think you've answered the question. It says you'll dedicate it, but I don't see in the conditions where it says you'll build it.

MR. TRYK: I see. Okay.

COMMISSIONER SULLIVAN: But you're confirming that you would build it as well. Okay. Thank you very much. The only other comment I have, Mr. Chairman, is just to allay the concerns of I think it was Ms. White who spoke, or any others who may be concerned about my particular commitment to good development and conservation. And I can

tell you for four and a half years I've been on the forefront of trying to eliminate sprawl in Santa Fe County with a number of forward-looking ordinances. The Community College District Ordinance and the State Environmental Department require these water conservation measures, as does Santa Fe County under its conservation ordinance. And so while it makes a wonderful selling point to the community, and it made a very good selling point for the Community College District plan as well, which was passed by the County Commission, I want to be very clear that those items are already required by either state regulation or by County ordinance. And they make good sense, and that's why the ordinance was passed that way.

What it's important for us to do as Commissioners is to separate the fluff from the specifics. Because if we don't have the specifics down, what we find later is that the attorneys line up at the front door at eight o'clock in the morning and it becomes a long, drawn-out process. So we have to separate selling the steak from selling the sizzle. And that's what we try to do here, to be sure that the commitments that the developer has made and that the requirements of the staff based on its review are accurately reflected and are clearly understood throughout the process. Because as I said before, and I still believe, that this is an incomplete submittal. When we talk about final plats, it should be ready to go, and there should be only minor corrections. We have a great deal of uncertainty left. What that does is that it gives the staff an awful great burden on it, a policy burden in many cases. That is to say, for example, what should happen as is indicated in the packet, if the applicant decides to connect into the Rancho Viejo sewage treatment plant? What do we know about that? What's its capacity, what effect does that have on Rancho Viejo residents, what about the effluent limitations and disposal? None of those issues will come back to the Commission. All those kinds of issues will then have to be decided by staff. And we've got terrific staff. But sometimes to place that much burden on them, we need to separate policy from technical review.

So that's what we're doing here. We're dotting the I's, we're crossing the T's, and we're making sure that everyone understands what this development is about so that when we come back a year from now or nine months, when they indicated they might start construction, there are no loopholes. We get what everybody was promised. We have a letter that was sent to us by the Puesta del Sol subdivision organization. And they are complaining in this letter to us that promises made to them by the Tierra Grande Subdivision, developed by Mr. Hoffman, were not met by Mr. Hoffman. You're welcome to look at this letter at your convenience, you or anyone. So I haven't looked into this issue, so I'm not going to comment on that. I can't say whether their allegations are true or not. I just point that out to you, that we receive very often two sides of the issue, and we want to be sure that what we have is a clear understanding when we move forward on a project such as this. Thank you, Mr. Chairman.

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

COMMISSIONER VIGIL: Mr. Chairman, that particular project is in my district, and that whole issue was brought to my attention. I'd like to defer it to Dolores Vigil, because we actually - we're concerned about that, thought we might hear some testimony. But I think it's all been cleared up. Am I correct, Dolores?

MS. VIGIL: Mr. Chairman, Commissioner Vigil, that is correct. We did meet with Alan Hoffman and we actually went to the site. And I think we've resolved the issues that have come up based on that letter that you have before you.

COMMISSIONER VIGIL: Okay, and that has been done since the letter was received, right?

MS. VIGIL: Yes.

COMMISSIONER VIGIL: Okay. Mr. Chairman, I think that's a non-issue.

CHAIRMAN ANAYA: Okay. I think we've talked about this enough. Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, motion to approve with staff conditions.

CHAIRMAN ANAYA: There's a motion with conditions. I know that there was 18 and 19 recommendation. Is that including 18 and 19?

COMMISSIONER CAMPOS: Second.

COMMISSIONER SULLIVAN: Yes, sir.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Is there a motion and a second with 18 and 19? Is there any more discussion?

COMMISSIONER VIGIL: I think we need to go into 18 and 19 with a little more detail, because it was just proposed today. I'm hearing from the applicant that they're not in agreement with that. And I'm not sure that we need to approve it that way. I'd really like some more information.

My concern for this overall is this is a wonderful project. It's a project that is really conducive to smart growth. I hope some projects come up in the northwest quadrant that work as hard on bending backwards with the communities around there with the issues, with staff. And I just have a real difficult time continually what I think, creating barriers to moving this project forward. It's one that I think is well worth our strong consideration. I want to vote in favor of it, but I don't know that we will be providing a favorable position by imposing conditions 18 and 19. And I guess I need further understanding with regard to that, and I'd like to defer to the applicant as to why he is disagreeing with that, and if it's a negotiable item at any point in time.

CHAIRMAN ANAYA: Lorn, do you agree with 18?

MR. TRYK: 18 was okay. It's 19 that's the poison pill for us.

CHAIRMAN ANAYA: Okay, he agrees with 18, but he doesn't agree with 19.

MR. TRYK: Right. And the 15.i that I brought up before, just on that road connection.

CHAIRMAN ANAYA: Could you restate the 19 condition? Number 19?

MS. LUCERO: Mr. Chairman, it would be that if the eleven acre-feet of water rights do not get transferred, the developer will only be allowed to plat 117 lots.

CHAIRMAN ANAYA: Okay, but Steve Wust, you agreed with the 17 conditions, and you didn't have a problem - or do you have a problem now with it? Do you

not have a problem with 19?

DR. WUST: Mr. Chairman, number 19 came out of a discussion I had with Dolores and Vicki, so it was partly my idea. And just to give you a little background, first off there's a precedent, if you recall La Pradera. They agreed to withhold construction of their last I believe eleven units in their case until they could either, (a) prove up their water budget, or (b) bring forward more water rights to make up that difference. And that's what we're talking about here, is protection of the County so we're not stuck for that eleven acre-feet if somehow it doesn't get transferred. And so that was an arrangement already made with La Pradera. So this is consistent with that.

Secondly, I would just argue that we've been told by the applicant that they're so confident that they'll get the eleven acre-feet that the County should go ahead and approve the water service agreement. I believe if they're that confident, they shouldn't have any issue with number 19. And we feel if they're that confident, then there's no problem putting that kind of condition on. But we do need protection for the County, just in case that stuff doesn't happen. We don't want to be stuck for the water that we don't have the water rights for that that we promised.

CHAIRMAN ANAYA: Thanks, Steve. Lorn, you want to comment?

MR. TRYK: Yes. As I said before, this condition 19 puts a great financial burden on the project. We cannot get financing if we can't build 175 lots. If we go to the bank and say, all we got approved for was 117, we can't get financing. That's what I was mentioning to you before. La Pradera is not an apples-to-apples comparison. They don't have a backup plan. That was the only thing that they could come up with. That's a low-density subdivision that doesn't have the kind of infrastructure costs that we do or the kind of off-site costs we do. So it's a huge concern for us.

CHAIRMAN ANAYA: Okay. I think we get the picture. There's a motion on the floor and a second to approve with conditions from 1 through 19. Any more discussion?

The motion to approve EZ Case S 04-4451 with all staff conditions failed by 2-3 voice vote with Commissioners Campos, Vigil and Sullivan voting against.

CHAIRMAN ANAYA: Okay, the noes have it. Give me another motion.

COMMISSIONER VIGIL: Mr. Chairman, I'd like to motion that we move forward with this project. I think it's a worthy project for Santa Fe County. It's in the best interests of the majority of the county. And that the conditions 1 through 18 be met, but in fact the applicant consider working with Public Works on the possibility of a third road, but he not be obligated to it. But since the applicant has testified that they are willing to consider it, I'd like to see that partnership occur.

COMMISSIONER MONTOYA: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: I would still make the case that we, as Mr. Wust has said and our staff recommends, that we need some backup to these promises on the eleven acre-feet. And we did get - it is a similar situation to La Pradera. La Pradera had extensive off-site costs, several million dollars, including the reconstruction of Dinosaur Trail, construction of a sewage treatment plant for only 80 units versus 100 to 175 here. They had, I think, per unit costs that probably were higher than we have here. So I think it is a reasonable comparison. I think if we don't find ourselves having some backup in the water service agreement, there's no time that they have to provide that eleven acre-feet. There's no time requirement. One year, two years, three years. It's in perpetuity.

