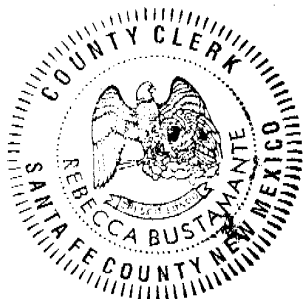


2227148

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

**August 13, 2002**

**Paul Duran, Chairman**  
**Jack Sullivan, Vice Chairman**  
**Paul Campos**  
**Marcos Trujillo**  
**Javier Gonzales**



1227 063  
COUNTY OF SANTA FE  
STATE OF NEW MEXICO  
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED  
FOR RECORD ON THE 4 DAY OF OCT AD  
2002 AT 2:53 O'CLOCK P.M.  
AND WAS DULY RECORDED IN BOOK 2227  
PAGE 148-207 OF THE RECORDS OF

SANTA FE COUNTY  
WITNESS MY HAND AND SEAL OF OFFICE  
REBECCA BUSTAMANTE  
COUNTY CLERK, SANTA FE COUNTY, N.M.

*Handwritten signature of Marcel [unclear]*  
DEPUTY

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING  
(Public Hearing)  
August 13, 2002 - 2:00 p.m

*Amended Agenda*

2227149

- 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  - B. Tabled or Withdrawn Items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. Consent Calendar

A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

*Approved as amended*

*Approved*

- 1. CCDRC CASE #Z 01-5480 – San Cristobal Master Plan (Approved)
- 2. EZ CASE #S 01-4221 – Sena Vista Heights (Approved)
- 3. CDRC CASE #V 02-5120 – Saiz Variance (Approved)
- 4. CDRC CASE #V 02-5170 – Anthony Duran Variance (Approved)
- 5. CDRC CASE #V 02-5190 – Russel Hein Variance (Approved)
- 6. CDRC CASE #V 02-5170 – Jim Lestyk Variance (Approved)
- 7. CDRC CASE #APP 02-5181 – Joe Miller Appeal (Approved)

*Conditions*  
 #19 "by  
 "Sustainable  
 Water  
 #16 elimin  
 add interest  
 of SCC  
 #9. Mkt  
 analysis

*Approved*

- B. Request Approval and Execution of the 2002 Severance Tax Agreements for Various Road Projects from the New Mexico State Highway and Transportation Department (Public Works Department)
- C. Request Approval of Amendment No. 1 to the Severance Tax Agreement for Road Improvements to County Road 69 from the New Mexico State Highway and Transportation Department (Public Works Department)
- D. Request Approval of Amendment No. 1 to the Severance Tax Agreement for Road Improvements to County Road 8 from the New Mexico Highway and Transportation Department (Public Works Department)

VIII. Presentations and Awards

- ok* A. Presentation by Rick Johnson and Associates Regarding Advertising Services Contract Renewal

**IX. Staff and Elected Officials Items**

**A. Finance Department**

- *Approved* - 1. Request Authorization to Amend Professional Services Agreement #22-0052-FI for Advertising Services with Rick Johnson & Company, Inc. to Extend the Agreement Through June 30, 2003 for an Additional Compensation Amount of \$239,120.75 2227150

**B. Land Use Department**

- *Approved* - 1. CDRC CASE #V 02-5130 - Isabel Tafoya Appeal/Variance. Isabel Tafoya, Applicant, is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 3.72 Acres into Two Tracts. The Property is Located off Via De Los Romeros in the Traditional Historic Community of La Cienega, within Sections 19 and 30, Township 16 North, Range 8 East (Commission District 3). Penny Ellis-Green FOR DELIBERATION ONLY  
*2 No's*  
*See list on*  
*+ Campos*
- *Approved* - 2. CDRC CASE #V 02-5071 - Richard Cordova Variance. Richard Cordova, Applicant, Jon Paul Romero, Agent, Request a Variance of Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of a Potential Commercial District on 1.35 Acres. The Property is Located Two Miles South of Espanola on the West Side of US 84/285, within Section 14, Township 20 North, Range 8 East (Commission District 1). Wayne Dalton FOR DELIBERATION ONLY  
*2 No*  
*See list on*  
*+ Campos*

**C. Public Works Department**

- *Approved* - 1. Resolution No. 2002 - A Resolution Conditionally Accepting Morning Drive, Morning Street and Morning Lane for County Maintenance -100

**D. Utilities Department**

- 1. Consideration and Approval of Standard Water Service Agreement

**E. Matters from the County Attorney, Steven Kopelman**

- 1. Executive Session
  - a. Discussion of Pending or Threatened Litigation
    - i. Joe Miller vs. Santa Fe County
  - b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

**F. Matters from the County Manager, Estevan R. Lopez**

- *Approved* 1. Request Authorization to Enter into an Agreement with Taos County to House Taos Inmates at the Santa Fe County Detention Center

**G. Matters of Public Concern - NON-ACTION ITEMS**

**H. Matters from the Commission**

- *Approved* 1. Resignation of Commissioner Javier M. Gonzales, District 3 and Declaration of Vacancy
- *Tabled* 2. Resolution No. 2002 - A Resolution Relating to the Proposed Additional Taxable Area Within the Santa Fe County, New Mexico County Improvement District (Rancho Viejo Improvement District Windmill Ridge - Units I & II/College Heights), Directing C.R. Walbridge & Associates, P.E., Engineers, to Prepare, Submit and File With the County Clerk Certain Preliminary Plans, Estimates of Costs of Improvements to be Completed, and Plats With Addendum, and to Prepare As-Built Plans  
*to approve - need*  
*3-2*  
*to see on*  
*Comp's*  
*Division*

*To*  
*No - Campos*  
*+ Campos*  
*Table*  
*3-2 - passed*  
*Mar 27<sup>th</sup>*

and Certified Schedule of Schedule of Costs of Improvements Already Completed, All in Connection Therewith

X. Public Hearings

A. Project and Facilities Management

- approved* 1. Request Direction Regarding the Purchase of a 91-Acre Open Space Tract Known as the Lamy/Miller Tract - \$242,000 purchase amount.

B. Public Works Department

- approved* 1. Ordinance No. 2002 - <sup>10</sup> An Ordinance Replacing Ordinance No. 2001-6, Comprehensive Solid Waste Management Ordinance, to Clarify the Definition of a Covered Load - *Campes* - *about* 2227151

C. Land Use Department Items

- Talked* 1. CCDRC CASE #MP 02-5050 - Sonterra. Richard Montoya (Santa Fe Planning Group, Scott Hoeft, Agent), Applicant, Requests Master Plan Approval for a Mixed Use Development (Residential, Commercial, Community) in a Village Zone, Consisting of 520 Residential Units and 29,117 Square Feet of Commercial Space on 245 Acres. The Property is Located off of Vista Del Monte East of Valle Lindo Subdivision within the Community College District, Section 30, Township 16 North, Range 9 East (Commission District 5). Joe Catanach
2. CDRC CASE #DP 01-5131 - Village at Eldorado Preliminary Development Plan. Allan and Stacy Crossingham, Applicants, Request a Master Plan Amendment to Include a Phasing Schedule of Two Phases, and Development Plan Approval of Phase I to Include: 6,000 Square Foot Pub/Restaurant, 13,000 Square Foot Theatre Complex with 3 Screens, Live Performance Stage, and Multi-Purpose Room, 30,000 Square Feet of Retail Space, 7,000 Square Feet of Office Space, Open Air Markets, Farmers Markets, and a Coffee Drive-Thru Kiosk. The Property is The Village at Eldorado (Formerly Sierra Plaza) Located at the Southwest Corner of Avenida Vista Grande and Caliente Road, within Section 9 and 16, Township 15 North, Range 10 East (Commission District 5). Penny Ellis-Green
- Talked* 3. CCDRC CASE #MP 02-5250 - Rancho Viejo - Windmill Ridge, Units 3 & 4. Rancho Viejo de Santa Fe, Bob Taunton, Vice President (Design Workshop - Joe Porter, Agent), Applicant, Requests Master Plan Approval for a Mixed Use Development (Residential, Commercial, Community) in a Village Zone and Fringe Zone, Consisting of 461 Residential Units and 45,000 Square Feet of Commercial Space on 304.5 Acres. The Property is Located Off Richards Avenue South of the Community College within the Community College District, Section 20, 21, 28, 29, Township 16 North, Range 9 East (Commission District 5). Joe Catanach
4. CCDRC CASE #01-5570 - Thornburg Master Plan. Thornburg Enterprises Ltd., Applicant, Santa Fe Planning Group, Agent, Request Master Plan Approval for a Mixed Use Development to Consist of Employment Center, Village Zone and a New Community Center on 224 Acres. The Development Includes Between 1,148,050 and 4,015,000 Square Feet of Commercial Uses, Between 294 and 742 Residential Units, Open Space and Parks. The Property is Located West and East of State Road 14, North of Vista Del Monte, Within the Community

College District, Sections 24 and 25, Township 16 North, Range 8 East (Commission District 5). Penny Ellis-Green

5. Ordinance No. 2002 – An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (First Public Hearing). Katherine Yuhas **TABLED**

2227152

6. Ordinance No. 2002 – An Ordinance Amending the Santa Fe Community College District Ordinance, Article XV, Section 1, References, Purpose, and Definitions, and Section 6, Design and Development Standards of the Santa Fe County Land Development Code (Ord. 1996-10) for the Purpose of Developing a Comprehensive Water Resource Management Plan Requiring Development to Utilize the Santa Fe County Water Utility (First Public Hearing). Roman Abeyta

*Tabled*

7. Ordinance No. 2002 – An Ordinance Amending Ordinance 1996-13 which Amends Article VII, Section 6.2.2c, and Adding New Sections 6.2.2d and 6.2.2e to the Santa Fe County Land Development Code, Ordinance 1996-10, to Require Proof of a Valid Water Right Permit for Type-I and Type-II Subdivisions, Type III Subdivisions Allocating More Than 0.25 Acre Feet Per Year Per Lot, and Type III Subdivisions of More Than 12 Lots and Non-Residential Developments Using More Than One Acre-Foot of Water Annually (Second Public Hearing). Katherine Yuhas

**THE FOLLOWING ITEMS WILL BE HEARD AT THE CONTINUATION OF THE PRESENT MEETING ON AUGUST 26, 2002: — 5:30 pm**

8. CDRC CASE #MP 02-5070 – Richard Cordova Master Plan. Richard Cordova, Applicant, Jon Paul Romero, Agent, Request Master Plan Approval for an 8,000 Square Foot Building for Office and Retail Space on 1.35 Acres. The Property is Located Two Miles South of Espanola on the West Side of US 84/285, within Section 13, Township 20 North, Range 8 East (Commission District 1). Wayne Dalton

9. EZ CASE #DL 02-4340 – J. Anthony Peperas Land Division. Leonard Lopez, Agent for J. Anthony Peperas, Requests Plat Approval to Divide 10.40 Acres into Four (4) Lots. The Lots will be Known as Lot 2A-1 (2.563 Acres), Lot 2A-2 (92.563 Acres), Lot 2A-3 (2.697 Acres), and Lot 2A-4 (2.697 Acres). The Property is Located in the Pinon Hills Subdivision at 85 Calle Francisca, within Section 25, Township 17 north, Range 8 East (Commission District 2). Vicente Archuleta

10. EZ CASE #DL 02-4380 – Tom J. Sedillo and Kathy Sedillo Family Transfer. Alarid and Associates, Agent for Tom J. and Kathleen Sedillo Request Plat Approval to Divide 2.64 Acres into Two (2) Tracts for the Purpose of a Family Transfer. The Tracts will be Known as Tract C-1 (1.25 Acres), and Tract C-2 (1.396 Acres). The Property is Located in the Pinon Hills/Alameda Ranchettes Subdivision at the Intersection of Calle Carla and Santa Fe County Road 70A, within Section 25, Township 16 North, Range 8 East (Commission District 2). Penny Ellis-Green

11. CDRC CASE #DP 02-5080 – Gabriel’s Art Gallery. Syd Gabriel, Applicant, Southwest Designs, Agent, Request Master Plan Zoning with Preliminary and Final Development Plan for 3,000 Square Feet of Art Gallery Space and 2,000 Square Feet of Retail Space. The Property is Located on Banana Lane off US 84/285 in Cuyamungue, within Section 28, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green
12. EZ CASE #DL 02-4350 – Young Family Transfer. Tom and Connie Young, Applicants, Request Plat Approval to Divide 2.511 Acres Into Two Lots. The Lots will be Known as Lot 7A (1.255 Acres) and Lot 7B (1.255 Acres). The Property is Located within the Tom Young Subdivision, Along Indian Circle, off Governor Miles Road, within Section 9, Township 16 North, Range 9 East (Commission District 5). Romella Glorioso-Moss
13. CDRC CASE #V 01-5610 – Bryan and Karen George Variance. Bryan and Karen George, Applicants, Request a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 12.12 Acres into 3 Lots; One Lot Consisting of 7.1 Acres, and Two Lots Consisting of 2.5 Acres. The Property is Located at 22A San Marcos Road East, within Section 11, Township 14 North, Range 8 East (Commission District 3). Wayne Dalton WITHDRAWN
14. EZ CASE # S 01-4691 – High Summit Subdivision. Ralph Brutsche, Applicant, Design Enginuity, Agent, Request Final Development Plan and Plat Approval for a 32-Lot residential Subdivision on 33.4 Acres in Accordance with the Approved Master Plan (The Peaks), and a Lot Line Adjustment. This Request Also Includes a Variance of Section 3.5.6 (Curb & Gutter Requirements) of the Extraterritorial Subdivision Regulations to Allow the Replacement of Standard Curb and Gutter with Stone. The Property is Located Off Hyde Park Road (State Road 475), South of the Summit Subdivision, within Section 16 & 17, Township 17 North, Range 10 East (2-Mile EZ District). Vicki Lucero

#### D. 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).

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

2227154

**August 13, 2002**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:15 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

Commissioner Paul Duran, Chairman  
Commissioner Marcos Trujillo  
Commissioner Javier Gonzales  
Commissioner Paul Campos  
Commissioner Jack Sullivan

**Members Absent:**

None

**IV. Invocation**

An invocation was given by Archbishop Richard Gundry of the Catholic Apostolic Church of Antioch.

**V. APPROVAL OF THE AGENDA**

- A. Amendments**
- B. Tabled or withdrawn items**

**CHAIRMAN DURAN:** Estevan, are there any changes?

**ESTEVAN LOPEZ (County Manager):** Mr. Chairman, there are a few changes. First of all, not noted on the amended agenda, we don't have any minutes to approve so item VI. should be tabled. Second, on the amended agenda, under X. Public Hearings, the Land Use Department items, item number 5, the ordinance addressing water conservation for all sources and uses within Santa Fe County, we've requested that that be tabled. There was

2227155

some additional work that needed to be done with that ordinance before presentation. Those are the changes to the agenda in terms of tabling or amendments. There is also noted a withdrawn item, and that's under X. Land Use Department item C. 13. That's the Bryan and Karen George variance. For the record I'd like to note that this is a pretty extensive agenda and we don't anticipate getting through the entire agenda today, so we've scheduled a continuation of the present meeting for August 26<sup>th</sup>.

Also, for today, there is, under presentation and awards Rick Johnson and Associates were to give a presentation regarding their advertising services contract and then it's also an item for action on this agenda. They had previously been told that this meeting was going to start at 4:00 so they're not going to be present. They're the first item after the Consent Calendar. They probably will show up close to 4:00 and they requested that we just move them towards the end of the administrative items.

And one final item, under the Consent Calendar, the adoption of findings of fact and conclusions of law, there are representatives from the State Land Office here to address the San Cristobal master plan findings of fact. Mr. Chairman, those are all of the amendments or changes to the agenda.

CHAIRMAN DURAN: Okay. I'd like for the Commission to consider tabling matter IX. H. 1, the resignation of Commissioner Javier Gonzalez. And the reason for that is, I know that we've been hopeful of maybe the governor appointing the Commissioner-elect Mike Anaya, but I'm not sure that he's going to do that and I would rather not accept Commissioner Gonzales' resignation until we knew what the governor was going to do.

COMMISSIONER CAMPOS: That way he can be around for all these hard decisions we need to make in the next six months. He can't just go home.

CHAIRMAN DURAN: Well, if we don't accept his resignation there's no vacancy to be filled.

COMMISSIONER CAMPOS: He would have to hang around and do some work.

COMMISSIONER GONZALES: Mr. Chairman, I understand the concern that you have. I honestly believe that the governor will appoint Mike Anaya, hopefully, but the fact is that I've thought and clearly am prepared to finish my duties on August 31<sup>st</sup>, so we're in a bit of a quagmire if you chose not to accept my resignation.

CHAIRMAN DURAN: If we didn't accept your resignation—

COMMISSIONER GONZALES: You'd make me show up for all the meetings afterwards?

CHAIRMAN DURAN: You could show up to the ones that you want or the ones that you could make, I should say.

COMMISSIONER CAMPOS: He's elected. He's getting paid to show up all the time.

CHAIRMAN DURAN: Does that create a problem for you if we don't accept your resignation? I hate to put you on the spot but the reason I brought it up is—I would love to have Mike Anaya appointed here but I sure would hate to have somebody who doesn't know—



2227156

who's going to start from scratch and doesn't know what the issues are.

COMMISSIONER GONZALES: Well, Mr. Chairman, it does, it's something from a personal standpoint and a family standpoint that we have fully accepted and are preparing for. I'm in the process of plans that are already underway for both my professional and family life that are due to start in September. Quite honestly, if you don't accept the resignation, I could not participate in meetings in September and October, or even for the rest of the year. Just because there are plans that are currently underway as a result of that.

CHAIRMAN DURAN: And what is that—do we have to accept his resignation?

STEVE KOPELMAN (County Attorney): Mr. Chairman, I don't think you can be compelled to, but I think it would create a situation where you would only have four Commissioners showing up and I'm not sure that his resignation still wouldn't be effective. I can look into that. But I'm not sure that you can compel him to sit.

COMMISSIONER GONZALES: Mr. Chairman, I'd be willing to go see the governor with you, if you wanted to table this till the next meeting to see what kind of response we get from him, but the train is rolling.

CHAIRMAN DURAN: I'll withdraw my motion to table.

COMMISSIONER GONZALES: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had one item on the agenda that I would ask to be moved. Item IX. H. 2, having to do with a resolution to create an improvement district in Rancho Viejo. It involves imposing a substantial tax on existing residents of Rancho Viejo, which is of course in the Community College District, which is part of the district I represent. I think that ought to be heard during the public hearing items. Again, I know we have a full agenda, but that assessment district, there are currently people living in that district and under which the assessment is proposed and the size of that assessment is quite sizable. The current tax rates in the Community College District as in the rest of the county are about 18 mills, which is \$18 per \$1000 of taxable value. This would add ten more mills to their tax bill, which is another \$10. That would increase their tax bill by about 55 percent. And so I think it's a substantive item that certainly needs to be heard during the time we've allocated for public hearings.

It looks like it's near the end of the administrative items, so it may sort of end up there anyway. I just wanted to point that out.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I have a question for Commissioner Sullivan. Have the folks out there—are they aware of this item coming?

COMMISSIONER SULLIVAN: Not to my knowledge, other than the fact that it's on the agenda and if they see the agenda they'll see it.

COMMISSIONER CAMPOS: But there isn't extensive public notice in the area as to what's going on as far as the tax?

2227157

COMMISSIONER SULLIVAN: I live in the area. I haven't seen any notice but I'm not in the area that would be impacted by this district.

CHAIRMAN DURAN: Isn't it true that no one lives in the area that's going to be assessed?

COMMISSIONER SULLIVAN: No, there's people living in that area now.

CHAIRMAN DURAN: That would be—

COMMISSIONER SULLIVAN: Assessed. Yes.

CHAIRMAN DURAN: Assessed by this increase?

COMMISSIONER SULLIVAN: That's correct.

COMMISSIONER GONZALES: Mr. Chairman, it would have to go out for a referendum so they'd ultimately get a chance to go vote on this assessment district.

COMMISSIONER SULLIVAN: But I think they need to be present. Excuse me. Sorry for interrupting.

COMMISSIONER GONZALES: I think, my feeling is it's been noticed under Matters from the Commission, we ought to discuss it. If after the discussion it's the determination, based on the information that we're hearing that a public hearing is required then the Commission can make the determination at that point. It's a complex issue and when we get through it, it may be determined that we want to go that route or we may be prepared to go forward.

CHAIRMAN DURAN: Let's see where it falls in the agenda and if it's prior to—you say 6:00?

COMMISSIONER SULLIVAN: Well, in one newspaper I read that we were having our public hearings at 6:00 and the other newspaper I read that they're between 5:00 and 6:00.

CHAIRMAN DURAN: Well, let's see where we are at 6:00.

COMMISSIONER SULLIVAN: So we'll see where we are when it comes up. Okay. I just think since there will be a lot of people here this evening from the Community College District from Rancho Viejo it seems like an opportune time to discuss it.

COMMISSIONER CAMPOS: Mr. Chairman, a question. Are we going to take a break around 5:00 before the evening session? Or not?

CHAIRMAN DURAN: What for?

COMMISSIONER CAMPOS: Just to take a walk or something.

CHAIRMAN DURAN: Sure.

COMMISSIONER SULLIVAN: Get a McDonalds.

CHAIRMAN DURAN: You don't have a gourmet meal being delivered, do you?

MR. LOPEZ: Mr. Chairman, we had ordered some sandwiches for you, for the Commissioners.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: We'll do executive session then at 5:00?

CHAIRMAN DURAN: Yes.

2227158

COMMISSIONER SULLIVAN: Is that the plan?

CHAIRMAN DURAN: Is that what we planned to do?

MR. LOPEZ: Mr. Chairman, if that's the will of the Commission, I've spoken to Mr. Kopelman and he feels like if you're running tight on time, it's not absolutely essential that we do the executive session today. But if you'd like to do it while you eat a sandwich that would be fine.

CHAIRMAN DURAN: Why don't we do that? That okay? So the Chair will entertain a motion to approve the agenda as amended.

COMMISSIONER CAMPOS: So moved.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: Any further discussion?

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

#### VI. Consent Calendar

##### A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:

1. COMMUNITY COLLEGE DISTRICTRC CASE #Z 01-5480 - San Cristobal Master Plan (Approved)
2. EZ CASE #S 01-4221 - Sena Vista Heights (Approved)
3. CDRC CASE #V 02-5120 - Saiz Variance (Approved)
4. CDRC CASE #V 02-5170 - Anthony Duran Variance (Approved)
5. CDRC CASE #V 02-5190 - Russell Hein Variance (Approved)
6. CDRC CASE #V 02-5170 - Jim Lestyk Variance (Approved)
7. CDRC CASE #APP 02-5181 - Joe Miller Appeal (Approved)

##### B. Request Approval and Execution of the 2002 Severance Tax Agreements for Various Road Projects from the New Mexico State Highway and Transportation Department (Public Works Department)

##### C. Request Approval of Amendment No. 1 to the Severance Tax Agreement for Road Improvements to County Road 69 from the New Mexico State Highway and Transportation Department (Public Works Department)

##### D. Request Approval of Amendment No. 1 to the Severance Tax Agreement for Road Improvements to County Road 8 from the New Mexico Highway and Transportation Department (Public Works Department)

CHAIRMAN DURAN: I know that we're going to isolate item A. 1 for further

2227159

discussion. Are there any other items besides that one that need to be isolated? If not, the Chair will entertain a motion to approve the Consent Calendar with the exception of item A.1.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER SULLIVAN: Second.

