

2700779

SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

August 12, 2003



Jack Sullivan, Chairman
Paul Campos, Vice Chairman
Paul D. Duran
Michael D. Anaya
Harry B. Montoya

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COUNTY OF SANTA FE
STATE OF NEW MEXICO
I HEREBY CERTIFY THAT THE ABOVE IS A TRUE AND CORRECT COPY OF THE ORIGINAL AS FILED
FOR RECORD IN THE COUNTY CLERK'S OFFICE ON
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AND IN WITNESS WHEREOF I HAVE HEREUNTO SET MY HAND AND SEAL OF OFFICE
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WITNESSED BY
COUNTY CLERK
Marell Duran

SANTA FE BOARD OF COUNTY COMMISSIONERS
COMMISSION CHAMBERS COUNTY ADMINISTRATION BUILDING

REGULAR MEETING
(Public Hearing)
August 12, 2003 - 3:00 pm

Agenda

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- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
- VI. Approval of Minutes
- VII. Matters of Public Concern -NON-ACTION ITEMS
- VIII. Matters from the Commission
 - A. Collaborative Forest Restoration Program - Ruben Montes
- IX. Committee Appointments/Reappointments/Resignations
 - A. Committee Resignations
 - 1. Community College District Review Committee (CCDRC)
 - B. Committee Appointments
 - 1. Community College District Review Committee (CCDRC)
- X. Consent Calendar
 - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 - 1. EZ CASE #V 02-4801 - Blair Bennette Family Transfer Variance (Approved)
 - 2. AFDRC CASE #V 03-5120 - Casa Rufina Apartments Variance (Approved)
 - B. Resolution No. 2003 - A Resolution Requesting an Operating Transfer from the General Fund (101) to the Rio En Medio Capital Project (315) and an Operating Transfer from the Water Enterprise Fund (505) to the General Fund (101) to Budget Expenditure in Fiscal Year 2003 (Finance Department)
 - C. Resolution No. 2003 - A Resolution Requesting a Transfer from the General Obligation Bond (GOB) 1993 Series Debt Service Fund (401) to the General Obligation Bond (GOB) 2003 Series Debt Service Fund (401) to Budget Bond Refinancing Expenditure in Fiscal Year 2003 (Finance Department)
 - D. Resolution No. 2003 - A Resolution Requesting an Increase to the Environmental Gross Receipts Tax Revenue Bond Fund (402) to Budget Fiscal Year 2003 Cash

Balance for the Remaining Redemption Balance of Principal and Interest for Fiscal Year 2004 (Finance Department)

- E. Resolution No. 2003 ~~14~~ Resolution Requesting an Operating Transfer from the General Fund (101) to the Housing Enterprise Fund (517), an Operating Transfer from the Water Enterprise Fund (505) to the General Fund (101), and an Operating Transfer from the Housing Enterprise Fund (517) to the EMS Health Care Fund (232), Capital Fund (301), and to the Fire Excise Tax Fund (222) to Budget Transfer of Assets' Expenditure in Fiscal Year 2003 (Finance Department)
- F. Resolution No. 2003 ~~14~~ Resolution Requesting an Increase to the GOB Series - Open Space Fund (385) to Budget Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Project & Facilities Management Department)
- G. Resolution No. 2003 ~~14~~ Resolution Requesting an Increase to the Road Projects Fund (311)/Various Road Projects to Budget Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Public Works Department)

XI. Staff and Elected Officials' Items

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A. Project and Facilities Management Department

- 1. Authorization and Acceptance of the Lease and Operating Agreement #24-0017-PFMD with Youth Shelters & Family Services for the New Youth Shelter
- 2. Request Approval of Land Purchase Agreement between Santa Fe County and The Trust for Public Land for Approximately 109 Acres of Land and Acceptance of Approximately 263 Acres of Donated Property for Inclusion in the Santa Fe County Open Space and Trails Program

B. Matters from the County Manager

C. Matters from the County Attorney

- 1. Executive Session
 - a. Discussion of Pending or Threatened Litigation
 - b. Limited Personnel Issues
 - c. Acquisition or Disposal of Real Property

XII. Public Hearings

A. Land Use Department

- 1. Request Authorization to Publish Title and General Summary of a Ordinance Amending the Land Development Code (Ordinance 1996- to Require Rainwater Catchment Systems for all Commercial Development and for Subdivisions of More Than 5 Lots and to Encourage Rainwater Catchment Systems for Residential Use
- 2. BCC CASE #03-4411 - John and Sharon Askwith Stipulation Agreement Amendment. John and Sharon Askwith, Applicants, Are Requesting Approval of an Amendment to a Stipulation Agreement Entered into with the County, which Would Allow the Applicants to Request a Variance for the Purpose of Dividing their Property through a Family Transfer. The Property is Located at Stone Ridge Road, within Section 17, Township 16 North, Range 10 East (Commission District 4). Liza Vitale
- 3. EZ CASE #S 00-4561 - The Estancias at Las Campanas. Las Campanas de Santa Fe (Mike Sanderson, Vice President) Requests a Final Plat and Development Plan Amendment for the Estancias at Las Campanas Residential Subdivision (Formerly known as Tesoro Enclaves) for 128 Lots and an Equestrian Area on 432 Acres. This Request Also Includes a Variance of Section 3.5.4g2 of the Extraterritorial Subdivision

Regulations to Allow the Approach to an Intersection to Exceed 3% Grade for 100 Linear Feet at Four Locations. The Property is Located off Las Campanas Drive within Section 10 & 15, Township 17 North, Range 8 East (Commission District 2). Vicki Lucero

4. *Post
1/20
Vicki
Lucero* CDRC CASE #MIS 01-5012 - Santa Fe Downs Reconsideration of Conditions. Pojoaque Pueblo Development Corporation Requests the Reconsideration and Clarification of Conditions that were Imposed on the Previously Approved Master Plan for the Santa Fe Downs, which Requires the Applicant to Submit a Manure Removal Plan within 2 Years of Master Plan Approval, as Well as to Install a Monitoring Well to Monitor the Effects the Manure Pile May Have on Ground Water. The Property is Located Southwest of the Intersection of I-25 and SR599 (Downs at Santa Fe), within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3). Vicki Lucero

XIII. Adjournment

The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).

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SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

2700783

August 12, 2003

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

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

Members Present:
Commissioner Jack Sullivan, Chairman
Commissioner Paul Campos
Commissioner Paul Duran [late arrival]
Commissioner Mike Anaya
Commissioner Harry Montoya

Members Absent:
[None]

There was a moment of silence in lieu of an invocation.

IV. Approval of the Agenda

- A. Amendments
- B. Tabled or withdrawn items

CHAIRMAN SULLIVAN: I haven't seen an amended agenda, Gerald. Is the agenda we have the current one?

GERALD GONZALEZ (County Manager): Mr. Chair, yes it is, although there is one minor correction. One item is being withdrawn and that is under Section XI, Staff and Elected Officials' Items, Project and Facilities Management Department, which is A. Item number one, Authorization and acceptance of a lease operating agreement with youth shelters and family services for the new youth shelter. That item has been withdrawn. The rest of the agenda remains as it is before you.

CHAIRMAN SULLIVAN: Any additions or corrections from the Commission?

COMMISSIONER MONTOYA: Mr. Chair.

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CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I would like to ask staff, Mr. Abeyta, regarding item XII. A,4, Public Hearings, if maybe we could refer that case? Has the La Cienega Development Review Committee heard this case?

ROMAN ABEYTA (Land Use Administrator): Mr. Chair, Commissioner Montoya, no. The LCDRC did not or have not because it has to do with conditions of approval imposed by the Board so they requested to come directly to the Board. However, the Board could, if the Board would like, the Board can send it down to the LCDRC for a recommendation. But that's up to the Board.

COMMISSIONER MONTOYA: I would like to make that motion, Mr. Chair, that we refer that to the LCDRC before it comes to us.

CHAIRMAN SULLIVAN: We have a motion with regard to the agenda item number XII. 4. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Discussion.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I would prefer that this matter stay with the Commission. It was a Commission imposed condition. We have gotten a lot of testimony from the community. I think we know what the problem is. The question is, how do we effectively deal with the problem. That's something that the Commission can do. I don't think it really makes a lot of sense to send this application back to the local development review committee. I think Pojoaque is entitled to a hearing here at this level today to let us know what they have done as far as removing the manure and what plans they have for the future. I think that's the most direct way and I would prefer to handle things directly as opposed to sending them down and letting them come back up again. If anybody wants to know what the community has to say, look at the minutes. There's a lot of testimony. So I would suggest that we vote against that and that we consider the matter today even though it's a politically hot issue. Thank you.

CHAIRMAN SULLIVAN: Other discussion? Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I just thought it would be good to get it back to the people that live there and the people on the La Cienega Development Review Committee, they live there and I'm sure that there is new appointments on that committee and they might have a different view and maybe some ideas on how we can work with the Pueblo. So that's what I'd like to see. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya, have we or have you discussed this with anyone representing the Downs because I assume that they were planning to be here this evening.

COMMISSIONER MONTOYA: Mr. Chair, I have and they are in agreement with letting the local development review committee listen to it before it comes to the BCC. They would like to get a recommendation from the local, from La Cienega.

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CHAIRMAN SULLIVAN: Okay. So you've spoken with someone. The only concern I would have would be that -- and I don't want to hear the case at this point in time, but as I recall reading their request they want to extend for two years the time line to remove the manure and also they want us to waive the requirement for the monitoring well, indicating that there are already monitoring wells out there. My concern is that we knew that there were monitoring wells out there before. That was part of the testimony two years ago, but there's not a monitoring well that directly provides information on what shallow groundwater effects might be from the manure piles. So if we go to the La Cienega Development Review Committee that puts off even further getting that monitoring well in there. I really think they should have come to us two years ago if they didn't understand the monitoring well requirement and said we vary or we waive this requirement, rather than coming two years now. I had assumed all along that the well was in and we were getting the data on that. So that would be my concern.

The other question I would have Roman, in terms of the people that might be coming to testify on this tonight, what's your take on that?

MR. ABEYTA: Mr. Chair, if this is something that's taken care of now under matters of the agenda, we would do our best, we would go back and we would contact some people that we know of in the community. We would also post a notice outside of the chambers. We would try to notify as many people as we could between now and 5:00.

CHAIRMAN SULLIVAN: I'd like them to try to work on this problem at a local level rather than battling it out here at the Commission level as the first step. Has there been any activity that's taken place between the Pueblo and the local community during those two years?

MR. ABEYTA: Mr. Chair, I don't know if there's been anything official. I know they haven't been on any LCDRC agendas for anything but I know they have been working on removing the manure and as part of that they have offered it and some residents have taken advantage of picking up manure from the facility and they do have a full-time monitor out at the facility, or caretaker out at the facility that's interacted with the community, but that's all that we know of. I don't know of any official communication that's taken place between the community and the Downs.

CHAIRMAN SULLIVAN: So we don't have an official request for postponement by the Santa Fe Downs, but Commissioner Montoya indicated that they have, that you have discussed it with them and they're willing to work along those lines. Commissioner Campos, you have a question?

COMMISSIONER CAMPOS: Mr. Chair, my suggestion is an alternative way to deal with this, is let the case come on the agenda as it's set. Let's hear from staff and from the Pueblo. At that point, if we decide that it should be referred to the land development review committee we'll have more information and we could at that point remand it. I think that might be -- it gives us more information, a little more perspective and maybe allows us to deal with this more directly. That would be my suggestion.

CHAIRMAN SULLIVAN: Other discussion?

COMMISSIONER MONTROYA: So then we could make the motion at that time

to refer it.

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COMMISSIONER CAMPOS: I would support that.
COMMISSIONER MONTOYA: To the LCDRC.

COMMISSIONER CAMPOS: If there's good grounds for that I would support it at that point but I want to get better perspective. I want to give the parties a change to present what they're doing and hear from the staff and maybe answer some questions that we all have.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I believe that's why we have the La Cienega Development Review Committee, so that they can ask those questions and that way, when it gets to us, those questions would have already been asked and I just want to give those folks an opportunity. That's why we appointed them to serve in that capacity and I think that it's important that they hear this case. I know me and Commissioner Montoya are new and we want to follow this process and there's new people on the committee, committee members that are new and I just think that if the Downs agree, which Commissioner Montoya already spoke with them, then I think we should go with it. Thank you.

CHAIRMAN SULLIVAN: Gerald, what's your suggestion on this particular occasion?

MR. GONZALEZ: Mr. Chair, given that we have folks who have, I think, already geared up to be here for the presentation, it doesn't seem that it really disrupts things to go ahead and hear the presentation at that point and make a decision about whether to refer it or not. That's just sort of the practical of dealing with the folks who maybe inbound. I don't know what the schedules are or who would have to adjust their schedules but it would be probably the least disruptive, but it probably works either way.

CHAIRMAN SULLIVAN: We only have four items on the public hearing agenda. I don't know how long the executive session will take. Do we have a long executive session?

MR. GONZALEZ: I don't believe we have a long executive session. Probably the longest item will be personnel matters.

CHAIRMAN SULLIVAN: I can certainly see the advantage of having the La Cienega Development Review Committee look at this but I'm also sensitive to the fact that when we publish something, and we haven't withdrawn it within the 24 hours that we really subject ourselves to some criticism for having people disrupt their schedule to be here and then find that the matter has been tabled. I think maybe with some understanding from the Commission that if we decide to, after hearing the applicant and the staff's presentations, if we decide to refer it back to the LCDRC, then we could either limit public testimony or, I don't think we could do away with it because we've noticed it as a public hearing. But we could certainly limit it to a minute or something of that sort so that knowing that we'd have more testimony at the La Cienega.

MR. GONZALEZ: I don't think that would be a problem.

CHAIRMAN SULLIVAN: Amy further discussion? I think personally I'd like

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to -- two things. I'd like to see it heard tonight, at least summarily and then I'd like to see them work with the local people. And some direction from this Commission to the La Cienega Development Review Committee as to what we want them to do. What we want them to look at and what kind of forum we want them to be because they're -- we've got to clarify what they're ruling on. We've already ruled on the master plan and this is only a request for two variances, I believe to that master plan. So it would be appropriate to have some discussion on it and maybe some focus towards getting the local community better involved in this as Commissioner Montoya and Commissioner Anaya suggest. That would be my feeling. Anyway, we have a motion and the motion is I guess to postpone. Is that what the motion is?
COMMISSIONER MONTOYA: Yes. Until it's been heard my La Cienega.

The motion to postpone the Santa Fe Downs matter tied 2-2, with Commissioners Sullivan and Campos voting against. [Commissioner Duran was not present for this action.]

CHAIRMAN SULLIVAN: Okay, we have a tie, so we'll keep the item on the agenda but I think that both the suggestions of Commissioner Anaya and Commissioner Montoya are good ones that we involve the local community more than has been involved in this issue, other than having to come here and approach us mode. Okay, other suggestions or amendments to the agenda from the Commission?

COMMISSIONER MONTOYA: Move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: Motion for approval and a second.

The motion to approve the agenda as amended passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]

[Commissioner Duran joins the proceedings.]

VII. Matters of Public Concern - Non-action Items

CHAIRMAN SULLIVAN: Do we have anyone here this afternoon who would like to address the Commission on Matters of Public Concern? That's where we are, Ms. Lichtenstein.

TAMARA LICHTENSTEIN: I'm sorry you guys move so fast. I'm Tamara Lichtenstein, 4861 La Junta del Alamo in Santa Fe. I'm here representing the board of the Agua Fria Village Association. Our president, Ramon Romero is out of town; otherwise he would be here today. I'm going to read you a letter on behalf of the Village Association.

The Agua Fria Village Association, representing residents and property owners in and around the Agua Fria Traditional Historic Community is opposed to Public Service Company of New Mexico's proposal to site a regional electric substation and high voltage power lines in our small historic village. PNM's proposal is called Project Power. We have a number of

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concerns about the project itself and the process by which our community was chosen as the site for the project. We also want the BCC to know that as part of the BCC-authorized planning process for Agua Fria a utilities planning process for our area has been initiated, and PNM representatives have agreed to participate in this effort to find a solution that meets both Agua Fria's and PNM's needs.

Our concerns with Project Power include the following: PNM failed to include an Agua Fria community representative in the group of citizens chosen to develop Project Power alternatives. This group suggested three proposed alternatives, all of which affect Agua Fria. We are the community most directly and negatively affected yet we had no opportunity to participate in the two-year process of examining and discarding at least eight other alternatives. We want to see those alternatives. Given the citizen working group's focus on using existing corridors and rights-of-way to minimize costs, it is clear that Agua Fria was from the earliest stages of the process, treated by the working group as a sacrifice zone. Two power lines intersect in the middle of the village and this location was chosen for the substation. No consideration was given to the historic and rural residential character of the community.

The project would burden our historic neighborhood with special costs not borne by other communities served by Project Power. If these costs were not included in Project Power's calculation. These costs include opportunities lost for traditional residents to continue living on land owned by their families for hundreds of years. Some families may be unable to divide land for family transfers due to loss of land for utility right-of-way. This is not only an economic loss for these families but a loss to local culture and history that is difficult to quantify yet quite real. Local culture and history are extremely important to Santa Fe's tourism-dependent economy. The ripple effects of damage to Agua Fria will be reflected well beyond our neighborhood.