So I think that it's a real disservice to the public to commit the County to approve these additional units until they have the water service agreement. And it's certainly an incentive to the developer to get that eleven acre-feet tied down and moved forward. And if they have the build-out schedule that they're talking about, three to four years, that won't impair their ability at all to bring those units online, because they'll have their water rights by that time.

CHAIRMAN ANAYA: Thank you, Commissioner Sullivan.

The motion to approve EZ Case S 04-4451 passed by majority 4-1 voice vote with Commissioner Sullivan voting no.

- XIII. A. 6. CDRC Case number AB04-5660, 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 a division of 16.20 acres into two 8.0-acre parcels for the purpose of a family transfer. The property is located off of 428 Ojo de la Vaca, within Section 30, Township 15, North range 11 East, Commission District 3**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. On May 29th, 2003, the County Development Review Committee recommended denial of the request for a family transfer to divide 16.20 acres into four lots consisting of 4 acres, more or less. On July 8th, 2003, the Board of County Commissioners denied the request. The applicant has re-applied, and is requesting to divide 16 acres into two eight-acre parcels for the purpose of a family transfer. On March 17, 2005, the County Development Review Committee recommended denial of this request.

The property is located within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres per dwelling, or 40 acres with water restrictions. Lot size may be reduced to a minimum of two and a half acres if the applicant can demonstrate water availability. The minimum lot size for a family transfer is 20 acres.

Recommendation: Staff recommends that the request for a variance be denied. The

Code establishes minimum lot size in this area at 160 acres, or 40 acres with water restrictions. The minimum lot size for family transfers is 20 acres. A minimum lot size of two and a half acres may be allowed based on water availability report as approved by the County. Thank you.

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

Hearing none, the applicant is here. Do you want to say a few words, sir?

[Duly sworn, Bobby Armijo testified as follows:]

BOBBY ARMIJO: My name is Bobby Armijo, and I've been here before. All I'm trying to do is give a family transfer to give a piece of property to two of my kids. I just want to say that I do have two wells, one in the property and one that I share with my brother-in-law right next to it. I know that on the same section there's also one two-acre lot that has already been developed, and a six-acre lot. On the section next to me recently developed five-acre lots. So I hope you take into consideration that all I want to do is just, like I say, give the land to my kids.

CHAIRMAN ANAYA: Bobby, when you get on Ojo de la Vaca and you cross the river across the railroad tracks, you continue going up the pavement, whereabouts? How far up? Are you off the pavement or before the pavement? Tell me.

MR. ARMIJO: As soon as you get to the very top and then you see the high-line.

CHAIRMAN ANAYA: The cattle guard? You cross the cattle guard?

MR. ARMIJO: The cattle guard. And then you go just a little ways till you see the high-line. It's about a quarter mile from there on the left-hand side.

CHAIRMAN ANAYA: On the left side. And you were in here about two years ago trying to do a four - trying to do this piece of property into four, correct?

MR. ARMIJO: Right. Yes, yes.

CHAIRMAN ANAYA: And what kids do you want to give them to? You have two kids?

MR. ARMIJO: Well, I have three. And that's the reason I was trying to do it for four. But since I wasn't able to, what I'm going to do is just give two of the kids, and then the other kid, I guess I'll give him what I have here in Santa Fe.

CHAIRMAN ANAYA: Okay. You want to add anything else, Bobby?

MR. ARMIJO: No. I think that's it.

CHAIRMAN ANAYA: Any question of Mr. Armijo?

COMMISSIONER VIGIL: Mr. Armijo, is this the only property you own?

MR. ARMIJO: Is this the only property I own? No.

COMMISSIONER VIGIL: What other property do you own?

MR. ARMIJO: Here in Santa Fe. Canyon Road.

COMMISSIONER VIGIL: Okay. And is that property dividable for family transfer? Can you divide that property for family transfer purposes?

MR. ARMIJO: The one here in Santa Fe?

COMMISSIONER VIGIL: Yes.

MR. ARMIJO: No. It's too small. I can only put one house in it.

COMMISSIONER VIGIL: Okay. Your children, are they currently working in a particular field? What do they do for a living?

MR. ARMIJO: My oldest one is a mechanical engineer. And then my middle one is a nurse. And then the little one's going to college.

COMMISSIONER VIGIL: Okay. And one of the issues that I guess came up with this, based on the readings that I've done, is I guess my understanding is there's two wells, but only one well on the property you own, and you've got some kind of an agreement to share a well with some property adjacent to that. Is that correct?

MR. ARMIJO: Yes. The way that works, my father-in-law gave us - it was 80 acres, and he split it into five ways, 16 acres for each of his kids. But that time we did a well together. So for a while we shared the well. And then I got my own well. So I have my own well and then I share the well with them too.

COMMISSIONER VIGIL: Okay. Mr. Armijo, we're required to gather testimony with regard to whether or not, if this is not granted you, there would be a hardship to you or your family or if there's a hardship with regard to the terrain in dividing this up. Do you have any testimony with regard to that?

MR. ARMIJO: No. Like I say, I think my kids should have something. Their great-grandfather homesteaded, that's the way it came into my family. The great-grandfather homesteaded it. So I just want to leave it to them.

COMMISSIONER VIGIL: Okay. And is Steve Wust here? Anyone with regard to the water issue on this? Does anyone have anything to add with regard to the water problem in this property split? Joe? Can I defer that to you?

MR. CATANACH: Mr. Chairman, Commissioner Vigil, I believe that any discussion that Bobby Armijo had with Stephen Wust indicated that either of the two existing wells were probably not deep enough to demonstrate a 100-year water availability. So I believe that that's some of the discussion that Mr. Armijo has had with the County Hydrologist, that the two wells probably are not going to - he would probably not be able to demonstrate a 100-year water availability from the two wells. They're not deep enough, as I understand.

MR. ARMIJO: The reason I didn't do a test is I don't think I can spend 6 or 7,000 dollars just to do a test. I just can't do that. So that's one reason I didn't proceed the water thing.

COMMISSIONER VIGIL: Joe? Mr. Chairman, I'm sorry.

MR. CATANACH: Mr. Chairman, Commissioner Vigil, is that understanding correct? Have you shown the County Hydrologist the well logs for these properties?

MR. ARMIJO: Yes, I did.

CHAIRMAN ANAYA: Okay. Any more questions? What's the pleasure of the Board? Oh, public hearing, I'm sorry. This is a public hearing. Is there anyone in the audience that would like to speak for or against this case? Okay, hearing none, what's the pleasure of the Board?

I'd like to make a motion to approve this. I realize that he understands that he does have a well there. And if does go dry, then he needs to dig a deeper one, if they'd like, or collect water, or haul water. So I'd like to make a motion to move for approval with conditions. Is there a second? No second? Is there another motion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Question for legal. Do we need another motion?

MR. ROSS: I guess, Mr. Chairman and Commissioner Campos, if we don't ever have a motion, then -

CHAIRMAN ANAYA: Then we're stuck here all night?

MR. ROSS: Then we're stuck. It would fail.

COMMISSIONER CAMPOS: Well, CDRC denied this.

MR. ROSS: That's correct, yes.

COMMISSIONER CAMPOS: Now, it's on appeal from CDRC?

MR. ROSS: That's correct.

COMMISSIONER CAMPOS: If we want, we can either let it stand or reverse it. And there is no support for reversing it.

MR. ROSS: Our rules require a motion for some action. Now, I suppose if we never get a motion, then de facto, you have action of the Board. But the rule of procedure we have require a motion. So that would be a motion to deny the appeal or a motion to approve the appeal, something like that.

COMMISSIONER CAMPOS: Okay. Well, I'll make a motion to deny the appeal.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN ANAYA: Motion and a second to deny. Any discussion?

COMMISSIONER VIGIL: Mr. Chairman, I just have a question of the applicant. If we move forward on denying this appeal, and perhaps this goes to Steve or to Joe, if the applicant is able to prove more than a 100-year water supply, can he still re-apply for this transfer? He can? Okay.