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

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

**VII. A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:**

- 1. CCDRC CASE #Z 01-5480 – San Cristobal Master Plan  
(Approved)**

CHAIRMAN DURAN: Okay, those individuals from the State Land Office, would you like to come forward and express your concerns of the findings of fact for that case?

BILL BRANCOCK: Good afternoon, Mr. Chairman. My name is Bill Brancock, counsel with the State Land Office. We'll give a few comments but at this point we've seen three different versions of certain parts of this order so we're not even sure what it is that's being proposed to the Commission at this point and perhaps staff can give a better idea. But there's certain language, I know from the last meeting that Commissioner Sullivan proposed a change about an assessment district. I'm not sure if that made it in here. That's acceptable to us. And there were certain concerns that Commissioner Campos raised about the fiscal impact study and there's been changes in language in that. Our only concern is that whether the Commission might be looking at something that they really didn't discuss during the public hearing and whether it goes beyond that, and with the fiscal impact study, whether in fact, if there's a district-wide fiscal impact study that our project be evaluated basically on the fiscal soundness of itself, not on whether the entire district is effectively valid or not. So that's our only concerns. And I don't know if the final language addresses those concerns or not. Staff may be able to help us with that.

CHAIRMAN DURAN: Estevan, or maybe I should ask the Land Use Administrator. My understanding is that the findings of fact as they're stated in our packet are not a true indication of what was approved at the County Commission meeting. Have you been able to—if we approve this, are we approving exactly what the minutes state?

ROMAN ABEYTA (Land Use Administrator): Mr. Chairman, what we're—the conditions of approval and the motion and the approval is exactly what happened at the BCC. There was discussion regarding the fiscal impact and the BCC's determination on that, so we did build in additional language into the body of the finding of fact, having to deal with, that has to do with the fiscal impact study that's taking place. But we did not

2227160

make it a condition of approval because that was not a specific condition of approval that the Board adopted. But because there was a lot of discussion regarding that, we did amend the language and the finding of fact to reflect that. But again, I believe that the state's concern, we did not make it a condition of approval.

CHAIRMAN DURAN: So if the project comes in for final approval, what's going to be the overriding factor here? The conditions that were approved at the meeting or the approval of the findings of fact?

MR. ABEYTA: The next step for this project is a preliminary development plan. They can bring forward a preliminary development plan if they meet all the minimum requirements and the conditions. At that point, there could be additional conditions that are put on to that preliminary development plan, or the development plan could be approved or denied based on the fiscal impact study. So I think the concern here regarding, I don't think it holds up their project. I think we need to re-evaluate that at preliminary.

CHAIRMAN DURAN: Because the other thing I heard is that, and I recall Commissioner Campos wanted to have a fiscal impact study done for the project for the entire Community College District and this falls within the Community College District. And I was told that projects that fall within the Community College District only are required to bring fiscal impact statements for the project that's being considered. And so the findings of fact basically state that they're going to be required to bring a financial impact statement for the entire project, or for the entire Community College District.

MR. ABEYTA: Mr. Chairman, the fiscal impact statement for the entire district, staff is already doing. That's already been out and that will, in fact we've already received bids from firms wanting to do that. So that's already underway and we should have a firm selected within the next month. And that's something that the County is doing.

CHAIRMAN DURAN: We're doing that, right?

MR. ABEYTA: We're doing that, and that's totally different than the developers and what they're doing. We're responsible for doing it for the entire district, and that's underway.

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just had two, and one was on the issue of condition 19, a clarification on that. *Development shall be served strictly by imported water. The use of water wells within the Community College District is strictly prohibited for this development*, which is something that I think the applicant had in its application and was not an issue of concern or debate. But during the discussion and in the preparation of the motion, when I was looking at the minutes, and I'm reading page 96 of the minutes, if you're interested, down at the bottom. It quotes me as saying, "But Commissioner Campos' motion was that the development would be served by imported water. And we defined imported water as being on the County system outside the Community College District."

And then further on, I said, "I think Commissioner Trujillo expressed maybe

2227161

some disagreement with that and perhaps rightfully so that even outside the Community College District was not an adequate definition. That you wanted to limit it to Rio Grande imported water." And then Commissioner Trujillo states, "Outside the aquifer forever." And then I state, "Outside of that aquifer. Is that, Commissioner Campos, agreeable with you? So that condition would be imported water, imported being defined as with the Buckman well system." Page 96 and the top of 97. And then, Ms. MacIntyre says, "Okay. Thank you, Commissioners." And then we go on to talk about the fiscal impact studies.

And then after the discussion of the fiscal impact studies, we talk about the 500 or 1000 foot buffer and then following that discussion, the motion is approved by a voice vote of 5-0. So as I read the minutes, the motion was amended to clarify that imported water was to be defined as, yes, outside the district but also as being Buckman water according to the amendment to the motion. I'm just reading verbatim from the minutes.

CHAIRMAN DURAN: What happens if we do something other than Buckman?  
To alleviate our—

COMMISSIONER GONZALES: I guess we'd have to go back--

COMMISSIONER SULLIVAN: Well, if you had some other I guess you'd have to change the condition. I guess Buckman would apply hypothetically to developers bringing water rights to the Buckman well system. I don't know—

CHAIRMAN DURAN: What if we do something with San I?

COMMISSIONER SULLIVAN: Well, San Juan/Chama Diversion wasn't discussed and I think that's a logical one also but I'm not trying to reopen the discussion here, I'm just trying to see what was approved at the—

CHAIRMAN DURAN: San Juan could be Buckman.

COMMISSIONER SULLIVAN: It could. That's correct.

CHAIRMAN DURAN: It doesn't have to be San I. San I could sell us water.

COMMISSIONER SULLIVAN: And they could all go through Buckman.

COMMISSIONER TRUJILLO: It's sustainable.

COMMISSIONER SULLIVAN: I think the intent of Commissioner Trujillo's amendment was that it would be a sustainable source and that was the change that was made to the motion and defined as Buckman. I just wanted to add that that condition should probably be clarified to do that. I assume what the applicant would do when they come forward, they would then bring forward their water plan and it would indicate how they're proposing to meet that condition.

CHAIRMAN DURAN: Estevan.

MR. LOPEZ: Mr. Chairman, I guess to the extent that that condition was just explained by Commissioner Sullivan is incorporated into these findings, I would ask whether, I would ask exactly what that means relative to our system as a whole, and specifically what I'm asking is we now own the Valle Vista system which incorporates a few wells in that area. And ultimately, it's all going to be one integrated system. So some of our water that's within that system is going to be from wells, from within our County water system.

Is that what we're wanting to prohibit or are we wanting to prohibit that any water

2227162

rights that are specifically going to be used for this development might be taken from ground water. Because I think that's doable. I'm not so sure that prohibiting any production from groundwater sources is doable for us.

COMMISSIONER SULLIVAN: Well, Mr. Chairman, I think we're not at a point where we can debate the issues. During the hearing the staff on several occasions commented that they wanted the option to drill in the Community College District and to use existing wells in the Community College District. I think the staff's position was clear on that. That's not where the County went. That's not where the motion went. Clearly, it needs to be defined a little further as to what a sustainable Buckman source would be, just like many parts of the master plan need to be defined as it moves forward. And I'm just not necessarily throwing it out for debate or discussion. I'm just saying that's the way the motion was formulated and that's the way the conditions should read. Now, we may have to have some clarification, just like on traffic studies and there was issues on the traffic study. The Highway Department didn't like the traffic study so when we come back and get another traffic study we'll take a look at that and decide if that's acceptable.

I would just insert the word "Buckman." That's reflective of imported Buckman water.

COMMISSIONER CAMPOS: What number are you talking about, Commissioner Sullivan?

COMMISSIONER SULLIVAN: Nineteen. That just reflects to me, as I just read to you, what the motion was. Now we can add a substantial debate as to what that might mean in the future. There's lots of options for the Buckman system in the future, which the Chairman has discussed. I don't think we need to discuss that today but that will come up in the future.

CHAIRMAN DURAN: You don't think just saying "imported water" would do it?

COMMISSIONER SULLIVAN: Well, imported water under the way this is written could be a well immediately outside the Community College District. Ten feet outside the line. And that's still in the same aquifer on that edge zone that we're dealing with there. The Silverado zone, the La Cienega zone. We're still on that edge zone.

CHAIRMAN DURAN: How about imported water outside the Community College District aquifer?

COMMISSIONER SULLIVAN: Except that that wasn't said in the meeting. That wasn't discussed in the meeting and the Community College aquifer is a part of the Santa Fe aquifer too. So I'm trying to stick with what the motion was at the meeting and not try to second guess it.

COMMISSIONER TRUJILLO: How about imported water through the Santa Fe County utility? That's imported water, sustainable source, through the utility, rather than the proliferation of mining the water table or another well.

COMMISSIONER SULLIVAN: Again, I think that's what we had in mind, certainly, through the County utility. The addition of Buckman indicates that that water would come either from the Rio Grande, from the San Juan/Chama, or from additional water

2227163

agreements with the City. It's drilling another Buckman well. That's where the water is, in that part of the city, obviously, and that's where the most sustainable part of the aquifer is, based on the studies. I just wanted to point out that the motion said, and the seconder agreed to it, that imported was being defined as the Buckman well system.

CHAIRMAN DURAN: Just a second. I recall that conversation and my recollection is that what we were trying to do to address your concern was that wells in the Community College District would not be drilled as part of our water system. But I don't recall that that prevented us from using other water rights, other systems that we might incorporate into our utility. I'm just concerned that if you stick with this Buckman that at a later point in time, we're never going to be able to go beyond that. I don't think that was the intent.

COMMISSIONER SULLIVAN: I'm not sure, Mr. Chairman, that you were there because apparently I was conducting the meeting while you were out because I asked the seconder or the maker or the motion if that was agreeable. I think Commissioner Trujillo was the seconder. I'm just pointing out what the motion said. We can debate whether it was a good motion or not. But for the findings of fact—

CHAIRMAN DURAN: For the record, I was there.

COMMISSIONER SULLIVAN: You were there for that? I wonder why—okay. In either case it says, "Outside the aquifer forever. Okay, is that, Commissioner Campos, agreeable with you. So the conditions would be imported water being defined as with the Buckman well system." And that was the end of the discussion until the vote was taken.

CHAIRMAN DURAN: I recall that what we agreed to is that it wouldn't be—that wells would not be drilled within the Community College District to provide water to this—

COMMISSIONER SULLIVAN: Well, it was not only drilled, of course, it was use of wells, not just drilling them but use of any wells.

CHAIRMAN DURAN: Well, we're not approving these minutes right now, are we? These minutes have not been approved?

COMMISSIONER SULLIVAN: These minutes have already been approved.

CHAIRMAN DURAN: They have been approved?

COMMISSIONER SULLIVAN: I think they've already been approved. What we're approving is the findings of facts and conclusions.

COMMISSIONER TRUJILLO: I think that the essence of that motion was made on the basis of the depletion of the water table and the impact on the surrounding community. That's what the essence of that motion was. There was no discussion regarding the impact on the existing Santa Fe County utility, but when I was in the discussion, my concern was that we were depleting the water table through ubiquitous wells throughout the county and there was no return flow, no replenishment, and the impact to the surrounding communities was drastic. And that was my concern and my concern continues to be that and we need to go for a sustainable source of water wherever that is and the only sustainable source of water is the Rio Grande, San Juan/Chama and/or Buckman.

COMMISSIONER GONZALES: Mr. Chairman, and I understand the bit of the issue or the quagmire that we're in but I agree with Commissioner Trujillo that the only thing I



2227164

would point out, it seems to me on this particular condition for the State Land Office that we've kind of backed ourselves or future Commissions whenever they hear the preliminary or development approval of this, we're basically stating there's only one method for you to gather water to support this and this is through the Buckman well system if that's what we end up going for.

On the 15<sup>th</sup>, we're supposedly going to be talking about a 40-year water plan that its number one goal and mission is to address the sustainability of water supply in the county for the next 40 years. I'm assuming that that water plan is going to have issues like the Buckman well. Like return flow credits. Like the use of current and future well sites throughout the county area to try and develop some type of system that will be sustainable. So that we don't have what we currently have today, which as Commissioner Trujillo indicated, is adversely impacting the aquifers and that's just a systematic process of tons of wells going into an area with the depletion taking place and no comprehensive plan to try and either restore those aquifers or ease them through some other source over a period of time. So I think for us to state tonight, I mean, in retrospect it doesn't look like that was a very good condition. That if we're just saying there's only going to be one point that the State Land Office is going to get to have water and that's just through the Buckman wells, what kind of long-term, broad range water policy is that? Not knowing what our comprehensive water plan is going to be or what you're going to adopt as a future comprehensive water plan.

And at the master plan level, it's even more difficult for the State Land Office to figure out how they're going to go back and figure out how they're going to acquire the proper water to take through the system. It seems to me that if we're serious about developing a sustainable source of water supply that it's not going to come through just one source, but through multiple sources throughout the county that are going to be integrated. And it's better to take a comprehensive, wide approach at solving the water problems than having some type of tunnel vision and say the only way we're going to do it through one aspect. I don't know how we solve this particular issue here on this, but—

COMMISSIONER SULLIVAN: Let me just add—

CHAIRMAN DURAN: Do you know something about that aquifer that you're not sharing with us? What do you know about it that we don't know that you're trying to—

COMMISSIONER SULLIVAN: I think all we know is what the circumstances are of people who are on the wells in that aquifer and as you get on the edge of that aquifer where these developments are, you are at the upper end of the bathtub.

CHAIRMAN DURAN: I've never been provided any information.

COMMISSIONER SULLIVAN: Well, it's in the Shomaker study, that's in the Shomaker study which covered this area. That's their conclusions. Let me make the suggestion to see if this gets at the sense of Commissioner Trujillo's amendment. Suppose we just insert the word "sustainable" in front of imported. And say, "The development shall be served strictly by sustainable imported water."

COMMISSIONER GONZALES: Would you need to define what sustainable would be, like what period of time?

2227165

COMMISSIONER SULLIVAN: Well, then we're into the whole discussion of I think the future Commission. What you're saying is let the future Commissions define what is sustainable based on the feasibility of all of these various alternatives. If we wanted to define that now it would be difficult because there hasn't been studies done on injection of sewage wastewater in New Mexico. There hasn't been recent brine reclamation, desalinization projects that we can look at but they're on the horizon. They may pop up. So the Commission would have to define what sustainable meant.

COMMISSIONER GONZALES: So would you say sustainable as per any Santa Fe County water resource management plan? As defined by a County water plan?

COMMISSIONER SULLIVAN: Well, again, I'm just trying to get within the context of the language that was used on the motion that evening. Commissioner Trujillo asked that it be changed to emphasize sustainable and he emphasized Buckman. If Buckman seems too narrow and you want to broaden it, I was just offering using the word sustainable to broaden it.

COMMISSIONER GONZALES: I'm in favor of that.

CHAIRMAN DURAN: Steve, you had something you wanted to add?

MR. KOPELMAN: Mr. Chairman, again, this is a condition from the hearing and it was staff's reading that the way the condition was written reflects what was said at the hearing. And you can debate issues about sustainable but any water would have to be sustainable. They're going to have to show that. But the way I read the minutes, this particular condition reflects what was said at the meeting. So I just wanted to bring that up. I think from a legal standpoint it certainly covers what was discussed.

CHAIRMAN DURAN: So how would we change that?

MR. KOPELMAN: I think you can put "sustainable." I don't think it detracts from it. I think that's a legal requirement anyway through the County Code, so I think that would be fine. To say to be served strictly by sustainable imported water. I think that's fine.

CHAIRMAN DURAN: Ms. MacIntyre, you had something you wanted to say?

LINDA MACINTYRE: Mr. Chairman, members of the Commission, thank you very much. My name is Linda MacIntyre. I work for the State Land Office. I did want to make a few comments on the discussion going on right now. I think from the beginning our project has been very committed to a sustainable water source. We never proposed onsite wells. We did not propose drilling wells anywhere else in the Community College District. And we share the concerns that the Commission has regarding sustainable use of water in this area. So we committed from the very beginning to being served by importing water through the County water system.

And I think as far as the sustainable conversation goes, we've also been a pioneer in working with County staff to explore other sources of water, whether they're a pioneer, perhaps in reuse of effluent from the County wastewater treatment plant, which is right across the street, whether it's looking at desalinization or water ultimately from the San Juan/Chama project, I think since we're still in the early stages of developing a regional water strategy and the 40-year water plan, we feel a little uncomfortable with tying it strictly to Buckman because ultimately we don't know exactly where the diversion point might be. It might wind up being for technical

2227166

reasons in another location ultimately. There could be more than one, another one other than Buckman.

So I think we would ask you to perhaps, on the first sentence, word it that the development shall be served strictly by County imported water or imported water through the County utility system. I think similar to what Commissioner Trujillo was referring to earlier. And we do support the use of the word "sustainable." Thank you.

CHAIRMAN DURAN: So, are we in agreement?

COMMISSIONER SULLIVAN: Well, Mr. Chairman, I think that deviates from the discussion that evening. The idea was that water for this development would not come from the aquifer that's right in the area of San Cristobal, which includes the Community College District, Silverado, La Cienega and those immediate areas. It goes on to say the use of water wells within the Community College District is strictly prohibited for this development. Now that means that water for this development has to come from a source which is sustainable. Which right now is only San Juan/Chama or Buckman or San I, if that comes about. There may be other sustainable sources in the future but that's all that we have that we know about right now and that is what Commissioner Trujillo said as well.

So I'm only concerned that we're rewriting the condition to say that it's going to be served by imported County water and then the County goes in and buys or is given the Rancho Viejo well and we're right back where we were before which is drying up the aquifer right underneath the Community College District. If we can have that concern addressed, then maybe we can get this put to bed.

CHAIRMAN DURAN: What if we bought or took control of the state pen wells, which we're trying to do?

MR. LOPEZ: Mr. Chairman, that's kind of the point that I was trying to make earlier. Although it's not strictly within the Community College District, it is definitely in the same aquifer. And so are our Valle Vista wells. We already own a number of wells in that area. Once we integrate that entire system, actually we've already integrated. We've tied together the Valle Vista system with the rest of our system. Our system is going to be using some water that's drawn from that aquifer. But the way the condition is written right now, it says that this development will not use any water wells within the Community College District.

COMMISSIONER SULLIVAN: And what, Mr. Chairman, excuse me. And my understanding of that intent is that this developer and any developer over 24 lots has to bring water rights to the development. So in order for San Cristobal to move forward beyond 24 lots, they have to go out and purchase water rights. Those water rights have to be moved to a point of diversion. That point of diversion, this condition says or should say, should be Buckman, the Buckman area. If they move that point of diversion to a well within the Community College District or right near the Community College District, then that allows that well to be pumped to the tune of thousands of gallons a minute to serve 2700 residential units. And that's what we're getting at here.

I understand your quandary if we can't decide where each drop of water is coming from. Is it coming from the state pen well or is it coming from the Valle Vista wells or where is

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it coming from. And I don't think we're asking that that be determined. What we're saying is that when the water rights are transferred, they have to be transferred to a point and that point needs to be over in the Buckman area.

MR. LOPEZ: Mr. Chairman, I think that to the extent that we want to limit it to water from the Rio Grande, I guess I can agree to that. I would ask that again, it not be limited solely to the Buckman for the reasons that Ms. MacIntyre brought up. If for whatever reason Buckman turns out not to be the project that we develop but perhaps San I, maybe they have a mechanism to move water rights to that one. Something that imports water from the Rio Grande for that development. That would work.

COMMISSIONER SULLIVAN: Precisely. And I thought that's exactly what we were talking about and what Commissioner Trujillo was talking about. And Buckman was generic term and I agree. That's fairly narrow. But if you want to say Buckman or other surface water diversions of the Rio Grande. It could be Cochiti, quite frankly.

CHAIRMAN DURAN: What happens, Estevan, if we end up getting the state pen wells? Something happens that the Rancho Viejo well, let's just say is proven to be a resource that we could use if the State Engineer agrees that it's not going to impact the aquifer in the underlying areas or below stream areas, and we actually have some data compiled to prove that other than a "the sky is falling" approach to it. And I realize that some wells have gone dry but those were probably wells that were 30 feet and old. That's a possibility.

But let's say that we were able to use these wells to supplement our needs for our utility. Does that mean that that water, we can export that water to another quadrant and not use it in the area that it's close to? I don't understand the logic there.

MR. LOPEZ: Mr. Chairman, that is part of the reason that I'm having a little bit of trouble with this. Ultimately, whatever water we produce somewhere in our system is going to be delivered everywhere in our system. So if we've got, say, the state pen wells, that water is going to be mixed with all the other water that we have and it's going to be delivered to every development that we serve. But if the intent of this condition is to say that the State Lands, the water rights that will support their service agreement will not be from a well either within the Community College District or surrounding it, that's workable. As long as they can move their water rights to say, either Buckman or San I and as long as that's what this condition is about as long as we have the flexibility on a day to day operational level that we can take water from wherever we have water supply that day.

COMMISSIONER SULLIVAN: Mr. Chairman, maybe we could amend the first sentence, just to make a suggestion.

CHAIRMAN DURAN: What page please?

COMMISSIONER SULLIVAN: Well, it doesn't have a page, but it's condition 19. Condition 19 has two sentences. The first sentence says "The development shall be served strictly by imported water." Which I think that's an accurate statement. If we wanted to clarify it we could say, "The development shall be served strictly by imported water from a Rio Grande diversion of the San Juan/Chama water allocation or from the Buckman well system." That Rio Grande diversion could be San I. It could be Cochiti. It could be wherever that turns

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out to be ultimately feasible. Does that, Estevan, does that language work?

CHAIRMAN DURAN: And then we can color-code the water.

COMMISSIONER SULLIVAN: Again, we're just talking about moving the water rights. Water, you can't color-code the water, but you can color-code where the water rights get moved to, which permits additional pumping.

MR. LOPEZ: Mr. Chairman, Commissioners, I think that if we do limit it to the water rights, as opposed to the wet water, yes, that would work.

COMMISSIONER TRUJILLO: And I would say that we need to indicate there that it's our primary source of water for sustainability. And on the long-term planning that we're doing in Santa Fe County we can use other secondary sources of water which might include existing wells in the area. As long as they are managed by Santa Fe County in a prudent way and does not give impetus to the depletion of the water table. But we need to make sure that we look at it from the grand scheme, the broad approach, as a primary source of sustainable water, and then the secondary sources so that there's water always serving those communities.