In addition, the known and unknown health effects upon residents living within a certain radius of the substation and the high voltage lines create additional, perhaps incalculable costs to current and future residents. Property owners may see their land values decrease. Regardless of the actual health effects of electromagnetic fields, EMF, from the installations, the public perception of negative effects can be expected to have negative consequences for landowners. What is known about EMF so far through epidemiological studies is that the risk of childhood leukemia is increased by 50 percent. Both the National Institute for Environmental Health Sciences, NIEHS, and the International Agency for Research on Cancer, IARC, have classified EMF as a possible human carcinogen. NIEHS recommended to Congress that utilities reduce residential exposure to EMF. PNM's plan to build a substation and increase power transmission through the Village of Agua Fria ignores those recommendations and creates an unknown future risk to children and adults living nearby. These quotes are from a letter by Dr. Steven Pike.

Residents of Agua Fria have legitimate concerns backed by sound science about the negative health effects on them and their families if PNM's project is built in the village. The Agua Fria Village Association recognizes that the existing power lines in the village have been here for many years. Given the need to replace and upgrade them, given the Public Health

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Agency's recommendation to minimize human exposure to EMF, and given other concerns associated with these lines, we recommend that any new high voltage lines be located outside of our neighborhood in non-populated areas that are not planned for future residential development.

To this end, we are participating in a utilities planning process, which includes Agua Fria residents and property owners, PNM staff, Santa Fe County Land Use and Planning staff, and other community members in examining alternatives to the Project Power proposals. This planning process is taking place through the Utilities Subcommittee of the Agua Fria Planning Committee. The Agua Fria Planning Committee was authorized and directed by the Board of County Commissioners to commence work on creating a community plan for the Agua Fria area. The Utility Subcommittee met for the first time last week and has a working meeting planned for this Thursday, August 14th. PNM has agreed to participate in this working meeting and to supply necessary maps and other materials. It is important to ensure that the residents of La Cienega, La Cieneguilla and other area communities or neighborhoods are included in discussions of any utilities proposals that would affect their areas.

Key principals, followed by Agua Fria Village participants in the planning process include the following: Number one, Treat other communities as we wish to be treated with openness and inclusiveness so that no other community is left in the dark until the last minute as ours was. Number two, high voltage utilities must be located where negative effects on communities are minimized. Number three, any utilities or other development proposals that would be located in or near our village must be evaluated in terms of their impacts upon and appropriateness to a recognized traditional historic community. As such, PNM's current proposals for Project Power would negatively affect numerous traditional historic values of the village, including aesthetic, environmental, and cultural values.

Santa Fe County's efforts to assist the village in appropriate planning and preservation of the traditional historic community would be undermined. We are encouraged by PNM's cooperative attitude with regard to the Utilities Subcommittee's task and hope that this time around, Agua Fria's needs will be well represented by the resultant plan. We hope that the Board of County Commissioners will support this cooperative effort and will recognize that it cannot be completed overnight, given that PNM's community working group spent two years examining alternatives. The Utilities Subcommittee will work deliberately, responsibly and expeditiously given PNM's expressed concern for winter power needs.

The Agua Fria Village Association hopes that the BCC will support this process and will refrain from granting any approvals for the current Project Power's proposals in the interim. Thank you.

CHAIRMAN SULLIVAN: Thank you, Ms. Lichtenstein. I guess while that topic is in front of everyone, I can just mention so we have this out to the public that there are going to be three BLM early scoping phase meetings coming up. We've been notified. One on August 19th at the Agua Fria Elementary School. That's going to be from 7:00 to 9:00 p.m. One on August 20th, at the Inn at Sunrise Springs, from 7:00 to 9:00 p.m. and one August 21st, at Genoveva Chavez Community Center on Rodeo Road, also from 7:00 to 9:00 p.m. So if

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anyone is interested. I attended the last one and I can assure you it's an interesting meeting to attend. So those are three. I know they won't be the last ones but those who are interested certainly should attend one of those three meetings.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Tamara, thank you for coming over and reading that for us. I know that that's part of my district and part of Paul Duran's district and we're very concerned about what happens over there. We've gone to a few of those meetings and we are open to hearing what your concerns are. We've told PNM that they needed to meet with you. That's why they scheduled these meetings, but I'm surprised too that they did not meet with you two years ago. So thank you.

MS. LICHTENSTEIN: Thank you.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: At the last Agua Fria Association meeting, I attended that meeting and indicated, I just let the people there know that the Commission at the last meeting asked PNM to seek alternate sites outside of the historic village for the substation. So I just wanted to put that out on the public record.

MS. LICHTENSTEIN: Thank you very much.

CHAIRMAN SULLIVAN: Thank you. Are there others who would like to address the Commission this afternoon?

VIII. Matters from the Commission

A. Collaborative Forest Restoration Program -- Ruben Montes

CHAIRMAN SULLIVAN: I don't see anything in the packets but we did get something in our mailboxes. Is this what you're talking about, Mr. Montes?

RUBEN MONTES: That's correct, Mr. Chair.

CHAIRMAN SULLIVAN: Okay.

MR. MONTES: Well, I want to thank the Board of County Commissioners and the staff for allowing me this opportunity. Last time I was here was for a really special occasion for my grandmother's hundredth birthday and I again want to thank you for the special recognition you honored her with that day.

But I'm the Rural Community Assistance Coordinator for the Santa Fe National Forest. It's a position Congress just created about three years ago in response to the catastrophic wildfire season we experienced here in New Mexico in the year 2000. As you all know, Santa Fe County was especially hard hit with effects from Cerro Grande and from the Vaivash fire in Pecos. So Congress, our delegation, Senator Bingaman and Senator Domenici introduced legislation to create the Collaborative Forest Recreation program. It was signed into law by the president and has been in existence here in New Mexico only. It's a -- even though this is a

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Region III effort -- our region includes Arizona and New Mexico -- this program is only being piloted in New Mexico right now and every year, approximately \$5 million comes to the state for grants to do forest thinning activities on public lands. It doesn't have to be Forest Service land; it can be, in your case, county land.

Part of my job is to kind of do outreach to the communities, local governments, tribal governments, to make them aware of this program and to date, we haven't had very many local governments who have put in for this grant program. I think that's more because they're not aware of it, so that's kind of why I'm here today. But the reason I chose to come before County government, I plan to go to municipalities and tribal governments and give the same presentations, but County governments have more, as opposed to municipalities, you have more rural constituencies. Therefore you might have communities, like say, Rio en Medio, like Chupadero that border Santa Fe National Forest lands or BLM or tribal lands and they're kind of closer to some of these higher elevations where some of these fires -- in the case of the Molina fire, where they're lightning caused can start and impact those communities.

So I understand that the County has staff on hand to put in for these types of grants and it's a really great program. We're real pleased to be putting this forth. It's collaborative in that we're bringing in all the different players. At our last workshop in February we had people from pretty extreme environmental groups and loggers and landgrant activists, all coming together under the same roof to kind of at least hear each other out, at least be civil to one another and to discuss ways to improve the forest, improve the water shed and work together collaboratively.

So we're real pleased with this program. I think it would behoove the County to consider putting in for the grant. The RFPs are issued in January. It's a yearly cycle and then a panel of 12 members convenes in April and goes through all the proposals and selects those that have met the evaluation criteria. I just think it's a good opportunity for the County. I'd stand for any questions.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Questions for Mr. Montes. Commissioner Campos.

COMMISSIONER CAMPOS: Tell me a little bit more about the match. How does it match with --

MR. MONTES: A 20 percent non-federal match is required and it doesn't have to be -- it can be in-kind and it can be personnel, equipment, anything can go toward that. It doesn't have to be a cash match. The average grant size is \$360,000 for projects from one to four years in length.

COMMISSIONER CAMPOS: That's maximum? 360?

MR. MONTES: Correct.

COMMISSIONER CAMPOS: How many acres can you, let's say, thin for \$360,000?

MR. MONTES: Mr. Chair, Commissioner Campos, there's no limitation or stipulation about the number of acres to be treated. Just that it has to be, under this particular program it has to be public land, County land.

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COMMISSIONER CAMPOS: I understand, but the question is what would it cost us to get x-number of acres cleared? The City is paying a lot of money for a few acres up in the watershed.

MR. MONTES: Commissioner Campos, I couldn't answer that.

COMMISSIONER CAMPOS: It's pretty expensive.

MR. MONTES: Yes. I don't really know how much. I guess it depends on the terrain. Like I know the cost for us right now for us to thin the Santa Fe Watershed, because of the terrain and the conditions, it's different from say, a lower elevation or to remove say bark beetle infestation on County lands.

COMMISSIONER CAMPOS: What does it cost you to remove, to thin the forest in the watershed?

MR. MONTES: In the Santa Fe Watershed?

COMMISSIONER CAMPOS: In the Santa Fe Watershed.

MR. MONTES: I don't know, our forestry program staff would have a more accurate count on that.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: So I guess would we, could we get our open trails people to apply for this grant and maybe use it towards purchasing chippers to clean the open space that we're acquiring? Gerald, does that --

MR. GONZALEZ: I'm not sure whether that falls within the confines of the program. It may and that's something that we will want to look at. We recently had a staff discussion at the last senior staff meeting concerning County efforts, and we will be bringing forward, at the next Commission meeting a presentation that we hope will provide some basic information about how to deal with the biomass problem that has accrued. There are a lot of components to that program. We've looked at some options, including exploring whether the curtain burner up in Los Alamos is available. I know that Sandoval County has struggled with this issue and didn't quite get off the ground. There have been proposals of using biomass as an alternative energy source but I think there were all the kinds of programs that we can explore here in conjunction with what's been presented to us today.

COMMISSIONER ANAYA: Thank you, Gerald. So I think this is an opportunity for us to go out there and look for some more monies to help us in this. Thanks, Ruben.

CHAIRMAN SULLIVAN: Mr. Montes, as you indicated, this is for restoration or thinning on public land.

MR. MONTES: Correct.

CHAIRMAN SULLIVAN: Those could be County lands, they could be BLM lands or Forest Service lands, I assume.

MR. MONTES: That's correct, Mr. Chair. Yes, it could be County land. You have quite a bit of bark beetle infestation on County property so this money could be used to

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purchase equipment to fell those trees and even to chip them and to provide chips for the County. If the County is considering a biomass type facility then this money can be used for that effort.

CHAIRMAN SULLIVAN: Our chipping program has been real successful and people have been thanking us for participating in it and putting it together. But those programs generally have been where we provide and the Fire Department provides the chipper and people bring in from private property their excess dead trees and limbs and things and it all gets chipped up. So we wouldn't be able to do that, as I understand the program, but we would be able to get out on County property that needs some attention.

MR. MONTES: Correct. That's correct, Mr. Chair. Also, there have been people who have come and approached me at my office here in Santa Fe from the La Cienega area, a few neighborhood associations have banded together, private citizens who wanted to eradicate the Russian olive and salt cedar on their properties. Of course this program can't be used to treat private land, but if there was adjacent County property to these homeowners, then it can be used for that purpose.

This past year there were three Pueblos within the county that were awarded grants of \$360,000 to do bosque restoration on their properties. That was San Ildefonso, Pojoaque and Tesuque. So the tribes have been real active with this program, actually, and I'm just here to share the information and share the opportunity.

CHAIRMAN SULLIVAN: Okay, and you indicated that equipment can be purchased that is eligible.

MR. MONTES: That is correct, Mr. Chair.

CHAIRMAN SULLIVAN: It sounds, Commissioner Anaya, like a good idea. Who would carry this forward, Gerald, on the staff? Would that be Open Space and Trails, or would it be Public Works?

MR. GONZALEZ: Mr. Chair, members of the Commission, that's one of matters we're discussing at this point. For the time being, I've taken it under our wing in the County Manager's office, because it's obviously a coordinated effort. Stan Holden is kind of taking the lead for the time being until we get things organized internally. But it obviously will also involve PFMD, the Open Space and Trails program and to some extent Public Works as well.

CHAIRMAN SULLIVAN: Okay, thank you. Other questions for Mr. Montes?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Not a question, but Ruben, I just want to thank you for presenting this information. You've been very pro-active in trying to get the message out to different governments, local, tribal, etc. and I hope we can follow through on this and hopefully participate in it and it will help our county in a lot of different areas.

MR. MONTES: Thank you.

COMMISSIONER MONTOYA: I'll advocate for Rio en Medio and Chupadero also.

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CHAIRMAN SULLIVAN: All right. Sounds good.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Ruben, I also want to thank you for coming forward and I want you to tell your grandmother Hello from us.

MR. MONTES: I sure will. She has the proclamation right there next to her night-stand there so she's very proud of it. I've got a birthday coming up too, if you all want to acknowledge it.

COMMISSIONER CAMPOS: We do them all.

COMMISSIONER MONTOYA: Thank you.

MR. MONTES: You're welcome. Thank you.

COMMISSIONER DURAN: Do you want us to sing to you?

MR. MONTES: Wait till later.

CHAIRMAN SULLIVAN: We're like the Smucker's weatherman. We only do 100 years and above.

COMMISSIONER CAMPOS: Got to have some standards.

CHAIRMAN SULLIVAN: All right. Thank you, Mr. Montes. We appreciate the information.

MR. MONTES: You bet. Thank you, Mr. Chair, Commissioners.

CHAIRMAN SULLIVAN: Other Matters from the Commission? We'll start with Commissioner Anaya.

COMMISSIONER ANAYA: I don't have any. Thank you.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I had one for the County Manager. You sent us an e-mail. Maybe it was last night or a day or two ago. And in there, you mentioned that you had met with the City Manager concerning a couple things. The senior citizens center was one, but the other one had to do with the County's participation in their economic development effort and you made the statement in the e-mail that the County has decided not to participate at this time. And I'm wondering when we decided to do that and what does that actually mean?

MR. GONZALEZ: The emphasis was on "at this time" in part because we do not yet have our economic development specialist onboard. And they were wanting immediate funding participation. We don't have that in the budget at present and there was no feedback indicating -- I had previously circulated a copy to the Commissioners of my notes indicating that I had previously participated in an earlier meeting with the City and that they had requested that if we were interested we come forward. There was no response from anyone, so given the fact that we did not have an economic development specialist onboard, that I didn't receive any feedback, and that there was no money in the budget at this point for participating, what I told the City Manager, because he was pushing for an immediate decision that we were not at the place to make that decision at that point.

It didn't mean that we weren't going to revisit it. I did discuss that although I didn't outline in detail in my notes, I did indicate to him that we were continuing the discussion

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process and that we would get back to them further down the road.

COMMISSIONER DURAN: It seems to me, I recall that the Commission had made, had decided to participate with them. Let me back up. That we had agreed that economic development in our community, to truly have economic development in our community we must cooperate with the City, that it needs to be a concerted effort between the County and the City. And I guess, that's the last word that I thought the Commission -- that's the last thing we discussed. So I was just surprised that you had -- it seems that you told them we were not interested in working together with them. How much money were they asking for?

MR. GONZALEZ: The current study that they are undertaking, I think, is on the order of \$200,000, and for County participation, they were asking for something in that order or magnitude although not the same amount. I did not say we would not participate and at prior meetings I had indicate that the County would continue to cooperate with them in terms of data generation, information sharing and providing support. But in terms of being able to immediately provide them with the money that they were asking for, and I was pressed for a decision on the spot, I was unable to say, Yes, I am committing the County to provide \$50,000 or \$100,000. That amount was not even defined. It would require having them come forward, their contractor do a presentation to the Commissioners and indicate what the costs would be and what we would receive in return for that.

That possibility is still there. When I sat down with the City Manager, we talked about that and certainly, we can invite them to come do a presentation. I just couldn't make an immediate commitment of money at that point.

COMMISSIONER DURAN: I would like for them to come make a presentation to us, and I'd like to know what it is they're doing. Maybe they don't know that we've set aside \$50,000 right now to do an analysis on our business park. And this individual is going to advise us whether we should undertake that project, let it go, and maybe it even works with what they're thinking. But it just seemed to me that the message that I got from you was that we weren't going to participate. So it would be, I think it would be great if you could get them in here to discuss it with us so that we could talk to them as a governing body and offer them some insight into what our vision is and our goals relative to economic development.

I know that we've talked to Lou Bachrach, who was kind of here participating with the City and the County on behalf of the governor. So I just don't want the message to be floating out there that we're not interested in participating with them on economic development. So I think inviting them here to give us a presentation is a step in the right direction.

MR. GONZALEZ: I'd be more than happy to do that, Mr. Chair, Commissioner Duran, and if the Commission decides they want to take the \$50,000 and use it in a different way than we've already committed, we will move forward with that.

COMMISSIONER DURAN: I didn't indicate that at all. I think that the money that we have set aside is appropriate to determine what we want to do. I just want to make sure the right message gets sent. Thank you.

CHAIRMAN SULLIVAN: Just to add one item to that, I do recall, as Commissioner Duran says, that we indicated that we wanted to participate. I don't know that

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we budgeted any money but I know the staff has been participating in the work sessions and the presentation. I attended one, a summary presentation over at the City Hall and I think there's a couple of options that we could look at. One is we could let them finish this study and the County portion of the study seems to be quite a bit different than the scope that they're currently working with.

And that's a question that was brought up by the planning staff and by the County Manager's staff was you seem to be focusing on one narrow area, which is how do we do economic development in the city when the real opportunities are out in the county in terms of less expensive land and many other opportunities. And that may be a whole new study, but it could come I think on the heels of this study. It could come as a part of this study, but it would take really substantial scope change to do it, and a lot of money to do it as well. We can certainly decide, if we have the money we can participate in that.