MR. ROSS: Mr. Chairman, Commissioner Vigil, if he shows water availability, he can reduce the density further than the standard density out there.

COMMISSIONER VIGIL: Okay. Mr. Armijo, it's not looking good. But if there's some way you can come forth proving that there's sufficient water, I believe that's in a hydrological zone where there's high concern whether or not the aquifer can really conform to density decisions, and this of course is a density decision. So based on the lack of knowledge of what is known for water out there, I think this Commission is compelled to move forward in really scrutinizing these variances, with that being a critical issue.

So I just wanted to inform the applicant on that. I'm ready for a vote.

The motion to deny CDRC Case A/V 04-5660 passed by majority 4-1 voice vote with Commissioner Anaya voting against.

CHAIRMAN ANAYA: Sorry, Mr. Armijo.

MR. CATANACH: Mr. Chairman, just a point of clarification. The request was being referred to as an appeal. It's not an appeal requested. It was a variance request. Just wanted to clarify that.

CHAIRMAN ANAYA: Okay. Thank you.

- XIII. A. 8. CDRC Case Number A 055130, Fred and Marcia Richardson Appeal. Fred and Marcia Richardson, applicants, are appealing the CDRC decision to deny a placement of a temporary second home on 0.994 acres. The property is located on Tango Road, south of Cuyamungue on the east side of Highway 84/285 within Section 27, Township 17 North, Range 9 East, Commission District 1**

JAN DANILES (Review Specialist): Thank you, Mr. Chairman. On October 21, 2004, Code Enforcement issued a notice of violation to the applicant for placing a mobile home on the subject property without a permit. On December 13, 2004, Code Enforcement returned to the applicant's property and issued a final notice of violation. On January 7, 2005, the applicants came in for a County development permit for the temporary placement of the temporary dwelling unit and were denied because it did not meet the minimum lot-size requirements. At its regularly scheduled meeting April 21 2005, the CDRC met and denied the case.

The subject property is located on Tango Road, about a mile east of Highway 284-85 within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is ten acres per dwelling unit. There is currently one home, one detached garage, one temporary mobile home and two permitted septic systems on the property. The property is served by an onsite shared well, and the applicants have owned the property since 1980.

The applicants state the reason that they moved the mobile home onto their property was because their son owns it, and he had no other place to put it. Their son knew the move was temporary until he could get on his feet and afford to park it on a lot or in a trailer park. The applicants feel that is virtually impossible for our young people to survive in the city and the county. The trailer is only temporary and not intended to be a rental. Their son will move it as soon as he can afford to. The applicants will look forward to getting their property and their view back, but in the meantime, they feel family should come first.

The CDRC denied the appeal and staff recommends denial of the appeal based on

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Article III, Section 10 of the Land Development Code, which states that the minimum lot size in this area is two-and-a-half-acres per dwelling unit. If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed. Mr. Chairman, may I enter the conditions into the record?

CHAIRMAN ANAYA: No, I think I want to hear them.

MS. DANIELS: All right. I'll go ahead. It's a little more time.

CHAIRMAN ANAYA: That's fine, that's fine. Thank you.

[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. At that time, the applicant must prove the hardship still exists. [Revised at motion. See below.]
2. Water use shall be restricted to 0.25 acre-feet per dwelling. Water restrictions shall be recorded in the Santa Fe County Clerks Office. A water meter shall be installed for both homes prior to permit issuance. Annual water meter readings shall be submitted to the Santa Fe County Land Use Administrator by January 31st of each year. [Stricken at motion.]
3. No additional dwellings will be allowed on the property.
4. The existing driveway will serve both homes.
5. The applicant must follow all other building permit regulations including terrain management improvements as required by staff.
6. Failure to comply with any condition shall result in administrative revocation of the temporary permit.

CHAIRMAN ANAYA: Any questions of Jan? Okay, is the applicant here? Would you like to come forward? Go ahead and swear yourself in, state your name and address.

[Duly sworn, Fred Richardson testified as follows:]

FRED RICHARDSON: Fred Richardson, Marcia Richardson, P.O. Box 861 Tesuque. And our physical address is 34 Tango.

CHAIRMAN ANAYA: Do you have anything to add to that, Fred?

MR. RICHARDSON: No, we were just trying to get our son on his feet and let him work up deposit money to get his own place. The reason we haven't put him in a mobile home park is a lot of parks require ten years or newer mobile homes, and his is eleven years old. So it looked as none of the local home parks in the area, plus it would also take a lot of his finances away to try to get his down payment so he could buy property in the area.

We're also one of 25 neighbors, of which nine also have two units per one acre in the area. We only wanted to do this temporarily to help my son get through his - get his down payment so he can get his own property. So we were just looking for a couple years on this.

CHAIRMAN ANAYA: Okay.

MARCIA RICHARDSON: The only other thing I was going to say is he's working two jobs to try to save money.

CHAIRMAN ANAYA: Okay. Thank you.

COMMISSIONER MONTOYA: Mr. Chairman?

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Richardson, how long do you anticipate 'temporary' to be?

MR. RICHARDSON: We're hoping two years, in that neighborhood.

COMMISSIONER MONTOYA: So you're requesting a two-year temporary?

MR. RICHARDSON: Yes.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN ANAYA: Any other questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: In the staff conditions, Jan, the temporary permit to be issued for two years and subject to extensions for consecutive two-year periods by the CDRC, would that condition be changed to the BCC if the Commission approved this?

MS. DANIELS: Mr. Chairman, Commissioner Sullivan, they would go to the CDRC for approval of a second temporary permit. It wouldn't go back to the BCC.

COMMISSIONER SULLIVAN: Okay. This is an appeal, correct?

MS. DANIELS: Yes.

COMMISSIONER SULLIVAN: So if they went to the CDRC and the CDRC denied it, then they could come to the BCC to appeal?

MS. DANIELS: That's correct.

COMMISSIONER SULLIVAN: But they don't come back to the BCC for initial permission?

MS. DANIELS: Right, if the CDRC approved it, they wouldn't come to the BCC.

COMMISSIONER SULLIVAN: I see. Okay.

MS. LUCERO: Excuse me, Mr. Chairman, Commissioner Sullivan, we could amend that condition to require them to come back to the board, to the BCC, rather than the CDRC, if that's what the Board feels appropriate.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN ANAYA: Okay, Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, we could also say: "A temporary permit will be issued for a period of two years" period, and just strike the rest of the sentence. And the last sentence.

COMMISSIONER SULLIVAN: What would happen at the end of two years, then?

COMMISSIONER CAMPOS: He's gotta move. He says he only needs two years.

COMMISSIONER SULLIVAN: You think that would work, Mr. Richardson?

MR. RICHARDSON: We will make it work.

COMMISSIONER SULLIVAN: We have problems with these temporary homes becoming like temporary army housing.

MR. RICHARDSON: I understand that. The only reason I did it was to just help my son out. I only own one acre. If I owned more, I would help him out by working property with him.

COMMISSIONER SULLIVAN: Do you own other land in Santa Fe County?

MR. RICHARDSON: No, I don't.

COMMISSIONER SULLIVAN: What's the income of your son per year?

MR. RICHARDSON: Right around \$22,000 \$23,000. Now he's got a second job, so I'm not sure what that's done. So he's in the process of upgrading, taking school and working two jobs. So he's got a pretty full plate right now.

COMMISSIONER SULLIVAN: Single, married?

MR. RICHARDSON: No, he's single. By himself.

COMMISSIONER SULLIVAN: Okay.

COMMISSIONER VIGIL: Excuse me, Mr. Chairman. Do you have any other children?

MR. RICHARDSON: I have three children.

COMMISSIONER VIGIL: Three?

MR. RICHARDSON: One of three, yes.

COMMISSIONER VIGIL: Okay. So this is just the one - I guess I need to have you say why are you helping him, and how old are the others?

MR. RICHARDSON: One's still living at home, and she's in college. My middle daughter is not married but living with a fellow down in Pojoaque in a mobile home park in their own house. So we're helping with childcare for her child, but my son needed help more at that time. We've helped them at different points in their lives.

COMMISSIONER VIGIL: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman?