COMMISSIONER SULLIVAN: Then how about, Mr. Chairman, this possibility. The development shall be served strictly by imported water utilizing water rights from a Rio Grande diversion of the San Juan/Chama water allocation or from the Buckman well system.

CHAIRMAN DURAN: But it's more than San Juan/Chama rights that we're—

COMMISSIONER GONZALES: Why would we keep as narrow as to the Buckman or the San Juan. There might be other wells or strategic points of transferring water rights, or other points outside of that that may be useful to transfer water rights into that the County may use as part of its water system.

COMMISSIONER SULLIVAN: Well, if they're in—we're trying to get them to a sustainable point. That point that we know of right now is only San Juan/Chama and Buckman. That's why I was thinking before to put the word "sustainable" in.

COMMISSIONER GONZALES: Right. We could put sustainable in and leave it—

COMMISSIONER SULLIVAN: Well, you guys didn't like that, so I was trying something else.

CHAIRMAN DURAN: The problem is you say San Juan/Chama. There are Rio en Medio rights that I know have been considered being transferred up to the Buckman site.

COMMISSIONER SULLIVAN: Then they become Buckman rights. That's what I'm saying.

CHAIRMAN DURAN: But not San Juan/Chama diversion rights.

COMMISSIONER SULLIVAN: They could be San Juan/Chama rights. They could be whatever rights get transferred to the diversion. They could be transferred through Truth or Consequences. So if they're legally transferred there, then that's where the pumping occurs.

MR. LOPEZ: Mr. Chairman, I think that if we insert "sustainable" that works

and that is probably acceptable to everyone.

CHAIRMAN DURAN: Okay.

2227169

COMMISSIONER SULLIVAN: Just trying to be helpful.

CHAIRMAN DURAN: So why don't you restate your amendment.

COMMISSIONER SULLIVAN: I guess then the first sentence will then be, 19 amended by adding, "The development shall be served strictly by sustainable imported water." And the second sentence will remain the same. "The use of wells within the Community College District is strictly prohibited from this development.

CHAIRMAN DURAN: Is there anyone from the State Land Office that would like to comment on that? Do you believe that's the intent? Do you have any problem with that language? Okay, good.

MR. ABEYTA: Mr. Chairman, I need to change condition 16 to read that "The applicant shall participate in an infrastructure extension policy for the district-wide infrastructure improvements and operations." What we're doing is we're just removing Community College District-wide assessment district, because that's not staff's intent. We don't know if there would be an assessment district out there or not. We just want to make sure that they participate when infrastructure gets extended throughout the district.

COMMISSIONER SULLIVAN: Could you read that again, Roman?

MR. ABEYTA: The applicant shall participate in an infrastructure extension policy for the district-wide infrastructure improvements and operations.

COMMISSIONER CAMPOS: And maintenance? Are you dropping the maintenance?

MR. ABEYTA: And maintenance. We can add maintenance.

COMMISSIONER CAMPOS: It's there. Are you going to leave it there?

MR. ABEYTA: We'll leave maintenance in there. And then the last thing I have, Mr. Chairman, is in the body of the findings of fact where we discussed the fiscal impact section, we're going to add, "to determine whether the project is in the best interest of the County and physically viable in the judgement of the BCC." Again, that gets back to the fiscal impact study that staff is conducting for the whole district.

COMMISSIONER CAMPOS: That's to number 24, Mr. Abeyta? The last condition?

MR. ABEYTA: It's not an actual condition, because it wasn't accepted as a condition of approval but we want to build it into the body of the finding of fact to reflect the discussion, or the intent of the discussion that took place.

COMMISSIONER CAMPOS: Could you tell me exactly where that would be?

MR. ABEYTA: We're going to add it to number 9 where it discusses market analysis and fiscal impacts.

COMMISSIONER CAMPOS: Okay.

MR. ABEYTA: We're going to add it to—we're going to scratch the section that states, "To determine whether or not preliminary development plans may proceed," we're going to add that language in there. Again, we're going to add, "to determine whether the

2227170

project is in the best interest of the County and fiscally viable in the judgement of the BCC, instead of to determine whether or not preliminary development plans may proceed.

COMMISSIONER CAMPOS: That's in number 9?

MR. ABEYTA: Yes.

COMMISSIONER CAMPOS: Which is introduced by the language, "Market analysis and fiscal impacts?"

MR. ABEYTA: Yes. And the last sentence, "The BCC shall review and assess the fiscal impact study prior to any preliminary development plan hearing to determine whether or not preliminary development plans may proceed." The new language would read, "The BCC shall review and assess the fiscal impact study prior to any preliminary development plan hearing to determine whether the project is in the best interest of the County and fiscally viable in the judgement of the BCC."

COMMISSIONER CAMPOS: You're saying place it there as opposed to number 24, which is the last condition?

MR. ABEYTA: No, condition 24 will remain.

COMMISSIONER CAMPOS: Number 24 reads "To determine the potential cost to the County."

MR. ABEYTA: Yes. We need to complete a fiscal impact statement. The intent of 24 is that prior to a preliminary development plan being approved, we need to complete the fiscal impact statement. And the purpose of the fiscal impact statement is to determine the potential cost to the County.

COMMISSIONER SULLIVAN: I think the problem here, Roman, Mr. Chairman, is that what's in our packet doesn't have any of that language that you just mentioned. Now, we got something in our mailboxes that had some additional language underlined. Are you talking about that underlined language?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Now you're changing the underlined language, is that right?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: You're changing the new language?

COMMISSIONER CAMPOS: That is the new language.

COMMISSIONER SULLIVAN: This is the new language but he's changing the new language. Am I correct?

MR. ABEYTA: We're changing that language that was underlined.

COMMISSIONER SULLIVAN: Okay. At the end, to say the BCC shall review and assess the fiscal impact study prior to—

MR. ABEYTA: Prior to any preliminary development plan hearing and then to determine whether the project is in the best interest of the County and fiscally viable in the judgement of the BCC.

CHAIRMAN DURAN: I have a question of Steve. If we adopt some kind of impact fee program to deal with a water problem. Would we be able to attach that to this

2227171

project?

MR. KOPELMAN: Mr. Chairman, it's my legal position that if an impact fee ordinance is adopted prior to them getting their final development plan approval that they would be subject to that ordinance.

CHAIRMAN DURAN: Okay. Is everyone okay with this?

COMMISSIONER CAMPOS: I'll fly with that.

CHAIRMAN DURAN: Do we need a motion? Oh, we need a motion to approve—

COMMISSIONER GONZALES: Is the Land Office clear with what's stated?

CHAIRMAN DURAN: Are you all clear?

MR. BRANCOCK: Mr. Chairman, this is what we had discussed earlier that we were a little confused about the change in the language. If the intent of the County here is the fiscal impact study will only be evaluating the soundness of this project before preliminary plan approval we can live with that. We accepted the condition that was imposed earlier that the study of the entire district should be done but as long as the actual approval of the plan is based on the soundness of this project alone, if that's what the County intends by this condition then we can live with that.

CHAIRMAN DURAN: Are you not in agreement with condition number 24?

MR. BRANCOCK: Condition number 24, we agreed. That correctly states what was done at the hearing. We agree. It's this finding number 9 that attempts to clarify the use of condition number 24 that's at issue here and how you will use the fiscal impact study done for the entire district. We hope that what the County staff is proposing here is that the fiscal impact study for the entire district will be done, but that this project would be evaluated on the soundness of this project alone, and that's what we're hoping. If that's what the County means by this language, we're fine by it. If what the intent is that somehow if the impact study for the entire district is negative but the study for this project is positive, we believe that the project should go ahead and shouldn't be held back because there may be other projects in the district that are not sound. That's our concern.

CHAIRMAN DURAN: I think the intent is that if the fiscal impact statement is negative we want to withdraw all the approvals that we've approved out there for the last five years.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: See, I told you.

COMMISSIONER CAMPOS: Mr. Chairman, Mr. Abeyta wants to make a comment.

MR. ABEYTA: Mr. Chairman, I was going to add that it applies to this project but it's going to apply to the other projects as well. We're going to propose similar language for the other projects that are approved. That's the whole point of doing a district-wide fiscal impact study.

CHAIRMAN DURAN: What is going to come out of that fiscal impact statement? Could it say that the County is not fiscally capable of providing road maintenance,



2227172

police protection? Is that one of the things that would come out of that? Or would it tell us what we need to do to provide that?

MR. ABEYTA: Mr. Chairman, both. That's the major idea behind it. Does the development provide enough revenue as far as taxes or gross receipts and property taxes for the County to provide the needed services or maybe we need to implement—does it do that? Then it's going to also suggest other measures if we're short to try to do that for the Board to consider. But the main point is can we provide, can we meet the needs for the growth in that area.

CHAIRMAN DURAN: When would that be completed?

MR. ABEYTA: We're hoping to have a firm selected by September 1<sup>st</sup> and then the firm would start on it and we project it to be completed within six months. We would be able to come back to the BCC with a report and say these are the findings.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think that there's a marketability component to that study also that will be considered. Because when we look at market studies developed by each of these individual developers they all come out saying there's a wonderful market for my development. But obviously if you put five or six or eight "my developments" together, there may not be a market for all of those. Each one looks at their own. But more importantly, to address the Land Office's concern, I think if the study came back negative, it wouldn't be negative in terms of development A should be rejected and development B should be approved, but rather it would say you don't have the resources to sustain this level of development over the next 20 years. So there's certain things you can do.

You can increase taxes, property taxes. You can put impact fees into place. You can limit the sizes of the developments. You may come back under final plan and say 2700 residences, we can't support those. It needs to be some other number. So you have options, but I don't think it's going to pick on the San Cristobal development or any other development and say your market study was wrong or right, it's just going to say, given the whole broad-brush picture, we either can or we can't over the period using our current taxing structure, service this level of development. And if we can't then we have to decide what we're going to do. You either reduce the sizes of the development or you increase your Sheriff's Department and your Fire, you emergency technicians and that requires money and that requires impact fees or taxes. Roman, is that kind of how you see the conclusions of that coming?

MR. ABEYTA: Yes, that's one of the major components. There are several others. We hope that it creates a model for us to us for future districts as well. But it's a real extensive study and there's a lot to it.

CHAIRMAN DURAN: Well, I would think that the taxable income that we're going to receive from an improved piece of property versus a piece of vacant land that has typically been used for farming, that's usually what those properties have been used for, are going to be substantial. So it will be interesting to see how that report comes in.

COMMISSIONER SULLIVAN: But the farm land didn't require Sheriff's calls

2227173

and fire.

CHAIRMAN DURAN: Yes, and instead of paying \$100 a year they're paying \$2,000.

COMMISSIONER SULLIVAN: And you might be right. There's different opinions on both sides and that's the purpose of the study is to get the numbers hard and fast so we can put that to rest.

CHAIRMAN DURAN: Like I say, it will be interesting.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Just a quick comment in response to counsel for the State Land Office, my intent in making this motion and moving forward with this project would be that the County do the fiscal impact and the fiscal impact would apply to the whole district. We wouldn't just break it up. If one project works, another one doesn't. This is presented as a big district to have coordination and planning and I think we have to look at it that way and I think that's the intent of the motion. I think that's been very clear. And it's the intent of the language, the new language proposed by the staff, paragraph 9, so think that's clear to me. And that was clear as part of our discussion we had this meeting.

CHAIRMAN DURAN: I think you'll have to change the Community College District plan though. We have a plan in place that allows development to do a fiscal impact statement for their project alone. If you're trying to change the Community College District Ordinance through this particular project I think we're doing it the wrong way. If you want to make that a condition, why don't you bring the Community College District plan forward so we can have some discussion based on the changes you'd like to make?

COMMISSIONER CAMPOS: Well, I think it's pretty clear, Mr. Chairman, what we've done today and what the discussion was when we had this hearing.

CHAIRMAN DURAN: But requiring someone to do something that's in total conflict with the existing ordinance—

COMMISSIONER CAMPOS: I really don't want to get into an extensive discussion on this. I think we've had it a number of times.

CHAIRMAN DURAN: Why don't we have legal explain it to us then?

COMMISSIONER SULLIVAN: My explanation—let me just talk to you for a minute. We talked about the need for a fiscal impact for a long time. How can you approve such a big district without looking at fiscal impact up front. But what happened in this case is that this thing was rushed through in December 2000 and a lot of the things weren't done. And I think we have to get them done before we get to preliminary. And this is what we're trying to do. We're trying to get more information so the County can better assess its position and make a rational judgement as to whether this is in its best interest and in the best interest of the county as a whole. And the County Commission will exercise its discretion and that's what the intent is and I think that's what we've done.

CHAIRMAN DURAN: Steve, can we impose a condition on an applicant that is in conflict with the conditions we've already approved? There's an ordinance in place. How

2227174

can we make a condition on a property that is in total conflict with what the ordinance states?

MR. KOPELMAN: Mr. Chairman, this isn't a condition of approval but I think—

CHAIRMAN DURAN: This is not?

MR. KOPELMAN: It's not a condition of approval. It's a finding and my guess is that if the fiscal impact statement indicates that over the next ten years the County's going to need x-amount of dollars to provide police protection or provide for the water, then the Commission may start for example, an impact fee process. And that impact fee process goes forward, the majority of the Commissioners would amend an ordinance then or adopt an ordinance to assess impact fees. But this is going to find out that information. That's my understanding. So it doesn't really hold them up, but it may change the way the Commission deals with this district down the road. That's my understanding. But nothing would happen until the Commission acted.

CHAIRMAN DURAN: Okay, I'm clear now.

COMMISSIONER CAMPOS: Mr. Chairman, I'm not clear now. Mr. Kopelman, are you saying that this project could move forward to preliminary without fiscal impact assessment, without an assessment of that study by this Commission?

MR. KOPELMAN: No. I'm saying that this is not a condition of approval. They have their master plan approved. What this is saying is that if the Commission reaches a point where after the fiscal impact study is done, you analyze it, you say, we need to do something. Then you would do something. And that's the whole point, to see whether something needs to be done, whether it had to be done now or whether it has to be done later.

COMMISSIONER CAMPOS: Okay. Then, can they move to preliminary approval without having us having done that fiscal impact and assessed it?

MR. KOPELMAN: No, the fiscal impact study has to be done according to this finding.

COMMISSIONER CAMPOS: Okay.

MR. KOPELMAN: And then condition 24 requires it too. So that has to be done. All I'm saying is that that fiscal impact study may lead the Commission to adopting changes in the Community College District. That's all I'm saying. That is a very possible outcome of that.

COMMISSIONER GONZALES: What I don't understand, Commissioner Campos and Mr. Kopelman is the fiscal impact analysis, from listening to Roman talk about it, it's going to be presented by the State Land Office as to the fiscal impact on the County. Of the State land development to the County.

MR. ABEYTA: No, we're talking about a district-wide fiscal impact statement that staff is going to prepare.

COMMISSIONER GONZALES: I understand there's a district-wide that's going to take place. However, it doesn't seem to me that—I understand the district-wide. To determine through some type of analysis whether impact fees or reduction of space that's currently allowed is going to be needed to make everything even and equitable. But it seems to

2227175

me, wouldn't we want to see, wouldn't we want to determine at preliminary level what the fiscal impact is to the County of the State Land Office and use a fiscal impact analysis by the State Land Office under the determination and consideration at preliminary level?

MR. ABEYTA: We want to and it's my understanding that based on condition 24, we want both, the State Land Office is going to do their own fiscal impact, but condition 24 is regarding the district-wide fiscal impact statement. And it states that prior to preliminary development plan and plat approval, the County shall complete a fiscal impact statement for the Community College District to determine the potential cost to the County. That was a condition of approval imposed on this development.

CHAIRMAN DURAN: I have a question. So you know that the State Land Office is trying to put this thing out for bid and to have this done before Commissioner Powell leaves office. So if they're going to do their financial impact statement, and they get it done before the end of the year, are we then going to hold up the approval of their plan until we complete ours, which is in the spring of 2003?

MR. ABEYTA: They will have their master plan approved. But before they can bring in their preliminary, that district-wide study would need to be done. And then they still have to do final, so I don't know if they were even projecting to have final approval of something before Commissioner Powell leaves at the end of the year. Whether or not this was as condition, I don't know if they'd be able to make that anyway.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I am perplexed about the potential cost to the County, because if development takes place in that area, there's going to be property taxes, gross receipts taxes, that area's going to be funding the services that it's going to be getting. So where are we saying the potential cost to the County is? The County is going to be reaping a lot of financial benefits to fund the health and safety, law enforcement, and other quality of life issues that it needs to address in that area and the residents of that area are going to be paying for that.

CHAIRMAN DURAN: It seems like someone smarter than us has figured this out a long time ago.

MR. ABEYTA: Mr. Chairman, I think the problem is staff can't come to you with numbers as to how much revenue this development is going to generate, and then how much cost in service it's going to generate. So we can't say it's going to bring in this many taxes, but we're going to require three more sheriffs. Or we're going to require this much more public works to maintain the roads, and that's the whole point of this is to bring you a specific number.

COMMISSIONER TRUJILLO: It seems to be another layer in the ubiquitous bureaucracy when there's already in place generation of monies that comes into the County coffers. They utilize those monies to fund law enforcement, to fund solid waste, to fund Code enforcement, to fund everything that needs to be enforced and monitored out in the country, and now you want to implement a layer of financial impact of developments?

2227176

MR. ABEYTA: Mr. Chairman, we're just following through with the direction that the Board gave us several months ago to have this study done, so we've proceeded on that.

COMMISSIONER TRUJILLO: I question that direction.

CHAIRMAN DURAN: So do I. So let's change it.

MR. ABEYTA: Mr. Chairman, we would need specific direction because we have bids that have come in and we're ready to move. So I would not want to go any further if the Board doesn't want us to.

CHAIRMAN DURAN: You know, I think having a fiscal impact statement is good but—

COMMISSIONER GONZALES: The question is how that impact statement relates to individual developments. That's the question.

MR. ABEYTA: That's going to be part of the analysis. That's one thing we're going to provide the contractor with. We're going to provide them with the different projects that we have and we're going to want them to give us a cost versus benefits analysis on each project and the district as a whole.

CHAIRMAN DURAN: I mean, the income produced from switching from vacant land to residential is phenomenal. It's \$100 versus on a \$300,000 house it's \$2500.

COMMISSIONER SULLIVAN: Mr. Chairman, I think on the surface that sounds compelling but what other communities have found, including the City of Santa Fe, is that it ain't necessarily so. It's that when they sit down and tally up the costs, the incremental costs of serving these new developments, not only in terms of police, fire, sheriffs, EMTs, social services and so forth, but in real terms of maintenance. All those roads have to be maintained. They have to be snowplowed. All the right-of-ways have to be taken care of. All of the utility lines have to be maintained. When you look at that, they find that there's substantially more costs to that than taxes can accommodate.

Our fees, our impact fees are extremely small. There's a study ongoing in the City right now. The City's fees are higher than the County's and the study ongoing now indicates that the City's fees are too low and that the County's fees are too low. But the purpose of this is not—at least I don't see it as being a justification for impact fees. I really want to see, would like to see what we are committing to over a 20-year period as the Community College develops. What we need to budget for. Where we're going to get the monies for that? If that says that property taxes are going to sustain that, then no further action is necessary. This study will tell us that.

COMMISSIONER TRUJILLO: Are we going to do that with every development across the county?

COMMISSIONER SULLIVAN: We're not doing it for other development of course. Just for the district. I think we should—good point, Commissioner Trujillo. I think we should do it for the districts. When we formulate, and as Roman said, using this as a model for other districts. When we move forward with other districts with less rush of time perhaps, then we should do the fiscal impact study and then write into that ordinance that we've determined that it will cost the County so many dollars to support this district and therefore whatever those necessary fees or conditions or costs are embedded into the ordinance so we don't have to come

2227177

back and do it again. So I think this will be a model hopefully and I understand some good firms have come in with some really creative proposals. I haven't seen any of them but at least that's what I've heard from the staff. So I don't think we want to prejudice this or prejudge this. We want to see what we're getting ourselves into here.

COMMISSIONER TRUJILLO: I think that there's a formula in place statewide that ostensibly generates enough monies to address infrastructure needs and everything else of new development and the impact on existing development. It is a responsibility of the local governing bodies to make sure that they utilize those monies that are generated to address those needs. Now, if we start giving impetus to another impact fee, because in 20 years the traffic is going to look this way and the economy is going to look this way, we are going to—there's going to be a disparate impact on the community. It's another layer of bureaucracy. It's another obstacle to serving the constituency, the community, and I don't think there's any added value to this. Not one iota.

COMMISSIONER SULLIVAN: Mr. Chairman, there may not be. The only thing we want to be careful of is that if the demands on this district, because of its layout, because of the way it develops, causes us to require more money to support it, then what that's doing is reducing the money we have for the rest of the residents in other areas and reducing the level of service in terms of social services, in terms of fire and EMT and so forth. So if we stay with a finite budget in this area because of its size, the number of persons and whatever, requires a disparate amount, then we're taking away from the rest of the county that also pays taxes. And that, I think, we don't want to do.

If the study says, Fine, those property taxes are going to sustain you for 20 years, then we've put this question to bed.

CHAIRMAN DURAN: I don't know. Steve, is there any action we can take tonight that would alter the action that we took at the last meeting relative to the impact fee study? What I'm trying to do is find some closure on this debate.

MR. KOPELMAN: Right. The way I'm looking at this is you're just looking to clarify some of the conditions or the findings and again, I think the way this is drafted now, all it means is that the County does its fiscal impact study. And that study has to be completed before this particular applicant can go forward with preliminary. Then the County assesses that. Then you step back and it's hard to say. It's impossible to predict what's going to happen then. But it's going to give you another planning tool, really, is I think what it comes down to.

CHAIRMAN DURAN: And I think the applicant basically said that you wouldn't be coming forward with preliminary plan until after the study is done anyway. Is that correct? Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, move for approval of findings of fact and conclusions for CCDRC Case #Z 01-5480, San Cristobal master plan as amended.

CHAIRMAN DURAN: And Roman, you have all those amendments?

MR. ABEYTA: Mr. Chairman, yes we do.

COMMISSIONER CAMPOS: Could we clarify if there are amendments to—finding paragraph number 9, paragraph 19, and 24 stays the same, Mr. Abeyta?

2227178

MR. ABEYTA: Yes, 24 stays the same.  
COMMISSIONER CAMPOS: I'll second that.  
CHAIRMAN DURAN: Any further discussion?

**The motion to approve the findings of fact on CCDRC #Z 01-5480 passed by unanimous [4-0] voice vote. [Commissioner Gonzales was not present for this action.]**

[The Commission recessed from 3:35 to 3:50.]

CHAIRMAN DURAN: Estevan, are there any items on the agenda that we need to get to before 6:00 that you might want to move forward? Because at 6:00 we're going into the land use.

MR. LOPEZ: Mr. Chairman, I think we probably ought to just take it in order and then proceed right through the agenda. I don't think there's anything that's truly critical that needs to be taken out of order.

CHAIRMAN DURAN: So at 6:00 we're just going to start the land use issues.