I think it's good to keep in touch with what they're doing. It certainly opened my eyes to the fact that their consultant was totally unaware of the fact, A, that the County had a business park. Just as a starter. They had no idea that we had a 60-acre business park. Some issues such as that in terms of deciding should the City do a business park and some of those kinds of things seemed to me to be important that this consultant should know before making a recommendation to the City.

So we need to keep on top of that and if we want to participate then we need to find the money somewhere to do it. But if you'd like to contact them, Gerald and offer them an opportunity to make a presentation at one of our administrative meetings I think that would certainly be appropriate. They were just at the point, they were doing the warm and fuzzy stuff, and just getting to the point of some of the hard direction of the study. It would be useful for us to have some input into that.

MR. GONZALEZ: I'd be glad to do that, Mr. Chair. As I said, we did not close the door with the City. I simply indicated we were not at a point where we could make an immediate commitment of dollars until we'd been able to explore it further. And I think that's a totally appropriate forum for doing it. So if there's no objection, I'll go ahead and invite them to come forward and make a presentation.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Just one last thing. I think it's important that they know we have this economic development park that we're considering, but the other, I think, important point here is that we are in the middle of planning the Airport Road Development District and that is going to provide a lot of industrial uses, economic opportunities relative to properly zoned land, which the City has run out of. I know that the City is planning their own economic development park some place in that same area, but I think looking at the big picture, I think it's important for them to be given information relative to the planning process that we've been going through for the last three or four years in that northwest quadrant. So I think it's part of the conversation you have with them it might be a good idea to make them aware of

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that too.

MR. GONZALEZ: That's totally appropriate, Mr. Chair, Commissioner Duran, and the subject was broached at the one meeting I attended.

COMMISSIONER DURAN: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. I have a couple of things. One, first of all, I'd like to thank Mr. Money, Richard Money. I understand he does the videography for us and helps broadcast these Commission meetings. I understand he's leaving us and this may be the last meeting. He's actually retiring from this to go back to the classroom where he spent about 30 years or so and at 82 years old, God bless him for his commitment to younger kids. Hopefully, I'm sure the classroom is going to be a little less exciting than these meetings are, Mr. Money, but we're going to miss you. Good luck to you.

RICHARD MONEY: Thank you.

COMMISSIONER ANAYA: Good luck.

CHAIRMAN SULLIVAN: I don't know if he can turn the camera on himself over there.

COMMISSIONER MONTOYA: The other thing, I just got done with my first New Mexico Association of Counties Board of Directors meeting and just to update the Commission, in terms of Association of Counties' priorities for the legislative session that's going to be coming up, there are five that they came up with. First was the extradition and transport of state prisoners along with the housing of state prisoners. And Gerald, I have a sample memo here that I need to give you in terms of collecting some data. Have we actually billed the state yet for --

MR. GONZALEZ: From the County we have not yet. We're compiling the figures so we can send the first billing statement to the state.

COMMISSIONER MONTOYA: Okay. And this memo will help in terms of getting that information from the people that you need to get it from.

MR. GONZALEZ: Great.

COMMISSIONER MONTOYA: So that was one priority. Another was the terms of County officials, extending it from two four-year terms to three four-year terms. Then the Tort Claims Amendment which will help in a lot of the litigation cases that are going on in the counties. The fourth was the statewide local option alcohol excise tax and the fifth was privately operated jail facilities. So those are going to be the five priorities that the Association will be advocating for this coming session.

The other thing, I had received, and Commissioner Campos, Anaya and myself attended an Executive Leadership Council meeting. That's the one Virginia had been representing us on and it has asked to identify someone. Gerald, if we could have someone appointed to serve on that task force. I don't know if there is any Commissioner that may be interested. If not, then maybe some staff, but I'll give this to you as well.

MR. GONZALEZ: Great.

COMMISSIONER MONTOYA: In terms of getting representation on there.

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And then I had received a request and I need to give it probably to Tony from the district Public Health Office regarding apparently some renovations that need to be made in terms of HIPAA requirements. So I have that information, Tony, that I can get to you so that we can take a look at it. Because I don't know what the cost it going to be or any of that, but I'll give you that information.

And then the other thing, apparently today, Robert Anaya attended a news conference with the governor. He announced that there was a new program, housing program, about \$2 million that's going to be available for teachers, police and nurses to buy houses here in New Mexico. It says that eligible applicants include local government entities. So I would hope that probably the County and maybe the local school district, because I know the Santa Fe Public Schools have actually engaged in that venture and maybe some County-local school district collaboratively be beneficial. That's all I have, Mr. Chair. Thank you.

CHAIRMAN SULLIVAN: Thank you, Commissioner. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chair, one issue that has been lingering for a while is the expansion of the airport by the City. Also the economic parks that the City is planning in the county. It seems in the past we have taken a very passive role and have allowed it to occur, totally at their discretion. It seems that these projects affect county residents and we have an obligation to assert our jurisdiction. I would think that maybe we should start thinking about that. I would certainly like to have some input from staff as to what they think. But I'm concerned about the impact on county residents out there without representation because it's being done directly by City government without really consulting us. So that's something to think about. Thank you.

CHAIRMAN SULLIVAN: Okay. Just two things that I've got. One is to congratulate and thank those people who volunteered and participated in the Santa Fe County fair this past week and weekend. It was a lot of fun. I think there were some 250 volunteers that work on that every year and it's a great youth activity that the County supports and it kind of brings us back to our roots when we go out and see the efforts that the kids make and that the parents and the volunteers do and I believe they auctioned off animals worth more than \$400,000. Or maybe not worth \$400,000 but that was the auction price that the breeders received. I'm just always real proud that Santa Fe County has that program and participates in it.

The other item is we've received a proposed resolution from the City at the RPA meeting, Gerald, having to do with the possible formation of a North Central Regional Transit District and I wanted to give you a copy of this and ask if you would follow that through at the staff level and see what the next steps are in that regard.

COMMISSIONER DURAN: Mr. Chair, just one item under Matters from the Commission.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER DURAN: Since we're still on that topic. At the last RPA meeting, a representative from the state, my understanding. I wasn't there and I apologize for not being there. But since all of us don't belong to the RPA or are members of it, I think it's

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important that the BCC be made aware of the request made by the governor's office of the State Engineer to investigate the possibility of creating a Regional Water Authority. Are you the chair of the RPA still?

CHAIRMAN SULLIVAN: No. Commissioner Montoya is the chair.

COMMISSIONER DURAN: Commissioner Montoya is the chair. Could you kind of give us just what happened at that meeting relative to that effort? The Regional Water Authority request?

COMMISSIONER MONTOYA: There really wasn't much discussion on that at all. Commissioner Sullivan, do you recall, Mr. Chair?

CHAIRMAN SULLIVAN: Basically, as you say, there wasn't much discussion. It was decided to appoint two persons from the County and two from the City to meet with Estevan Lopez one time. Some of the City members were concerned that they didn't want to, by meeting with the State Engineer be tacitly seeming to support the concept, whatever the concept might be, but nonetheless, we were able to move it forward with the meeting with the State Engineer with two persons from the County and two from the City and I believe the ones from the County were myself and Commissioner Campos, and the ones from the City were Councilor Heldmeyer and Councilor Wurtzburger.

COMMISSIONER MONTOYA: Correct.

CHAIRMAN SULLIVAN: And that's where we left it.

COMMISSIONER DURAN: And what -- the two members that represent the Commission, I'm wondering are you and Commissioner Campos are in favor of -- since you'll be representing the Board of County Commissioners, I think it's important to know how you feel about this. Do you feel that we should entertain or explore the possibility of creating a Regional Water Authority?

CHAIRMAN SULLIVAN: I think the first meeting -- I've been in favor, personally, of a Regional Water Authority for many, many years. I think how it would develop and what it would consist of, going back to the Metropolitan Water Board days has changed dramatically and the first steps will probably be the San Juan/Chama Diversion Project. The purpose of this meeting I don't think was to get quite deep into the issue but rather to talk about a venue and the mechanism. In other words, what were we going to accomplish? Were we going to have additional discussion at the RPA about this? Were there going to be public hearings about it? Was the State Engineer going to be the lead entity in this? Was there going to be a legislative committee that was going to be the entity? So I think it was really to develop some venue that the City and the County participants were comfortable with.

I was a little -- I think the RPA is a good venue but the RPA has got a lot of work to do. So I think we have to be careful how we allocate our time. So I don't think this meeting was set up to vote yea or nay on a Regional Water Authority.

COMMISSIONER DURAN: I didn't think it was but, I believe, and being one of the original participants in developing the Regional Planning Authority I've always believed that true regional planning cannot be accomplished if you don't take into consideration the resources that we have available. I for one believe that a Regional Water Authority would be a

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tremendous benefit in developing true regional planning. I guess I just want to make sure that those that are part of this Commission take the message there. And maybe it wouldn't be a bad idea to develop a policy or a statement from the Board of County Commissioners that you could take to that meeting. Maybe, that's my feeling.

CHAIRMAN SULLIVAN: Commissioner Campos, did you want to comment?

COMMISSIONER CAMPOS: I have nothing to add, Mr. Chair.

CHAIRMAN SULLIVAN: Okay.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Regarding, I think the other point, Commissioner Duran, was clarity and in terms of the letter that we received from Estevan Lopez it was indicated creating a Regional Water Authority with language in a memorial pursuing or investigating a Regional Water Authority. So that was I think for the Councilors who were a little concerned in terms of we being told to create something here instead of us working it out ourselves. So that's kind of where they were coming from. Thank you, Mr. Chair.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos, then Commissioner Anaya.

COMMISSIONER CAMPOS: On that point, I think part of the RPA discussion, the thing that was highlighted, I think by discussion from the County Commissioners was that if local government doesn't do this, the state will just impose it. So it's important that we as local government entities, especially the County as regional government, that we take the lead in making these decisions because in the next six or 12 months, if we don't do anything, the state may just say, Here it is, just like they did with Bernalillo County and Albuquerque. So that was a significant part of our consideration. I think the City Councilors understand that and that there is some incentive for everybody to really work on these issues. Thank you.

COMMISSIONER DURAN: Again, I apologize for not being there at that meeting.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, thank you. I think the water issue is a regional problem and we need to all come together and work on this and if we come together and regionalize this, it will be easier for us to get federal dollars so that we can work on the Buckman diversion and all those other projects. When Commissioner Montoya and myself were in Washington trying to get money, they wanted us to all work together. So I agree with that Commissioner Duran is talking about. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Okay. Thank you.

- IX. Committee Appointments and Reappointments 2700801**
- A. Committee Resignations**
 - 1. Community College District Review Committee (CCDRC)**
 - B. Committee Appointments**
 - 2. Community College District Review Committee (CCDRC)**

MR. ABEYTA: Thank you, Mr. Chair. On June 24, 2003, Community College District Review member Bob Wilber submitted a letter of resignation and staff has received a letter of interest from Henry Pacheco. Mr. Pacheco, his term would begin immediately and end December 31, 2003. Thank you, Mr. Chair.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Move for approval of the resignation for Bob Wilber and the appointment of Henry Pacheco to the CCDRC.

COMMISSIONER CAMPOS: Second.

CHAIRMAN SULLIVAN: There's a motion and a second. Discussion?

The motion to accept the resignation of Bob Wilber and appointment of Henry Pacheco passed by unanimous [5-0] voice vote.

- X. Consent Calendar**
- A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:**
 - 1. EZ CASE #V 02-4801 - Blair Bennett Family Transfer Variance (Approved)**
 - 2. AFDRC CASE #V 03-5120 - Casa Rufina Apartments Variance (Approved)**
 - B. Resolution No. 2003-102. A Resolution Requesting an Operating Transfer from the General Fund (101) to the Rio En Medio Capital Project (315) and an Operating Transfer from the Water Enterprise Fund (505) to the General Fund (101) to Budget Expenditure in Fiscal Year 2003 (Finance Department)**
 - C. Resolution No. 2003-103. A Resolution Requesting a Transfer from the General Obligation Bond (GOB) 1993 Series Debt Service Fund (401) to the General Obligation Bond (GOB) 2003 Series Debt Service Fund (401) to Budget Bond Refinancing Expenditure in Fiscal Year 2003 (Finance Department)**
 - D. Resolution No. 2003-104. A Resolution Requesting an Increase to the Environmental Gross Receipts Tax Revenue Bond Fund (402) to Budget**

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- Fiscal Year 2003 Cash Balance for the Remaining Redemption Balance of Principal and Interest for Fiscal Year 2004 (Finance Department)
- E. Resolution No. 2003-105. A Resolution Requesting an Operating Transfer from the General Fund (101) to the Housing Enterprise Fund (517), an Operating Transfer from the Water Enterprise Fund (505) to the General Fund (101), and an Operating Transfer from the Housing Enterprise Fund (517) to the EMS Health Care Fund (232), Capital Fund (301), and to the Fire Excise Tax Fund (222) to Budget Transfer of Assets' Expenditure in Fiscal Year 2003 (Finance Department)
 - F. Resolution No. 2003-106 A Resolution Requesting an Increase to the GOB Series - Open Space Fund (385) to Budget Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Project & Facilities Management Department)
 - G. Resolution No. 2003-107. A Resolution Requesting an Increase to the Road Projects Fund (311)/Various Road Projects to Budget Fiscal Year 2003 Cash Balance for Expenditure in Fiscal Year 2004 (Public Works Department)

CHAIRMAN SULLIVAN: I just wanted to make a clarification. I noticed in one of the newspapers that there was something indicating that one of the agenda items for discussion was the Casa Rufina Apartments, which of course we discussed at the last land use meeting. So that's not up for discussion today. That's just on the Consent Calendar for approval of the findings of fact and conclusions if anyone was reading that particular notice. Okay, Consent Calendar, do we have a motion?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I would like to take the Casa Rufina Apartments off the Consent Calendar just to make an objection. And then you guys could vote on that. There was a variance granted. I believe that it was without authority, without legal authority. I think it's outside our jurisdiction, outside our powers. I would like to make that objection.

CHAIRMAN SULLIVAN: You'd like to vote against that particular item?

COMMISSIONER CAMPOS: Yes. I think we don't have authority to do so. I think we cannot vote to approve something we don't have authority to approve.

CHAIRMAN SULLIVAN: But you don't want to vote against the Consent Calendar because you're in favor of the other items, right?

COMMISSIONER CAMPOS: I have no objection to anything else.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I'd like to make a motion then. My motion would be to approve the Consent Calendar as presented. We all know that Commissioner Campos has a problem with the Casa Rufina Apartments. I don't think that the Consent Calendar is the

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place to lodge his complaint. He did so at the meeting. It's strictly a matter of procedure. We never take these findings of fact just because we against them and isolate them for reasons that Commissioner Campos reiterated. So I would make a motion that we approve it as presented.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion and a second. Discussion on the Consent Calendar.

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

XI. Staff and Elected Officials' Items

A. Project and Facilities Management Department

2. Request approval of land purchase agreement between Santa Fe County and the Trust for Public Land for approximately 109 acres of land and acceptance of approximately 263 acres of donated property for inclusion in the Santa Fe County Open Space and Trails Program

PAUL OLAFSON (Open Space and Trails Coordinator): Mr. Chair, Commissioners, we're bringing a purchase agreement before you today and this is from the Little Tesuque Creek Assembly we brought before you at the end of May. What is attached with the cover memo is the purchase agreement for the 109-acre Thomas/Nydes property. If you look on the memo there's three different properties. The 109-acre Thomas/Nydes and the Board approved allocating \$300,000 towards that purchase. The total price of the property is \$1,255,000. The owners discounted it some and there was another contribution of \$600,000. The lend-lease property, 212 acres is a donated property, and the Brutsche property, 51, is also donated then to the County. That's a quick summary. Any questions?

CHAIRMAN SULLIVAN: Paul, I understand this is contingent -- there was some public testimonies that some of the parties in these land deals before had made these promises and never followed through with them. So they're kind of reusing the same land and the same promises as it were. That was the testimony; I don't know if it was true or not. But this agreement, my understanding is that the County's money is not expended until all of those lands are under our jurisdiction or are part of the closing.

MR. OLAFSON: Mr. Chair, that's correct. As well as the trail alignments and some adjustments to an existing conservation easement with the Forest Trust. We met with the Forest Trust and I think we found a solution to that. There may be some minor modifications to that agreement. We have the trail alignment generally lined up. We're going to do some more refinement on that, and then also the donated properties would definitely have to be part of the closing or somehow deeded before that but I would imagine it would be part of the closing.

As per some of the other commitments, the \$600,000 has been already committed and

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that closing has happened with TPL, so now TPL is holding the 109 acres.

CHAIRMAN SULLIVAN: And the alignment you're talking about is the ability to get the alignment so it ties into the Dale Ball Trail.

MR. OLAFSON: That's correct.

CHAIRMAN SULLIVAN: Okay. Other questions for Mr. Olafson?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: I just have a question. This seems to be a good deal, a good partnership for everyone involved. And the only thing I have Mr. Chair, is just on page 2, item 6, there was just a typographical error in contract for a standard instead of for an. It's just a minor change. Other than that, the terms and conditions seem pretty good, and I would move for approval.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Motion for approval as amended in line 1, changing the word "an" to "a" and a second from Commissioner Anaya. Discussion of the motion?

The motion to approve the land purchase agreement passed by unanimous [5-0] voice vote.