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: If we amended the conditions to state the temporary permit will be issued for a period of two years, period, would it then be necessary to require the water meters and recording and so forth? I'm just wondering if that's really necessary for only a two year. Are you metered now?

MR. RICHARDSON: I'm not metered. We have a calculation from water usage for septics installed. And for an acre you're allowed up to 500 gallons per day discharge, which is three times what the suggested requirements were. Right now, we have a pre-moratorium well, and we're involved in the Aamodt water suit. So I would really prefer not to have any restrictions put on the well until after we find out where the Aamodt

water suit ends up with us. We will eventually have to put meters on the well, and I am totally open to put the meter on the well if you're requiring it. But with just two residences with four of us living there, we're somewhere under three-quarters of an acre usage per year.

COMMISSIONER SULLIVAN: I didn't understand the first part of your -

MR. RICHARDSON: Because of the Aamodt water suit, ours is a pre-moratorium well, which means we're allowed up to three acre-feet a year. We're nowhere near the three acre-feet, but we're probably pushing close to three-quarters to one acre. We have a full developable acre, and we do some small gardening. The house usage itself is a little over a half-acre foot a year.

MRS. RICHARDSON: I would just like to comment that with a two year restriction permanently, I don't think the water meter would - I agree with Commissioner Sullivan that we really wouldn't need to have a water meter because it's two years and that's it.

COMMISSIONER SULLIVAN: It's only one year of readings. And by the time we ding them for going over, they've got to get the mobile home out of there anyway. So that was my point that I was bringing up, if we wanted to consider that option. Quite frankly, I would favor that option. I would favor, as Commissioner Campos suggested, a two-year time period, period, eliminating condition two.

CHAIRMAN ANAYA: Okay. Anything else you want to add?

MR. RICHARDSON: No, I think that's it.

CHAIRMAN ANAYA: Okay, this is a public hearing. Is there anybody from the audience who would like to speak for or against this case? Hearing none, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I move, Mr. Chairman, for approval of the application. Approval of the appeal with staff conditions revised as follows: condition number one would read, "A temporary permit will be issued for a period of two years." And then strike the balance of that paragraph. And condition two, with respect to water restrictions and metering, would be deleted in its entirety.

COMMISSIONER MONTOYA: Second.

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

COMMISSIONER VIGIL: Mr. Chairman?

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: The question for Land Use, Dolores, how will we be able to flag this? What system do we have in place to know when the two year permit is up, and how can we enforce this?

MS. VIGIL: Mr. Chairman, Commissioner Vigil, since the last meeting, we had discussed possibly putting a process in place to flag these types of temporary permits. So we've actually assigned one of our staff members to look at every temporary permit that has been approved. Now we're working on a letter that would go out to that property owner at least six months in advance, in order for them to have some time to remove the

mobile home or the other structure that was approved temporarily. So that's how we are trying to monitor these temporary permits.

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

CHAIRMAN ANAYA: Any more discussion?

The motion to approve CDRC Case #A 05-5130 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Congratulations.

- XIII. A. 9. CDRC liquor, number 05-5200, M.A. Agora, LLC, Jerry Schaufler owner. Transfer of ownership of dispenser of liquor license. Gary Boyle, agent. M.A. Agora, L.L.C, is requesting a transfer of ownership of a dispenser liquor license in accordance with the previously approved commercial zoning. The property is located in the Agora shopping center of Eldorado, New Mexico, at number 7 Avenida Vista Grande, unit B-6, within Section 9, Township 15 North, Range 10 East**

MS. DANIELS: Thank you, Mr. Chairman. We're passing out a revised report, changing the agent and clarifying the transfer of ownership and the status of the license. [Exhibit 9] It's almost the same as the other one. Peter Vogel, agent for MA Agora. Is Mr. Vogel here? Come on up. Agent for MA Agora, LLC, Jerry Schaufler, owner, is requesting a transfer of ownership of a dispenser liquor license, in accordance with previously approved commercial zoning.

The applicant is requesting a transfer of ownership of a dispenser liquor license from BH-F at the LLC to MA Agora, LLC, Jerry Schaufler, owner. The license is leased and will continue to be leased by the Copa de Oro restaurant, located in the Agora shopping center of Eldorado at 7 Avenida Vista Grande. The request is in accordance with the zoning approval granted by the BCC. Staff recommends approval for transfer of ownership of a dispenser liquor license, subject to the following conditions. Mr. Chairman, may I enter the condition into the record? Thank you.

CHAIRMAN ANAYA: You may.

[The condition is as follows:]

1. Compliance with resolution imposing an annual liquor license tax upon person who is holding State Liquor License (Resolution 2004-45) as applicable.

CHAIRMAN ANAYA: Any questions of Jan? Is the applicant here?

COMMISSIONER MONTROYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

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COMMISSIONER MONTOYA: Where was this license located previously?

MS. DANIELS: It was the Agora shopping center, which was approved for master plan zoning June 8th, 1993 by the BCC. It was Gary Boyle's. He has since sold it to the new owners.

COMMISSIONER MONTOYA: So it was in Eldorado physically? I asked where was it located previous to this request for the transfer?

MS. DANIELS: It's the Agora shopping center.

COMMISSIONER MONTOYA: Where's the physical location that this is right now, BH Assets and the license, where they're using it? And it's going to be transferred to Eldorado. In other words, was it in Lamy and it's going to be transferred to Eldorado? Or was it in Pojoaque and it's going to Eldorado.

MS. DANIELS: The actual physical presence was at 7 Avenida Vista Grande in Eldorado, Unit B-6. It's going to stay in the same place. But it's the owners that are changing. The status of the license itself won't be moving physically.

COMMISSIONER VIGIL: Mr. Chairman?

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: If staff or whoever wants to respond to this, it seems to me that statutorily we're only required when it comes to dispenser of liquor licenses just to make sure they're not within 100 or 200 feet of a school zone, and that in fact we're required to take public testimony with regard to that. But we really don't have any other guidelines to approve or disapprove this. And perhaps that's for Steve Ross.

MR. ROSS: Mr. Chairman, Commissioner Vigil, that's right. There's very limited grounds to deny the transfer of a liquor license. And they relate specifically to issues peculiar to the transferee of the license, and, as you described, whether the license is located within a prohibited distance of a school or church, something like that. And there's a third ground if the license would affect the public safety or morals. It's a catch-all. Very limited grounds.

COMMISSIONER VIGIL: Thank you.

CHAIRMAN ANAYA: Okay. Is the applicant here? If you could just state your name, sir, and if you want to add to the testimony.

[Duly sworn, Pete Vogel testified as follows:]

PETE VOGEL: My name is Pete Vogel. I live at 1607 Young Street in Santa Fe. And I've been an employee at the shopping center for ten years. I'm the president of maintenance there. Since the owner doesn't live here, he asked that I stand in for him. But I have nothing to add. The shopping center was sold in January, and now they're selling the liquor license to the same new owner. So that's the transfer request.

CHAIRMAN ANAYA: Okay, thanks Pete. Commissioner Montoya.

COMMISSIONER MONTOYA: Pete, this was sold from Gary Boyle also, the shopping center?

MR. VOGEL: Yes. The shopping center -

COMMISSIONER MONTOYA: To Jerry Schaffler?

MR. VOGEL: That's it.

COMMISSIONER MONTOYA: Oh, okay.

MR. VOGEL: And now he's selling the liquor license.

COMMISSIONER MONTOYA: Okay. Thank you, sir.

CHAIRMAN ANAYA: Okay. This is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Hearing none, what's the pleasure of the Board?

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: There's a motion.

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: And a second. Any more discussion?

The motion to approve CDRC LIQ # 05-5200 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Congratulations.

COMMISSIONER CAMPOS: With the conditions. We need to make that clear.

CHAIRMAN ANAYA: With the conditions.

COMMISSIONER VIGIL: Yes, Mr. Chairman, that was the intention of my motion. With all conditions.

CHAIRMAN ANAYA: Okay.

COMMISSIONER CAMPOS: Shall we vote again?

CHAIRMAN ANAYA: No, we got it. With conditions. What was that?