MR. LOPEZ: Into the public hearings. Yes sir.

CHAIRMAN DURAN: And whatever we don't get to just goes to the next meeting?

MR. LOPEZ: Maybe we can table it into the 26<sup>th</sup> or something like that.

COMMISSIONER GONZALES: Don't we meet again on the 15<sup>th</sup>?

MR. LOPEZ: We do. If that would be the will of the Board we could do that. Mr. Chairman, the representatives of Rick Johnson and Associates are here now and ready to make the presentation. And that would be the next item on the agenda if it please the Board.

## **VII. Presentations and Awards**

### **A. Presentation by Rick Johnson and Associates regarding advertising services contract renewal**

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioners, at the meeting at the end of June we brought forward a request to extend the contract with Rick Johnson for another year and at that time there were questions concerning the advertising campaign and the strategy that the County has put out there for the last three years and whether we wanted to continue with that or go back and solicit for new advertising services. So we extended at that time the contract for 60 days and since then, I believe that Rick Johnson and some of the Lodgers' Tax Advisory Board members have met with the Chairman and at least one of the other Commissioners to discuss what we currently have in the way of a campaign, what they're doing and what they have planned for the year.

So we asked, I believe, Mr. Chairman, that you had requested that they be in this meeting and give a presentation of their advertising campaign and what they recommend for the

County and what they would do if we extended the contract for the rest of this year through <sup>2227179</sup> June 30, 2003. So we invited them in today to give a short presentation of the proposed plan and also invited Ben Serber, the chairman of the Lodgers' Tax Advisory Board to explain their position and what they do as far as representing the County Commission in the meetings and what advice they give to the County staff concerning the advertising campaign.

I also wanted to point out that we have two funds that Lodgers' Tax revenues come in to. It's an advertising fund. We have four percent. The law allows up to five percent Lodgers' tax, we have four percent imposed in the county by ordinance. The first three percent is split 50 percent going to the advertising fund and can only be spent on advertising for events and things within the county to promote tourism. The other 50 percent of that is—so 1.5 percent plus the one percent, the four percent that we impose, less that one percent goes into that fund.

Then the other 1.5 percent goes into a facility fund that can be used for advertising and building and structures that are related to tourism in the county. And what we did this year as far as the budget, we recommended a budget of approximately \$275,000 or so towards advertising between the two funds. We have a cash balance in both funds. In the facility fund of \$360,000 that's unbudgeted and in the advertising fund, \$258,000, on top of what we have budgeted for advertising as well as promoting other tourist events in the county. There's \$30,000 total budgeted for other events, which are things like Indian Market. We had last year a promotion of a Chimayo festival of arts and at Rancho de las Golondrinas, we did a contract with them to advertise.

So just to give you an overview of what we do budget the funds for, between those two advertising or Lodgers' tax funds and then what we do with Rick Johnson. I'd like to introduce right now Ben Serber from the Lodgers' Tax Advisory Board, the chairman.

d: I have a question for you Katherine. So of the \$250,000 that Rick Johnson spends for us in advertising, my understanding is about \$20,000 of that is administrative fees and the balance of that is actual hard costs, the hard costs of advertising. Do you pay those bills? Do they come through you? Or does it get paid through the advertising firm?

MS. MILLER: Mr. Chairman, the way that it—Rick Johnson will for instance put an ad in say *The New Mexico* magazine or *Sunset* or something, a tourist ad. They will go through a whole process of bringing that ad layout and everything to the Lodgers' Tax Board. It will get reviewed and I have a staff person that sits on that board. Not on the board but with the board as an advisor and talks to them about procurement issues and all that. But they then come forward and say what that ad is going to cost to place in that media. And then put all of that together, along with an invoice for their labor and then submit those invoices to me. So they come through Finance and we sign off that that ad was placed and—

CHAIRMAN DURAN: So you are actually the fiscal agent for the fund is I guess what—

MS. MILLER: Yes.

CHAIRMAN DURAN: Okay. That's fine. Any questions of Katherine? Mr. Serber.

BEN SERBER: Chairman Duran, Commissioners, I'd like to introduce our



2227180

advertising agency. The CEO of Rick Johnson Company, Deborah Johnson, the CEO, Judy Carlson, a VP, and a senior account executive, Kristy Wendt, who replaces Pamela Lomand, some of you gentlemen might have remembered, who has been appointed the deputy secretary of tourism for the state of New Mexico. So these are highly professional people, subject call by other organizations. Deborah Johnson is going to do a presentation and answer some of the questions some of you Commissioners might have had.

We've had the pleasure of meeting with a couple of you. We'd like to meet with all of you at any time that you pick.

COMMISSIONER GONZALES: Mr. Chairman, I have a question of Mr. Serber before we go on. Mr. Serber, just briefly, for the record, and remind me, because I know hopefully here in the not too-distant future we'll get a chance to honor you for your years of service to Santa Fe County. How long have you been serving?

MR. SERBER: How long have I been serving? Twenty years as chairman and a couple of years as member of the board.

COMMISSIONER GONZALES: As I indicated, hopefully here real soon we'll get to more properly and formally honor you for your years of dedication.

MR. SERBER: The pay has been excellent, Commissioner.

COMMISSIONER GONZALES: Can you just describe for the Commission, you were part of this board seven years ago when the Commission had advocated a change in advertising agencies. I remember being here with you and really, as the Commission did a month ago, asked the question do we need to look for another advertising agency and if so, really evaluate their performance. Can you tell me the changes that have taken place in the last seven years as opposed to the previous years in terms of how aggressive, and the results that we've received from the current agency?

MR. SERBER: I think you'll get the hard fact results with the presentation from Deborah. But the main change has been when we took Rick Johnson and Company as our advertising agency six years ago, and you'll see some tremendous increases in income, inquiries and promotions that have developed higher Lodgers' tax revenues. And that's what we work on, and I'd mentioned before, taxpayers do not pay anything into Lodgers' tax or pay anything for our advertising. It's all generated by the Lodgers' tax money, which is from the visitors that come to Santa Fe. Our job is promote and bring visitors to Santa Fe.

COMMISSIONER GONZALES: So with your Lodgers' Tax Board, they are the primary beneficiaries, would you say, or some of them are the beneficiaries of tourism? Is that correct?

MR. SERBER: Yes. And we've been a great benefit, if I may, to the community. We built the County Fair building and all the collateral buildings with Lodgers' tax money, which has been a benefit to the community, as you know. We also distribute grants to different organizations, 501(c)(3)s, who request money, and they are judged solely on the fact that they're deserving, if they can attract visitors to Santa Fe.

COMMISSIONER GONZALES: And just the last question, the Lodgers' Tax Board, you're recommending Rick Johnson Agency again for approval?

2227181

MR. SERBER: We already have, in the minutes of our previous meeting. Yes, highly professional. Highly.

COMMISSIONER GONZALES: Thank you.

MR. SERBER: Thank you. Any other questions?

DEBORAH JOHNSON: Mr. Chairman, Commissioners, good afternoon.

Thank you again for allowing us a few minutes here. I know you have a real busy day so we do appreciate being included and as Chairman Serber said, a couple of you have requested individual meetings with us prior to this meeting which we were happy to oblige. Look forward to more of those in the future. So we thought we'd start with just some of the feedback to share with the rest of the Commissioners of what surfaced at those couple of individual meetings. And Judy and Kristy will hold these up. There's also hard copies of these in your packet so you can follow along either with the posters or in your packets, whichever is easier for you.

There were a couple of concerns that surfaced. We met first with the Chairman and again appreciate your time, Chairman Duran, and one of the things that was mentioned was that the Commission would like more information sharing and flexibility and by flexibility I mean discussions about drought or fire or things that come up that may fall out of the annual plan, between the agency, the LTAB Board and the BCC. And another concern was that we should not just, even though our contract certainly specifies that we, our primary objective is tourism, that there are economic issues that overlap. So when those happen we shouldn't ignore those.

So the resolution for both of those, because we think they were great suggestions, was also we'd be happy to provide quarterly reports to you, or monthly, whichever is more convenient. We don't want to bury you with more paperwork, but if you'd like them monthly we'd be happy to do that and I know that Chairman Serber has an open invitation to any of you to attend the LTAB meetings if you need another meeting. So we will do that in writing and/or be happy to meet with you individually.

In terms of the economic development issue that again, the Chairman raised, we will interface with some of the economic development organizations to find out if there were any symbiotic, if you will, opportunities for the tourism advertising since it is nationwide and to help address issues in the county. As you mentioned, Mr. Chairman, whether it's fire, water or other things like that.

We also appreciate the input of Commissioner Sullivan and he had three concerns that we discussed the other day. One, in terms of the ads, talking about Santa Fe County as a vacation destination and showing water in the ads, because a lot of people, as you all know, who don't live here think we're a dry desert and the drought publicity didn't help. So we will, in the photography, show some water. We thought that was an excellent suggestion.

He also had some excellent comments about the website. The website is a work in progress we initiated a couple of years ago, but every year we want it to be better and it's lacking in some content issues as well as design and some of the photography. So in terms of the photography, we are going to—some of you, I know Commissioners Gonzales and Trujillo remember a few years ago, we worked with the College of Santa Fe to get a summer intern to help build the content for all the data about the county in terms of addresses, phones,

2227182

destinations, restaurants, entertainment, events and things like that. And it's time to update that again. So we'll find an intern that is also a photographer, and therefore build the photography at an economic avenue for the Commission.

In addition to that, Commissioner Sullivan mentioned more outdoor recreational opportunities and certainly, that's a wonderful opportunity. The new bike trails, the new cycling opportunities, back to the water and things like that. So we are going to add a fly fishing water image in the next photography round and also I mentioned the intern. So those were the individual things that were raised and at any time we invite your comments about things like that. Any questions about those?

Okay, just to recap then, you mentioned that you wanted to run through the plan so we'll do that quickly. And just start in '97 because Commissioner Gonzales, you mentioned the background and what had changed since '97. So just a brief recap. In '97 when we basically came on board there was very little brand identity for the county as a separate area and certainly there was not a lot of awareness, and I mean from tourists in different parts of the country, that the county could be a separate destination and that there were things to do that were near Santa Fe but more than the city itself. There was very little awareness of the individual businesses and facilities that exist and are very prosperous and enjoyable in the county, and there was no centralized information base on these county hotels, establishments, entertainment events, things like that.

So that's where the intern came in and we gathered all that information and did it in our very first brochure which we called a passport, and if you recall, it had each individual destination numbers and things like that. In '97 and '98, the Lodgers' tax collection was \$212,756. The cost per inquiry was high at the time, it was around \$9 and the industry average, I think at that time was around \$7. And the total increase for '97 and '98 was around \$61,561. So the solution to those challenges, we started a branding campaign that was primarily in print because at the time, print had the biggest, the largest conversion rate. It's one thing to tell people that the county exists; it's another thing to get them to convert that information into an overnight stay, which is our primary objective. So print was very effective in those years.

We also formalized and standardized the database, which I mentioned, and produced the passport. The success of those first two years, inquiries jumped up 13 percent. The cost per inquiry was lowered to \$5.62 which was a 38 cent savings for the County. Lodgers' tax collections were up five percent over baseline in '97 and then over 15 percent in '98. And the agency, also through negotiations, saved the County \$52,000 in value-added media promotions and organizations which we were happy to bring to the table.

In '99 and 2000, the momentum was beginning to take hold. There was a building of the individuality of the county, and the Lodgers' tax was on a steady growth, which again, we can't take credit for. It was just certainly that the county was growing and all the opportunities were growing. That year we started some television promotion, which was the first time that the county had been on TV as a separate destination. We did an interactive game which had some fun results. We also started the work on the website and turned the database into an electronic avenue as well. Did some regional print in newspaper. We added that to the

2227183

magazine print that we were already buying and redeveloped the county brochure which by then had again a third more destinations.

That year, the inquiries were up again 19 percent over the previous years. The cost per inquiry was lowered to an all-time low which was \$2.43, which is a 73 percent savings. Lodgers' tax collections were up 23 percent in 99 and up 70 percent in 2000. And again, there were more value-added media promotions that we negotiated on behalf of the County: \$16,420 in '98 and \$17,540 in '99.

The last couple years, and these are the ones, obviously, that you're all concerned about. September 11<sup>th</sup>, obviously did have an impact on tourism. It had an impact all over the country, and there were some, it was kind of a good news/bad news. There were opportunities in that, one being that people stopped flying. And so we began to address what we call the drive trade because the good thing about New Mexico and Santa Fe County is that it is drivable from several large cities—Denver, Phoenix, Austin, Houston, Phoenix, Tucson, California and other areas in Texas. The Lodgers' tax is on a steady growth and the county is actually one of the few areas in the country that did not have a dip this year. We actually had a slight increase this year even though most cities, including Santa Fe and Albuquerque were down but the county is up again.

And the competition for the domestic traveler has increased. We did develop a crisis plan. Not all of it was implemented but we did work with the Department of Tourism and the governor's office and other state entities that were addressing not only the September 11<sup>th</sup> issue but the drought issue and the fire sensationalism that was covered in the national media. We also placed radio in strategic cities, increased our Internet advertising and Travelocity.com, which as you know, is a very successful travel booking vehicle. We did some additional e-marketing on the web, what we call viral marketing and if you've been pestered by that actually, as a consumer, it's actually pretty effective on the web.

Participated in the department's enchanted bus tour, which Kristy participated in personally, which went all over Texas and distributed County of Santa Fe brochures as well as other destinations in New Mexico. And then we did do some public relations efforts to combat the idea that New Mexico was on fire.

One last comment on the fire, as you all know, there's a lag between when people inquire about destinations and when they actually book travel. It's usually eight to twelve weeks, so we had to balance talking about the fire, hoping that they would be over by the time people actually booked their travel, and there's a fine line between talking about it too much and not talking about it enough, lest you make people think the fires are ongoing. So we tried to balance those PR efforts.

As I mentioned, inquiries were up again this year 28 percent. Cost per inquiry is still down \$3 which is below the national average, which is now at around four or five dollars. Lodgers tax collections are up 67 percent over fiscal year one and 74 percent over two, and again, we tried to negotiate several thousand dollars in value-added media, \$38,000 in 01 and \$56,000 in 02. So that's a brief recap.

Moving forward, again, the media attention, we're trying to actually turn into good

2227184

thing, and that is for the first time we may be on people's radar screens where we weren't, so we're trying to take advantage of that. The Lodgers' tax, thanks to you all and a lot of other people's efforts in the county continues on steady growth. The competition is still out there and media clutter is at an all time high, but we're trying to combat that with ads with striking photography, and again, back to the photography issue.

We do have an update brochure or plan one again because now the facilities and events and hotels have grown again so we keep needing to upgrade the brochure with new information. Travelocity has done well for us so we're going to continue that and then the web continues to be a huge opportunity for us. So inquiries, I'm happy to report, continue to be up and have been every year. They're up ten percent this year. Cost per inquiry is steady at around \$3. Lodgers' tax collection are still up four percent and again, \$56,000 in value-added media promotion we negotiated this year.

This is a brief chart that shows you how the inquiries have grown. We've put the RJC on there just so you can see the years that our agency has worked for you, as opposed to the situation previously. So we hope that you consider that good use of your money, or the visitors' money, to Ben's point.

The cost per inquiry since 1996, again that's certainly an issue in terms of your stewardship of the County money and are dealing with that, so we've tried to keep that cost per inquiry low. As I mentioned, the national average is around \$4 or \$5 and we've held steady at either under \$3 or slightly over \$3 since '96. And then this chart shows you the Lodgers' tax receipts so you can see how they've grown. Again, we can't take credit for that, but that shows you how the budget has grown and how we've attempted to put the majority of it, Mr. Chairman, to your point, into media, as opposed to what we call administrative costs.

And then last but not least, in terms of our personal investment in working with the County, again, we consider it a privilege. We truly do and think the County's growth is exciting, so we've been happy over the years to contribute some value-added hours and there you can see them on the chart. That's the hours that we actually billed versus the hours that we've actually worked with you. It's been a real pleasure. Chairman Serber has served for 20 years. I think he's been trying to quit for six, but there's an awful lot of people who appreciate him and want him to stay. So the hours that we bill compared to the hours that we work are actually lower. We work more than we bill, and we consider it a good cause, and again, a privilege. So we thank you for that. I'd be happy to answer any questions, Mr. Chairman.

CHAIRMAN DURAN: Any questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In addition to our—and thank you for your time to come by and give me a run-down of your plan. In several areas that I visited, when you stay in hotels, you turn on the TV and you find a run-down of what you can do in a city and that type of thing. We have a public access channel, which goes throughout Santa Fe. Do we have anything keyed into that where an individual who is sitting in his hotel room in the evening can see what there is to do in Santa Fe County.

2227185

CHAIRMAN DURAN: Instead of watching us.

COMMISSIONER SULLIVAN: Of course if the County Commission is on, naturally they'd want to watch that, but aside from that, that only occurs infrequently.

MS. JOHNSON: Thank you, Commissioner Sullivan. I'll let Kristy answer that question.

KRISTY WENDT: We've actually looked at doing that. Based on budget considerations, we have not done something like that because we felt like it was better to bring them here through print advertising and advertising that goes out in other cities. If this is a situation that's changed, and the cost to advertise on that, like special events, it's free or a very low cost, I think we should re-evaluate that. I know in the past it was evaluated and they decided not to do that because we felt the money could be spent better to bring visitors to Santa Fe rather than tell them what events to see while they're already here. Does that make sense?

COMMISSIONER SULLIVAN: As far as I know, it's free. You're on TV right now. Say hi. And of course the City Council meetings are televised on Channel 6 and the County Commission meetings as of last year began to be televised. The Extraterritorial Zoning Authority meetings are televised. Occasionally the Regional Planning Authority meetings are televised but the rest is dead air. I'm not sure who is responsible, maybe Rudy or someone can fill me in on that, for programming in materials. But if you have a video that just runs constantly, it seems like the cost would be fairly low to keep Channel 6 running. There's a certain cost to keep Channel 6 running, obviously. It's produced through the Community College.

MS. WENDT: I think we can definitely look at that and look at incorporating it into the plan and we can find out who's doing the programming and contact them to look at and see, maybe a cost-effective solution as to getting a major event or attractions in Santa Fe County on the air in partnership with the Santa Fe CVB.

COMMISSIONER SULLIVAN: Because I think the object is not just to get bodies here to Santa Fe, which generates the Lodgers' tax, but it's to get people and families out into Santa Fe County. As you say in your promotion, there's more to Santa Fe than Santa Fe. And have them appreciate our trails and go to our restaurants and enjoy the recreational facilities and things like that that provide revenue to the county businesses outside the city. So it seems like that would give somebody some ideas, other than necessarily walking down to the plaza and buying jewelry. Some other options to pursue.

MS. WENDT: Okay. We will definitely look at that.

MS. JOHNSON: Commissioner Sullivan, Chairman Serber just reminded me that we've also given some videos about the county to the chamber. So we've taken advantage of other partnerships but to your point, we haven't checked that cost in over a year and I actually think it's dropped, because I think the access channel has grown and therefore—the charge a couple years ago was not so much to be on it but to be listed on a directory and be literally piped into rooms. So there is some expense for the channel associated with getting it piped into the rooms. So we'll certainly check into it.

COMMISSIONER SULLIVAN: We just renewed or renegotiated a franchise

2227186

with, I believe it was Comcast.

MS. JOHNSON: Great. Your influence over that would be much greater than ours, I'm sure. We can negotiate with the affiliates but—

COMMISSIONER SULLIVAN: Part of their promise to us was that there was going to be greater coverage in the public access channel. So just about anybody, of course the majority of the people are staying within the City of Santa Fe and they are getting the channel. What we'd like to do is get them an option to get outside the City of Santa Fe and spend some of their money in the county, on our county businesses. So just a thought.

MS. JOHNSON: No, it's a good one. Thank you.

CHAIRMAN DURAN: I have an idea. Katherine, how about if you work with them and maybe we can incorporate some kind of advertising or some kind of ad in our contract that we have with them now to televise the BCC, EZA, and maybe you could even work in conjunction with the City. Maybe they have an advertising company or advertising program that they could kind of incorporate into this thought.

COMMISSIONER GONZALES: I have a question.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Thank you very much, Debbie, for the personal commitment you've put into this effort and I just since day one have always believed in the agency and clearly through today you've shown that that was good. So I want to thank you for that.

MS. JOHNSON: Well, thank you, Commissioner Gonzales. We appreciate it. Likewise.

COMMISSIONER GONZALES: Has there been consideration towards targeting the small meetings and convention type industry. I know that the large hotels in the county are limited to Bishop's Lodge and Rancho Encantado, but I also know there's a lot in corporate retreats and in small scale meetings that I was wondering, is that part of our effort to try and reach some of these larger corporations or associations who might be wanting to do corporate retreats in different areas, to look to Santa Fe County as a primary place to host these retreats.

MS. JOHNSON: Actually, Commissioner Gonzales, that's growing. As you know, until a couple of years ago there really weren't a whole lot of facilities that could accommodate medium sized meetings, but that's certainly improving, especially with the renovation of Sunrise Springs and also some of the other facilities that have grown. So that's another thing that's on the list and is most effectively done in a direct marketing kind of a way. And actually we have big plans for this intern and that's another area where they can literally help with databases and phone calls and things like that, but I think Kristy also has something to say on that.

MS. WENDT: We also target the travel writers that actually write stories on tours and destinations which in the long term affect the meetings market. However, it's not directly related to the meetings market. We just target them through public relations with the media kit that we send out and by doing that, sometimes meetings are planned because people

2227187

are interested in specific destinations already. So a lot of it comes through leisure travel. Now that Bishop's Lodge has expanded its facility, Sunrise Springs and there's some other facilities out there that are expanding, I think that this is definitely a market to look at marketing to in the future.

COMMISSIONER GONZALES: Is Rancho Encantado still operating?

MS. WENDT: Not yet. I understand that they may be going back into the construction phase within this next year and hopefully will open the following year.

COMMISSIONER GONZALES: So Bishop's Lodge is the only large scale hotel right now in the county, per se.

MS. WENDT: That and Sunrise Springs just had a major renovation so I think that they're large as well.

COMMISSIONER GONZALES: Okay. Just a last point was, I know that Pojoaque Pueblo doesn't pay Lodgers' tax on the hotel that they have and I understand that they're considering building a convention center/hotel. Is there room for discussions or has there been outreach to the Pueblo to do some type of joint marketing efforts where they would help participate in the funding of issues or in the funding or opportunities in northern Santa Fe County?

MS. JOHNSON: Commissioner Gonzales, the answer is yes. As recently as four hours ago that somebody from our office was meeting with Pojoaque and I don't know the results but they were certainly starting the dialogue. So we'll keep on that as well.

COMMISSIONER GONZALES: Great. Thank you.

COMMISSIONER CAMPOS: A quick question for Ms. Miller. Who does the advertising for the City of Santa Fe?

MS. MILLER: Mr. Chairman, Commissioner Campos, I don't know the name of the firm but it's not Rick Johnson.