XI. B. Matters from the County Manager

MR. GONZALEZ: Mr. Chair, members of the Commission, I just wanted to announce that after kicking around with senior staff we now have a date for the strategic planning session that everybody on staff would be able to attend after ironing out calendar problems and that date would be September 25 and 26. We're still looking for the location and we're in the process of discussing what the process itself would be, but as I indicated last time, I am collecting from the departments their priorities. That list will be circulated to the Commissioners so that they can add their own list of priorities to the discussion items that we'll be covering at the strategic planning session. So I just wanted to let you know that we had a date certain at this time.

COMMISSIONER DURAN: How about San Diego?

MR. GONZALEZ: I'd love it.

CHAIRMAN SULLIVAN: We can't meet outside the County of Santa Fe.

COMMISSIONER DURAN: What about Sunrise Springs?

COMMISSIONER CAMPOS: Money.

County Clerk Rebecca Bustamante announced that a meeting would have to be held on September 24th to begin canvassing the September 23rd election for some GRT and constitutional questions.

2700805

CHAIRMAN SULLIVAN: We'll mark it down.
COMMISSIONER CAMPOS: Later afternoon, right?
CHAIRMAN SULLIVAN: We'll delegate that to Commissioner Campos to chair and to Commissioner Montoya and Commissioner Anaya. Then you'll have a quorum.
COMMISSIONER CAMPOS: We may have a SWMA meeting on that day.
CHAIRMAN SULLIVAN: On the 24th?
COMMISSIONER MONTOYA: Yes.
COMMISSIONER CAMPOS: At 3:00. We have a 3:00 to 5:00 SWMA Board meeting on that day. It's at the City usually. Three of us.
CHAIRMAN SULLIVAN: So why not do it here at 2:30 on the 24th? So if you come here at 2:30 you can go to the SWMA meeting at 3:00.
COMMISSIONER DURAN: Sure.

- XI. C. Matters from the County Attorney
1. Executive session
 - a. Discussion of pending or threatened litigation
 - b. Limited personnel matters
 - 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 (2, 7 and 8) to discuss the matters delineated above. Commissioner Duran seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Campos, Duran, Montoya and Sullivan all voting in the affirmative.

[The Commission met in executive session from 4:20 to 6:15.]

Commissioner Duran moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Anaya seconded. The motion passed by unanimous [4-0] voice vote. [Commissioner Montoya was not present for this action.]

CHAIRMAN SULLIVAN: You have another motion?
COMMISSIONER DURAN: Yes, I'd like to make a motion we extend the County Manager's contract for another six -- is it six months? Is that what we're doing or just increasing the salary.
COMMISSIONER CAMPOS: The evaluation.
COMMISSIONER DURAN: Okay. So we did our evaluation in executive session and we determined that the County Manager was doing an excellent job and we

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gave him a raise to \$96,000. So I make a motion that we give Mr. Gonzalez a raise.

COMMISSIONER ANAYA: Second.

CHAIRMAN SULLIVAN: Moved and seconded by Commissioner Anaya.

Discussion?

The motion to approve a raise for County Manager Gonzalez passed by unanimous [5-0] voice vote.

COMMISSIONER DURAN: For the record, good job, Gerald.

MR. GONZALEZ: Thank you.

COMMISSIONER DURAN: We look forward to the next six months.

MR. GONZALEZ: So do I, and I thank all of you for your cooperation and support.

COMMISSIONER MONTOYA: Thank you.

XII. Public Hearings

A. Land Use Department

1. Request authorization to publish title and general summary of an ordinance amending the Land Development Code (Ordinance 1996-10) to require rainwater catchment systems for all commercial development and for subdivisions of more than five lots

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I'm wondering if we can go to, under Public Hearings, talk about the CDRC case from the Downs. I know that the applicant is here and there's probably some residents here and earlier we talked about sending this through the La Cienega Development Review Committee before we act on it. I'd like to give the residents and the people that serve on that committee an opportunity to say what they have to say before we hear it.

CHAIRMAN SULLIVAN: Okay, we have a suggestion to make an amendment to the agenda which would bring item 4 -- sorry, Penny -- to be heard at this time. Is that a motion, Commissioner Anaya?

COMMISSIONER ANAYA: Yes, I'd like to see if the Commission would agree right now to send it back to the La Cienega Development Review Committee.

CHAIRMAN SULLIVAN: Okay, I think the first thing we need to do is get it up to be heard as an agenda item, and that's what you're suggesting, I think. Is there a second?

COMMISSIONER DURAN: I'll second that.

CHAIRMAN SULLIVAN: Is there any discussion on that?

2700807

The motion to take CDRC Case #MIS 01-5012 as the first discussion item passed by unanimous [5-0] voice vote.

- XII. A. 4. **CDRC CASE #MIS 01-5012 - Santa Fe Downs Reconsideration of Conditions. Pojoaque Pueblo Development Corporation Requests the Reconsideration and Clarification of Conditions that were Imposed on the Previously Approved Master Plan for the Santa Fe Downs, which Requires the Applicant to Submit a Manure Removal Plan within 2 Years of Master Plan Approval, as Well as to Install a Monitoring Well to Monitor the Effects the Manure Pile May Have on Ground Water. The Property is Located Southwest of the Intersection of I-25 and SR599 (Downs at Santa Fe), within Sections 26 & 27, Township 16 North, Range 8 East (Commission District 3). Vicki Lucero**

CHAIRMAN SULLIVAN: Okay, shifting gears once again to Vicki Lucero.

This is a request for reconsideration by Santa Fe Downs of certain conditions. Ms. Lucero.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I believe that's not what I was intending to do.

I'm asking the Commission to send it back to the La Cienega Development Review Committee and we not hear this case right now. If after the La Cienega Development Review hears it, then it will come before us. That's what I'm asking, Mr. Chair.

CHAIRMAN SULLIVAN: Okay, I understand. I thought though that when we discussed this under the matter of approval of the agenda we determined that we could limit the public hearing and we could have testimony from both sides because if people were here they would want to be heard, although if we are going to send it to the La Cienega Development Review Committee we wouldn't want extensive testimony. Gerald, is that where we went? At least that's what the discussion was, wasn't it?

MR. GONZALEZ: I believed that we had talked about having them appear, and at that point the Commission was going to make a decision about what it was going to do. I know there was discussion about taking some limited testimony. I don't know that the motion covered that portion of it. I'd have to check.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think just maybe for clarification purposes I'd like to make a motion to table this case to a date after the La Cienega Development Review Committee has had the opportunity to review this and provide this Commission with their thoughts on the case so that the community has an opportunity to offer this Commission input into the decision that we're being asked to make tonight. So my motion is to table it until then.

2700808

COMMISSIONER ANAYA: Second.
CHAIRMAN SULLIVAN: Okay. A motion to table and a second. Is there further discussion?

The motion to table CDRC Case #MIS 01-5012 passed by majority [4-1] voice vote with Commissioner Campos voting against.

CHAIRMAN SULLIVAN: Those in the audience wishing to speak on that case, I think implicit in that motion in the tabling was that it would go to the La Cienega Review Committee first and then come to the Board of County Commissioners next with their recommendations attached. So my interpretation and my reading of what the Commission would like to see here, and it was discussed before some of you were here earlier on during the agenda back around 3:00 this afternoon, was that the Commission would like some local input, not only from the residents, which is important on this issue, as well as the applicant, but also from the La Cienega Development Review Committee, which itself has some new members as a recommendatory body to the BCC.

We felt this was an important enough issue that although it's a BCC action that's been taken and that's the action that the Board of County Commissioners in reconsideration has to be done here, we felt, the Commission felt that it would be useful, very useful to have that debate and that input occur at that level first. And Commissioner Montoya reported to us that he had discussed that with the applicant and the applicant was willing and interested in doing that. So we felt that it was better to have some input at the local level, some discussion, hopefully some accommodation and communication before it came for a final decision here. Does that, Commissioners, summarize the general intent?

COMMISSIONER ANAYA: Mr. Chair, yes.

CHAIRMAN SULLIVAN: Can anyone add to that?

From the audience, Beverly Garcia asked when the meeting would take place.

CHAIRMAN SULLIVAN: It's not a CDRC. It's the La Cienega Development Review Committee. Roman, could you give us the information on that?

MR. ABEYTA: Thank you, Mr. Chair. It will be September 11th and it will be at 3:00 pm.

CHAIRMAN SULLIVAN: Where is that located?

MR. ABEYTA: I'm sorry. It's at 9:00 a.m. September 11th and it will be here in the chambers.

CHAIRMAN SULLIVAN: September 11th is what day of the week? Other than being September 11th?

MR. ABEYTA: It will be Thursday at 9:00 a.m. September 11th.

CHAIRMAN SULLIVAN: Can we change that time to be a little more convenient for people? Nine a.m. is kind of tough. I know there's a lot of people here that

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probably want to attend that meeting. Is that typically when they have their meeting?

MR. ABEYTA: That's typically when we have them. We have EZC that evening at 6:00 p.m. and that's why the LDRC meets during the day. The other thing we can do is we can work on another day all together. Maybe that week in September and be sure to notify. What we can do is this evening, we can get people's names and numbers and we could personally contact them and let them know what date we've set the meeting for.

CHAIRMAN SULLIVAN: Before those of you who are here leave, would you leave your name and address with one of Roman's staff or with Roman so we can be sure you're all contacted? Or with Vicki?

MR. ABEYTA: Vicki will take care of that now?

CHAIRMAN SULLIVAN: And what time is good for you all? Could we make it in the 4:00 or 5:00 range, typically for you all? Or would you like to see something more like 6:00 or 7:00-ish. I hear one six or sevenish. No other strong feelings. Maybe for this particular one if we could organize that, Roman, it would be a little better, I think.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I'd like to thank the people that came from La Cienega to speak on this this evening. I spoke to a few members from the La Cienega Development Review Committee and we talked and I felt, and thanks to the Commission, that we wanted them to hear it. It's a new board and we wanted the people that lived there to hear what is going on before we make the decision so that is the reason why we took it back to the La Cienega Development Review Committee. But I want to thank you all for coming.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Question for Mr. Abeyta. Does the CDRC have any role in this?

MR. ABEYTA: Mr. Chair, Commissioner Campos, no. The La Cienega Development Review Committee takes on that role for the CDRC.

COMMISSIONER CAMPOS: So there's no second step. It comes to them then it comes here.

MR. ABEYTA: Yes.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN SULLIVAN: It doesn't look like it will be September 11th because of the EZC meeting, but we'll get that notice out in the paper and we'll also contact as many people as possible. It will also be on the Santa Fe County website. So dial us up. Thank you very much.

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XII. Public Hearings

A. Land Use Department

1. Request authorization to publish title and general summary of an ordinance amending the Land Development Code (Ordinance 1996-10) to require rainwater catchment systems for all commercial development and for subdivisions of more than five lots

PENNY ELLIS-GREEN (Planner): Thank you, Mr. Chair, Commissioners. Staff requests that the BCC grant this authorization to publish title and general summary of the ordinance. A draft ordinance would be scheduled for the August 28th CDRC meeting and then the September 9th and October 14th BCC meeting. And I stand for any question.

CHAIRMAN SULLIVAN: There is no ordinance in the packet. This is just the authorization to publish title and general summary, correct?

MS. ELLIS-GREEN: Mr. Chair, that's correct.

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Motion from Commissioner Duran, second from Commissioner Montoya. Discussion?

COMMISSIONER CAMPOS: Question.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Ms. Ellis, your second paragraph, you talk about the landscaping requirements to be amended. That's going to be done separately?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, that is our intention. We have a number of issues with the landscaping section to do with the Fire Marshal's office and our planning office as well. So we are still looking at that and we will bring that forward at a later date.

COMMISSIONER CAMPOS: Do you have an idea of when?

MS. ELLIS-GREEN: Mr. Chair, Commissioner Campos, I would hope in the next four to five months. There're a fair amount of work that needs to be done on that section.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN SULLIVAN: Other questions of Ms. Ellis-Green?

The motion to authorize publication of title and general summary of a catchment ordinance passed by unanimous [5-0] voice vote.

2700811

- XII. A. 2. **BCC CASE # V 03-4411 John and Sharon Askwith Stipulation Agreement Amendment.** John and Sharon Askwith, applicants are requesting approval of an amendment to a stipulation agreement entered into with the County, which would allow the applicants to request a variance for the purpose of dividing their property through a family transfer. The property is located at 2 Stone Ridge Road within Section 17, Township 16 North, Range 10 East [Askwith Addendum attached at Exhibit 1]

LIZA VITALE (Review Specialist): Thank you, Mr. Chair. John and Sharon Askwith entered into a stipulation with Santa Fe County in exchange for dismissing a criminal complaint filed in March 1997 for unpermitted development. Condition number four stipulates and states: "...defendant agrees that there will be no further land divisions of the property, which is the subject matter of this complaint."

In April 2003 the EZC interpreted this language to preclude any land divisions. The applicants are requesting a variance to divide four acres into two tracts for the purpose of a family transfer. Therefore the applicants are requesting a clarification to the stipulation which would then allow them to apply for a family transfer variance before the EZA. Because the stipulation was entered into with Santa Fe County, only the Board of County Commissioners has authority to interpret the stipulation.

In April 2003 the Extraterritorial Zoning Commission met and acted upon the applicants' variance request to divide four acres into two lots for the purpose of a family transfer. The decision was to recommend denial of the request based in part on the stipulation agreement prohibiting further land divisions. The applicant is requesting that the Board of County Commissioners interpret condition 4 to read: "*Defendant agrees that there will be no further land divisions of the property, which is the subject matter of this complaint. However, nothing herein shall prohibit the defendant from seeking a variance to permit a further land division as otherwise permitted by the Land Development Code or Extraterritorial Zoning Ordinance. The ability to seek a variance shall in no way entitle the defendant to obtain such a variance. The defendant agrees and hereby acknowledges that by interpreting the stipulation to permit a request for a variance that the Board of County Commissioners does not implicitly or expressly express an opinion or view on whether a variance of any kind should be granted to the defendant or her husband, John Askwith.*"

The applicant and the County Attorney's office have agreed on the above language if the BCC determines that the requested interpretation is warranted. The Board shall consider testimony from the applicant and determine whether to interpret the stipulation as above in order to allow a variance request to subsequently divide their land for the purpose of a family transfer.

CHAIRMAN SULLIVAN: And the staff recommendation?

MS. VITALE: The staff recommendation is that we would like you to consider testimony from the applicant and then determine from there. We don't really have

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a specific recommendation for denial or approval.

CHAIRMAN SULLIVAN: Questions of staff? Commissioner Campos.

COMMISSIONER CAMPOS: Where is this property and what is the minimum lot size? What hydro zone is it?

MS. VITALE: The property is located on Stone Ridge Road which is in the Mountain Special Review District. Minimum lot size is 20 acres or 10 acres for a family transfer.

COMMISSIONER CAMPOS: So they have how many? Four acres?

MS. VITALE: Yes.

COMMISSIONER CAMPOS: They're going to be asking for a pretty good size variance here. Is that about right? It's 20 acres. Minimum lot size for a family transfer is 10?

MS. VITALE: Yes.

COMMISSIONER CAMPOS: They have four acres and they're going to want to divide it into two two-acre parcels?

MS. VITALE: That's correct, Commissioner Campos.

COMMISSIONER CAMPOS: In your report you say, page 2, second sentence, their decision -- referring to the EZC -- was to recommend denial of the request based in part on the stipulation. What other reasons were they not recommending the land division?

MS. VITALE: Commissioner Campos, from what I recall it was the lot size requirements.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I thought that the minimum lot size was 2.5. Correct, or not?

MR. ABEYTA: Mr. Chair, Commissioner Anaya, the minimum lot size for a family transfer is 10 acres. However, part of the reason why staff didn't make a recommendation is because the history of this case, which we'll get into I'm sure as part of the applicant's presentation is that there was actually a hydrology report done that demonstrates adequate water to support the two dwelling units that are on the property. And when you have adequate water, the minimum lot size can be reduced down all the way to 2.5 acres. So Commissioner Anaya, that's I think where you're coming for where you say the minimum is 2.5.

The position that staff is in is while they have enough water to support two dwelling units, they don't have enough acreage to divide the property because they would need, in this case, five acres, because again, they've demonstrated that they have adequate water. And so because they have the water it's not as large a variance as you would think, because it's not actually a minimum from 10 acres. They've demonstrated enough water to support 2.5-acre tracts. But again, they don't have five, so it's an acre that they're short to do the

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division. And that's why staff had trouble coming up with a recommendation.

COMMISSIONER ANAYA: Thank you.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Ms. Vitale, the request before us that we're hearing tonight is whether or not we're going to approve that this case go back to the EZA for a hearing?

MS. VITALE: Commissioner Montoya, our request is mainly that you grant the Askwiths the authority to interpret the stipulation as asking for a variance. It wasn't very clear initially whether or not they could ask for a variance so basically they just want a clarification of the stipulation.

COMMISSIONER MONTOYA: So would the EZA then make that determination? I mean, you have to send it back to the EZA?

MS. VITALE: Yes, Commissioner, it would be allowing them to go back to the EZA again, or not again, but from the EZC and ask for a variance of the lot size requirements.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Ms. Vitale, relative to the Special Mountain Review District, how do the two homes meet the maximum size of lot coverage allowed? I think that you can have so much disturbed area on any particular lot up there. Do you know how big the house is? Or how big the two houses are, excuse me.

MS. VITALE: Commissioner Duran, one of the dwelling units is approximately 630 square feet and the other one is 3,000 square feet.

COMMISSIONER DURAN: So there's about 3,600 square feet of improvements?

MS. VITALE: Total, yes.