MS. DANIELS: We removed the second condition because it's not necessary that they have a business license, because the owner doesn't have an office in the County. The office is in California.

COMMISSIONER VIGIL: Let me re-make my motion. Move to approve—

CHAIRMAN ANAYA: Okay, would you withdraw that?

COMMISSIONER VIGIL: I withdraw my motion and would like to re-state that approve this project, including the conditions but deleting condition number two.

CHAIRMAN ANAYA: Okay, hold on one sec, Commissioner. Steve, what would be the proper way to do this?

MR. ROSS: Probably the proper way to do it would be someone who voted in the majority to move to reconsider.

COMMISSIONER CAMPOS: Move to reconsider.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: There's a motion and a second to reconsider. Commissioner Vigil.

COMMISSIONER CAMPOS: No, we have to vote.

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The motion to reconsider passed by unanimous [5-0] voice vote.

COMMISSIONER VIGIL: Mr. Chairman, I move that we approve the project before us with all conditions as recommended by staff, and that includes removing condition number two. This is on the liquor license dispenser case at Agora Shopping Center.

CHAIRMAN ANAYA: Is there a second?

COMMISSIONER CAMPOS: Second.

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

The motion to approve CDRC LIQ #05-5200 with one condition passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Congratulations again.

- XIII. A. 10. **EZ Case # DL 05-4160, Andrew and Rita Leyba, Family Transfer.** Andrew and Rita Leyba, applicants, request plat approval to divide 2.64 acres into two tracts for the purpose of a family transfer. The tracts will be known as tract E, lot 1A (1.342 acres more or less) and tract E, lot 1B (1.342 acres more or less). The property is located at 6 Camino Vista Grande, located within the Valle Lindo Subdivision, within Section 25, Township 16 North, Range 8 East, Commission District 5

CHAIRMAN ANAYA: I'm falling asleep. Vicente.

VICENTE ARCHULETA (Review Specialist): Thank you, Mr. Chairman.

On April 14, 2005, the EZC recommended approval subject to staff conditions. The applicants are requesting plat approval to divide 2.684 acres into two tracts for the purpose of a family transfer within the Basin Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is ten acres. Lot size may be reduced to two-and-a-half-acres with water restrictions, and family transfers are allowed to be divided to one and a quarter acres.

The applicants have owned the property since 1983, and it will be transferred as follows: tract E, lot 1A, 1.342 acres, one residence to be retained by the applicants. Tract E, lot 1B, 1.342 acres, one residence to be transferred to an adult daughter. The application was reviewed for the following: access, water supply, liquid waste, solid waste, terrain management, fire protection, archaeological review, environmental review.

It is staff's position that re-division of lots within the Valle Lindo subdivision will diminish the performance of existing infrastructure by potentially doubling the density and

therefore intensifying the non-conforming status. Prior to allowing the creation of additional lots within the Valle Lindo subdivision, the subdivision should be upgraded to current subdivision standards with respect to the size and number of lots. An upgrade to Valle Lindo would require, among other things, a fire protection plan and existing roads to be substantially improved. Therefore, staff recommends denial of this request as proposed.

If the decision of the EZC is to recommend approval of the request, staff recommends the following conditions be imposed. May I enter those into the record?

[The conditions are as follows:]

1. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25-acre ft. per year per tract. Water meters for each subject parcel must be installed prior to plat recordation to monitor water use. Annual water consumption reports must be submitted to the Land Use Administrator by January 31st of each year. Meters shall be installed for each residential unit prior to recording the plat.
2. A shared well agreement must be approved by the County and recorded with the plat. The plat must indicate shared well easements.
3. This property is subject to the La Cienega Water Shed Conditions.
 - a) Future connection to county water utility.
 - b) Shared wells must be utilized.
 - c) Depth and construction.
 - d) Disconnection from domestic wells.
 - e) Easements.
 - f) Well design
4. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts. Addresses must be added to plat.
5. The applicant must submit Family Transfer Affidavits and Deeds of Transfer to be recorded simultaneously with the plat of survey.
6. Compliance with review comments from County Fire Dept. as applicable.
7. Easements for all natural drainage ways must be provided.
 8. Terrain management improvements in accordance with Santa Fe County Regulations shall be required.
 9. Applicant shall submit access permit as approved by County Public Works Dept.
 10. Applicants shall pay a Solid Waste Fee of \$78.04.
11. The applicant must address all minor corrections by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation. The redlines must be returned with the final Mylar.

CHAIRMAN ANAYA: Yes.

MR. ARCHULETA: Thank you, Mr. Chairman.

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CHAIRMAN ANAYA: Thank you, Vicente. Any questions of Vicente? Okay, can the applicant come forward? If you want to state your name, swear yourself in.

[Duly sworn, Andrew Leyba testified as follows:]

ANDREW LEYBA: My name is Andrew Leyba, 6 Camino Vista Grande, Santa Fe.

CHAIRMAN ANAYA: Andrew, do you want to add something to the testimony?

MR. LEYBA: Mr. Chairman, members of the Commission, good evening. I've had these houses there since 1983, is when I built the first house. And in 1984 I obtained a permit for a second house. So in effect, I've actually had two houses there since 1983. They've both been supplied by one well, and we have had no problems of any kind. The reason why I'm requesting the lot be divided into two tracts is simply so I can deed half of the property to one of my daughters. Like I said, she's been living there all along, and the two houses are already on the property. There will be no other additions.

CHAIRMAN ANAYA: Okay. Any questions of the applicant? Okay. This is a public hearing. Anybody in the audience who would like to speak for or against this case? Okay. The public hearing is closed. What's the pleasure of the board?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'd like Mr. Leyba to answer a couple of questions. Mr. Leyba, how many children do you have?

MR. LEYBA: Right now I have two daughters and one son.

COMMISSIONER VIGIL: Okay. And this is being divided specifically for one daughter?

MR. LEYBA: Yes, that is correct.

COMMISSIONER VIGIL: As you testified. Do you own any other property?

MR. LEYBA: No, Commissioner Vigil, I do not.

COMMISSIONER VIGIL: Okay. And can you explain whether or not this would be a hardship if it didn't happen?

MR. LEYBA: Well, what I've taken into consideration of course is I want to help one of my daughters. And with the price of houses as they exist today, it's very expensive. And since the house is already there, I just simply want to deed half of the property to her and help her out.

COMMISSIONER VIGIL: Okay. Thank you, Mr. Leyba. Question for staff. The property that surrounds this area, have there been density divisions of any kind?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, there have been a few on the other road of the Valle Lindo Subdivision. I think it's Camino Bajo. I know of at least one or two that have been subdivided in that area. But those were done quite a few years ago.

COMMISSIONER VIGIL: Is there sufficient water supply to support this division?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, it's in the Basin Hydrologic Zone where the minimum lot size is 2.25 acres. So they would be restricted to a quarter acre per dwelling. As far as the water we didn't do any type of a geo-hydro or a water report.

COMMISSIONER VIGIL: Was this request submitted to the County Hydrologist for his review?

MR. ARCHULETA: Mr. Chairman, Commissioner Vigil, family transfers are exempt from water reports.

COMMISSIONER VIGIL: Despite the fact that most of the ones that we're hearing tonight are Basin Hydrological Zone where the water quantity is unknown? Is that exemption statutory or is it regulatory? Do we know? Is it rule and regulation or is that by statute?

MR. ARCHULETA: It's by County Code.

COMMISSIONER VIGIL: Okay. Thank you.

CHAIRMAN ANAYA: Any other questions of the applicant? Commissioner Campos.

COMMISSIONER CAMPOS: A question for Mr. Archuleta. You've stated that you feel that this could be detrimental to the Valle Linda Subdivision. Would this set a precedent for other people to split, and then it could simply double in size?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, the precedent has been set by the other land divisions or family transfers that were approved in that subdivision.

COMMISSIONER CAMPOS: In Valle Lindo?

MR. ARCHULETA: In Valle Lindo.

COMMISSIONER CAMPOS: So others have already been -

MR. ARCHULETA: There's been at least two that I can recall.

COMMISSIONER CAMPOS: How many lots were originally approved?