COMMISSIONER GONZALES: They're from Dallas, Texas.

MS. MILLER: They're from out of state, I believe.

COMMISSIONER CAMPOS: Has staff at any time done an evaluation of the effectiveness of the Rick Johnson Company?

MS. MILLER: Mr. Chairman, Commissioner Campos, not a full evaluation separate from what occurs at the Lodgers' Tax Advisory Board meetings. Rick Johnson presents information much like what was presented today.

COMMISSIONER CAMPOS: No, the question was have you independently, apart from the Lodgers' Tax Board, done an evaluation at any time?

MS. MILLER: Chairman, Commissioner Campos, no we haven't, other than our solicitations. We've done two solicitations for advertising firms and those were advertised in the Albuquerque paper as well as the *New Mexican* and put on the web and we had, I think the first time, two or three responses and the second time three responses. And they were evaluated against those firms by County staff.

COMMISSIONER CAMPOS: I understand. Thanks.

MS. MILLER: Anything else?



2227188

CHAIRMAN DURAN: Any other questions of Katherine? Staff? Rick Johnson?  
Thank you very much.

**IX. Staff and Elected Officials Items**

**A. Finance Department**

1. **Request Authorization to Amend Professional Services Agreement #22-0052-FI for Advertising Services with Rick Johnson & Company, Inc. to Extend the Agreement Through June 30, 2003 for an Additional Compensation Amount of \$239,120.75**

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Katherine, as I understand it then, this is the last of the four years in their current contract?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, yes, that's correct. This is the last option that we have on this contract.

COMMISSIONER SULLIVAN: Okay. Then at that point does the County put out an RFP for services? At what point will you do that? In January or February?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, probably around January we'll advertise and solicit for another contractor for four years.

COMMISSIONER SULLIVAN: And then who makes that selection? Is that staff or is that members of the Lodgers' Tax Advisory Board? Or how does that work?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, that's a combination of staff and members from the Lodgers' Tax Board. It's usually three to four staff members, and two Lodgers' Tax Advisory Board members.

COMMISSIONER GONZALES: The ultimate—it's a recommendation made to the Commission.

MS. MILLER: And then the recommendation does come to the Commission.

COMMISSIONER SULLIVAN: I'd like to have the Commission see that request for proposals when it goes out in January or February.

MS. MILLER: Okay

COMMISSIONER SULLIVAN: I think it would be good to—and I don't know what the previous one read and it may have been just fine but I think it would be good to see that it focuses on creativity and on some of the issues that we've discussed here today.

MS. MILLER: Okay.

CHAIRMAN DURAN: Commissioner Campos, did you have—

COMMISSIONER CAMPOS: Mr. Chairman, just a question for Ms. Miller. You're saying that the next contract you would propose for four years?

MS. MILLER: Mr. Chairman, Commissioner Campos, what we do is solicit for a one-year contract with options to extend up to four years based upon funding and satisfaction with the services provided.

COMMISSIONER CAMPOS: Why the four years as opposed to two or three?

MS. MILLER: One, because the solicitations are timely. They take quite a bit of time for staff to evaluate and also campaigns tend to grow on each other. So to change advertising firms every one to two years would be very difficult. At any time, the Commission has the option to not renew the contract if they're not happy with the services being provided. So it's actually to give the County the most flexibility in accordance with the law.

COMMISSIONER CAMPOS: Thanks.

CHAIRMAN DURAN: Any further discussion?

**The motion to approve the professional services agreement with Rick Johnson passed by unanimous [5-0] voice vote.**

CHAIRMAN DURAN: Estevan, are we going into the Land Use Department cases?

MR. LOPEZ: Mr. Chairman, those Land Use Department's are only the ones that are for deliberation only that had resulted previously in a two-two tie and we need a revote on the issue.

CHAIRMAN DURAN: And it doesn't have to be after 6:00?

MR. LOPEZ: Not for these. There is no need for public hearing. The public hearing has already happened. Public input has already been given on these cases. All it needs is Commission deliberation and a vote.

**IX. B. Land Use Department**

- 1. CDRC CASE #V 02-5130 - Isabel Tafoya Appeal/Variance. Isabel Tafoya, Applicant, is Requesting a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 3.72 Acres into Two Tracts. The Property is Located off Via De Los Romeros in the Traditional Historic Community of La Cienega, within Sections 19 and 30, Township 16 North, Range 8 East FOR DELIBERATION ONLY**

CHAIRMAN DURAN: So Penny, you're going to give us—I'll just turn it over to you and see what you do.

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman,

2227190

Commissioner, this case is actually for deliberation only. On June 11, 2002, the BCC heard this case. The decision was tied two votes to approve, two votes to deny, and under the rules of order, the application is automatically tabled until the next meeting. So the case is coming in front of the Board for deliberation only. The minutes are attached in your Exhibit A.

CHAIRMAN DURAN: And who voted for and who voted against?

MS. ELLIS-GREEN: Commissioners Trujillo and Duran voted in favor. Commissioners Sullivan and Campos voted against. So the fifth vote would be Commissioner Gonzales'.

CHAIRMAN DURAN: Commissioner Gonzales, are you up to speed on this enough to make a decision on it?

COMMISSIONER GONZALES: Yes, Mr. Chairman.

CHAIRMAN DURAN: And what is your vote on this.

COMMISSIONER GONZALES: I vote in favor of granting the variance.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think we need to have a motion, but as a part of the discussion, let me just refresh the memory of the Commission and the record. This was a case that the variance was not a minor one. It was creating lots that were 1.5 and 2.25 acres in size where the family transfer provisions would require a lot to be 6.25 acres. So this was a substantial change. And secondly, the thing that I felt was important in making my decision and vote on this case was that the LCDRC voted against it. And of course, that's the local body made up of residents of the area. And I felt that certainly they knew more than I did about the circumstances of the property and the traffic.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Sullivan, I just want to make sure before you go on. When I was reviewing the packet I thought it was a 3-2 in favor of the variance.

COMMISSIONER SULLIVAN: No, this one was against.

COMMISSIONER GONZALES: With Committee members C de Baca and Bustamante opposing it.

MR. ABEYTA: Mr. Chairman, they granted the appeal, heard the variance case and denied the variance. When it was all said and done they actually recommended this case be denied.

COMMISSIONER SULLIVAN: So I just wanted to clarify that and that was what I felt was important. In dealing with the local residents, if we don't give some credulance to the time and effort they spend on these cases, they get somewhat disappointed in their efforts. And I thought they knew more about than I did.

CHAIRMAN DURAN: You're definitely entitled to your analysis of the facts.

COMMISSIONER SULLIVAN: Just wanted to bring that back up.

CHAIRMAN DURAN: I totally disagreed with that analysis and that's why

I voted in favor of it.

2227191

Chairman.

COMMISSIONER CAMPOS: You could change your mind, Mr.

CHAIRMAN DURAN: I know I could.

COMMISSIONER SULLIVAN: That's the American way, and you are allowed to change your mind.

CHAIRMAN DURAN: So I guess we need a motion to either approve or disapprove. Are you making the motion to approve, Commissioner Gonzales? Is that what we need to do, Steve?

COMMISSIONER CAMPOS: What's the procedure?

MR. KOPELMAN: Mr. Chairman, the way that I think it should be done is it would be a full vote of the entire Commission. A Commissioner can change his mind if he chooses, but there needs to be a formal motion and a vote.

CHAIRMAN DURAN: What's the pleasure of the Board?

COMMISSIONER GONZALES: Move for approval of LCDRC Case #V 02-5130.

COMMISSIONER TRUJILLO: Second.

COMMISSIONER CAMPOS: Subject to conditions?

COMMISSIONER GONZALES: Subject to the staff conditions.

COMMISSIONER CAMPOS: Would you like to give us some idea as to what's the factual justification for the variance so that we'll have a record for that?

COMMISSIONER GONZALES: Sure, Commissioner Campos. That the family has demonstrated a need to pass on, to do a lot split to pass on this land to their children and that the Commission through its process can grant variances based on hardships that can be provided to families.

COMMISSIONER CAMPOS: Do these relate to the ordinance language, Commissioner Gonzales?

CHAIRMAN DURAN: I'm not sure that a cross examination of the Commission—

COMMISSIONER TRUJILLO: This is not an inquisition.

COMMISSIONER CAMPOS: We just need to make a record. If you're going to make a motion I think you should sustain it.

COMMISSIONER GONZALES: I've stated it. There was a hardship that was presented.

**The motion to approve the variance in LCDRC Case #V 02-5130 passed by majority [3-2] voice vote, with Commissioners Campos and Sullivan voting against.**

**IX. B. CDRC CASE #V 02-5071 – Richard Cordova Variance. Richard Cordova, Applicant, Jon Paul Romero, Agent, Request a Variance of**

**Article III, Section 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of a Potential Commercial District on 1.35 Acres. The Property is Located Two Miles South of Española on the West Side of US 84/285, within Section 14, Township 20 North, Range 8 East FOR DELIBERATION ONLY**

WAYNE DALTON (Review Specialist): Mr. Chairman, the Board of County Commissioners heard this case on July 9, 2002. The decision of the Board was tied two votes to approve and two votes to deny. Under Commission rules of order, the application is automatically tabled until the next meeting. This case is now coming before the Board for deliberation and vote only. The BCC minutes and staff report are attached in Exhibits A and B. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question for Mr. Dalton. Does staff recommend approval or denial?

MR. DALTON: Mr. Chairman, Commissioner Campos, staff is recommending denial of this variance.

COMMISSIONER CAMPOS: What did the CDRC do in this case?

MR. DALTON: The CDRC's recommendation was to approve the variance.

COMMISSIONER CAMPOS: With some conditions?

MR. DALTON: Mr. Chairman, Commissioner Campos, there is no conditions on this variance.

CHAIRMAN DURAN: Wayne, does staff ever recommend approval of a variance?

MR. DALTON: Mr. Chairman, if it doesn't conform with the Code, no, staff does not recommend a variance.

CHAIRMAN DURAN: Do you know of any variance that conforms with the Code.

MR. DALTON: Mr. Chairman, no I don't.

CHAIRMAN DURAN: I don't either. Thank you.

COMMISSIONER TRUJILLO: Wayne, is this project consistent with projects that are contiguous to this area?

MR. DALTON: Mr. Chairman, Commissioner Trujillo, yes, there are a number of commercial businesses out in this area, most of which are legal non-conforming businesses.

COMMISSIONER TRUJILLO: But they exist.

MR. DALTON: That's correct.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER GONZALES: Second.

2227193

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER CAMPOS: I would just like to hear some factual support for the motion.

CHAIRMAN DURAN: And you're not obligated to do so.

COMMISSIONER TRUJILLO: I'll go ahead and give it anyway. The reason for my motion to approve is that there are existing, in that area, commercial businesses that are contiguous and adjacent with the proposed project. There are already businesses in place that are doing business commensurate with the needs of the community, even though some of those businesses are grandfathered, but they do exist.

CHAIRMAN DURAN: I would just kind of like to piggy back on that. It seems to me that if you look at the existing zoning which is residential, raising a family on US 285 isn't the most—I don't think it's the highest and best use of that property and who wants to raise a family on the highway anyway.

COMMISSIONER TRUJILLO: On top of that, if this was not approved, I would consider that a taking, because there is nothing else that this family could do with this piece of land.

**The motion to approve the variance in CDRC Case #V 02-5071 passed by unanimous [3-2] voice vote, with Commissioners Campos and Sullivan voting no.**

**IX. C. Public Works Department**

**1. Resolution No. 2002-100. A Resolution Conditionally Accepting Morning Drive, Morning Street and Morning Lane for County Maintenance**

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, the residents of the Jimenez Subdivision, Tract C and D, Sally Thayer, the property owner of Tract B, and Allsups convenience store, the owner of Tract A, are requesting for the BCC to accept 0.5 miles of Morning Drive, 0.03 of Morning Street, and 0.035 miles of Morning Lane for County maintenance. The plat is attached and labeled as Exhibit A. These roads are asphalt paved and meet County standards. The above parties have met all the requirements outlined in the road acceptance policy, Resolution 1998-119, which is attached and labeled as Exhibit B.

The Public Works staff conducted an inspection of the roads and a punchlist of the items that need to be addressed has been prepared. The punchlist is attached and labeled as Exhibit C and should be a condition of acceptance. The roads are as follows: Morning Drive, a 20-foot wide asphalt driving surface, beginning at the intersection of Agua Fria Street, continuing south to the dead end, a distance of 0.5 miles; Morning Street, a 20-foot wide driving surface road, beginning at the intersection with Morning Drive and continuing west to the dead-end, a distance of 0.035 miles; and Morning Lane, a 20-foot wide driving

2227194

asphalt surface road, beginning at the intersection with Morning Drive and continuing west to the dead-end, a distance of 0.035 miles also.

Public Works requests that if these roads are accepted for County maintenance, the punchlist attached and labeled as Exhibit C should be a condition of acceptance and completed prior to the County assuming maintenance. I stand for questions.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Mr. Martinez, have you done a fiscal impact, how much is it going to cost to maintain, what would it cost to repave these roads? Have you done any assessment like that?

MR. MARTINEZ: Mr. Chairman, Commissioner Campos, we have not, but based on the County's average maintenance cost, it's roughly around \$2,000 per mile to maintain a paved road per year.

COMMISSIONER CAMPOS: Okay. So how many miles are we talking about here?

MR. MARTINEZ: You're talking about less than .6 mile.

COMMISSIONER CAMPOS: Now, what condition are these asphalt roads in at this time?

MR. MARTINEZ: If you look at the punchlist which is Exhibit C, the recommendations that we are making, there are some potholes on Morning Drive that need to be repaired. There are some existing speedbumps on Morning Drive that need to be removed. The concrete and asphalt obstructions in the gutter pans on Morning Drive need to be removed. Some crack sealing and some fog sealing need to be done on all three roads, and also the first portion of Morning Drive, we are recommending that it be reclaimed and repaved.

COMMISSIONER CAMPOS: How long ago was this road paved? These roads paved? Do you know? Do you know the history on it?

MR. MARTINEZ: I'm not sure. I think the subdivision plat is dated—Mr. Chairman, Commissioner Campos, I believe it was in the 80s, the 1980s. I can't give you more definite.

COMMISSIONER CAMPOS: Can you project useful expected life expectancy?

MR. MARTINEZ: Based on what's existing, probably repaving or a chip sealing would have to be done probably in about four to five years.

COMMISSIONER CAMPOS: What would the cost be?

MR. MARTINEZ: Roughly, chip sealing, in-house, is costing about \$25,000 a mile.

COMMISSIONER CAMPOS: Okay. When these cases come up, I'd like to have a little more information along these lines of fiscal impact cost projections, just so I have a better idea of how to evaluate these things. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

2227195

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I had a couple questions for Robert. I received a letter from the homeowners association giving some background, as I think all the Commissioners did of the problem that they are encountering, which is apparently that a) the County approved some deviations from its standards in the construction of the road, at least according to the association, and b) that the association membership wasn't mandatory, so that they had a very difficult time maintaining the roads as a result of that. Does that summarize that correctly?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, as far as I understand that's the reasoning for them wanting the roads to be taken over for County maintenance, is so the County could enforce and make these repairs or continue maintenance without having to hit the pockets of the residents every time they want some maintenance done.

COMMISSIONER SULLIVAN: Okay, and then I understand, although it's not in the packet here from the letter, that they have \$6,000 that they've accumulated in their road maintenance fund over the years from essentially voluntary contributions, I guess, and that they will turn that over to the County upon acceptance. Is that sufficient to do the items that you listed on the punchlist?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, from the start, that was a request to turn over the \$6,000 to the County and have the County make these repairs on this punchlist. But after discussing this with Steve Kopelman, it was his feeling that they should be responsible for the repairs, use their own funds to make these repairs, and then after the fact, the County could assume maintenance.

COMMISSIONER SULLIVAN: Okay. Then in your estimation, will they be able to do that for the \$6,000 that they have, going through a commercial contractor?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, it will be close. I can't tell you if they'll be over or under but it should be fairly close to what they've got.

COMMISSIONER SULLIVAN: Okay. There are two commercial establishments at the beginning of the road. There's the Allsups and there's also a U-store unit, that uses the road extensively. I see a letter from Allsups in the packet in which they graciously agree to turn over their easement with the understanding that any current repairs and future maintenance be undertaken by the County. So I guess that's the extent of their participation. Do you know, have they participated at all in the homeowners association or in any of the maintenance costs associated with this road over the years?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, they have not. It is my understanding that the homeowners association has foot the bill for the maintenance on the entire section of Morning Drive and this is their reasoning for trying to get the County to take over because Allsups has not been responsive in their needs for road maintenance repairs.

COMMISSIONER SULLIVAN: How about—I don't see any letter for U-store. How about U-store? Have they helped in any way in the maintenance of the road?



2227196

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, the only two commercial properties that I'm aware of is the storage units—is that what you're referring to?

COMMISSIONER SULLIVAN: Yes, the U-store.

MR. MARTINEZ: Yes. That is the Santa Fe Abstract Limited. That is the next letter. Sally Thayer is the property owner and William McGowan is the one that sent the letter; that is her son.

COMMISSIONER SULLIVAN: Okay. It doesn't say. It just says Tract B. I didn't know which Tract that was. And has U-store or Mr. McGowan or Sally Thayer contributed anything to the maintenance of this road over the years?

MR. MARTINEZ: I don't recall. The only property owner that was mentioned that was not very cooperative was the Allsup.

COMMISSIONER SULLIVAN: Let me ask a question for Mr. Kopelman. As regards to these commercial properties, Mr. Kopelman, does doing this constitute in any way a problem with the state statute, the anti-donation clause?

MR. KOPELMAN: Mr. Chairman, I think our resolution requires that before we would actually assume responsibility, the road has to be brought up to County standards. So if the road is brought up to County standards, I don't think there's a problem. If the County were to put public funds into bringing the road up to standards, I think you'd have an issue there. But if the private property owners pay for it, I think you're okay on that.

COMMISSIONER SULLIVAN: Is there any way to get Allsup and the U-store to contribute or participate in the costs?

CHAIRMAN DURAN: It seems to me that what we're trying to do here is take care of the property owners. I don't know how we're going to get Allsup to cut into their bottom line to contribute to this effort. They haven't done so in the past, how can we make them do it today?

COMMISSIONER SULLIVAN: I don't know. Unfortunately, the situation is that the first two commercial, in order for the property owners to get into their property, they have to go through the easements of the Allsup and the U-store, and it seems to me that it would certainly benefit both of those entities, and I'd be extremely discouraged if they would not be willing, just as good citizens, good corporate citizens, to participate in some amount, particularly if, as you say, it's close on the money and they might need, let's say \$8,000 instead of \$6,000 to do the work. I'm just asking if we have any leverage that might legally bring to bear on the situation.

CHAIRMAN DURAN: We could boycott them.

COMMISSIONER SULLIVAN: Well, that's one suggestion. I don't frequent that Allsup too much, but on the other side of town we have other problems with Allsup on 599.

CHAIRMAN DURAN: So, Robert, there never was a road maintenance agreement when the subdivision was approved?

MR. MARTINEZ: Mr. Chairman, I don't know of any agreement.

2227197

CHAIRMAN DURAN: But even so, there should be a road maintenance agreement. Even financing, even the lenders require if it's a private road, prior to financing they require a road maintenance agreement. You were unable to find one? How would we enforce that anyway? Even if there was one, how would we get involved in the enforcement of that?

COMMISSIONER SULLIVAN: I don't think we could get involved in enforcing the road maintenance agreement. I'm just trying to see if there's some way we could apply some gentlemanly persuasive pressure as it were, to encourage these good community corporate citizens to participate in this. There may be no way. I'm just looking for some help.

CHAIRMAN DURAN: Maybe we can send Steve Kopelman to go lean on them a little bit.

COMMISSIONER SULLIVAN: I don't know. It's an unfortunate situation. Let me ask one or two other questions. The first part of the road is uncurbed and the balance of the road is curbed. What about the drainage issues on the uncurbed part? I assume, Robert, on your recommendation on recycling and repaving that you won't be adding curb and gutter.

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, that is correct.

COMMISSIONER SULLIVAN: So the drainage just kind of washes back and forth. Does the County find itself in any liability situation there as a result of the drainage?

MR. MARTINEZ: Mainly, at that section of Morning Drive it drains to Agua Fria and drains through the storm drain through Agua Fria.

COMMISSIONER SULLIVAN: So we should be okay there. We're not impacting adjacent property owners on the drainage?

MR. MARTINEZ: That is correct. There would be no impact.

COMMISSIONER SULLIVAN: There's also no ditching there either, is there? It's just flat.

MR. MARTINEZ: That is correct.

COMMISSIONER SULLIVAN: In terms of, you say in your memo that it meets the County road standards. What are the standards for road width? For paved width there?

MR. MARTINEZ: Depending on the amount of lots, I believe for that particular subdivision size it's 20 feet in width.

COMMISSIONER SULLIVAN: And is that what we have now?

MR. MARTINEZ: Asphalt paved, I believe. Yes, that's what is current.

COMMISSIONER SULLIVAN: And how about depth?

MR. MARTINEZ: Depth, I believe it's around three inches, and we haven't done any cores so I couldn't tell you what depth we have.

COMMISSIONER SULLIVAN: So we meet County standards in terms of width but we don't know that we meet it in terms of depth.

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MR. MARTINEZ: That is correct.

COMMISSIONER SULLIVAN: That first section looks like it's pretty well broken up. It's hard to believe that we've got three inches.

MR. MARTINEZ: The section through Allsups property is the worst portion of Morning Drive.

COMMISSIONER SULLIVAN: Yes, and that gets the most maintenance and so what the County is ultimately going to be doing is maintaining the Allsups and U-store driveways, in essence.

MR. MARTINEZ: That is correct.

COMMISSIONER SULLIVAN: This is one of those no-win situations, by the way. What about right-of-way width? What's the right-of-way width requirement?

MR. MARTINEZ: Mr. Chairman, it's on the plat. Mr. Chairman, Commissioner Sullivan, it's on the plat and I think it's around 30 feet.

COMMISSIONER SULLIVAN: Does that meet County standards?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, I believe it was County standard at the time this subdivision was built. I believe now it's a 38-foot minimum.

COMMISSIONER SULLIVAN: Okay. So basically, the community then—my last question is, referred in their letter to a lawsuit that had been brought or decided or some type of a ruling that determined that the homeowners were not required on a mandatory basis to participate in homeowners associations. Can you explain that a little bit? What happened there?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, I don't know anything about that issue.

COMMISSIONER SULLIVAN: This was just in the letter that they wrote to the Commission and they said there was a lawsuit and that precluded them from collecting homeowners' maintenance fees. Maybe there is someone from the association here that can—is there anyone that can help with that? Oh, there's someone from the association but can't answer that.

CHAIRMAN DURAN: Is that going to help us?