COMMISSIONER DURAN: When they do the lot split, do you know how much more they're going to increase the size of say, the 600 square foot unit? Or is the 600 square foot unit going to be on a different lot than the 3,000 square foot unit?

MS. VITALE: Yes.

COMMISSIONER DURAN: Okay. So right now, you don't know what the maximum disturbance that's allowed on that particular lot. You know what I'm talking about, Roman? Is it like 4,000 square feet or --

MR. ABEYTA: Mr. Chair, Commissioner Duran, I believe it's 6,000 that the MSRD allows you to disturb. And we haven't conducted that analysis because the two structures exist and we haven't had any proposals in front of us to do any more construction or additions to the existing structures.

COMMISSIONER DURAN: But you say this would be something we should consider? If they have one lot now that doesn't exceed the disturbance, and with two lots it's going to, I think that that is probably something that we should factor into the

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decision that we're being asked to make.

MR. ABEYTA: Mr. Chair, Commissioner Duran, that's actually something that needs to be factored into the EZA's decision.

COMMISSIONER DURAN: Right.

MR. ABEYTA: But what's before you today is whether to amend the stipulation to allow them to proceed to the EZA.

COMMISSIONER DURAN: So if we allow them to proceed, they still have to go through the process of getting the approval for the family transfer from the EZA.

MR. ABEYTA: Yes. And the EZA could still deny it. All you doing is allowing the stipulation to be amended. And maybe it will help if I could go into some of the history. The property, there was a request to build a home on the property but there was an existing mobile home. And so when they came in for a permit they told us they would remove the mobile home from the property. The mobile home didn't get removed. They asked what their options were in order to keep both units on the property. We told them you could keep both units if you perform a hydrology test. They did the hydrology test. It came up favorable but there was some kind of discrepancy between the -- they ran into -- I guess they never came back in to follow up with staff or if they did we were in between hydrologists at the time, so we landed up pursuing this as a Code enforcement matter and we cited them in the magistrate court.

When we got to magistrate court they cleared it up that they had indeed done a hydrology test and they had enough water. We agreed, but as part of the stipulation that got filed in order for us to drop the case, we said you can have the second unit but the land cannot be divided in the future. And the reason why we said that was because the minimum lot size at best is 2.5 acres. And again, they didn't have five acres; they only had four. So we put a condition that they be allowed the second home, they proved the water, but they not be allowed to divide the property.

A request for variance wasn't discussed at that time so I think that's part of what's before you today that they'd like you to consider it. It wasn't withstanding whether or not they could ask for a variance.

COMMISSIONER DURAN: I just have one last question for Mr. Ross. So in your opinion, their request is not in violation of the stipulated judgement?

MR. ROSS: No. There's some wiggle-room in the stipulation. The stipulation isn't entirely clear. So as one of the parties to the stipulation you as the Commission could basically make an opinion as to what you think the stipulation when you entered into it some six years ago, what it really intended to apply to. And they could likewise agree with that. There's a technical issue here and that this case is so old the magistrate court doesn't still have the file. The logical thing to do would be to amend the stipulation and get the judge to approve it and have a new stipulation but the file is so old it's not possible to do that.

One of the other attorneys in my office came up with the idea which is a good one which is that the parties can simply agree what paragraph 4 means. And so this is a

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permissible way to do it. There's enough wiggle-room in paragraph 4 that you can argue it means what the applicants propose to have you agree that it means.

COMMISSIONER DURAN: Okay. Thank you. Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: The question I had for staff. One of the stipulations was that they install meters on the two units. Has that been done?

MS. VITALE: Yes, Mr. Chair. We have annual meter readings from 1997 until currently.

CHAIRMAN SULLIVAN: Okay. On each unit?

MS. VITALE: Yes.

CHAIRMAN SULLIVAN: So they have two meters.

MS. VITALE: Yes. On each unit.

CHAIRMAN SULLIVAN: So the issue, the stipulation that's in question here by the applicant is one that says defendant agrees that there will be no further land divisions of the property, which is the subject matter of this complaint. And Mr. Ross, explain to me how that's not clear.

MR. ROSS: The word "further" seems to imply that the stipulation resulted from a land division and that maybe the case even involved a land division but as we've heard, there was no division of land involved in the original case, just an extra dwelling.

CHAIRMAN SULLIVAN: Okay. So it's the word "further." So maybe you could have said, "There will be no land divisions."

MR. ROSS: That would be a lot clearer.

CHAIRMAN SULLIVAN: That would be clearer to you. Okay. Thank you. Any other questions for staff. If not, could we hear from the applicant, please.

[Duly sworn, Christopher Graeser testified as follows:]

CHRISTOPHER GRAESER: Christopher Graeser for the applicant, Sharon and John Askwith, 200 W. Marcy. Mr. Chair, I don't actually intend to give much testimony to explain it. To the extent that the Commission wants testimony, Sharon Askwith has a very good memory and also very detailed records of everything that happened.

I want to start off by apologizing to Roman. After I sat down with the Askwiths that became very clear and I don't think you had all the information. So let me go briefly through the history, which was that they did come in in 1995. They had a small mobile home on the property, a mobile home with more of a structure built on to it, and they wanted to build the big house. They were told at that time you either have to get rid of the mobile home or get the kitchen out and turn it into a studio. That's the only way you can do it. So they did. They signed one of the standard County stipulations that says we'll turn it into a studio.

Got the permit, built the big house. During that process, they were told, they found out that, oh, you can also do a geo-hydro study to prove up enough water to have two dwelling units on the property. So they started that process. However, the affidavit that said that they would not keep the other house as a dwelling unit was in place and they got

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caught up in the change-over from Charles Heaton to Jack Frost. Well, Sharon can go through all the convolutions but working with Charles Heaton and then Charles leaving and then before Jack Frost came on, they did finally get a geo-hydro approved but not until Joe Martinez had filed a complaint in magistrate court for unpermitted development because they did have two dwelling units on the property.

So then when they finally got the geo-hydro report to Jack, Jack approved it and Jack is a very good friend of mine but classic Jack Frost, people who have worked with him is pretty much get whatever you can get for your side which is why I feel that stipulation has things that have no relation to unpermitted development such as granting the County the ability to use the well on the Askwith's property as a test well. The remainder of the conditions really stem from the ordinance at the time, the EZ Ordinance at the time, which I think Roman did a good job of explaining, was if you prove up the water, you can get as many houses as you can prove up the water for. You can't get a lot size smaller than 2.5 acres. They of course have four acres, which actually is one of the larger properties in this neighborhood. There's lots of properties out there with 3, 1, acres.

They had this discussion with Jack Frost at the time. They actually -- I called Jack Frost. I asked him if he remembered this. I tried to jar his memory. He didn't remember it at all. I talked to Rosanna Vazquez when I saw her here this afternoon. She was the attorney on the case for a while until she went on maternity leave. She didn't really remember it. But Sharon does have a good memory. She explained to Jack Frost what the intent was, which was they were going to build a new house; they wanted to give the old house to their daughter and they wanted to do the lot split so their daughter could get the financing to build her own house, and explained to Jack they wanted to ask for a variance. They had owned the property for four years at that time, not five years. You have to have it five years before you can do a family transfer.

Jack said, Yes, this will settle everything and then you can come ask for a variance. This won't prohibit you from asking for a variance. I'm not sure what the language "further land divisions" apply to other than it looks to me like kind of standard County plat language when you do a division and I think it might have been where it came from because they didn't in fact do a division. Sharon can actually tell you her conversation with Jack where Jack felt that what they were doing was tantamount to a division.

So in any event, when they did finally come in early this year, ask for the variance, they went to EZC. The EZC read that stipulation agreement as prohibiting them from even asking for a variance to do the division, as opposed to tracking what County Code said at the time and then allowing you to ask for a variance on top of that. Which we then went and spoke with Roman, spoke to the County Attorney. And we had originally asked, hey from what we understand, isn't this the correct interpretation of it, Monica originally felt that we should amend the stipulation which is why my application letter asked to amend the stipulation and we then determined that maybe interpreting was a better way to do it.

We did work out the language with the County Attorney's office and then this is simply permitting the Askwiths to do what anyone else who did a similar land division at

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that time could do, just they wouldn't be permitted under the Code provisions to get the division but they could ask for a variance. The Askwiths are also very aware that they may well come to the EZA and be denied and they're certainly prepared to face that.

I believe a letter went out from -- not a side neighbor but a person that owns property there. [Exhibit 2] That person I believe lives in Maryland and you'll note that their concern is primarily a focus on water impacts and visual impacts and development and I'd like to note that the substance of this is these houses are already there. There's a lot. It's divided by the road. These houses are on either side of the road. The division they're going to want to come and ask for splits the two houses that are already on the opposite side of the road. It's not asking for any more development. And to answer the question from earlier, Commissioner Duran's question, they are limited to the 3,000 square feet on the houses under the MSRD. One could be expanded; the other one cannot. And in fact, if that was the EZA's concern when it comes to the EZA, I'm sure the Askwiths will be willing to impose covenants limiting even the right to expand that beyond a reasonable amount.

I don't know if there's other concerns from the neighbors. We saw that letter recently. We met with neighbors, tried to work out the issues with them, explained to them what we're doing, that there's no plans to make this a big development or major changes. And again, this is not asking for a variance, it's simply asking for the Commission to clarify the interpretation so we can go back to the EZA and ask for it. And then I would like to say again, if the Commission does want to hear the history of this, Sharon does have documentation and can testify to a very detailed history.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Chris, on one side of the road you've got a 3,000 square foot home and on the other side you have a mobile home with an addition to it?

MR. GRAESER: It's a little over 600 square feet, yes.

COMMISSIONER ANAYA: And that it going to transfer over to the daughter?

MR. GRAESER: Yes. Actually, one of the houses is going to transfer to the daughter and I think it will probably end up, depending on how generous the Askwiths are feeling at the time. They're in the 3,000 square foot house now which they've decided is really too big for them. That hasn't been quite worked out, which one is going to go to the daughter and her husband.

COMMISSIONER ANAYA: Do they plan on selling it after a certain time? Is it going to be for their daughter?

MR. GRAESER: The one's going for the daughter is certainly going to be for the daughter. The Askwiths may well end up selling their property if they want to move into something smaller for more of a retirement situation.

COMMISSIONER ANAYA: Okay. Thank you.

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CHAIRMAN SULLIVAN: Other questions? This is a public hearing. If there's anyone in the audience who would like to speak either in favor of or in opposition to this particular application we would like to hear from you. Seeing no one, back to the Commission for discussion or action.

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: I think since we're really not here to discuss the merits of the request for a variance but rather whether we think that the language in the stipulated judgement is such that would allow them to go forward and ask for a variance. It seems to me that if our legal department believes that the word "further" opens up the door for some interpretation that we should let them go forward and let the EZA make the decision as to whether or not the family transfer be approved, a variance for the family transfer be approved. That's my thought.

CHAIRMAN SULLIVAN: I have a question, Steve. One of the provisions of the agreement is that if an impasse is reached the parties shall seek enforcement in magistrate court. And you say there's no records of this now? The magistrate court has lost the records in six years?

MR. ROSS: Well, the magistrate court turns over the records very, very quickly and I don't know that they're lost but they're just not available.

CHAIRMAN SULLIVAN: We've checked and Mr. Graeser, you can't find the magistrate court records?

MR. GRAESER: Mr. Chair, we can't. We have access to their computer records and there's some disconnect here because the copy of the stipulation that Liza showed me has a magistrate court stamp on it, May 29, 1997. The magistrate court computer records doesn't ever show that stipulation being entered. In fact, the magistrate court computer records show this case being dismissed because Joe Martinez didn't show up at trial. It says 10/14/97, dismissed by court before trial, Judge Padilla dismissed case due to officer not present at trial. File closed. So that's really all we know about what happened there.

CHAIRMAN SULLIVAN: Any questions for staff or the applicant? Other comments? If not, let's have a motion, gentlemen.

COMMISSIONER DURAN: I move for approval -- does that let them go to the EZA? That's my motion.

CHAIRMAN SULLIVAN: There's a motion for approval from Commissioner Duran.

COMMISSIONER MONTTOYA: Second.

CHAIRMAN SULLIVAN: There's a second from Commissioner Montoya.
Discussion?

COMMISSIONER CAMPOS: Mr. Chair, I've looked at the language. I don't think it's ambiguous. I think it's pretty clear what the intent was, it was to not divide this property again, and they agreed to it. They should be bound to it. That's pretty clear to

me. Thank you.

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CHAIRMAN SULLIVAN: Any other discussion?

The motion to allow interpretation of the stipulation failed by majority [1-4] voice vote with Commissioner Duran casting the affirmative vote.

- XII. A. 3. **EZ CASE # S 00-4561** The Estancias at Las Campanas. Las Campanas de Santa Fe (Mike Sanderson, Vice President) requests a final plat and development plan amendment for The Estancias at Las Campanas residential subdivision (formerly known as Tesoro Enclaves) for 128 lots and an equestrian area on 432 acres. This request also includes a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to allow the approach to an intersection to exceed three percent grade for 100 linear feet at four locations. The property is located off Las Campanas Drive within Sections 10 & 15, Township 17 North, Range 8 East (5-Mile EZ District)

MS. LUCERO: On July 10, 2003 the EZC recommended approval of this request. In 1992, the BCC granted master plan approval for 1,419 residential lots to be developed in phases, two golf courses with club complexes, tennis and equestrian center, and related accessory facilities on 3,549 acres. The subdivision phases as listed in the staff report have been granted final approval by the BCC.

The proposed subdivision phase was granted final and the staff report actually says "preliminary" but they were granted final and development plan approval with a variance to the minimum road standards by the BCC on August 14, 2001. And that application was submitted under the name Tesoro Enclaves. The approval consisted of 140 residential lots to be completed in three units. The applicants are now requesting an amendment to the previous approval. This request includes a reduction in the number of lots from 140 to 128 and an equestrian area is also proposed which consists of horse stables, arenas, restaurants, community buildings, café, haybarn and parking area. Onsite limited horse stabling is proposed for 23 lots. A separate development plan will be required for the equestrian facility and restaurant.

The proposed subdivision will still be developed in three units as follows: Unit I, 25 lots; Unit II, 66 lots, the equestrian facility, café and restaurant; Unit III, 37 lots. The lots range in size from one acre to 4.9 acres and the community tract is 23 acres.

Variance: As part of this request the applicants are also requesting a variance of Section 3.5.4.g.2 of the Extraterritorial Subdivision Regulations to allow the approach to an intersection to exceed three percent grade for 100 linear feet at four locations, which are listed in the staff report. The applicant has submitted a letter responding to the variance

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review criteria. The BCC shall determine if the applicant has justified the variance criteria.
Recommendation: The proposed subdivision phase is in conformance with the approved master plan and the Extraterritorial Subdivision Regulations and the County Land Development Code. Staff considers variances of up to five percent grade at intersections as a minimum variance. The previous approval included variances for seven intersections ranging from 3.1 percent to 6.5 percent. The decision of the EZC was to recommend approval of the request for a final plat and development plan amendment with the requested variances, subject to the following conditions. Mr. Chair, may I enter the conditions into the record with a modification to condition number five?

CHAIRMAN SULLIVAN: Okay. What's that modification?

MS. LUCERO: That modification would be that the Estancias, pending final recording, and does not include guest houses which are based on available water rights. This balance may increase to 185, subject to verification and agreement with staff. Staff conducted a preliminary study and came up with 183. The applicants have documentation of 185.

[The conditions are as follows:]

1. Compliance with the applicable review comments from the following:
 - a) State Engineer
 - b) State Environment Dept.
 - c) Soil & Water District
 - d) State Highway Dept.
 - e) Santa Fe County Water Co.
 - f) County Hydrologist
 - g) County Development Review Director
 - h) County Fire Marshal
 - i) County Public Works
2. Final Plat to include but not limited to the following:
 - a) Compliance with plat check list
 - b) Conditional dedication of Las Campanas Drive to County
 - c) Approval of rural address and street names
 - d) Dedication of public trail along Buckman Road/Camino La Tierra
3. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff, and shall include but not be limited to the following:
 - a) Update property report to include Los Santeros subdivision phase.
 - b) Clarify discrepancies regarding number of lots for the various subdivision phases, and number of residential units occupied or under construction.
 - c) Submit County disclosure statement item
4. Secondary access for Unit 3 shall be developed meeting minimum road standards, including the off-site section of Buckman Road connecting back to Las Campanas Drive.

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5. Remaining balance of density as approved for Las Campanas master plan shall be established at 177 lots/units, this includes The Estancias pending final recording, and does not include guest house which are based on available water rights. This balance may increase to 185 subject to verification and agreement with staff.
6. Utility plans to include electric, gas, and telephone.
7. Development plan sheet shall include note requiring on-lot ponds if impervious surface improvements exceed 11,000 square feet
8. The three unit sub-phases shall be recorded within 18 months of approval by the BCC.
9. Prohibit direct driveway access to Las Campanas Drive and Camino La Tierra/Buckman Road.
10. Development plan submittals shall include the following:
 - a) traffic sign plan
 - b) detail for hammerhead cul-de-sac
11. Submit solid waste fee in accordance with subdivision regulations.
12. Submit Engineers cost estimate and acceptable financial surety for completion of required improvements as approved by staff. Upon completion, submit certification by registered engineer that improvements have been completed in conformance with approved development plans.
13. Cul-de-sac/dead end roads shall not exceed 1,000 ft. in length.
14. A development plan for the Equestrian Community Facility and restaurant is subject to review and approval by staff and the CDRC.
15. Address water use for residential lots with main house, guest house, and horses.