MR. ARCHULETA: In the Valle Lindo Subdivision?

COMMISSIONER CAMPOS: Yes.

MR. ARCHULETA: I don't have that information.

COMMISSIONER CAMPOS: And is this a non-conforming subdivision?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, yes it is. This was approved prior to 1981.

COMMISSIONER CAMPOS: So this is like the Pinon Hills case?

MR. ARCHULETA: Exactly.

CHAIRMAN ANAYA: Any other questions? What's the pleasure of the Board? I'll make a motion. I think that he has the houses there already, been there since 1983. They've been using, they've got one well to serve both residents. I'll move for approval with conditions. Is there a second?

COMMISSIONER SULLIVAN: Second.

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

The motion to approve EZ Case #DL 05-4160 passed by unanimous [5-0] voice vote.

XIII. A. 11. **EZ Case # DL 05-4260 Fidel F. and Carol B. Garcia Family Transfer Fidel F. and Carol B. Garcia, Applicants, Request Approval to Divide 3.75 Acres into Two Lots. The Lots will be Know as Lot 1, Block 6 (2.50-Acres More or Less) and Lot 1B, Block 6 (1.25-Acres more or Less). The Property is Located at 29 Calle Suzanna, Located within the Pinon Hills Subdivision, within Section 25, Township 17 North, Range 8 East (Commission District 2)**

MR. ARCHULETA: Thank you, Mr. Chairman. On May 12, 2005, the EZC recommended approval subject to staff conditions. The applicants are requesting plat approval to allow a family transfer land division of 3.75 acres into two lots. The property is located at 29 Calle Suzanna, 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. Lot size may be reduced to 2.5 acres with water restrictions, and family transfers are allowed to be divided to 1.25 acres.

There is currently one residence served by an onsite well, which will serve both lots. The applicants have owned the property since 1976. The property is located within a subdivision that was approved by the BCC in 1964. This subdivision is legal non-conforming, as it does not meet current subdivision standards for fire protection, roads, water and liquid waste. The following lot sizes are proposed: Block 6, Lot 1 - 2.50-acres. One residence to be retained by the applicants. Block 6, Lot 1B - 1.25-acres. To be transferred to an adult grandson.

The application was reviewed for the following: access, water supply, liquid waste, solid waste, terrain management, fire protection, archeological review, environmental review. The property is located within a legal non-conforming subdivision. Let me skip that. All existing infrastructure such as fire protection, and roads within the Pinon Hills/Alameda Ranchettes Subdivision have been constructed in accordance with the subdivision standards that were in place in 1964 at the time of approval. Infrastructure requirements in 1964 were not as comprehensive as today's standards, thus the Pinon Hills/Alameda Ranchettes Subdivision is legal, non-conforming.

It is Staff's position that the re-division of lots within the Pinon Hills/Alameda Ranchettes Subdivision will diminish the performance of existing infrastructure by potentially doubling the density and therefore intensifying the non-conforming status. Prior to allowing the creation of additional lots within Pinon Hills/Alameda Ranchettes, the subdivision should be upgraded to current Subdivision standards. With respect to the size and number of lots, an upgrade to Pinon Hills/Alameda Ranchettes would require among

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other things, a fire protection plan and existing roads to be substantially improved. Therefore, Staff recommends denial of this request as proposed.

The BCC has given favorable consideration for family transfers subject to a condition that the lots cannot be sold for a period of ten years.

If the decision of the BCC is to recommend approval of the request, staff recommends the following conditions be imposed. May I enter those conditions into the record?

CHAIRMAN ANAYA: Yes.

[The conditions are as follows:]

1. The private easement that extends off Calle Suzanna must be developed meeting SFC Common Roadway Standards, prior to recording the plat of survey or the applicant must provide Santa Fe County with a certified engineer's cost estimate to develop the access. A financial guarantee acceptable to the County in the amount of the approved cost estimate must be included.
2. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25-acre ft. per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the Land Use Administrator by January 31st of each year.
3. The applicant shall install a water meter for the existing residential unit prior to recording the plat.
4. The applicant must contact Rural Addressing for assignment of addresses for the proposed tracts. Addresses must be added to plat.
5. EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$86.00.
6. A shared well agreement shall be approved by the county and recorded with the plat. The plat shall indicate shared well easements.
7. The portion of road easement that extends through the platted area must be granted for public use. The applicant shall submit access permit as approved by Public Works Department.
8. Easements for all natural drainage ways must be provided.
9. Applicant shall sign Fire Department Affidavit.
10. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan, and submit permits for existing dwelling unit.
11. The applicant must submit Family Transfer Affidavits and Deeds of Transfer to be recorded simultaneously with the plat of survey.
12. Terrain management improvements in accordance with Santa Fe County Regulations may be required for the existing residence.
13. A retention pond in accordance with Santa Fe County Regulations will be required for the existing development on Lot 1B at time of development.
14. Address buildable area in conformance with slope standards.
15. The applicant must address all minor corrections by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans

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may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation. The redlines must be returned with the final Mylar.

CHAIRMAN ANAYA: Any questions of Vicente?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: On the second page of the report we have required action, the property is located within a legal non-conforming subdivision. Therefore the BCC must approve this division. And then on the following page, middle, it is staff's position, last sentence, therefore staff recommends denial of this request. Could you clarify that for me, Vicente please?

MR. ARCHULETA: Mr. Chairman, Commissioner Montoya, that should read, therefore the BCC must approve, deny or actually it should be - well, the sentence where it says action should be taken to approve, deny, approve with conditions or table this application for further analysis, that's where that should fall. It doesn't mean that the BCC must approve this division. You have the authority to approve or deny this decision.

COMMISSIONER MONTOYA: Okay.

MR. ARCHULETA: It doesn't sound right. I agree.

COMMISSIONER MONTOYA: It confused me. That's all I had.

CHAIRMAN ANAYA: Thank you, Commissioners. Any other comments? Okay, is the applicant here? Come forward and state your name.

[Duly sworn, Carol Garcia testified as follows:]

CAROL GARCIA: My name is Carol Garcia.

CHAIRMAN ANAYA: Thank you, Carol. Do you want to add something. Unfortunately, Fidel can't be here tonight. He's undergone surgery so I'm kind of here on my own. We would like to give Justin a piece of the property. He has just had, him and his wife has just had a baby. This is our first great grandchild. We'd like the opportunity to be able to watch the baby and see her raised next door to us. At this time we feel that Santa Fe is a very expensive place to live and without the gift of the property we don't feel that Justin and his wife and a new child would be able to acquire a home for many, many years.

Also, Justin has lived on this property all of his life. We gave a piece of property to our son twelve years ago. He has raised his family there and is still living at that residence and Justin would be doing the same. As far as the conditions that have been put before us, we agree with everything that has been put there.

CHAIRMAN ANAYA: Any questions of Carol? Thank you, Carol. This is a public hearing. Is there anybody in the audience that would like to speak for or against this case? Hearing non, what's the pleasure of the Board?

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

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Vicente, this applicant has 3.7 acres and is

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dividing it into 2.5 acres for one lot and 1.25 for the second. Correct?

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

COMMISSIONER VIGIL: And what is the minimum lot size, requirement for a family transfer in this area?

MR. ARCHULETA: In this area, it's 1.25 acres.

COMMISSIONER VIGIL: So that this applicant is in compliance with the minimum requirements?

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

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Is there a motion?

COMMISSIONER MONTOYA: Mr. Chairman, move for approval with staff conditions.

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

COMMISSIONER VIGIL: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think the problems we've had in this subdivision have been brought before us several times and we've generally taken kind of a middle of the road position, limiting the splits to 2.5 acres with a ten-year holding period and that's been something that the West Santa Fe Association has come up with recently to support. In the past they would oppose all of these transfers because of the increase in the traffic and the fact that there's only one entrance and exit point to the subdivision. I think that's a reasonable compromise in that subdivision and I think we're getting entirely too small. The Code does allow us to go down to 1.25 but, and Mr. Ross correct me if I'm wrong, or Mr. Catanach, that if the Commission determines as the staff has suggested that our conditions that impair safety, health or welfare of the public, that that's not a mandatory approval or a mandatory requirement. Am I stating that correctly? Anybody? See what I'm saying?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, if I understand the question, certainly the request is in compliance with the zoning for minimum lot size but certainly there's other issues with the subdivision having to do with access across a flood plain, fire protection.