COMMISSIONER SULLIVAN: I don't know. Let me put it this way. In listening to the testimony, I feel we need to help out here and these residents are between a rock and a hard place. We're taking on a cost and I'm just trying to get the level of liability that we're taking on as well. And secondly, I'm trying to see what we can do—I'm very disappointed that these two commercial establishments that are apparently stonewalling and not participating in a community need here that benefits them as well as the residents. I'm just trying to see if we as the County can have more clout than the residents might have had themselves as an association. I'm not getting any real good ideas. Maybe, Commissioner Gonzales, can you offer some suggestions?

COMMISSIONER GONZALES: I think it is going to be tough to bring on the commercial properties. I think the one thing to keep in mind is although you can make a lot of different arguments that both commercial properties do generate some level of tax through their business in the county that comes to the County that would ideally be used to cover whatever

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costs it's taken us to maintain this road, but your point is—you're right on the mark, Commissioner Sullivan, that the individuals who, first of all, the individuals who live in this subdivision weren't part of creating it. The County in 1980 granted this variance to the developers to make this road and they're having to live with the aftereffects. And they've tried to, for some time, to use their own money for the upkeep and they've had a very difficult time. I don't know what options we have, other than to—and I asked the staff to bring this forward to the Commission then to adopt this and I think that with the condition that we have to bring it up to date utilizing their own money is a good condition and minus, if we don't have no legal recourse to get the commercial properties to participate in this we may just have to go forward and adopt it no behalf of the residents out there. I just don't know of any other way, other than they're probably going to state they already generate receipts for the County, which should be used to cover these costs.

Although we can go into lots of areas where we're using that money to provide public safety for them and we're paying for refuse and all kinds of other stuff. So I don't know, but I think we do need to stay on the side of the residents out there and Mr. Chairman, I'd move for adoption of this.

COMMISSIONER SULLIVAN: I'll second that, Mr. Chairman, and one other point of discussion I wanted to bring up. I didn't see in your estimates, Robert, and I didn't see on the road either, any traffic control signing at all, any stop signs or anything. Is there a need for some traffic control signing?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, there will be some signage that will need to be addressed.

COMMISSIONER SULLIVAN: So should that be one of the things that needs to be done?

MR. MARTINEZ: We can include that if you'd like.

COMMISSIONER SULLIVAN: I don't know if we normally do that as a part of our—

COMMISSIONER GONZALES: Would we do that subsequent or would we do that prior?

MR. MARTINEZ: Mr. Chairman, Commissioner Gonzales, it's better to have the residents do it at their expense because it's an impact on our budget which we haven't projected that need.

COMMISSIONER SULLIVAN: I would think if there's some additional cost beyond the \$6,000 that they have, if that's the number, that maybe we could at least offer our assistance to go to these commercial establishments and say, Here's the cost estimate. Let's say \$8,000, and if we send James and Robert down there, nobody can turn them down, can say no to them when they go together. Is that feasible Robert and James?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, I think that this will all work itself out because if Allsup's feels or is informed that all they have to do is kick in \$1,000 or whatever to make the difference that's unfunded and not be hammered with calls from the residents about the potholes or the bad portion of road through their property and walk

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away from it and not have to deal with it any more, I think they'd be amenable to contributing.

CHAIRMAN DURAN: Maybe they're in violation of some Code ordinance.

COMMISSIONER SULLIVAN: I bet they are, and what about our recent smoking, our cigarette advertising ordinance? Has anyone done—where's Charlie Gonzales?

CHAIRMAN DURAN: I think we're walking on thin ice here.

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

Chairman.

**The motion to conditionally accept Morning Drive, etc. passed by unanimous [5-0] voice vote.**

- IX. E. Matters from the County Attorney
  - 1. Executive session
    - a. Discussion of pending or threatened litigation
      - i. *Joe Miller v. Santa Fe County*
    - b. Discussion of possible purchase, acquisition or disposal of real property or water rights

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

[The Commission met in executive session from 5:00 to 5:55.]

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

- IX. D. Utilities Department
  - 1. Consideration and approval of standard water service agreement

GARY ROYBAL (Utilities Director): Good evening, Mr. Chairman, Commissioners. I have handed out an amended standard water service agreement that's in legislative format. I did some clean-up on it and I also received some public input on this contract that I included for your consideration and review. The Utilities Department has received several requests to provide water service. These requests have included the

2227201

transfer of water rights to the utility to provide service to the applicants' property. In order to effectuate these types of transactions, the Utility Department developed this draft water service agreement as a standard form to provide to any applicants who wish to, or request water service from the County and who are going to be bringing water rights to the Utility Department to provide that service.

There's two ways that an applicant can get water service from the County. One is if we have available water rights and we can allocate water rights to that applicant. The other way is if the County does not have any water rights, the applicant may bring water rights to the County, transfer them to the County, transfer them to a point of diversion and in return, the County would then commit to provide them water service to their property.

Before you is this water service agreement that is, as I said, a standard form, and I'll go through it just section by section. Section 1 is just the recitals. Section 2 is the line extension process itself, that would be the physical facilities that would have to be put in place to provide water service to the applicant. That outlines the responsibilities and duties of the applicant and the County. Section 3 is the agreement to transfer the water rights. I also talked with Commissioner Sullivan on this and got some info from him and made some revisions to this section and as you see, they're in legislative format. Some of it was clean-up and some of it was clarification.

Section 4 is the County's commitment to provide water service. Section 5 addresses charges and fees that would be the subject of this water agreement and this basically says that the applicant would be responsible for all fees and charges that the County approves in regard to these transactions.

CHAIRMAN DURAN: Excuse me, Gary, on number 3, page 3. Why was "to a point of diversion designated by the County" removed?

MR. ROYBAL: That was, the transfer point is already determined. I believe item 1 requires that they do it to the point designated by the County. It was redundant in the other items. So I just removed that.

CHAIRMAN DURAN: Thank you.

MR. ROYBAL: I believe I was on item 6, Section 6 is the County's actions unaffected. That's a legal provision. Item 7 is the applicant's agreement to turn over all the rights-of-way to the County at no cost. Item 8 is a provision that requires that this agreement be approved by the County. At this time I would like to suggest and propose that a party or an applicant signing this standard agreement in its current form would only require approval from the County Manager and ratification by the Commission. In which case, if the Commission adopts that recommendation, which would be in the form of a resolution, we would eliminate this Section 8. If there's a significant deviation from this standard form, these agreements would then be brought to the Commission for approval.

Section 8, Termination, is the section that had some significant changes or major modifications to it. Paragraph A remained the same. Paragraph B was amended to reflect the County's ability to terminate this contract within two years of the applicant's final development plan approval. If the applicant has not initiated the line extension project within two years of the

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final development plan approval, the County may terminate this agreement.

Item C or Paragraph C in this allows the applicant to terminate the applicant within 30 days written notice if the County has not granted the applicant's application for final development plan approval. It also requires that if the applicant does terminate this agreement under this paragraph that they will pay all the cost incurred by the County in the execution and performance of this standard agreement. Paragraph C, the applicant may reacquire his water rights at no cost if in 30 days written notice to the County, if within two years the applicant does not get his approval, final development plan approval. There again, if the applicant chooses to terminate his agreement with the County, they would be responsible for all costs incurred by the County in the execution of this agreement.

Section 10, Assignment, is a legal provision addressing the assignment of this agreement. The same item, Section 10, Section 11, 12, 13, 14, 15, 16 and 17, they're all legal provisions within this agreement. I stand for questions.

CHAIRMAN DURAN: Gary, I have a question. How does this apply to existing water service agreements that are in place right now?

MR. ROYBAL: Mr. Chairman, it doesn't apply to those agreements at all. These are for any new water service requests that come to the County.

CHAIRMAN DURAN: So the water service agreements that we have right now are for how long?

MR. ROYBAL: The water service agreements we have in place now allocate the 500 acre-feet that we have under the wheeling agreement and those are, I believe—I haven't reviewed all of them but the ones I have seen don't have any term on them. So they're perpetual, I believe.

CHAIRMAN DURAN: Okay. Then I guess my other question is do we have a vision statement or do we have something in place that will give priority to certain projects? Do we have, would affordable housing projects have priority over say a commercial project or—I'm just wondering, because I know we had talked about it once before. We had created some kind of vision statement I thought on how we were going to allocate the water, or is it just first come/first served?

MR. ROYBAL: Mr. Chairman, there's a resolution that the Board passed on the allocation of available water rights that the County has, and in there the Commission or the Board has allocated or separated a certain percentage of the water rights for their use at their discretion. For instance, for public housing or any other projects the Board believes are in the public interest. And that is by resolution. So there is an allocation policy adopted so that any available water rights that the County owns can be allocated. This water service agreement are for those water rights that are brought by an applicant to the Commission for their use on their property.

CHAIRMAN DURAN: Okay. I follow you. Thank you very much. Any questions of Gary?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

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COMMISSIONER CAMPOS: Mr. Roybal, looking at page 4, Section 4, subsection C, the term "sufficient and adequate water source" is discussed. What exactly does that mean, "sufficient and adequate" in light of our commitment?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, right now there's two sources of supply that we operate under. One is the wheeling agreement that provides for 500 acre-feet of wheeling capacity. The other one is the Valle Vista well systems. At the present time we are fully allocated for the 500 acre-feet at the Buckman facility. We would be unable to wheel more than 500 acre-feet from those under that wheeling agreement. So what this means is that unless we can develop an addition source of supply to wheel or divert the additional water rights we would have insufficient capacity above the 500 acre-feet of delivery.

COMMISSIONER CAMPOS: What if you get development out there and eventually the water is short? There isn't enough water. Even if you have the paper rights, there isn't enough water for the folks out there, what do you do? Does this address that issue? Sufficient and adequate?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, the Utility rules address that, that there would be an allocation. Everybody would be curtailed or they would be curtailed on a pro rata basis.

COMMISSIONER CAMPOS: Okay. Now, would this provision require that the County go out and buy additional water rights to come up with an adequate and sufficient source?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, no. The County would have to go out and develop the additional water supply, for instance the diversion project, which would allow us capacity on that. The water rights would then be transferred to that point of diversion and then be produced and transported from that point.

COMMISSIONER CAMPOS: My idea is if you have a user and he or she claims that he's not getting his share and the County hasn't purchased any water in the last five or ten years, can a user make an argument that the County has a responsibility to go out there and actually buy additional water rights?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, we would not provide service unless we had the water rights available. If for instance, we are producing a certain amount of water, we run into a drought situation as we're in today, we would then institute our rules and regulations to curtail users and minimize the use so that everybody gets sufficient water for domestic uses.

COMMISSIONER CAMPOS: I would like to ask the same question to Mr. Kopelman. From a legal perspective, does this language put the County in a position where a user could demand that the County go out and buy additional water and bring additional real water into the system. That would be page 4, subsection 4, subparagraph C.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I don't think it does but I think it's probably a good idea, just to pick up on what you said to add a clause here that qualifies the fact that the obligation to deliver is only up to the amount of water



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rights that are being transferred. I think that's important. And I think that it should be added in there to clarify that point.

COMMISSIONER CAMPOS: When you say water rights, you're talking about paper rights. There are two separate issues, one that the County would not be obligated.

MR. KOPELMAN: We're also making it clear that our obligation is contingent upon being able to provide the actual wet water.

COMMISSIONER CAMPOS: I would like that clarified and tightened up a little bit. I'm just concerned you and I looked at it.

MR. KOPELMAN: I think that's a good point.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, if you look on page 4, Section 4, Commitment to provide water service, Paragraph A, and I'll read this. "The County shall deliver such water as the applicant requires suitable in quality for municipal, domestic, industrial use, and at pressures meeting applicable fire flow requirements, provided, however, that in no event shall the County be required under this agreement to deliver more than the amount of water rights approved for transfer by the Office of the State Engineer.

COMMISSIONER CAMPOS: Okay. Do you think that addresses the issue?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, I do.

MR. KOPELMAN: And again I think we can maybe even add a clause to C to make sure that there is no question.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: Any other questions?

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Mr. Chairman, I'd move for approval of the water service agreement as presented by the staff with the amendment brought forward by the County Attorney to address Commissioner Campos' point.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER GONZALES: Is that clear?

CHAIRMAN DURAN: It's not. Did you have something you wanted to say? Why don't you come on up and let's hear what you have to say? Please state your name for the record.

WALTER WAIT: My name is Walter Wait. I represent the San Marcos Neighborhood Association. A very quick clarification to the question that Commissioner Campos came up with. We would be, as I understand what you were saying, the applicant brings the water rights to the table, and we would be obligated to supply the water up to whatever that water right was. However, what wasn't being said was if we are committing to supply the water, it means that the public has to create the facility to supply that water. Now we all know how much an extra well might cost if we suddenly had to go out and provide, even if we had another hundred water rights, we would have to come up with the

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several millions, the tens of millions of dollars to drill the wells to supply this new requirement.

Where does that money come from, from the public to supply this water that we're suddenly having to commit to? It's not just the water rights.

CHAIRMAN DURAN: Mr. Wait, we're designing a diversion project that will accommodate more than the San Juan/Chama rights that we have.

MR. WAIT: This is the future, not the present.

CHAIRMAN DURAN: We don't have a point of diversion right now.

MR. WAIT: Correct.

CHAIRMAN DURAN: We are planning a point of diversion at the Buckman wells.

MR. WAIT: We can oversubscribe that before we even start if we start guaranteeing water to developers by them providing us with water rights.

CHAIRMAN DURAN: Thank you, Mr. Wait.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Can we have comment from staff on Mr. Wait's comments. I think they're interesting.

CHAIRMAN DURAN: Sure.

MR. ROYBAL: Mr. Chairman, in response to those comments, there is a provision under Charge and Fees that requires the developer to pay all fees and charges approved by this Commission. Part of those would include impact fees, connection fees, and also in the line extension policy, any costs that we incur to meet this service would also be passed on to the developer. So if we have to go out and invest this money, the Commission can approve an impact fee or some other type of fee that would allow the developer to pick up its pro rata share of those costs. The diversion project has a capacity of 1700 acre-feet that has been allocated that the County will be entitled to use.

COMMISSIONER CAMPOS: Would those impact fees pay for any capital improvements that you have to make to your system to deliver the water?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, our line extension policy would cover that. All the costs associated with getting that water over there would be put into a line extension.

COMMISSIONER CAMPOS: Not just the line, but everything that goes with the conveyance?

MR. ROYBAL: If additional storage is required, booster stations, whatever the circumstances require.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Isn't it the responsibility of the developer to bring paper water rights that are supported by wet water to the table? And then those will

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be transferred to the utility company to provide a sustainable source of wet water to those developments?

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, the applicant would go to the State Engineer and request that he transfer those water rights. So if you're using water at point A you're going to move it to point B. And the water, instead of being diverted at point A is diverted at point B. So the wet water would be there.

COMMISSIONER TRUJILLO: The wet water would be brought to the development by the developer.

MR. ROYBAL: The wet water, Mr. Chairman, Commissioner Trujillo, the wet water would be brought by the utility, by the County, from the point of diversion to the property.

COMMISSIONER TRUJILLO: But the developer or the property owner would transfer that water to the utility, those water rights to the utility, which are supported by wet water.

MR. ROYBAL: Mr. Chairman, Commissioner Trujillo, you're correct. The water rights would become the property of the County for the production of wet water.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: I was just going to ask if you could just very briefly describe the process at the point it gets to the State Engineer's Office before it's actually transferred. Is it just a formality where the State Engineer will look at a piece of paper and snap it and say it could be approved, or is there some more in depth requirement or analysis that the State Engineer would do prior to allowing the transfer to take place between the developer and the County?

MR. ROYBAL: Mr. Chairman, Commissioner Gonzales, if there are no protests, it's an administrative procedure that takes place. They're determine what the impact is, how much—you may start off transferring 100 acre-feet of water rights but by the time the State Engineer does his analysis to see what the losses are, you may end up with 60 or 70. You'll end up with something less. It's not always the case that you'll transfer 100 percent of the water rights that you're looking to transfer.

The other process is if it gets protested. Then the applicant has the opportunity to go and negotiate with the protesters and try and alleviate their concerns or address their concerns and if those aren't addressed to their satisfaction then there is a public hearing and the State Engineer does take evidence and make his decision. So it's not just an administrative process but there is a public process.

COMMISSIONER GONZALES: So most like the process would be, when you talk about transferring from point A to point B, point B being the diversion point, the City is allowing now for the County to use the Buckman well system as an accepted point of diversion. So ideally, what would happen is that there would be somebody who would bring forward a set of water rights to transfer into the Buckman system. If after the protest period and administration process, the State Engineer says yes, you can have x-amount of

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acre-feet of water, then at that point, only if the wheeling agreement allows for the transfer of additional water would the County be able to actually formalize an agreement with the developer. Is that right?

MR. ROYBAL: Mr. Chairman, Commissioner Gonzales, at that point is when we would be able to provide the service. The agreement would be formalized with this agreement here.

COMMISSIONER GONZALES: But if we've exceeded our capacity to actually wheel the water we could not provide the service, right?

MR. ROYBAL: Mr. Chairman, Commissioner Gonzales, that's correct.

COMMISSIONER GONZALES: So this water service agreement allows for that.

MR. ROYBAL: Mr. Chairman, Commissioner Gonzales, yes. I think that's what Commissioner Campos was getting at, so we would clarify that issue.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would just add I think we should clarify that because there's no sense in making the developer or anyone go through the process if we know that we've reached the limit of our wet water, or our water allocation, be it the 1700 acre-feet or whatever. So that I think a sentence in 3A that would say something to the effect that an application won't be accepted by the County if it does not have the ability to deliver the amount of water anticipated. Do you understand what I'm saying? A developer or an individual comes forward with 100 acre-feet of water rights. We can process that through. It could be successfully transferred to the Buckman well system, but we have no more wet water to deliver. We've used up our capacity to wheel the 1700 acre-feet.

We'll know that obviously ahead of time. So it seems at that point we shouldn't even entertain the application.

CHAIRMAN DURAN: Right.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I believe that's what that provision is on 4C. That gives notice to the applicant that if we don't have the capacity, they're not going to get the wet water. They enter this agreement at their own risk. If for some reason they go through the whole process and we don't have increased capacity through the wheeling agreement, the diversion project isn't in place, or we don't have any wells where we can transfer these water rights or use them they don't get service.

CHAIRMAN DURAN: Well, if we're limited to 1700 acre-feet of water rights, you're not going to accept applications for 3,000 acre-feet, are you?

MR. ROYBAL: Mr. Chairman, at this point I don't think I would.

CHAIRMAN DURAN: I don't think you would either.

COMMISSIONER SULLIVAN: Well, you might, Mr. Chairman, because some transfers might go through very quickly if there's no protest. Others might take years. So you might have in the pipeline at any one point in time, several applications for water rights transfers, some of which might take five years, others of which might take six

2227208

months, depending on where they are and how good a right they have and what the public's perception is. So we probably wouldn't want to cut them off just saying, Okay, first come/first served and when we get to 1700 we cut off, we probably won't accept more than that. However, somewhere, if legal feels this clause down here under 4C is adequate then that's fine, but somewhere we want to be able to say, and I think as up front as possible, that Hey, water rights are one thing but we may have a physical limitation on our system. We may even have the 1700 but we may not have all of the facilities yet in place to deliver that. It may be three or four years down the line.

Do you see what I'm saying? There's lots of options. So are you comfortable that C covers that?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I am, and I think—

COMMISSIONER SULLIVAN: And you are too, Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I don't think there's any problem in clarifying that. We can do that and make sure that there's absolutely no question whatsoever on that point.

CHAIRMAN DURAN: Mr. Kopelman, maybe what you could do is put a clause in there that if one of the transfers is protested that they run the risk of not being provided the water. That way you can plan a little bit better.

COMMISSIONER GONZALES: They're going to run the risk anyway, right? I'm assuming that all the costs of the transfer are going to be borne by the developer. Is that right? Will the County have any costs?

MR. ROYBAL: Mr. Chairman, Commissioner Gonzales, they would bear the cost of the transfer and last meeting I had put in a resolution requesting a \$500 application fee so that we could cover our costs of reviewing the application to transfer the water rights and cover some of our other incidental costs.

COMMISSIONER GONZALES: So that it would be totally responsible. One final question, Mr. Chairman, on this issue. If a developer comes in and does not have master plan approval or any development plan approval, and the County accepts this as a water contract, does that give them automatic right to any type of development approval just because they've signed into this agreement to transfer water to the County?

MR. ROYBAL: Mr. Chairman, Commissioner Gonzales, there's no guarantee.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question for Mr. Kopelman. The scenario, a developer brings in 100 acre-feet on paper to the water system, but it's a very junior right, and there's a call where senior holders take preference. So these rights are cut off completely, the junior rights that were given to the system, transferred to the system by the developer. How would that work? Is that a nonsensical question?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, I again would revert back to our Commission rules where we would have to go back and curtail some of

2227209

the usage to be able to accommodate everybody's needs, if such a shortage occurred.

COMMISSIONER CAMPOS: But if there's a junior holder, the junior holder is cut off because of the priority call, does that affect everybody else in your system?

MR. ROYBAL: Mr. Chairman, Commissioner Campos, under that scenario I believe it would. If there was a call on that we wouldn't be able to produce and deliver that water itself, that wet water.

COMMISSIONER CAMPOS: Would you say that again?

MR. ROYBAL: If there was a call on the junior water rights and we were unable to produce them or deliver it, there would be an impact.

COMMISSIONER CAMPOS: And how would you—what would you do with the impact? Would you distribute that loss or that risk to all people on that system?

MR. ROYBAL: Mr. Chairman, Commissioner, I would envision that that would be the way we would do it because we treat everybody on the system the same.

COMMISSIONER CAMPOS: So there's a risk then, when you're accepting paper water, if you accept really junior paper water rights that you may have a problem on a call that would affect the whole system.

MR. ROYBAL: Mr. Chairman, Commissioner Campos, that's true, but I think you bring up a good point and something we would have to evaluate when we enter into a service agreement. Simply because we give them a form doesn't mean that we would follow through on the service agreement. There would have to be some level of certainty that these water rights are producible 100 percent of the time or very close to that.

COMMISSIONER CAMPOS: But it's impossible to say, don't you think? The Office of the State Engineer will say, okay, it's likely that you can draw the water but who knows what the water situation is going to be.

CHAIRMAN DURAN: You know what? I don't think we're going to be able to come up with every scenario here. I think we're going to have to trust that this agreement will get us started and if situations crop up that aren't addressed in the agreement or create some problems, or could create problems for us, that you bring it forward for us to consider.

MR. ROYBAL: Mr. Chairman, we would do that, yes.

COMMISSIONER TRUJILLO: Call for the question.

COMMISSIONER CAMPOS: Mr. Chairman, were there any amendments to this?

COMMISSIONER GONZALES: Yes. I had directed the staff to include the provision—

COMMISSIONER CAMPOS: Page 4, Section 4, subsection C?

COMMISSIONER GONZALES: Right. That Mr. Kopelman was going to add some language.

COMMISSIONER CAMPOS: Okay.

MR. KOPELMAN: Mr. Chairman, just a quick question. Gary had brought

2227210

up the issue that the contract in substantially this form, would the County Manager then have the authority to sign it, or would every single one of these have to come to the Commission?