CHAIRMAN SULLIVAN: Okay. What's that modification?

MS. LUCERO: That modification would be that the Estancias, pending final recording, and does not include guest houses which are based on available water rights. This balance may increase to 185, subject to verification and agreement with staff. Staff conducted a preliminary study and came up with 183. The applicants have documentation of 185.

COMMISSIONER CAMPOS: Have you proved that?

MS. LUCERO: No, we haven't yet but as the condition reads it will be subject to verification. So we will do that.

CHAIRMAN SULLIVAN: Sure. That's fine to enter that. I had a question. I thought they were reducing the number of lots. Is this asking them to go back up to 183 or giving them that option?

MS. LUCERO: Mr. Chair, this actually --

CHAIRMAN SULLIVAN: Weren't they reducing the number of lots to put in an equestrian facility?

MS. LUCERO: Yes, they were. They were reducing it from 140 to 128 lots, which was what was previously approved for these under the name of Tesoro

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Enclaves.

CHAIRMAN SULLIVAN: Okay. And then this condition has to do with the balance of the density after this phase.

MS. LUCERO: Yes, that's correct.

183. CHAIRMAN SULLIVAN: Which you're saying is 177 but may increase to

MS. LUCERO: Actually, to 185, Mr. Chair.

CHAIRMAN SULLIVAN: You're changing that to 185. That's all the lots that are left in all of Las Campanas?

MS. LUCERO: That's correct.

Commission? CHAIRMAN SULLIVAN: Okay. Other questions for Vicki from the

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

Campanas or just for this phase? COMMISSIONER MONTOYA: Clarify, that's all the lots for Las

185 lots will max out what was approved in the original master plan for Las Campanas.

CHAIRMAN SULLIVAN: Better buy now.

COMMISSIONER MONTOYA: Who are you talking to?

CHAIRMAN SULLIVAN: Nobody up here, right? Well, they have a product that has sold, I guess. Other questions for Ms. Lucero?

COMMISSIONER CAMPOS: What about the golf courses? There are two of them out there. That's a problem, don't you think.

comment? CHAIRMAN SULLIVAN: Commissioner Campos, do you have a

COMMISSIONER CAMPOS: That was it.

CHAIRMAN SULLIVAN: That was a comment. Okay. Other questions of staff? Okay, is the applicant present?

[Duly sworn, Al Lilly testified as follows:]

AL LILLY: For the record, my name is Al Lilly, Santa Fe Planning Group at 109 St. Francis Drive. Vicki's done a good job of giving you an overview of what this project is about. I'd like to just re-emphasize that this is an amended development plan approval for a previously approved subdivision. That was Tesoro Enclaves. It was approved in August of 2001 by this Commission. Las Campanas was actually in the process of recording, moving forward with recording of Tesoro Enclaves. However, during the process of doing that, going through the redlines, sales and marketing said Hold on a second. We need to investigate other product for this area. What we don't need is more of the same product out in the northwest portion of Las Campanas.

That being said, we went back to the drawing boards, worked on new plans and have come forward with what we're calling the Estancias. It's exactly the same location as Tesoro

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Enclaves, it's the same land area. We are changing the name and we have a new vision for this portion of Las Campanas. And that vision is really a western ranch theme that we feel very excited about, something that we feel will make all the difference in the world in terms of moving forward with a new product and a new image for this portion of the community. What this ranch theme involves is larger lots, first of all. That was discussed. We're reducing the total number of lots from 140 to 128. We're also providing for onsite stable lots on 23 of the lots that border the BLM property. I think it's important to note the close proximity of this property to the BLM is real important in terms of how this actually works for an equestrian facility and how this all falls in place for this kind of a development.

We're also proposing an interconnecting trail system that will virtually connect or interconnect most all of the lots to the trail system and lead out to the BLM land. The project also calls for community amenities in the northwest corner of the property. This is in the very farthest portion of the property that's adjacent to the BLM land on two corners of the property and those amenities include barns, stables arenas, exercise pens as well as a restaurant community building as part of the overall recreation and equestrian facility. We're also providing for a change in the design standards. This is not going to have the same design standards as the rest of Las Campanas. This western ranch theme will involve a different style architecture. It will be something characterized as more similar to northern New Mexico style, blended with perhaps a Colorado look. It will have heavy timbers, stone, all blended together with the use of stucco, a mix of flat roofs as well as some pitched roofs. So I think it's an exciting architectural style and theme for this portion of the property and we feel it's what's needed to move forward in a positive manner for this community.

I'd like to also emphasize that although we are recommending some changes for this very most northwest corner of the property, most of the project stays exactly as it is and was approved as Tesoro Enclaves. If you look at the engineering plans, they virtually have not changed at all. There were volumes of prints that were submitted to the County for review. If you look at the Las Campanas Drive, it's exactly the same location. All the road alignments are the same, the cross sections, utilities, sewer, water, grading and drainage plans, all remain the same. So there's a minimal amount of change there. It's really the lot sizing and the amenity package that we're looking at on the corner of the property.

In going through the planning process there were several questions that were raised by staff, Commissioners, other interested parties. We had a meeting just yesterday with Vicki Lucero and Joe Catanach. They questioned the water budget. Wanted us to take another look at it, particularly with regard to the 23 stable lots and wanted to make provisions for additional water rights for those stable lots. I've just passed out to you a copy of that revised water budget. [Exhibit 3] I think if you look at it, that it's increased a little bit from the one that was included in the packet. The total water budget now for this portion of the development is 69.4 acre-feet. It's important to note that Tesoro Enclaves, which was already approved, was 70 acre-feet, so we're still underneath the water use that was approved for that project.

And that's primarily due to the reduction of the number of lots from 140 to 128. We also have a provision that disallows any guesthouses on 18 of the lots. These are the small

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ranch-cabin lots that are closest to the amenity of the equestrian facility.

There was also a question with regard to Las Campanas and what is Las Campanas doing for water conservation. Las Campanas has tried to be proactive in this area with regard to water catchment systems, and there's another section of the handout that I just passed out to you which is a portion of the design guidelines and covenants for the subdivision. [Exhibit 4] I think if you look at that you'll see that every lot in the subdivision, the landowners have a choice of three different options with regard to water catchment. There's the pumice system that they can use. There's also a bio-swale system, or cisterns and all these are different means of catching the water off the roof, holding it and directing it to the landscape to minimize the amount of outside water that's required to have a self-sustaining landscape on this area.

I also want to mention that every house in the subdivision will be required to have two water meters, one for inside use, one for external use. That is the current practice for Las Campanas now. These are monitored carefully. Anybody that uses an excessive amount of water is also fined heavily. So that's something that's very important to Las Campanas and they've been following through on that on a regular basis. I have to say that Las Campanas members have been very good about their own water conservation on their lots.

Las Campanas is also committed to utilizing these same water-saving techniques on the non-residential amenity package that we're talking about. We've actually hired a consultant to take a look at it. It's the Hydros Group, in terms of evaluating what savings we could realize by utilizing some of the water catchment systems on the non-residential buildings. They've taken a look at it and have given us a report back that on an average rainfall year that we should be able to realize a savings of at least 429,000 gallons per year, which is 1.52 acre-feet. So it's a substantial amount and we're willing to move forward in that direction with that plan.

There was also a question raised by Commissioner Sullivan with regard to the issue of the State Engineer, Office of the State Engineer's report questioning the proof of sustainable water supply for 100 years. I did pass out to him just a little handout that -- I'm sorry. That was on the amount that was used for the bond. But that was addressed in the same question. Las Campanas, number one, has purchased a permanent water supply and water rights for the entire master planned community well in excess of what's needed for the master planned community. We also have a letter from the hydrologist, John Schumacher stating that the Buckman wellfield will provide water and the demand that's currently there for at least 100 years. And also to ensure the 100-year supply, the County has required Las Campanas to bond to the cost of constructing the permanent water supply down to the Buckman for the diversion. All of this planned for providing the water supply for 100 years.

There was a question also asked by Commissioner Sullivan with regard to the increase in the bond. He questioned whether the current \$7.2 million bond was adequate. I did pass out a sheet to him with regard to that. I inquired of Las Campanas engineering what the issue was. They had their consultant look at it, respond in a letter form, saying there was actually, some of the confusion comes from the fact that the bond is only required for potable water. It's not required for the golf course irrigation. And a lot of the numbers that have been thrown about include both. The letter that you have in front of you, Commissioner Sullivan, does have two

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estimates on it, one for I believe \$5 million, one for I think \$6.9 million, that shows that we have a buffer and the bond of \$7.2 million that was part of the 1994 agreement appears to be adequate, based on that letter.

We are in agreement with all the conditions of approval that have been outlined by City staff and County staff. I think in viewing this case I think it's important to note that this is a previously approved subdivision. We're just making some minor changes to it and we actually have a lesser impact with regard to water use. Las Campanas remains committed to playing an active role as a partner with the County in solving the regional water problems and finally, City and County staff, as well as the EZC has recommended approval of this particular project, the Estancias. We hope you share in the support for this project. We're very excited about the new approach for a western ranch theme and we look for your support and approval this evening. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Al, I'm glad to see that you guys are working on water conservation issues. But one of the questions that I had, and I want to make sure that it's implemented is most of those homes, or all of those homes are on drip irrigation systems. Now, if they implement one of these items, and let's say it rains, one of these days, hopefully, and that water goes into that planting area, well, the next day or that same day or while it's raining, that irrigation system is going to turn on. And you mentioned in a previous meeting that they had some sensors. Now how are we -- that sense the dampness of the soil. Now how are we going to follow up on that and make sure that those things are implemented so that that doesn't happen? And when it does rain we are really conserving water and not having the irrigation system turn on.

MR. LILLY: That's obviously a concern and I don't know that there's any real answer to that, to tell you the truth. I think that part of that has to fall back on the private property owner, that they have a respect for the land, respect for the situation that we're in with regard to droughts. You're getting ready to implement your own County ordinance that's going to apply to just these exact type of concerns that you're expressing. If you have a cistern collection system the irrigation system will come out of that cistern the irrigation system will come out of that cistern. So that's a very good option, probably the preferable solution.

When you have these other types of systems when you're collecting water from the canales directing them off into an area or into the plant beds, the sensors, if people are using them, is a sensible way of working and it should work. And I don't know why people wouldn't want to take advantage of that. So I don't know why anybody would want to purposely not have a system that they've put in place not work. But obviously, you're always going to have a minority group that will avoid that type of situation and may not pay attention to it. But I think the majority of people will care about it and will follow through.

COMMISSIONER ANAYA: And maybe the cistern is the way to go and not tie it in to the regular water system. Those are just my concerns. I know a lot of the --

MR. LILLY: Cisterns are a good way of going. A natural way though is

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collecting the water from the canales and directing them into the plant areas through these man-made swales. And if you're using drought-tolerant plants, after the first year or two of having a drip irrigation system you should be able to turn that system off and they should be planned so they should be able to sustain themselves on an average rainfall year.

COMMISSIONER ANAYA: Thank you.

CHAIRMAN SULLIVAN: Other questions for Mr. Lilly?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Lilly, are there any conditions that have been outlined here that you're in disagreement with?

MR. LILLY: We are in agreement with all the conditions as outlined. We discussed them at the EZC meeting. We changed one of them, I think that was a City condition and that was a minor change, and we are in agreement with the suggested revision with regard to the slope condition at the intersections for the variance to five percent. So we are in agreement.

COMMISSIONER MONTOYA: Thank you, Mr. Chair.

CHAIRMAN SULLIVAN: Mr. Lilly, I had a question on the landscaping guidelines. Although you have these different systems that you provide as options to the residents and given that this is going to be somewhat of a ranch theme now or I guess that's the best way to describe it, I'm assuming that in these guidelines, you still allow each unit to plant 1000 square feet of either bluegrass or fescue. If everyone did that, that would be 128,000 square feet of non-native grasses, which is about four acres of non-native grasses what would have to be watered. Wouldn't it be more appropriate, particularly with your ranch theme to simply require that native grasses like grama and other drought-tolerant grasses be used?

MR. LILLY: Perhaps that would be a good suggestion. Any non-native grass has to be located inside a yard wall. That's a requirement in the same design guidelines and covenants and as far as the amount of grass goes, it's a maximum of 1,000 square feet, that's the same condition that the City has for their maximum use. We further have that restriction of a maximum use of .5 acre-feet per lot. I suppose that gives the landowner an option to have a yard wall, to have a grass area inside and if that uses up their total allocation of the .5 acre-feet with their other uses on the property, then they can't plant anything else outside of the wall. So it just gives a little flexibility to the landowner.

I think 1,000 square feet, if you were to look at the various homes being built, it's probably in excess of what is actually happening out there. I think most of the people are opting for low maintenance and native vegetation.

CHAIRMAN SULLIVAN: Is Las Campanas monitoring these quarter and half-acre-foot usages?

MR. LILLY: All of those are submitted with the design review process and so yes, they are reviewed. As I mentioned, they can't happen outside of a yard wall. No one can build a yard wall without having design review approval. So I think there is a pretty good check on making sure that that amount is not exceeded.

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CHAIRMAN SULLIVAN: What I meant was are they monitoring the water use after the home is built?

MR. LILLY: Yes. There are meters, there are two meters for each home. There's an inside meter, a meter for inside use, potable water use. And there's an exterior use meter as well.

CHAIRMAN SULLIVAN: And the combination of those two can't exceed either a quarter or a half-acre-foot. Is that so?

MR. LILLY: That's correct.

CHAIRMAN SULLIVAN: And do they ever?

MR. LILLY: I think there have been some instances where they have. I don't have first hand knowledge of that but talking with Mike Sanderson from engineering, he mentioned that there have been a few instances and Las Campanas has come down on them hard with heavy fines. And it makes no difference whether they're a part-time resident or a full-time resident.

CHAIRMAN SULLIVAN: So in this approval, would there be any problem with just simply saying that, and staying with your theme that only native, drought-tolerant grasses be used, whether they're inside the wall or outside the wall. I've seen some very nice buffalo grama grass mixtures inside the walls that looked every bit as good as the fescue ones and don't take anywhere near as much water.

MR. LILLY: I agree. A blue grama grass lawn can look very nice, however, I think that this gives a little bit of flexibility to the landowner. We've capped the amount of water they can use. It gives them, like I say, the flexibility to choose between what they're looking for. If someone wants to have something a little more formal up close to the house and they loose out with regard to landscaping beyond the house or around the edge of the house then so be it. That's a choice that they can make on that.

CHAIRMAN SULLIVAN: I guess my thinking on that is that given the drought we've had the last two years we don't have a lot of flexibility on water use and certainly one of the easiest places to start with that is using drought-tolerant grasses.

MR. LILLY: I tell you what, we'd be willing to conform to the new ordinance that's coming up, which I assume we would have to anyway, for water catchment. If the County decides to eliminate any type of ornamental grasses, that would be the case. We would still have to conform to that.

CHAIRMAN SULLIVAN: This is an application for a revised master plan or an amended master plan or final?

MR. LILLY: It's an amended development plan.

CHAIRMAN SULLIVAN: So once this is approved, then my understanding, correct me if I'm wrong, is that they would be grandfathered from the ordinance. Is that correct, Mr. Ross?

MR. ROSS: I think you're correct unless they agreed otherwise.

CHAIRMAN SULLIVAN: Unless they agreed otherwise.

MR. ROSS: It sounds like they may be inclined to do so.

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MR. LILLY: Our preference would be to leave the flexibility there, if possible.

CHAIRMAN SULLIVAN: Sure. Our preference would be to save water.

MR. LILLY: Okay.

CHAIRMAN SULLIVAN: My preference. I won't speak for the Commission. My preference would be to save water. Another question I had, and you responded to it earlier, I'm not clear on this bond agreement. This was before my time and we have, Santa Fe County has a \$7.2 million bond. And as I understand it that's a bond that would provide for the construction, that is to say, if Las Campanas reneged, of apparently a portion of the intake structure of itself. The intake structure is estimated to cost \$12.5 million, but how would we construct a portion of it? Let's say Las Campanas, for whatever reason reneged, I understand that there's a ratio of potable to golf course usage, how would we build part of it? Am I interpreting that right?

MR. LILLY: I don't think this whole project could go forward unless you have a team effort happening here between the County, Las Campanas and the City, I suppose. That's my understanding. This isn't something -- there's two different ways of bringing the water up the hill from a diversion, but it's one diversion.

CHAIRMAN SULLIVAN: I understand that. But just in terms of the bond, let me ask another question first. This also assumes, and correct me if I'm wrong, but Las Campanas will build the conveyance pipeline and the water treatment plant. Is that the current understanding?

MR. LILLY: That's correct.

CHAIRMAN SULLIVAN: Okay. So it's building its own pipeline, its own conveyance pipeline and its own water treatment plant. And what the County's bond, what they required, was for a proportionate cost of the intake structure. They've computed that out to be \$12.5 million divided by 1000 acre-feet for residential and divided by 1800 acre-feet total, 800 for the golf course. So that was how they did the percentage. So is that how this works, what the County is bonding is just for that portion of the intake structure that would be built for domestic water?

MR. LILLY: That's my understanding. It's strictly the potable water. It's not any bonding for the irrigation for the golf course and that's the extent of the purpose of the bond.

CHAIRMAN SULLIVAN: But we couldn't get the water to the property unless we had the pipeline and the water treatment plant. Is that committed for in an agreement or something?