COMMISSIONER SULLIVAN: But if those issues occur then it's within the purview of the Commission to deny even though the zoning would permit it to go down to that size. Is that correct?

MR. CATANACH: Yes. The Commission certainly should consider this based on other impacts in relation to subdivision requirements.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Do you have a suggestion?

COMMISSIONER SULLIVAN: Well, I don't see the ten-year in there either.

Vicente did bring it up. In the past we've attached that requirement. The past ones that I remember approving were 2.5 acre ones and ten years added to them although some didn't have the ten years. I understand, before my time on the Commission there were others approved out there that were 1.25. So I think there are 1.25-acre lots out there. There are 2.5-acre lots. There are ten-acre lots. There's just all kinds of lots. And it gets worse and worse.

CHAIRMAN ANAYA: What do you mean about the ten-year?

COMMISSIONER SULLIVAN: Ten-year family holding.

CHAIRMAN ANAYA: Before they can sell it.

COMMISSIONER SULLIVAN: Before they can sell it. And we had testimony about a year ago from the West Santa Fe Association that they had done a study and about 60 percent of the family transfers had been sold within a year. Now, I'm not suggesting that these applicants would do that but once it's approved of course we have no control over that.

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

COMMISSIONER VIGIL: Mr. Chairman, I need clarification. Does the motion include the ten-year waiting period or not?

CHAIRMAN ANAYA: No.

COMMISSIONER SULLIVAN: Who made the motion?

COMMISSIONER MONTROYA: I did. I'm willing to add that condition.

COMMISSIONER VIGIL: Would that be condition number 17?

COMMISSIONER MONTROYA: Yes.

COMMISSIONER VIGIL: And does the applicant clearly understand that that means that the house goes to the son and stays with their son for ten years minimum? And hopefully for his lifetime because it's beautiful out there.

CHAIRMAN ANAYA: Okay, so we amended the motion to include another condition for a ten-year holding period and there was a motion by Commissioner Montoya and a second by Commissioner Vigil. Any more discussion?

The motion to approve EZ Case #DL 05-4260 passed by majority 4-1 voice vote with Commissioner Sullivan voting no.

- XIII. A. 12. **CCDRC CASE # Z 05-5110 Chilton Properties, LLC**
Development Plan: Chilton Properties LLC, applicant, Gerald Chavez, agent, request a special use approval to operate a motorcycle sales/repair business on 5.02 acres. This request also includes preliminary/final development plan approval. The property is located within the Thornburg Subdivision, at the northwest corner of State Road 14 and Fire Place, south of I-25 within Section 24, Township 16 North, Range 8 East NMPM, Santa Fe County

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chairman. On June 2, 2005, the CCDRC recommended special use approval to operate a motorcycle sales/repair business on 5.02 acres. The applicant is requesting special use zoning approval within a designated employment center zone to allow motorcycle sales and full service repair center. The request will include a newly constructed 29,000 square foot building with an additional 8,000 square foot portal space on a 12-acre tract. The proposed development lies within the Thornburg property which received master plan approval for a mixed-use development by the BCC on September 10, 2002. On October 12, 2004 the BCC approved a master plan amendment to increase the number of residential units and decrease the amount of commercial space. The proposed Harley Davidson site was designated for commercial use under the previously approved master plan.

This property was reviewed for the following: existing development and zoning, adjacent properties, traffic/access/parking, terrain management, water, liquid and solid waste, fire protection, landscaping, signage and lighting.

In approving a special use the Board shall consider the following: The proposed use is appropriate and compatible in the specific location and environmental impacts including, without limitation, noise, lighting, traffic and visibility effects on the adjoining properties are minimized and that the intent and principles of the Santa Fe Community College District Plan are implemented by the approval of the proposed use at the proposed location.

On June 2, 2005, the CCDRC recommended approval for a special use approval to operate a motorcycle sales/repair business on 5.02 acres. The request also included preliminary development plan with final development plan approval to be granted administratively by staff subject to the following conditions. Mr. Chairman, before I enter these conditions into the record there's also going to be a new condition, number 16, that a lighting analysis shall be submitted for review and approval prior to final development plan approval. And that will be condition number 16. With that, Mr. Chairman, may I enter these into the record?

CHAIRMAN ANAYA: Yes.

[The conditions are as follows:]

1. Compliance with the applicable review comments from the following:
 - a) State Engineer

- b) State Environment Department
 - c) State DOT
 - d) County Hydrologist
 - e) Development Review Director
 - f) County Public Works
 - g) County Technical Review Division
 - h) County Fire Marshal
 - i) County Utilities Department
2. The development plan will be recorded with the County Clerk's Office.
 3. All staff redlines will be addressed; original relines will be returned with final plans.
 4. The applicant shall comply with the water harvesting and water conservation requirements of Ordinance 2003-6. A water-harvesting plan shall be submitted with the final development plan application.
 5. The applicant shall comply with all Fire Marshal requirements. The applicant will request a final fire inspection prior to occupancy of the building.
 6. A detailed signage and lighting plan shall be submitted prior to final development plan. Only two signs are permitted.
 7. Address compliance with requirement for park area consisting of a minimum of .33 acres, with benches and landscaping.
 8. Road frontage landscaping shall be 50 percent evergreen.
 9. The maximum uninterrupted length of proposed building façade shall be 50 feet.
 10. Only 25 percent of the building footprint is allowed to have a height of 36 feet which shall include the stone tower feature. Height of tower shall not exceed 25 feet (which includes the eagle statue) with 100-foot setback from front property line.
 11. Compliance with architectural design standards of the CCD, which includes but is not limited to three distinct masses with 4 feet vertical and horizontal offsets.
 12. Access permits for DOT must be submitted prior to final development plan approval.
 13. An updated TIA must be submitted prior to final development plan approval.
 14. Updated water and sewer service agreement will be required prior to final development plan approval.
 15. The applicant shall participate in a CCD-wide infrastructure extension policy for infrastructure improvements, operation and maintenance.
 16. A lighting analysis shall be submitted for review and approval prior to final development plan approval.

CHAIRMAN ANAYA: Thank you. Any questions?

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

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COMMISSIONER VIGIL: The question on condition number 15, the applicant shall participate in a CCD-wide infrastructure extension policy for infrastructure improvements, operation and maintenance, could you be more specific on that?

MR. GONZALES: Mr. Chairman, Commissioner Vigil, that's going to include basically the trails and parks program that the Community College has. They would be required to basically just incorporate the trail system in the Community College.

MS. LUCERO: Mr. Chairman, Commissioner Vigil, if I could just expand on that. That's a standard condition that we've been imposing on all projects within the Community College District. If we do establish a CCD-wide infrastructure extension policy, which would basically require all the developers in that area to participate in the cost of traffic signals, road improvements, that sort of thing.

COMMISSIONER VIGIL: Does that include water line extensions?

MS. LUCERO: Mr. Chairman, Commissioner Vigil, in this case it would include water line extensions.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On page 2 the staff report indicates On October 12 the BCC approved a master plan amendment to increase the number of residential and decrease the amount of commercial. What did we decrease the commercial to? This is a big building. This is 29,000 square feet and an 8,000 square foot portal. This is comparable to ten houses or 15 houses.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I don't have the figures directly in front of me but I believe the applicant could address that question.

COMMISSIONER SULLIVAN: Okay. We'll ask the applicant.

CHAIRMAN ANAYA: Is the applicant here?

[Duly sworn, Gerald Chavez testified as follows:]

GERALD CHAVEZ: My name is Gerald Chavez, architect, 1229 San Jose Avenue, Santa Fe. Mr. Chairman and Commissioner Vigil, who had the question on the density shifts?

COMMISSIONER SULLIVAN: Sullivan.