COMMISSIONER GONZALES: I don't want to micromanage it.

COMMISSIONER CAMPOS: Do we need to have a motion with the amendment?

CHAIRMAN DURAN: The motion includes the amendment, is that correct?

COMMISSIONER GONZALES: It would include that provision. I'm in favor of the Manager having the—

CHAIRMAN DURAN: No, no, no. I mean the first amendment.

COMMISSIONER GONZALES: It would have the amendment, yes.

CHAIRMAN DURAN: So I guess the discussion now is does it include the ability for the Manager to sign?

COMMISSIONER CAMPOS: So moved.

COMMISSIONER GONZALES: Second.

COMMISSIONER SULLIVAN: Let me ask, is there some limit on that? I mean, I think when we get to a certain point we need to have some oversight in the water rights transfer process.

CHAIRMAN DURAN: I agree. What's the thinking behind having the Manager do it and not bring it? Long meetings?

COMMISSIONER GONZALES: If this is an agreement set of policy, why would the Commission micromanage this whole process when the Manager could do so unless it substantially deviated from this agreement? Then it should be brought forward to the Commission, no doubt. But if it's to this form and we've approved it—

MR. LOPEZ: Mr. Chairman, to respond a little bit to that whole issue, perhaps something, if the Commission would want to delegate this administrative duty to the Manager's office, one way to retain some oversight is perhaps periodically, once a year or something like that the Manager could come forth and summarize applications to date that have been entered into and so forth so that the Commission could understand where we're at relative to our capacity and things of that nature. Or more frequently if that would be the desire. Then, if the Commission felt like there was a need to temper the authorization they could so act.

CHAIRMAN DURAN: Here's a problem I had with it. I think that if we really made a commitment to manage this resource to our constituents and work hard on growth management issues and policies, that to turn that task over to the County Manager, I don't think we're living up to the commitment that we made. I think that these things should be brought up for us to consider. I trust you explicitly, but—

COMMISSIONER TRUJILLO: I think that the commitment that we made to our constituency is inherent in the agreement that we have. As Commissioner Gonzales says, I don't think we need—the County Manager needs to be accountable. He needs to follow the policies of the Commission. And with this agreement I think that that can

2227211

happen and we can be responsible to the commitment that we've made to the constituency.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: I'd like to withdraw the second. I think we need to think about this a little bit.

CHAIRMAN DURAN: Okay. I have to ask a question though. Estevan, so you envision signing this contract, this water service agreement, but would you bring the project that is requesting to be considered before us before you would sign this agreement? Are you're saying that if John Doe comes up with a project that needs water that you would sign a water service agreement and then he'd come before us with the project saying, The County Manager said he'd give me water.

MR. KOPELMAN: Mr. Chairman, the way the agreement is drafted is the process begins with execution of the agreement so that the water right transfer would occur, but the applicant has to go through a land use process.

CHAIRMAN DURAN: Prior to—

MR. KOPELMAN: No, before getting any water delivered. And if they don't get development approval the water never gets delivered and the contract will eventually go away. So this start the process so that the applicant would begin the transfer process, but then the contract is very clear and explicit that there's no guarantees of any approval down the road. They still have to go through the land use process, get all the approvals, go through master plan, preliminary and final. And everyone of those stages would come before the Commission. So you would see the big project and this would be one part of it.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I think Mr. Kopelman is saying that the Commission would approve—if the Commission approves a project, there's usually a water budget associated with it, therefore we will have input and this is merely an administrative act, once it's gone through the land use process.

COMMISSIONER GONZALES: Plus, as I pointed to the Commissioner, the Chairman of the Commission has to sign every one of these water service agreements. So if the Chairman determines that there's a problem with it they can also bring it to the Commission if they don't feel that it's following along with what the Commission supported.

COMMISSIONER CAMPOS: Does the Chairman have to sign?

MR. LOPEZ: Mr. Chairman, I believe that's basically the question, whether the Chairman would sign it after an action by the Commission on a particular project, or whether you would delegate that authority to—

COMMISSIONER GONZALES: Why couldn't the Chairman sign with you without having it—so there's some Commission oversight over the administrative side if the Commission wants to. Because what you presented to us, the Chairman is actually signing this contract.



2227212

MR. KOPELMAN: Mr. Chairman, maybe what we can do is you can vote on this contract and we can deal with this issue in a separate resolution in another meeting. And really work on the details on how you want to do it. I don't think it needs to be determined now if you want a little more time.

COMMISSIONER SULLIVAN: Mr. Chairman, one comment. I think almost in every case, and we've only had I think one or two recent line extension ones, is that the landowner or developer's attorney wants substantive changes to the agreement. So we almost always end up with some substantive changes which I would assume then the County Manager would bring back to the BCC. You almost never get one of these signed like it is but it's the starting point from which to work out each arrangement. But I think it's a good idea that we need to think a little more about this, bring it back and set up the procedure.

CHAIRMAN DURAN: Okay, so the motion is just to accept the, approve the water service agreement with the amendment to Paragraph 4?

COMMISSIONER CAMPOS: Subsection 4, Paragraph C.

CHAIRMAN DURAN: And the County Manager's signature issue will be brought forward later. Any further discussion?

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

**IX. F. Matters from the County Manager**

**1. Request authorization to enter into an agreement with Taos County to house Taos inmates at the Santa Fe County Detention Center**

GREG PARRISH (Corrections Coordinator): Mr. Chairman, Commissioners, before you you have a request for authorization to enter into an agreement with Taos County to house Taos inmates at the Santa Fe County Detention Center. The Taos County Board of Commissioners has approved this agreement as of July 11, 2002. The agreement provides for compensation in the amount of \$49 per day with no less than ten inmates per day. It's a one-year contract but we've also included a five percent increase should this continue. The contract would continue. This would replace the contract that's been in place since October 1998. I'll stand for any questions.

COMMISSIONER GONZALES: Move for approval.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: Any questions of staff?

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

2227213

CHAIRMAN DURAN: Are we going to deal with the resignation tonight or are we going to move into—

COMMISSIONER GONZALES: We can do it on the 15<sup>th</sup> if you want.

CHAIRMAN DURAN: So right after Matters of Public Concern we'll move into the Lamy COLTPAC issue.

**IX. G. Matters of Public Concern – NON-ACTION ITEMS**

CHAIRMAN DURAN: So is there anyone out in the audience that would like to address the Commission concerning any issue?

MR. LOPEZ: Mr. Chairman, just a matter of clean-up. If we're going to hold off on the resignation to the 15<sup>th</sup>, it would probably be a good idea to do a motion to table it to a date certain.

COMMISSIONER CAMPOS: What's the purpose of delaying, Mr. Chairman? It's going to take us five minutes.

COMMISSIONER GONZALES: Two minutes. One minute. Thirty seconds.

**IX. H. Matters from the Commission**

**1. Resignation of Commissioner Javier M. Gonzales, District 3 and Declaration of Vacancy**

COMMISSIONER CAMPOS: Move to accept the resignation of Commissioner Gonzales.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: Any further discussion? I honestly think we should not approve it.

COMMISSIONER TRUJILLO: I do too. I would be willing to wait until the 15<sup>th</sup>. It gives us a little bit of time to talk to the governor and see who he's going to appoint.

COMMISSIONER GONZALES: Am I allowed to vote in this?

CHAIRMAN DURAN: Isn't it an obvious conflict of interest?

MR. KOPELMAN: Mr. Chairman, I think it would probably be better of Commissioner Gonzales doesn't vote on this issue.

COMMISSIONER GONZALES: All right.

COMMISSIONER SULLIVAN: Excuse me. Let me understand why would that be? Why would he not be able to vote?

MR. KOPELMAN: Well, Mr. Chairman, it's just the other members, Commissioner Sullivan, the other members accepting the resignation and then forwarding it formally to the governor. It really should just be a ministerial function.

COMMISSIONER GONZALES: I think the sooner the resignation is accepted,

2227214

Mr. Chairman, the sooner the governor can accept the replacement. To delay it would delay his participation in this. I'd be happy to go with you to see him. I think that my Mike Anaya is the duly elected representative. I think the right thing for the governor to do would be to appoint him. I think he will and he can get on board and we can give him a transition very early on.

COMMISSIONER TRUJILLO: Okay.

COMMISSIONER GONZALES: Not the way I envisioned leaving Santa Fe County but it certainly has been a—

COMMISSIONER TRUJILLO: We can act on it.

CHAIRMAN DURAN: Okay, there's a motion. Any further discussion?

COMMISSIONER SULLIVAN: I think, Mr. Chairman, we'd be remiss not to offer some thanks on behalf of the Commission for Commissioner Gonzales' service to the County at a minimum. And to the National Association of Counties, to the Regional Planning Authority, to the Extraterritorial Zoning Authority and to the Health Planning Commission, and I'm leaving out a few but all of those are entities that he had considerable—

COMMISSIONER TRUJILLO: Community planning,

COMMISSIONER SULLIVAN: COLTPAC.

COMMISSIONER TRUJILLO: The Highway Corridor, COLTPAC. It goes on and on.

CHAIRMAN DURAN: General plan.

COMMISSIONER GONZALES: No need, no need.

COMMISSIONER SULLIVAN: So I wanted to just add that for the record and I'm sure the rest of the Commission concurs.

COMMISSIONER GONZALES: Thank you, Commissioner Sullivan, members of the Commission. It's been an enormous privilege to be up here with all of you. As I indicated to you when I called you to let you know about the resignation, I respect and admire all of your willingness to serve this community. This county, I've had the privilege over the last year to visit hundreds of counties and thousands of country officials and I think by far our county is way ahead of many. And that's thanks to your leadership and I certainly appreciate that. I'm excited to spend, as I indicated in my resignation, more time with my family who has suffered immensely, not only over the last six years but over the last year with my travels serving as president of NACo. But I also am excited to announce to all of you that I've made a decision on a career and for the public so they'll know I'm be joining a company by the name of Exenture. They're a management consultant company. A global company, 74,000 employees worldwide and I'll be focused on their efforts on local governments in which I hope to help them in some type of national capacity. I'll be joining them as an associate partner and I'm looking forward to that as well.

So with that I say thank you very much for your friendship and your commitment to serve our community. It's been an honor and this has been a blessing provided not only by God but by the people in this community. So thanks. Thank you

CHAIRMAN DURAN: You'll be missed. We're going to run you through the wringer until the first of the month.

COMMISSIONER GONZALES: I have a feeling you will. I have one other issue under Matters from the Commission, if I can have the first—

COMMISSIONER SULLIVAN: We haven't voted yet.

**The motion to accept Commissioner Gonzales' resignation passed by unanimous [4-0] voice vote. [Commissioner Gonzales abstained.]**

COMMISSIONER GONZALES: Thank you very much. One other issue under Matters from the Commission, this will take less than five minutes. Commissioner Trujillo, if you could just pass this on down. Mr. Chairman, it's been as I've indicated a privilege to serve up here but I wanted to take this opportunity to ask the Commission to consider a resolution that will be brought forward at the next meeting. It's a resolution recognizing the outstanding service of my fellow Commissioner from the north, Marcos P. Trujillo. He doesn't know about any of this, by the way. He's reading it for the first time.

COMMISSIONER SULLIVAN: Who?

COMMISSIONER GONZALES: By designating and dedicating the El Rancho Community Center in honor of and to be known as the Marcos P. Trujillo Community Center. I'll read this briefly into the record:

Whereas, El Rancho Community Center was dedicated in 1975 and is a place where the community gathers. The present facility was originally built as a school house where Marcos and members of the El Rancho and surrounding communities received their formal education; and

Whereas, Marcos is a native of El Rancho, was born and raised there with generations of family ties that date back to the Spanish colonial days; and

Whereas, Marcos was elected to serve from District 1 in 1994 and re-elected in 1998 and he'll be serving through December of 2002; and

Whereas, Marcos has worked unselfishly and tirelessly to provide and promote the safety, health and well being and overall improved quality of life in northern and all Santa Fe County residents; and

Whereas Marcos' vision and perseverance has brought forth programs and services for our youth, our seniors and families that foster a future towards a caring community; and

Whereas, Marcos has provided the skilled knowledge, responsible decision making, admirable advocacy and exemplary diplomacy in his ten years as Commissioner; and

Whereas, Marcos' commitment and compassion to his constituents is respected and has created unquestionable benefits to the surrounding communities that he represents; and

Whereas, Marcos P. Trujillo is admired as a man, a father, a husband and an elected official by his fellow Commissioners, the management, administrative staff, and residents of Santa Fe County; and

Whereas Marcos Trujillo has served adversity with discipline, strength and courage; and  
Whereas Marcos Trujillo has demonstrated exemplary leadership and accomplished an admirable, meritorious and outstanding commitment and dedication to Santa Fe County;

2227216

Now therefore be it resolved that the Santa Fe County Board of County Commissioners hereby designates and dedicates the El Rancho Community Center, the Marcos P. Trujillo Community Center.

And I hoped that the Commissioners would sign on to this. This is the first time he's seen it so he's probably a little shocked, but it's well deserved.

COMMISSIONER TRUJILLO: I'm completely humbled. Speechless.

CHAIRMAN DURAN: Well, I think we need to give staff direction to move forward with this resolution.

COMMISSIONER GONZALES: I've asked the staff to bring this forward at the next meeting so it can be formally approved and we can begin the process of renaming the building.

CHAIRMAN DURAN: Great. Good work, Commissioner.

**X. Public Hearings**

**A. Project and Facilities Management**

**1. Request direction regarding the purchase of a 91-acre open space tract known as the Lamy/Miller Tract**

CHAIRMAN DURAN: Please state your name for the record, sir.

PATRICK KRAICH (Open Space and Trails Project Manager): Good evening, Commissioners, Mr. Chairman. My name is Patrick Kraich. I am the County Open Space and Trails Project Manager. It's probably the first time I've met most of the members of the Commission, so it's a pleasure. I'm here to give the brief background of the process of how the County got to where we are considering this property. This property, the Lamy property is 91 acres and at the junction of 285 and County Road 33. It was first brought before COLTPAC at their May 6, 2000 meeting.

At this meeting through COLTPAC's ranking process the property scored roughly 65 percent in their ranking process in an open competition with other projects, among those, the Thornton Ranch and the Madrid Wilderness were ones that I remember coming to mind. At the time, COLTPAC had concerns about the property, specifically with long-term archeological management, archeological resource management on the property and community support, but as you'll see tonight, in the meantime, both of those issues have been adequately addressed and I'm sure the members of the public and the Archeological Conservancy who are here can attest to that.

So COLTPAC did not recommend going through with purchasing the property at the time, which brings us to their June 6, 2002 meeting where it was brought to COLTPAC again and at this meeting there was a huge showing of community support from folks from Lamy as well as the Archeological Conservancy was there, and COLTPAC went ahead and recommended purchasing the property for \$750,000. It was originally appraised at \$850,000 but I believe Joe Miller, through his lawyer, took \$100,000 off that original appraisal, so that it

2227217

brought it back down to \$750,000 and that's where we are today. We're looking for your consideration on which way we go with this project.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: So, I'm assuming that this went through the process of meeting the criteria of COLTPAC, educational, prevention of development and recreational. Will there be all those components to this property?

MR. KRAICH: Mr. Chairman, Commissioner Gonzales, yes.

COMMISSIONER GONZALES: So property will be made available to the community out in Eldorado and Santa Fe County residents?

MR. KRAICH: Yes, that's correct.

COMMISSIONER GONZALES: Okay.

CHAIRMAN DURAN: Can you tell me how many parcels of land and acreage we've purchased out in that area? I know that we bought two sections just within four or five miles of this. And how much did we spend on that?

MR. KRAICH: Mr. Chairman, I believe there's the Thornton Ranch property I think is relatively close.

CHAIRMAN DURAN: Right. That's what I'm speaking of.

MR. KRAICH: And I actually don't know the price off-hand of that one.

CHAIRMAN DURAN: Did we not buy the property in Galisteo too?

COMMISSIONER GONZALES: We bought the Thornburg Ranch property out in Galisteo.

MR. KRAICH: Yes. This also connects—

CHAIRMAN DURAN: What I'm leading up to is that we have bought a lot of property out in that area and very little out in the northwest quadrant or even the northern part of the county. And it seems like considerable funds are being spent to acquire open space down in the southern part of the county and the only people that are going to use it—well, I wouldn't say the only people, but most of the people that would use it would be residents of that area. For me, I'm trying to find a little bit more balance with the funds that we have available, especially since we only have \$2 million of it left, so that there's just a better balance of open space. Was that addressed at all in COLTPAC's, in the process that COLTPAC went through?

MR. KRAICH: Yes, Mr. Chairman, Commissioners. One of the main things of this property is its incredible archeological significance in the Galisteo Basin area and the folks from the Archeological Conservancy can speak more to that. But that's one of COLTPAC's objectives too is to observe these areas that have significant cultural resources. There's also the potential connection of a long-term trail connections going through that area and also the connection to the Santa Fe Rail Trail that comes into Lamy, so there can be a potential open space connection there as well. But one of the main things was the historical and cultural values are very significant. I visited the site and took a tour with archeologists and it was quite impressive, the resources there. So I think that was one of the main reasons for acquiring it, but also there is passive recreation potential for not only residents of the community, but also other

2227218

folks throughout Santa Fe County, just like any other open space property, we like to think of them as open to all residents of the county.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Talking from the northern part of the country, District 1, I think that the committee has been very sensitive in identifying and acquiring the available pieces of land that meet the criteria in that area. We purchased land in Chimayo, in Chupadero, in El Rancho and hopefully looking at purchasing a piece of land in the national forest, Rancho Viejo, but we're limited in available land in that area that meets the criteria. We're surrounded by a lot of BLM land, a lot of Native American land and so the northern part of the county does not have that much available that that meet the criteria. I want to extend to the committee my gratitude for coming forth and acquiring the pieces of land that have been acquired in northern Santa Fe County.

And I'm looking at this from a holistic standpoint, from Santa Fe County-wide and we need to identify those properties countrywide that meet the criteria and that can serve the public across the board.

COMMISSIONER GONZALES: Mr. Chairman, I have a question for Commissioner Sullivan. Commissioner Sullivan, last, I think when we talked about this a couple of weeks ago you had talked about some issues, I think you were working with COLTPAC on, I'm not sure, in the Arroyo Hondo area for some gateway funds and I noticed here that they're using \$200,000 of the gateway funds from District 5. Are you concurring with that or are you going to be looking for additional money when you come forward with the proposal that you're working on. I didn't know if this would conflict with that.

COMMISSIONER SULLIVAN: Mr. Chairman, Commissioner Gonzales, I wasn't aware that gateway funds were being proposed for this until Shellie brought it to my attention after the COLTPAC meeting had been concluded. And yes, I had some other potentials that I felt could be better, would better meet the gateway requirements in District 5. And I notice that staff's recommendation in their memorandum is that this parcel doesn't meet the gateway requirements. Now, that doesn't mean that's not a good parcel to acquire.

COMMISSIONER GONZALES: Couldn't we use \$200,000 from the regular fund and keep that \$200,000 available for Commissioner Sullivan's project that he's working on?

COMMISSIONER SULLIVAN: I think we have the quarter percent gross receipts tax. Those monies don't come available to us until next year of course.

COMMISSIONER GONZALES: But we still have some unobligated funds though out of our GO bonds, is what I'm asking. If we could go to the funds that have not been procured yet to satisfy the \$200,000 from the unprocured funds and then keep the \$200,000 in Commissioner Sullivan's gateway funds.

MR. KRAICH: And that's what was recommended in this memo, actually coming out of the general bond fund, \$242,000, instead of the gateway.

COMMISSIONER SULLIVAN: How much does that leave in the unobligated

GO bond funds?

2227219

MR. KRAICH: I think there's about \$2 million.

COMMISSIONER SULLIVAN: After this? Now, does that include the trails component? Didn't we identify \$2 million for trails? So that would leave none left for land acquisition. Which brings me to the Parker property.

CHAIRMAN DURAN: Well, there's \$2 million left, and if we each have \$200,000 for gateway, that's a million bucks and then if this Parker property—

COMMISSIONER SULLIVAN: That's why I'm asking. I think the \$2 million left includes the trail allocation. There's an allocation that's been made for trails in that.

CHAIRMAN DURAN: You're right.

COMMISSIONER SULLIVAN: And I thought that was either \$1 million or \$2 million. Someone from COLTPAC should know. How much is that?

MR. KRAICH: Mr. Chairman, Commissioners, the \$2 million is unobligated.

COMMISSIONER SULLIVAN: What does that mean? I know it's unobligated but so is the trails.

STEVE ALARID (Operations Division): Mr. Chairman, Commissioner Sullivan, the \$2 million has not been allocated. The trail acquisition money that you're speaking of has already been taken out of that. That's basically like a cash balance. We have not obligated that money.

COMMISSIONER SULLIVAN: And how much was the trails?

MR. ALARID: The trails were \$200,000, I think, apiece.

COMMISSIONER SULLIVAN: No, no. That's the gateway.

MR. ALARID: Oh, the gateway money.

COMMISSIONER SULLIVAN: How much was recommended to be allocated by COLTPAC for trail acquisitions and trail ties? I thought it was \$2 million.

CHAIRMAN DURAN: Is Corky here?

MR. ALARID: It was \$2 million. You're right.

COMMISSIONER SULLIVAN: Okay. It was for trails and easements.

MR. ALARID: Yes, sir.

COMMISSIONER SULLIVAN: So my question is, is that separate from the \$2 million that you're saying here that's for raw land acquisition.

MR. ALARID: Yes sir. That's separate.

COMMISSIONER SULLIVAN: So we have \$4 million left.

MR. ALARID: You have \$4 million left.

COMMISSIONER SULLIVAN: Out of the \$20 million in the two GO bonds.

MR. ALARID: That's correct. The \$2 million has already been allocated for the trail easements, and this is unallocated, the \$2 million.

COMMISSIONER SULLIVAN: But includes the gateway funds.

MR. ALARID: That includes it.

COMMISSIONER SULLIVAN: So if we subtract a million dollars in gateway funds, we have a million left?



2227220

MR. ALARID: No. It also takes out the gateway funds.

COMMISSIONER SULLIVAN: Oh, it does take out the gateway funds? Okay. So it's \$2 million exclusive of the trails and easements, exclusive of the gateway funds, and the estimate on the Parker property from Mr. Ball the other day which was subject to an appraisal being done was I thought somewhere in the \$1.3, \$1.5 million, wasn't it?

CHAIRMAN DURAN: It was under a million.

COMMISSIONER SULLIVAN: It was under a million?

CHAIRMAN DURAN: It was under a million, I think he said.

COMMISSIONER SULLIVAN: Okay, I guess I remember—

COMMISSIONER TRUJILLO: Do we have to do the Parker property this year? Can we do that during the next cycle of open space monies?

COMMISSIONER SULLIVAN: We can. Mr. Ball was making a case that he'd been working on it for a number of years and had finally gotten the owner to agree under this window and was very interested in it being, in pursuing it before he changed his mind. So I can't answer that. Yes, it can be done next year. It's only a question of what should be done first. I imagine this could be done next year too. It's obviously been there a long time.