MR. LILLY: I'm actually not prepared to answer that. There are some other consultants here that could answer that if you'd like for them to step forward.

CHAIRMAN SULLIVAN: I think Commissioner Duran has -- could you help us out?

COMMISSIONER DURAN: I don't have an answer, just that are we going to be able to solve any bonding concern that you might have tonight?

CHAIRMAN SULLIVAN: I don't know. We have a bond. This is final

2700829

development plan and I was just asking the question of whether we have an adequate bond to provide water to these units. That was the question. Maybe we could --

MR. LILLY: Mike Sanderson may be able to help us out with the answer.

[Duly sworn, Mike Sanderson testified as follows:]

MIKE SANDERSON: Mike Sanderson, [inaudible] Santa Fe. Basically, the \$12.5 million is we have a diversion that we're all working on with the City, with you as the County and Las Campanas. That diversion is in the river. It's basically a six-screen diversion and that six-screen diversion has a lift station pump independently for each one of those screens that are going to go there. It's sized for the total for what the County is looking for, what Las Campanas is looking for and what the City of Santa Fe is looking for.

And basically, when we get into that -- and so that water delivers to a point that's very close to the river where the major pump stations would be installed and at that point is where the sediment would be taken out, the major sands and then at that point, there's two pipes in the pump stations that would at this point, per the EIS, deliver it up the hill. There's one pipe that would be going to the County and the City of Santa Fe, basically over by the MRC with three different pump stations, with two pump stations on the way to go to there with their own water treatment plant that would go out to the different locations.

At the same time, at that same location there's pump station, with three different pump stations going to Las Campanas to take care of our potable system and the golf course. And the bond itself that we have is to take care of the potable system of Las Campanas 100-year water system, so basically, it's one pipe and it's the pump stations that would go there and everything sized accordingly. And so the estimates that we have have the part of how many screens does Las Campanas need to be able to take care of their part. In that estimate, the pump stations and the things that would bring that water to Las Campanas and it's taking care of both ends. So we don't need a bond for the total because it was very clear in all the different agreements, that the irrigation, we get the right to bring that from the river but it wouldn't be a part of that bond.

CHAIRMAN SULLIVAN: So this Enclaves project would be built once the San Juan/Chama water is available and once you have that pump station in hand?

MR. SANDERSON: No. This project here could be built today and we've got the water rights set up and we've turned those over to the County. All we're saying is that the bond that we have for the water system is adequate at \$7.2 million. We'll be putting a separate bond up for infrastructure for this subdivision and it's completely different from that \$7.2 million.

CHAIRMAN SULLIVAN: Okay, so your intent is then to take water rights and move them somewhere to serve this?

MR. SANDERSON: Basically, that's what's happening. The water rights have already been moved and it's part of the plat of platting this over, it should be tied to that plat, the amount of water rights, the 69.4.

CHAIRMAN SULLIVAN: So you have enough water --

MR. SANDERSON: We have enough water --

CHAIRMAN SULLIVAN: Rights at the Buckman system.

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MR. SANDERSON: Right. And at the point where the diversion happens that would be moved over to the river to that diversion location on the Buckman side.

CHAIRMAN SULLIVAN: Because your rights for Buckman have some expiration dates. Is that right?

MR. SANDERSON: We have permanent water rights for the subdivision and all commercial.

CHAIRMAN SULLIVAN: So you wouldn't need to move them to the diversion.

MR. SANDERSON: They would be moved to the diversion at that point. But it's permanent water rights. It's not like the lease with the City of Albuquerque. There's a termination date on those.

CHAIRMAN SULLIVAN: These 128 units are going to get water from where? The Buckman wells?

MR. SANDERSON: It will be the Buckman wells at the beginning of the project. Whenever the diversion comes on line, they will be getting the water from the diversion.

CHAIRMAN SULLIVAN: And you'll move the water to the diversion. Let's say that the diversion didn't happen or it was substantially reduced for whatever reason, the silvery minnows or what have you. Would you then have the permanent ability to use the Buckman wells for this subdivision?

MR. SANDERSON: We do at this point, yes.

CHAIRMAN SULLIVAN: At this point. Okay. Other questions from the Commission for the applicant?

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Lilly, I guess. You're proposing two residences per lot? Or a guesthome and a main residence?

MR. LILLY: There's a guest house and a main residence on every lot except for 18.

COMMISSIONER CAMPOS: What happens in the 18?

MR. LILLY: On those 18, those are one-acre lots. They're the lots that are closest to the equestrian facility. We have a completely different architectural concept for those. We refer to those as ranch-cabin sites, or lots. There will actually be little collections of buildings that will, like I say, have close proximity to the barn facility. People will be able to ride up to the homes, say for lunch or in the afternoon. They will not have guesthouses so we've reduced the amount of water us in those.

COMMISSIONER CAMPOS: Now, these are real guesthouses, I assume.

MR. LILLY: That's correct.

COMMISSIONER CAMPOS: They're not designed for permanent, full-time use. They will not be rentals.

MR. LILLY: I believe the covenants for Las Campanas does not allow for

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rentals. I can check that. One residence.

COMMISSIONER CAMPOS: Non-rentals?

MR. LILLY: Right.

COMMISSIONER CAMPOS: The guesthomes cannot be rented. Is that right?

MR. LILLY: I'm not aware of any provisions for rentals in Las Campanas.

COMMISSIONER CAMPOS: That allow it or disallow.

MR. LILLY: Like I say, I don't have any knowledge.

COMMISSIONER CAMPOS: You have no knowledge. So how would you

find out?

MR. LILLY: I could request information on that.

COMMISSIONER CAMPOS: From the people you represent?

MR. LILLY: That's right.

COMMISSIONER CAMPOS: Now, you're asking for .5 acre-feet of water per

lot, right?

MR. LILLY: That's correct.

COMMISSIONER CAMPOS: To supply the both the main home --

MR. LILLY: And a guesthome.

COMMISSIONER CAMPOS: So in the past the County, we have approved .25 for the main home and maybe .15 for the guesthome. Would that be a problem for you, for your clients?

MR. LILLY: I think it would be. First of all, the development agreement and the master plan for Las Campanas had provisions for .5 acre-feet per lot, allowing for a home and a guesthouse.

COMMISSIONER CAMPOS: Yes, but things change. Things have changed dramatically in the last three or four years here. This was approved years ago, I guess.

MR. LILLY: That's true. It was approved in 1992. Las Campanas has moved forward and purchased all the water rights, permanent water rights to make supply as per the agreement and they have that in place and that's what we're moving forward with.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN SULLIVAN: Any other questions for the applicant? Okay, if not, this is a public hearing --

COMMISSIONER DURAN: Oh, I guess I do have a question.

CHAIRMAN SULLIVAN: Commissioner Duran.

COMMISSIONER DURAN: Is there anything that would indicate that you actually need that .5? If we have other subdivisions that have main houses and guesthouses and they use .3 acre-feet of water, just because you have the right to use it -- we're all trying to conserve water here, what makes this project so special that you need half an acre-foot.

MR. LILLY: I think the design of these, first of all, we've gone to larger lots that normal. If you look at this, in reducing the total number of lots for the same acreage, we've gone to larger lots. We're proposing probably larger homes on these lots as a result of that. It's a ranch-type architecture which will mean you'll have more than one building. Some

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outbuildings tied to it.

COMMISSIONER DURAN: Well, they're bigger houses, Al, but there's typically only two or three people living in them. There's a larger percentage of those homeowners that don't even live there full time. So I understand that you were previously approved with half an acre-foot but I kind of agree with Commissioner Campos that I don't understand the need for it just because you've got it before. It doesn't make much sense to me.

MR. SANDERSON: It's my understanding that it's been required from the County throughout the project and that's been pretty much a norm that on a per-structure basis, that the County is requiring us that we purchase the water rights for .25 for a house and .25 for a guesthouse. Are we looking at changing that requirement?

COMMISSIONER DURAN: Could be. I don't know.

MR. SANDERSON: That's a requirement that so far, every time that we come into a subdivision it's required that we purchase that amount of water for these residents.

CHAIRMAN SULLIVAN: You may have a refund. You may have some to sell on the open market I guess. That would be the other option. Okay, other questions for the applicant, Mr. Sanderson and Mr. Lilly?

MR. SANDERSON: And the answer back on the other one is the CC&Rs don't allow for rentals on the property.

CHAIRMAN SULLIVAN: The CC&Rs, explain what those are.

MR. SANDERSON: It's basically what -- the CC&Rs --

COMMISSIONER DURAN: The deed restrictions.

MR. SANDERSON: The deed restrictions.

CHAIRMAN SULLIVAN: The deed restrictions. Okay.

COMMISSIONER CAMPOS: The deed restrictions do what?

MR. SANDERSON: We're not allowed to have the rental property over there.

COMMISSIONER CAMPOS: It expressly states no rental property?

MR. SANDERSON: Right.

COMMISSIONER CAMPOS: And how do you enforce it?

COMMISSIONER DURAN: District court.

MR. SANDERSON: We really couldn't enforce it. We don't have a body. If we were aware of the rentals out there, we don't have a body that goes out there to be able to say, okay, you've got a rental here that we as Las Campanas wouldn't be renting that property.

COMMISSIONER CAMPOS: I understand that. It's a problem.

CHAIRMAN SULLIVAN: Other questions for the applicant. Okay, this is a public hearing. Do we have anyone in the audience who would like to speak in favor of or in opposition to the applicant's request? I don't see anyone. Okay. We're back to the Commission for deliberation or action. What's the wishes, gentlemen?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I move for approval with the County conditions from the testimony that I've heard today.

2700833

COMMISSIONER MONTOYA: Second.

CHAIRMAN SULLIVAN: Okay, now we had some discussion. We're in discussion and I wanted to mention that we were talking about compliance with the new County water use and landscaping ordinances as they're developed in the future. The applicant, I think indicated an agreement to comply with those. Would that be a part of your motion, Commissioner Anaya?

COMMISSIONER ANAYA: Yes, sir.

CHAIRMAN SULLIVAN: The second? Yes. Further discussion?
Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chair, the requirement that we reduce, maybe we need to consider a requirement that we reduce the .5 to let's say .4. If these are true guesthouses they don't need another .25. We need to reduce that to .4, just like we've been doing in other subdivisions.

CHAIRMAN SULLIVAN: Do we want to request the maker to amend that?

COMMISSIONER CAMPOS: As Commissioner Duran has stated, what makes you guys so special? Everybody else complies to that. So I would hope you guys would add that to your motion.

COMMISSIONER DURAN: Point four or point three?

COMMISSIONER CAMPOS: Whatever you think is right.

CHAIRMAN SULLIVAN: Commissioner Anaya, comments?

COMMISSIONER ANAYA: I guess maybe I want to hear from the applicant again and if you guys could really consider that. If you could run the lot on .4 acre-feet of water.

CHAIRMAN SULLIVAN: Mr. Lilly, would you like to comment on that?

COMMISSIONER ANAYA: I know that right now, they could go and build that subdivision that's already been approved and use the .70, but we want to try and work with you.

CHAIRMAN SULLIVAN: Would you like to comment in response to Commissioner Anaya?

MR. LILLY: Mike's just running some numbers right now.

CHAIRMAN SULLIVAN: Oh, he's crunching some numbers back there. All right, Commissioner Duran, while he's crunching.

COMMISSIONER DURAN: Al, while the crunching's going on, the horses -- we just approved a subdivision in Tesuque where they were given, they were able to prove half an acre-foot of water for the lots that had horses, that had barns on them. And the reason for that, one of the reasons for asking for that additional water was that they were going to have the horses on that site so they needed additional water for the horses. There won't be barn sites on these particular lots, will there? Won't there just be one facility for the horses?

MR. LILLY: On 23 of the lots, there will be barn sites. They'll be allowed two stalls each.

COMMISSIONER DURAN: Okay.

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MR. LILLY: So if you approved -- was it two stalls on the one you're talking about, that was approved?

COMMISSIONER DURAN: I don't remember. It's actually just a barn site. It didn't designate or specify one or two or three or four.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: Al, I think that if you all implement the water conservation and you said you're going to work on it but if you really worked on it, I think it would work with the .4. That would mean .2 for each, for the house and the guesthouse. And the guesthouse people aren't there all the time. I don't know what the status is up there with the people that just come in the summers or come in the winters. I guess -- what have you come up with?

MR. LILLY: I would assume that on the 23 lots that have stables on it that we'd still be looking for a little bit more on those and realizing that you'll have two horses per lot. Hold on one second. We'll just see if we've got that number together.

CHAIRMAN SULLIVAN: How many horse stalls are there, Al, in the equestrian facility itself?

MR. LILLY: 122.

CHAIRMAN SULLIVAN: 122, in the equestrian facility.

COMMISSIONER DURAN: I don't think from a marketing point of view that .5, .4 is going to make a difference. How much did that save us?

COMMISSIONER ANAYA: How many gallons a year is that?

CHAIRMAN SULLIVAN: I hear the computer tapping back there. I've done my engineering. I just answer to how much water it is. That's all I know. While we're doing that, let me just also clarify with the staff, we have, Vicki, two ordinances going. One is the one we just approved title and general summary, which is for the water catchment, right? And the other is the landscaping ordinance, which was indicated it might take about four months or so to do. Am I correct on that? I just want to be clear on which ordinances we're requiring or they're agreeing to comply with.

JOE CATANACH (Review Division Director): Mr. Chair, what I believe, what I understood Penny to say is that they would, that the landscaping requirements having to do with water conservation, in working with -- there seems to be conflicts with fire protection requirements and landscaping requirements, that that could be part of the Code rewrite. I'm not sure I understood her to say that it would be part of the water harvesting ordinance or that it would come later. But Penny did address that as --

CHAIRMAN SULLIVAN: But the two things we're adding as a condition is that they comply with the future water harvesting ordinance and that they comply with the future landscaping ordinance. Is that correct? Is that what we're working on?

MR. CATANACH: What the applicant had agreed to was to comply with standards or guidelines having to do with amendments for water conservation, which would include landscaping.

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CHAIRMAN SULLIVAN: Okay, I guess I need to clarify it when they come back that it would include the water harvesting also.

COMMISSIONER CAMPOS: And the landscaping.

CHAIRMAN SULLIVAN: And the landscaping. Commissioner Duran.

COMMISSIONER DURAN: I was just wondering, Vicki and Joe, when you start analyzing the data on what would be appropriate elements to this ordinance, there's a guy named Michael Sandrin who's been building houses for the last ten, fifteen years, and he builds kind of a wick system. So he catches all this water off of the roof and it goes into this pumice-filled -- is that what you have? Never mind. I should read the material.

CHAIRMAN SULLIVAN: Well, they just handed it out tonight but they're apparently allowed to use any one of these.

COMMISSIONER DURAN: Well, good. Great. Because I've seen it work and this house out in Eldorado that has it, you'd think that they are using tons of water and they barely use any.

MR. CATANACH: That's certainly what we hope to achieve.

CHAIRMAN SULLIVAN: I was just trying to make it clear specifically, what water conservation ordinances we're talking about and I think we're talking about two. One is water catchment and the other is a landscaping ordinance that you indicate will be a part of the Code rewrite.

MR. CATANACH: Or it could be coordinated with that.

CHAIRMAN SULLIVAN: Is the jury back, Mr. Lilly?

MR. LILLY: We've taken a look at it and feel that we can work with some reduction. What we'd like to propose is .25 for the cabin lots, .4 for all other lots, except for the ones that have stalls on the property and we'd like to make that the .5 acre-feet, which is lower than what we'd revised the estimate for you on the latest one that we met with Joe on. Prior to committing to that, however, we'd like to just ask the question of Joe whether we can do that, because it's our understanding that we need .25 acre-feet per dwelling. We don't want to be in conflict with the County ordinance, so we're willing to make that change providing we're not in conflict.

MR. CATANACH: The issue came up that in fact the County, back in '92 when the master plan came in from Las Campanas we were requiring a minimum allocation of .25 per residential unit but certainly things have changed, meaning that recognition that a guesthouse should be a guesthouse, part-time, temporary use and being that the Board of County Commissioners is who adopted the development agreement, it seems to me that then the Board of County Commissioners can make appropriate changes as things have evolved. I don't know if Steve has any comments on that but that's it right there. At one time, the County was requiring a minimum .25 per unit but things have certainly changed, especially in the last two years.

CHAIRMAN SULLIVAN: Al, let me get a clarification here. On your water budget, all 23 of the stable lots, according to your calculation, would only require .038 acre-feet anyway. That's .038, and that's for all of them. So if you divided that by 23 lots --

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MR. LILLY: All 23 require .9 acre-feet.

CHAIRMAN SULLIVAN: Okay. Each one requires .038.

MR. LILLY: That's right.

CHAIRMAN SULLIVAN: Okay, so you're saying you're reducing, by agreeing to .5 as a maximum for the estate lots with stables, you're reducing it, but you're reducing it from .538 to .5, right?

MR. LILLY: That's right. Those are going to be larger lots, more of a ranch setting, next to the BLM and that's the reason why we're requesting that.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: So, Al, you said .25 acre-feet for the cabin lots?

MR. LILLY: That's right. For 18 lots.

COMMISSIONER ANAYA: The cabin lots, 18, okay. And then you said .4 acre-feet with the residence and guesthouse?

MR. LILLY: That's correct.

COMMISSIONER ANAYA: And then there was a third one?

MR. LILLY: Of the 110, you have 23 that we were looking at for .5 acre-feet. Those are the ones that have the stables on site.