MR. CHAVEZ: Commissioner Sullivan. As I understand it there was a revision in the master plan that was brought to the Board of County Commissioners which rezoned and reapportioned all of the lands to the east of Highway 14. This particular lot, the 12 acres of which the 5.02 is specifically for the Harley Davidson was in the original master plan as the employment center and as commercial space and this particular portion remained unchanged. It was other portions of the master plan that the density shift was adjusted and approved by this Commission.

COMMISSIONER SULLIVAN: Mr. Chairman, how many square feet are approved in this side of State Route 14?

MR. CHAVEZ: The entire 12-acre tract is approved for employment center district. The open space requirement is included on the east side of the property so that in

essence this 12-acre parcels enjoys the benefits of a 24-acre parcel with the open space.

COMMISSIONER SULLIVAN: This is on the same side that they're building the big storage units, right? The five storage units that we cut down to four.

MR. CHAVEZ: I'm not familiar with the storage unit component that you're speaking of. This is immediately opposite a PNM center where Fire Place doglegs into the County fire station, and it's the old access into the Wolf Canyon Brewery.

COMMISSIONER SULLIVAN: Maybe staff can help me with that. Where is the storage units that we approved?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I believe you're referring to the Sonny Otero warehouse storage units?

COMMISSIONER SULLIVAN: Yes, right.

MS. LUCERO: It's on the same side of State Road 14 as the storage units.

COMMISSIONER SULLIVAN: Okay, but it's a different tract?

MS. LUCERO: It's a different tract. Yes.

COMMISSIONER SULLIVAN: So the storage units are just up towards the penitentiary? In that direction?

MS. LUCERO: That's correct. Yes.

COMMISSIONER SULLIVAN: And are they immediately adjacent to this?

MS. LUCERO: No, Mr. Chairman, I don't believe that they're immediately adjacent to this property.

MR. CATANACH: They're northeast of the Santa Fe Brewery property.

COMMISSIONER SULLIVAN: Which is? This one?

MR. CATANACH: No.

COMMISSIONER SULLIVAN: The storage units?

MR. CATANACH: The Sonny Otero warehouse buildings are adjacent to the Santa Fe Brewery property.

COMMISSIONER SULLIVAN: I don't mean to extend this to midnight, Mr. Chairman, but what I'm trying to get at is I'm trying to get a handle on how much commercial has been approved west of 45 in the Community College District. Because it was reduced, and as Mr. Chavez says, that reduction may have only been on the east but I'm trying to see where we are with the storage units the Harley Davidson and whatever else has been approved there, and we have no a 29,000 square foot building. Where are we? Do we need a master plan approval to increase the commercial to make this project viable?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, the square footage - the Santa Fe Brewery Company is not part of the Thornburg master plan. The Sonny Otero warehouse buildings are not part of the Thornburg master plan. This is the first commercial building that comes in under the Thornburg master plan. That master plan was approved for over 100,000 square feet of commercial, as I recall. This is the first building to come in.

COMMISSIONER SULLIVAN: Okay. And so the total square footage for

commercial, as a part of all of those that you just mentioned, those subdivisions or those commercial projects, are a part of the Community College District.

MR. CATANACH: Yes, they are

COMMISSIONER SULLIVAN: So are we under that maximum amount of commercial that's allowed by the Community College District in that area, west of State Route 14?

MR. CATANACH: If I understand your question, the total square footage is given for each separate development.

COMMISSIONER SULLIVAN: For each separate one. So if this is the first one, we're okay.

MR. CATANACH: Yes, we're okay.

COMMISSIONER SULLIVAN: All right. That answers my question.

Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Any questions? Commissioner Vigil?

COMMISSIONER VIGIL: Staff, did the CDRC approve this? Is staff's recommendation also to approve it? It seems like it is and I thought I read it but I'm not finding it at 10:20 at night.

MR. GONZALES: Mr. Chairman, Commissioner Vigil, it was to approve.

COMMISSIONER VIGIL: It was to approve. Thank you. Mr. Chairman, if there are no other questions I'm reading to move to approve this project. Is there a public hearing?

CHAIRMAN ANAYA: Yes.

COMMISSIONER VIGIL: Well, I'm sure they'll come in masses.

CHAIRMAN ANAYA: Let's get them up. This is a public hearing.

Anybody want to speak for or against? Hearing none, what's the pleasure of the Board?

COMMISSIONER VIGIL: Move to approve with staff conditions.

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

COMMISSIONER CAMPOS: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Another question, Mr. Chavez, that I believe you addressed somewhat in your report and thanks, by the way, for your report. It's quite well done compared to what we see unfortunately too often here. Tell me about the noise abatement. This is a noisy place.

MR. CHAVEZ: Absolutely. We've addressed this issue to the planning commission as well. This project started with great concern for the noise that's created on the premises. It turns out that our primary construction of the building is a 12-inch concrete block enclosure completely surrounding the building envelope. All noise generated within the building, and it's essentially an environmentally controlled building,

so all doors will be closed. But with the sound attenuation the primary concern was for a dynamometer that is used to do final tuning and adjustment for the motorcycles themselves. The dyno enclosure is a modular component completely acoustically sealed with a sound rating of 76 dBs immediately outside of the box of the dynamometer. So we have the dynamometer within a sound-controlled envelope within a 12-inch block controlled envelope.

There's also restrictions that are placed with the County for a maximum of 86 dBs to be recorded at the property line, of which the owner is a member of the board of the association for enforcing these requirements. So it is something that's taken both very seriously but we've aggressively managed the acoustics. It would be very difficult, even if you open up the doors and left the dynamometer open to get that type of sound attenuation at the property. So we do not anticipate any excess noise, other than from the actual vehicles generated going up and down 14 as all the other traffic would. But as a result of the business and its operation, short of the dynamometer, it's a very quiet business, it's an existing operation on Cerrillos Road which gives you a pretty good opportunity to observe the type of noise that's generated.

COMMISSIONER SULLIVAN: And why are they moving out here?

MR. CHAVEZ: There's a variety of reasons. The current site on Cerrillos Road is a complete disaster for safety. They have almost one accident per week of motorcycles. The way the road was designed, it's a mandatory U-turn going easterly. That U-turn with the additional driving lane has added so much confusion. That's not the primary reason but that is one of the major reasons. It also was a facility that it was acquired by new owners and does not fit their business profile at all. So there's always been a surge even with the old owners for a new location, but with new owners they found an ideal location which this property presents.

COMMISSIONER SULLIVAN: These are new owners of the Harley Davidson.

MR. CHAVEZ: These are absolute new owners, yes.

COMMISSIONER SULLIVAN: And this is the owner sitting here next to you?

MR. CHAVEZ: This is one of the owner/partner and operating manager for the business.

COMMISSIONER SULLIVAN: Welcome to the best Santa Fe County Commission district of the five.

CHAIRMAN ANAYA: Okay. I've got one more comment. You know the Commission always gets invited to go places, and we got invited to the Red River Rally last year but we didn't have any bikes. So I was wondering if you'd like to donate five motorcycles to the Commission.

MR. CHAVEZ: As long as you have a motorcycle endorsement on your drivers license, Mr. Chairman.

The motion to approve CCDRC Case #DP 05-5110 passed by unanimous [5-0] voice vote.

CHAIRMAN ANAYA: Congratulations.

MR. CHAVEZ: Thank you very much.


MS. VIGIL: Commissioners, we have some letters that we'd like to pass out from one of the people in support of Oshara. They didn't have copies made so we made copies for your record and we'd like to pass those out now. Thank you.

CHAIRMAN ANAYA: Okay. We'll take them. Thank you, staff.

XIV. ADJOURNMENT

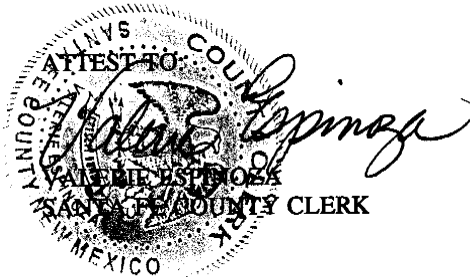
Chairman Anaya declared this meeting adjourned at approximately 10:25 p.m.

Approved by:


Board of County Commissioners
Mike Anaya, Chairman

Respectfully submitted:


Karen Farrell, Commission Reporter



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