CHAIRMAN SULLIVAN: Why would those need to go from .4 to .5 if each lot with the horses only requires .038 acre-feet? It seems like it would have to go to .438.

MR. LILLY: You could reason it that way. I'm not in conflict, I'm just saying --

CHAIRMAN SULLIVAN: Just adding the numbers, that's all.

MR. LILLY: We're looking at larger lots, larger buildings on those lots. There's 23 of them and we were looking to have .5 on those lots.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Anaya.

COMMISSIONER ANAYA: I would agree to that and put that in my motion.

CHAIRMAN SULLIVAN: Okay, what are you agreeing to.

COMMISSIONER ANAYA: To 18 of the cabin lots would go to .25 acre-feet.

The -- I don't know how many residences -- how many residences are there with --

CHAIRMAN SULLIVAN: 110.

COMMISSIONER ANAYA: 110 would go to .4, with residence and guesthouses. And 23 of the lots with the barn on them would go to .5 acre-feet.

MR. LILLY: Actually, what you need to do is to take away the 23 from the

110.

COMMISSIONER ANAYA: Okay.

MR. LILLY: So it's really 97.

COMMISSIONER ANAYA: So 97 would be at .4.

MR. LILLY: And then 23 would be at .5.

COMMISSIONER ANAYA: Okay.

MR. LILLY: And 18 would be at .25.

2700837

CHAIRMAN SULLIVAN: How about 87?

MR. LILLY: Is that better math?

COMMISSIONER ANAYA: 87?

CHAIRMAN SULLIVAN: It depends on which side of the calculator you're on.

MR. LILLY: We'll go with the 87.

CHAIRMAN SULLIVAN: Go with that? Yes. Okay, so we have an amended motion on the floor. Does the seconder agree?

COMMISSIONER MONTROYA: Yes.

CHAIRMAN SULLIVAN: Okay, we have an amended motion and second. Discussion on the amended motion, please? That's the same motion, it's just been revised with friendly amendments. Commissioner Campos.

COMMISSIONER CAMPOS: Have you gotten the clarification you wanted about the landscaping and the water harvesting ordinance that are yet to be adopted?

CHAIRMAN SULLIVAN: Let me clarify that. While you were calculating, Mr. Lilly, in terms of the water usage issue, I understand your client is agreeable, or are then agreeable to complying with the County's, we said water use ordinances. There's actually going to be two in my understanding. One is a water harvesting ordinance, which is going to be coming fairly quickly. Another will be a landscaping ordinance, which may be a part of our Code rewrite. Both of which deal with, or will deal with the use of water and types of landscape and so forth.

MR. LILLY: I'm certainly in favor of the intent of doing that. I guess I'd like to have a handle on what the time frame is for them. If this is something that's going to be six months to a year away, that would probably pose some problems for us. If it's something that's going to happen in the near future, I think it's something we can work with.

COMMISSIONER CAMPOS: Mr. Chair.

CHAIRMAN SULLIVAN: Commissioner Campos.

COMMISSIONER CAMPOS: I think Penny Ellis indicated that landscaping may be further down the road than water harvesting, water harvesting being in the next few months but landscaping in four to five months. Does that work?

MR. LILLY: In how long?

COMMISSIONER CAMPOS: Four to five months.

MR. LILLY: And water harvesting was in --

COMMISSIONER CAMPOS: Shorter time.

CHAIRMAN SULLIVAN: Two to three months. We just did publish title and general summary tonight.

MR. LILLY: We're totally in favor of the water harvesting for sure. Let me check with the client on the landscaping. On the landscaping, I just don't know if it will happen as quick as before the five months. Does that sound reasonable?

COMMISSIONER DURAN: Mr. Chair, could I ask a legal point on this?

CHAIRMAN SULLIVAN: Commissioner Duran has a legal question, Mr.

2700838

Ross.

COMMISSIONER DURAN: Can we require the applicant -- he's agreed to the water catchment systems. That's on a pretty fast track but can we require them to hang in there and not do anything for six months until we adopt some new ordinance?

MR. ROSS: Well, he's indicated that might be a little bit of a difficulty for him but what you probably could do is to set a time limit. If we don't have our act together and have a landscape ordinance in five months or six months or whatever time you all agree to, then the requirement could dissipate of its own. It could just time out and you wouldn't have that requirement any more on that.

COMMISSIONER DURAN: So I have a question for you, Al. Is the infrastructure already in place for this development?

MR. LILLY: No, the infrastructure is not in place. However, what happens when you have a development as you know, we're ready to record the first phase of it and you've got sales information that goes with it and everything else and committing two buyers, it's difficult to do that if you're out there four or five months to a year. Right now I'm willing to absolutely commit to the water harvesting. I would be very hesitant to commit to something that could be out a half a year.

COMMISSIONER CAMPOS: What about the non-native grasses? Would you agree to that? That you would only use non-natives? Commissioner Sullivan suggested a certain mixture, grasses. You could agree to that today.

CHAIRMAN SULLIVAN: I would suggest that you put in your disclosure statement that native grasses are required or compliance with the new County landscape ordinance. So that you're advising -- that ordinance may allow a couple hundred feet of bluegrass. We don't know yet. We haven't reviewed it yet.

MR. LILLY: Let me discuss that with my clients. Can you give me a minute here?

CHAIRMAN SULLIVAN: Sure. Go back to your computer.

MR. LILLY: What we'd like to do is go ahead and agree to comply to the County ordinance, whatever that comes to. However, we'd prefer the quick cap of a certain period of time on it that you feel is reasonable.

COMMISSIONER CAMPOS: What about both?

CHAIRMAN SULLIVAN: How about if it's not in effect for six months? Does that make sense? Six months?

COMMISSIONER ANAYA: That sounds fair.

CHAIRMAN SULLIVAN: Is that an amendment to your motion?

CHAIRMAN SULLIVAN: Does the seconder agree?

COMMISSIONER MONTROYA: Yes, sir.

CHAIRMAN SULLIVAN: Okay, we have another, a new motion. Let me summarize if I can. Okay, first of all, I don't think we included staff conditions in the motion. Your motion included the staff --

COMMISSIONER ANAYA: Yes, I did.

2700839

CHAIRMAN SULLIVAN: You did. Okay. So that takes care of that. The amended staff conditions. And then in terms of lot usage, water usage, .25 acre-feet for cabin lots, for 87 estate lots, .4 acre-foot maximum. For 23 stable lots, .5 acre-feet maximum. Then with regard to an additional condition regarding water conservation requirements, are that the development will comply with the County's upcoming water catchment ordinance and, provided that it is in place or approved, let's say, within six months, with the County's upcoming landscaping ordinance.

MR. LILLY: Agreed.

CHAIRMAN SULLIVAN: Is everybody onboard with that? Okay.

The motion to approve EZ Case #S 00-4561 with the above noted conditions and amendments passed by unanimous [5-0] voice vote.


MR. LILLY: Thanks for your consideration.

CHAIRMAN SULLIVAN: You're welcome. Thank you, sir. Are there any other items.


ADJOURNMENT

Chairman Sullivan declared this meeting adjourned at approximately 8:00 p.m.

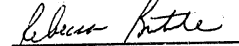
Approved by:

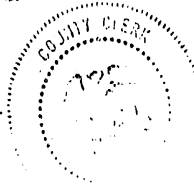

Board of County Commissioners
Jack Sullivan, Chairman

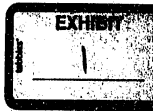
Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK





Askwith Addendum

2700840

(These are some of the issues dealing with the 1997 Stipulation agreement the Askwiths addressed on April 17, 2003 at a meeting with their attorney, Chris Graesser, Mr. Abeyta, Land Use Director and Ms. Monica Ontiveros, SF County Attorney. The proposed amended provision is the result of that meeting and additional correspondence with Mr. Graesser.)

April 17, 2003

This is a request to review the stipulation agreement entered into in 1997 between Sharon Askwith and Santa Fe County for the following reasons:

1. The stipulation agreement was not necessary since Ms. Askwith met the requirement of a favorable hydrologist report as required by the law at the time for higher density. The county hydrologist over stepped his authority in demanding additional requirements of the Askwiths.
2. Similar size property with favorable geo-hydro reports indicating that there is sufficient water for two dwellings on the property did not have the same constraints as the Askwiths.
3. Provision #4 addresses land subdivisions. In fact all aspects of the stipulation deals with criteria for land subdivision except the county's use of the 'Vette' well in provision #5.
4. In provision #4 the use of the word 'further' indicates that something has already taken place. In this case it appears that it is a subdivision. If the intent of this provision was to deny the Askwiths the ability to subdivide, it should have stated "no future land divisions" rather than no further land divisions.
5. Provision #4 also states that land subdivision is the subject matter of this complaint. There was no land subdivision involved in the complaint. The complaint dealt with the permitting process and higher density.
6. The stipulation including article #4 was verbally explained to Ms. Askwith by the county staff, It was also indicated that a family land transfer did not constitute a conflict with the stipulation. In fact the stipulation would aid in a future family land transfer, because all the criteria for a subdivision would have been met.
7. Although Ms. Askwith owns 50% of the property she was the only one apprised of the stipulation and required to sign the agreement and a waiver for a speedy trial.
8. Mr. John Askwith, who owns the other 50%, was not required to sign the stipulation, waiver for a speedy trial and has been denied the opportunity of a speedy trial.
9. The county has not fulfilled its obligation to dismiss the lawsuit against the Askwiths. The court dropped the case due to lack of prosecution.
10. The magistrate court is not the proper venue for the enforcement of the stipulation.

It is our belief that the stipulation agreement should voided, modified or at the least clarified to allow the Askwiths the ability to seek a variance for a family land transfer.

John and Sharon Askwith

AUG-12-2003 01:55PM FROM RE*SOURCE ASSOCIATES TO

1505986

EXHIBIT

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12 August 2003

Mr. Jack Sullivan, Chair
Santa Fe County Board of Commissioners

2700841

Subject: Comments on EZ Case #03-4411 (Askwith)

Dear Mr. Sullivan and Commissioners:

I live at 16 Grey Fox Road in Santa Fe County. I live on 9.73 acres purchased in 1990, and my lot lies directly adjacent and immediately south of the Applicant's property. I am totally opposed to the action being requested by the Applicant in this hearing. Unfortunately, I will be out of town on 12 August so I will be unable to testify in person as I had done at an earlier hearing in April where the same Applicant requested a variance to subdivide his lot.

I am totally opposed to any interpretation of the "Stipulation" in question that would permit consideration of any further division of the Applicant's property. I understand that, at this time, the Applicant is before the Board to argue that the legal decision against them (i.e. the 1997 Stipulation) for willful building permit violations was not intended to preclude them from requesting a variance to subdivide their 4-acre lot into two 2-acre lots. I also understand that if the County then allows the Applicant to apply for a variance, approval could lead to further subdivision of his property.

I have several reasons for opposing the proposed action. First, it is my strong belief that it is not a good idea for the Commissioners to liberally interpret this stipulation because of the negative precedent that could be set regarding important provisions contained in the Mountain Ordinance. As I stated at the variance hearing last April, I fully support the goals of the Ordinance and respectfully request that the Board look very closely at all requests enabling a variance (particularly including the use of "family transfer") to avoid eroding the intent of the regulations (to create lower housing density and to lower the impact on fragile resources - including water, vegetation, and visual impact - in the foothills). Secondly, I am comfortable with the fact that I must comply with all land use ordinances if I build or remodel because I believe that the Ordinance will be evenly enforced and is beneficial to the community. I would be concerned, then, about the "message" that could be sent if apparent loopholes in the Ordinance (e.g. "family transfer") were used to circumvent, in this case, minimum lot sizes.

I understand that at this time the Applicants are now before the Commission arguing that the 1997 Stipulation was not intended to preclude them from requesting a variance to subdivide their 4 acre lot into two 2-acre lots. I understand too that letters from their supporters seem to be arguing that it would be "unfair" not to let the Applicants apply for a variance because a) it was not the intent of the judgement and b) existing lots on Stone Ridge Road are small and a variance will not adversely affect anybody and, c) a road easement already splits their lot into two pieces.

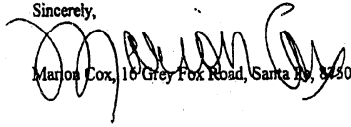
I disagree with these premises. First, from my understanding of the Applicant's situation, the Stipulation was very generous in simply allowing the Applicant to retain and use the trailer as a

2700 84- A

guesthouse as opposed to being ordered to tear it down after completion of their new house. It seems reasonable ("fair"), then, for the Stipulation to then contain the words "there will be no additional dwelling units (and)...no further subdivision of the property." If the lot is now subdivided it seems the Applicant will have been fully rewarded/enabled despite his acknowledged 1997 building violation(s). I would suggest that this would be a poor precedent for County zoning and building to face in future disputes and in the enforcement of the Mountain Ordinance provisions. And, I am concerned that if a variance is eventually approved based, in part, on a liberal interpretation of the Stipulation, it is conceivable that even further subdivision of the lots (below 2 acres) could be permitted.

Second, I suspect many grand-fathered lots are smaller than the present MSRD requirement of 20 acre minimums but further subdivision should be carefully considered since each lot is, under the ordinance, allowed relatively significant site disturbance and built area (intended for 20 acre lots). A 2 acre lot simply does not have the Pinon/Juniper coverage to conceal a building or driveway. This is quickly evident by driving up to Stone Ridge Rd. The small lots do adversely impact the neighborhood for this reason. Finally, road easements "splitting" lots are fairly common in this area (of few public roads) when earlier developers/landowners created the easements to sell otherwise land-locked property. I feel, however, that the mere existence of a road easement across the Applicant's lot should not be considered as part of a rationale to subdivide.

Sincerely,


Marion Cox, 16 Grey Fox Road, Santa Fe, NM 87505

Land Use Planning • Landscape Architecture



August 11, 2003

MEMORANDUM

2700842

To: Vicki Lucero, Development Review Supervisor
Santa Fe County Land Use Dept.

From: Al Lilly

Re: EZ CASE #S 00-4561 The Estancias at Las Campanas

As requested during my meeting with you and Joe Catanach, we have revised the water budget to reflect the addition of horse stalls on 23 lots. As per my previous letter of July 24th, the cluster of "Ranch Cabins" adjacent to the equestrian facility will not involve guesthouses. Therefore the water use for the "Cabin lots" will be reduced to .25 AC-FT. The total water use for the revised "Estancias Subdivision" will be below the amount required for Tesoro Enclaves, the previously approved subdivision for the same property.

The breakdown of water use for The Estancias includes:

Residential:

110 "Estate Lots" (Lots #1-45, #64-128) @ .5 AC-FT per lot =	55.00 AC-FT
(includes 23 stable lots) x 2 horses per lot @.34 gpd or .038 AC-FT =	.90 AC-FT
18 "Cabin Lots" (Lots #46-63) @ .25 AC-FT per lot =	4.50 AC-FT

Community Amenities:

(Equestrian Facility and Restaurant)

Total Water Budget:	<u>9.00 AC-FT</u>
	69.40 AC-FT

Note: The Tesoro Enclaves subdivision involved 140 lots at .5 AC-FT = 70 AC-FT. Therefore the proposed Estancias subdivision and associated amenities will use less water than the previously approved subdivision for the same property.



LAS CAMPANAS Master Design

EXHIBIT

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**APPENDIX H:
ADDITIONAL LANDSCAPE WATER CONSERVATION REQUIREMENTS**

2700843

This appendix includes additional guideline requirements for landscape water conservation systems.

Owners will be responsible for installing all required irrigation equipment. This equipment includes a satellite controlled *WeatherTRAK* controller or an equivalent installed by a professional landscaper. (for more information on this system please call 800-362-8774), and *low volume output sprinkler heads and emitters on all non-drip systems.*

Any systems utilized are required to be shown in landscape design submittals reviewed by the Las Campanas Design Review Committee. All existing requirements for temporary irrigation and on site retention ponds must also be shown.

Any additional landscaping not included on the original approved plan must be resubmitted to the Design Review Committee for approval.

All landscape designs including pools, fountains or any water features must be submitted with irrigation water usage calculations as required per the Las Campanas Design Guidelines.

Owners will be required to implement at least one of the following water conservation systems (water from the chosen system must be utilized in courtyard and perimeter transition zone landscaped areas):

WATER CONSERVATION SYSTEMS

OPTION 1A: *Pumice Wick Systems* are ditches 10 -12' deep and up to 36" wide fed by a PVC pipe from canals catch basins. These ditches are filled with pumice and provide a water source for landscape even in dry seasons. They also promote stronger root systems for plants. Submitted plans for the system must be stamped by an engineer before approval is granted. Smaller retention ponds are required as overflow to this system.

OPTION 1B: *Swales or No-swales* are ditches dug along a grade contour. The excess dirt is placed on the downhill side to form a continuous berm. The swales are commonly planted on both sides of the berm with drought tolerant landscape and require little or no supplemental irrigation. Smaller retention ponds are required as overflow to this system.

The *Cistern System* can be utilized as an alternative to Option A or B. The Cistern System has a buried holding tank, varying in size, with a filter and pump. Water from the roof canals catchbasins feed the underground tank and water is stored to be used when needed. Placement of the tank should be within close proximity to where watering is required.

PLEASE NOTE: Owners that include grass in their landscaping plan are encouraged to plant native grasses by seed or plug. High water use grasses such as blue, fescue and numerous ground cannot exceed 1,000 total square feet.