So to clarify, there's \$2 million left. If we spent \$700,000—we wouldn't spend \$750,000 on this though. Is that correct? We'd spend \$550,000 from the current GO bonds.

MR. KRAICH: We would spend the \$750,000, \$742,000. Currently you have \$500,000 allocated to this project and what we're asking for is an additional \$242,000 from the unobligated funds to go towards that, to take it up to \$742,000.

COMMISSIONER TRUJILLO: And that would leave a balance of—

MR. KRAICH: Close to \$2 million.

COMMISSIONER TRUJILLO: \$1.7 million in the unobligated monies.

MR. KRAICH: Yes, sir.

COMMISSIONER TRUJILLO: For other acquisitions.

COMMISSIONER SULLIVAN: And how does this property fit into the initiative that was brought forward by Senator Bingaman here last week or two in terms of the preservation of archeological resources? I always like to hit Jeff up for money when we can.

MR. KRAICH: Mr. Chairman, Commissioners, like I said before, it does have very significant archeological resources, but I'm not familiar with Bingaman's plan that you mentioned before.

COMMISSIONER SULLIVAN: It was on the front page of the paper. Maybe someone else knows. Maybe one of the public when they come up can—

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, we did meet with Senator Bingaman's staff, Estevan and I, and that's going to be a long-term process. There's not going to be money allocated for acquisition for quite a few years in all likelihood. They're just identifying sites now and they have some money allocated probably just to do initial, preliminary studies. There are a few properties on that list also.

COMMISSIONER TRUJILLO: And COLTPAC is recommending approval on this acquisition.

2227221

MR. KRAICH: Mr. Chairman, yes.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I have gotten a couple of calls, Commissioner Trujillo, from COLTPAC members who are expressing some doubt about this property as to whether it does meet open space criteria. And my recommendation would be, since we're going through a major transition through COLTPAC and through staffing of COLTPAC that perhaps we have some of the members and the head of COLTPAC when we do have someone to head up COLTPAC to make a presentation to see if this does indeed meet the criteria for open space. I'm concerned that we're buying properties all over the board without any real, overall good plan as to what is valuable open space to us. And there has been some serious criticism of the process.

So I would like to have a little more time to talk to the COLTPAC members. I know a couple are probably reconsidering and feel that there was some pressure there to go forward on this one. So I would like to take some time.

COMMISSIONER TRUJILLO: I think this is the committee that established the criteria, and if there's anybody that knows if this project complies with those criteria it is this body. If we want to hold the COLTPAC committee hostage or under siege because we haven't implemented a management plan, I don't think we can do it. I don't think that's appropriate. I think we need to continue to acquire these lands simultaneously work on a management plan so that these lands can be utilized by the public. But we need to continue ahead in purchasing these lands as recommended by COLTPAC. That's a commitment that we made to the community and we need to continue to do that.

COMMISSIONER CAMPOS: I'm not arguing with everything you're saying. I think we do not need to buy key properties. I think the Parker property probably has a higher priority. What I'm saying, Commissioner, and we do need to manage. Maybe we can't do both, because we don't have the resources to both continue to buy and not have a maintenance, and not keep, as Commissioner Gonzales has argued very strenuously that we do need this management plan.

COMMISSIONER TRUJILLO: And I agree with him.

COMMISSIONER CAMPOS: But there's some COLTPAC members that are probably very concerned about this property. They just don't feel it meets the criteria. And I would like to have an opportunity to meet with COLTPAC members on this issue just so I understand it and I feel more comfortable with this request.

CHAIRMAN DURAN: Do you want to make a motion to table this?

COMMISSIONER GONZALES: This is a public hearing, Mr. Chairman. This is the second time that people from the area have shown up to a Commission meeting to have their expresses heard. I think that at a minimum before we move to table that we need to follow through with the commitment to at least let them have their say.

COMMISSIONER CAMPOS: I agree. Let them talk.

CORKY OJINAGA (Project and Facilities Management Director): Mr.

2227222

Chairman, Commissioners, we do have a COLTPAC member here, present, that would like to say a few words and we do have residents of the Lamy area here as well.

CHAIRMAN DURAN: How many of you out there are going to be speaking to this issue? Okay. I'm going to limit all of you to three minutes. First speaker, please.

MARY LOUISE WILLIAMS: Mr. Chairman and Commissioners, my name is Mary Louise Williams and I've been on COLTPAC since its beginning. And I'm very well acquainted with this particular property because we've been thinking about this for two years and I want to very briefly go through some of the highlights of this. Commissioner Campos, this comes as a shock to me to know that there are two members who have had serious doubts about it because at our vote taken in June, it was nine—all the people there voted for it with one abstention by a member who decided he couldn't vote at that time. But if you will bear with me, I'd like to just very quickly give you a background history of COLTPAC activity on the Lamy property if I may.

In May 2000, this property was brought before us, and we had at that time some reservations. We went out for a site visit in May and when we voted on it, we came up with a 65.5 percent vote on it because there were several concerns by many of the members. And the concerns were as follows: First of all, we knew that there was a lawsuit against the County by Mr. Miller; the second thing were the house trailers on the property, which concerned us; the third thing was we felt at that time there was very little demonstrated public support from the community; and most importantly we felt that there were no matching funds and therefore it would be very difficult to go forward.

But at that time, nonetheless, to keep this project alive, because several of us felt it was worthwhile because of the archeological sites, we voted \$500,000 and insisted that the community come up with some kind of support. Two years passed and we were asked again to review this property last May. At that time the community had indeed answered all of our concerns. First of all, we were assured by the Archeology Conservancy that this property was of such value and such need to be purchased that we should consider it and they were willing to come up with matching funds that the community itself could come up with. And we're not talking about Arroyo Hondo; we're talking about Lamy and when these people were able to raise \$4,000 with matching funds from the Archeology Conservancy, that impressed us because we have felt from the very beginning that we needed to do exactly what the Commission asked us to do and that's leverage funds. And this community in all good faith did everything we could to leverage those funds.

The second thing they did was with the Archeology Conservancy they came before us saying that they would help with the management plan. Another concern that Commissioner Gonzales has expressed to us. You cannot look at properties that don't come forward with some good management plans. And the Conservancy agreed to do that, which impressed us again. They agreed to work with community and even a member from San Marcos who said that he keeps his eye on the San Marcos site agreed that he would even look in on it. That also impressed us. They showed us the 431 signatures. They responded to every problem we had with it, and at that point then, we moved to allocate another \$200,000 and our apology to you, Commissioner

2227223

Sullivan, because we just decided that perhaps that could be used with gateway funds and we did not consult you and we owe you an apology on that.

But since that time we voted at that time to come up with an additional \$42,000, which means that we'll have to come up with another \$200,000 if you approve it. We have \$8,000 from the community, which has been raised through a lot of hardship on their part, and then we also voted with this vote of 9 with one abstention, that Joe Miller would have to come up with the five percent maintenance fund. So he would have to come up with an additional \$37,000. And Commissioners, I really urge you, because I don't understand who those members are but the members who have followed this through for the two years that it's been on board, strongly support the Lamy property, and I hope you will take into consideration these comments. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

EDSON WAY: Mr. Chairman, Commissioners, thank you for the opportunity to speak here at this public meeting. My name is Edson Way. I'm Cultural Affairs Officer for the state of New Mexico and I'm a Lamy resident living in an 1892 Victorian right across the street from the railroad station. The property that you're considering is extremely important to Santa Fe County. Development is moving south all the time. The open range land to the west of the Highway 285 is for sale at the present time and being broken up into smaller and smaller parcels. This piece of land adjoins an existing County park that could be managed together as a single unit, and the archeological resources on this property, on what we would like to have as public land are extremely important and should be developed for educational and recreational purposes for the people of this county. I would urge your approval of this purchase. Thank you very much.

CHAIRMAN DURAN: Next speaker please.

JIM WALKER: My name is Jim Walker. I'm southwest regional director for the Archeological Conservancy in Albuquerque. It's a pleasure to be here to address this group. The Archeological Conservancy is a national non-profit organization. What we do is we advocate the preservation and protection of archeological resources that are located on private land. We have about 250 archeological preserves across the country and I have about 18 preserves in New Mexico. Three of those are in Santa Fe County.

What I would like to talk about is the significance of this particular site. The Lamy Junction site is a very important archeological site in the Galisteo basin, one of the earliest sites to be found in the area. The site is threatened. I think if action isn't taken on this site soon it will become part of a development project. It certainly is significant. It's in fairly good shape. It has a great deal of research and public interpretation potential, and I think that it can be subjected to a number of multiple uses above and beyond solely an archeological preserve. We have many of our preserves that do have multiple uses.

I think that preserving this site would certainly be an asset to the community. Right now the site is available for purchase below market value. The site has a number of needs and the Conservancy is prepared to help the County at no cost to meet those needs, and certainly that would include assistance in development of a management plan, putting in place a security

2227224

system to make sure that the site isn't molested, recruiting and training docents and tour guides from the community to make sure that this preserve is open to the community and can be used and we're ready, willing and able to do all of those things.

I think one question that is probably on a lot of your minds is can an archeological be used for a number of different purposes or is this simply a preserve that is set aside for just archeologists to do research on? And I think I can point to our San Marcos Pueblo preserve, which is in Santa Fe County. This is a very significant site that we acquired, beginning in 1982. It's about 60 acres. We offer regular public tours of the San Marcos preserve. There are also a number of special private tours that are available upon request. The San Marcos preserve is available for research as well and we've had many researchers work on the preserve.

I think another element is that both San Marcos and the Lamy Junction site have the potential for future public interpretation, which is made possible by making them a preserve today. And I think that the San Marcos preserve, and I think that many people from San Marcos would say this, has helped bind the community together. It gives them a sense of place. They realize that they weren't the first people to be on the land. And they realize that 900 years ago there were a number of people here today, just like us, who were grappling with some of the same issues. Issues like lack of water and what to do when it doesn't rain. And it seems to me that it's very important to protect and preserve our past because it's really the past that binds us together as a community, and the past makes us a great deal stronger.

The Archeological Conservancy has pledged up to \$5,000 in matching funds. I understand the community is well over \$4,000 in their matching pledges for our pledge and we stand ready to help you with this acquisition. I urge you to act positively on this request. I think the time is limited for this site. Right now we have the patience of the landowner. I don't know how long that's going to last. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question for the speaker. Your organization is willing to contribute \$5,000?

MR. WALKER: That's correct.

COMMISSIONER CAMPOS: Any more? Is there any limitation on what you could do? If this is an important site to your organization?

MR. WALKER: It is an important site to our organization. \$5,000 is a significant contribution from us. Every dime that we offer is a dime that we have to raise from our members.

COMMISSIONER CAMPOS: Do you own sites? Have you purchased sites totally?

MR. WALKER: Yes. Pueblo San Marcos—

COMMISSIONER CAMPOS: How much did you spend there?

MR. WALKER: Well, let's see. How much did we spend for Pueblo San Marcos. We had a number of grants that assisted us. One of the things of Pueblo San Marcos is that we had—

2227225

COMMISSIONER CAMPOS: One question. How much did you spend there?

MR. WALKER: Pueblo San Marcos probably cost us in excess of \$200,000.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Thank you, sir. I'd just like for you all to know, this property is actually four lots. Is that not correct? Is Roman here? Well, if I recall, Mr. Miller subdivided that property into four parcels and the archeological sites that you're trying to preserve have been designated archeological sites on the property.

MR. KOPELMAN: Mr. Chairman, that was one of the cases that was before Judge Vigil and Judge Vigil ruled that if the County were going to require that the archeological site be set aside that the County would have to pay for that because it's a significant part of the property. It takes up roughly 2/3 of the entire property. And so that's one of the reasons why if the property isn't purchased through COLTPAC and preserved, it will probably be built on. And the County really has its hands tied in being able to preserve that space then.

CHAIRMAN DURAN: So the archeological sites could be building sites?

MR. KOPELMAN: Yes, that's true. And under state law, the only time the developer is required to stop building is if he finds human remains. But short of that, the archeological sites would be bulldozed and that would probably be the end of it.

CHAIRMAN DURAN: I don't know about that. Okay, thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me ask the speaker. Could you give me your name again, please.

MR. WALKER: Yes. My name is Jim Walker, Southwest Regional Director of the Archeological Conservancy.

COMMISSIONER SULLIVAN: Right. I just wanted to call you something other than "that speaker." Jim, what's under the ground? What's in this site and how do we know that? Is it potsherds?

MR. WALKER: Yes, there certainly are potsherds. There are also structures. There are at least 19 house molds associated with this particular site. Occupation on this site spans a period from about 1100 to 1300.

COMMISSIONER SULLIVAN: Excuse me, and what is a house mound?

MR. WALKER: A house mound would be an adobe or masonry structure that had collapsed on itself forming a debris mound on the surface, which can be visible from the surface. And so our knowledge of this site is really based on surface survey, and the entire site has been surveyed. In addition to the 19 house mounds, there's an isolated kiva, there are four associated features including a clay quarry area, where they would have gotten clay to make pottery. There are also a couple of water control devices on the property.

COMMISSIONER SULLIVAN: Was it a transportation junction or was it more of a permanent residential?

MR. WALKER: It was a permanent village. It was a permanent village.

COMMISSIONER SULLIVAN: Thank you.

2227226

CHAIRMAN DURAN: I have a question of staff. Steve, are we trying to acquire this property to mitigate some legal issues that we might have?

MR. KOPELMAN: Mr. Chairman, the legal issues really are that we can't preserve this archeological site through our Code. And so if the property is not acquired, the archeological sites won't be able to be preserved unless the developer decides on his own to do that. And so that was one of the reasons that staff did recommend that the matter be brought through to the Commission through COLTPAC because we've been informed of the high significance, the fact that it is a very extensive archeological site. It takes up roughly about I think 60 acres on this property. And again, we're not able to preserve it under our Code according to the judge's ruling.

CHAIRMAN DURAN: Well, we've done it in the past Arroyo Hondo Vistas is a subdivision off of 285, right before you get into Arroyo Hondo and there was a lot in that subdivision that's up on the very top of the subdivision overlooking the valley below and there was a significant archeological site that is a no-build zone. So you're telling me that what we practiced in the past was illegal? We can't do that anymore?

MR. KOPELMAN: That was the ruling of Judge Vigil because of how extensive it was. If it was a lot smaller, if we're talking about ten or fifteen acres, a small portion, there wouldn't be a problem, but the issue here is that it really, the archeological site takes up virtually all of the major building sites. So that's the problem with this property. It's just the nature and how extensive the archeological sites are in this case.

CHAIRMAN DURAN: You know, we bought a piece of property on the Thornton Ranch that had significant archeological sites on it and we fenced it off. So where's the community benefiting from that? If we're preserving it for the archeological sites for the benefit of the community, where's the benefit?

MR. KOPELMAN: Mr. Chairman, I would defer to Mr. Walker but I don't believe that this would be fenced off. I think this would be open for the public.

CHAIRMAN DURAN: Oh, so people can go in there and pick up the potsherds. You don't need to address that. I'm just making a point here. Next speaker please.

REGE WISEMAN: Good evening, Mr. Chairman and Commissioners, and thank you for allowing me the opportunity to speak before you this evening. My name is Rege Wiseman. Until my recent retirement I spent nearly 30 years as an archeological project director for the Office of Archeological studies here in Santa Fe. I remain at the OAS as a research associate where I continue researching and writing. My connection with the Lamy Junction archeological site goes back to the early 1980s. At that time, as assistant to the state archeologist, Kurt Chasman, I was asked to update the state records on this important property because of the proposed Lamy industrial park. Over a period of several days I walked the site, re-recorded the known prehistoric buildings and found additional buildings that brought the total to 19 individual structures.

The Lamy Junction archeological site is important for several reasons. It is a discrete grouping of individual family residences dating to the AD 1200s. Prior to the founding of the Lamy Junction site, these same people had been spread more evenly across the landscape. The

2227227

question is, why did they start moving into villages. As we all know, the aggregation of people into larger settlements has important advantages, but it also entails potentially serious economic, social and infrastructural problems as this august body is fully aware.

About AD 1300 the Lamy Junction families made another decision. This time to actually join all of their houses into a single building located at the east end of the complex. The social ramifications of this behavior are complex and must be understood before we can tackle the next development in the region. This final development consisted of villages like the Lamy Junction site, combining into even larger settlements that can only be likened to towns or small cities. These towns and small cities, including San Marcos, San Cristobal, and Galisteo Pueblos, among others, were thriving towns at the time of Spanish contact in the 1500s. These very same towns are currently being considered for inclusion within the Galisteo Basin Pueblos legislation.

The Lamy Junction site, then, represents an important step in the economic and social achievements of New Mexico's Native American population. We cannot possibly understand the later contact period towns like San Marcos without first understanding how and why they came about. Preserving Lamy Junction site, by incorporating it into the open space program will ensure us of a future opportunity to thoroughly investigate these issues.

Professor James Sneed, who is sitting in this audience today, is currently investigating some of these issues in the Galisteo Basin and will entertain questions pertaining to his work. And also getting back to the initial question, Mr. Chairman, about the relationship to transportation, one of the little known aspects of the Lamy Junction site is within, among all these buildings, there is actually two segments of early 20<sup>th</sup> century roads that intersect through there. One of the roads connected the town of Lamy and the town of Galisteo, and the other connected Santa Fe with Encino and beyond and provided access for residents from southeastern New Mexico and south central New Mexico to come up and visit with their legislators.

Remnants of this intersection are still there today and would be an excellent opportunity to connect into your gateway program and your trails program, as well as provide another facet for interpretation, should that become a possibility in the future, providing that you acquire this property. Thank you very much for this opportunity to speak to you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question for the speaker. How many sites, how many Native American sites are there in the Galisteo Basin?

MR. WISEMAN: I have no idea, sir.

COMMISSIONER CAMPOS: Probably hundreds?

MR. WISEMAN: If you include everything down to little tiny scatters of potsherds and flint flakes, yes.

COMMISSIONER CAMPOS: Now, how does this site compare as an important site to the other sites in that area?

MR. WISEMAN: It represents, apparently represents quite well this one period



2227228

in the AD 1200s where the people who had been scattered fairly evenly across much of the landscape as individual farms, make it sort of like homesteads or that sort of thing of our own past. They at some point, for reasons that are not well understood, started placing their homesteads closer together and the Lamy Junction site represents one of the more discretely identifiable examples of this in the Galisteo Basin and really for a lot of the county.

COMMISSIONER CAMPOS: Can you say how many other sites would compare?

MR. WISEMAN: We really don't know the answer to that question. We haven't had a total survey of the entire county. The chances are that there will be some others. For instance like the Burnt Corn site that Professor Sneed is investigating is similar in some respects. Some of the big pueblos like San Marcos and San Cristobal and Galisteo evidently had smaller versions or version like the Lamy Junction site at those locations, and that actually provides another one of the more important and interesting objects of investigation, and that is why did some of those pueblos, like San Marcos and San Cristobal, which also had sites similar to the Lamy Junction site, go on to be much bigger pueblos and be inhabited for a much longer period of time with much larger populations, and why did others like the Lamy Junction site, all the people leave it and move into one of these other big pueblos. It's part of the dynamics of understanding use of the landscape and population and social climate of the times.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Sir, I just have a question. So you, it's your opinion that this site has not been disturbed, that it's significance has not been undermined by past excavating and that it has maintained its significance over the years?

MR. WISEMAN: It's fair to say that there is no reasonably significant archeological site in all of New Mexico that has not been disturbed in one way or another. A lot of it through collectors and diggers and this sort of thing, and some of it through development. We undoubtedly lost major properties—

CHAIRMAN DURAN: How about this particular site?

MR. WISEMAN: Yes, sir, of course it has been. It has been—

CHAIRMAN DURAN: It has been picked over.

MR. WISEMAN: It has been picked over. Some people have dug in it. But all things considered, in my experience it's in better condition than a lot of them, and certainly better than the ones that we know of currently. Burnt Corn, of which I spoke earlier, I was just out on that site the other day and it's clearly been more heavily impacted than the Lamy Junction site has been by diggers. People looking for relics, things to take home. Lost information, lost history.

CHAIRMAN DURAN: Thank you, sir. Next speaker please.

KATHY PILNOCK: I'm Kathy Pilnock from the Village of Lamy. I've been asked to speak for the village, and also for the 285 Coalition. Those of us who live in Lamy are fortunate to feel a strong connection to the past. Everywhere we walk we find traces of what has gone before. This brachiopod is one of the earliest residents of the valley. It was found in a wash further up the canyon. This creatures reminds us that the Galisteo Basin was once a great

2227229

great inland sea.

The landscape changed over time as the water receded. Other creatures roamed the valley. Dinosaur bones have been found on Joe Miller's property across the river and a woolly mammoth when the highway went in. We've heard how peoples from the Four Corners area moved into the basin. Some of us have been fortunate to be able to hear their story at the site visit. Standing there, in some isolation with nothing to obstruct the view of the hills and the highway's kind of far away, as long as there's not a semi using its jake brake, you can kind of forget that it's the present time.

So we've been able to hear how the people live. The Galisteo was more than a creek then and sustained the communal cornfields and the wildlife. The short grass was nearly waist-high, and a man had to stand on a horse to see over the long grass. And then for some reason the people moved on. During Spanish Colonial times, the people from Galisteo and other settlements brought their sheep to graze on the abundant grass. Two settlements were eventually founded. Manzanares was further up the valley and the Galisteo Junction community was near the crossroads that are still visible on the site. This settlement was abandoned when the highway was built.

Civil war artifacts have been found in Lamy. I found a couple of cannon balls on my property. I actually thought they were big railroad bearings until somebody told me what they were. And 50 mm grapeshot has been found in the park next to the depot. Surely these soldiers must have come through this site on the old Galisteo Creek Trail.

When the iron horse thundered through the valley in 1879 the landscape changed again. The town of Lamy sprang up and became the focus of development. The Village of Lamy has a colorful history, but we'll save that for another time. In the early part of the century cattle was king. The village was surrounded by large ranches. Cattle were rounded up from as far away as Stanley and driven up trails to be loaded onto the trains at Spiess to the siding that was located across the highway from the site. Thousands of cattle would be held in the field waiting their turn to ride the train to Chicago. Drought in the 50s affected the cattle-driven economy and the large Simpson Ranch would be eventually sold and subdivided.

The sheep and the cattle, however, would leave their mark on the landscape for a long time to come. Neither the short grass nor the long grass exist anymore. Vegetation was changed as seeds were brought by travelers, horses and other creatures, and dropped in the fields.

When I moved to Lamy in 1974 it was a sleepy little village. We gardened, collected eggs, canned food and made quilts. Two kite contests were held on a field outside the village. In 1981 we read the newspaper and discovered that a 50-acre parcel, the kite field, was owned by the County of Santa Fe and slated to become an industrial park with 15 factories. Some members of the community filed an injunction to stop that from happening. When the community asked to hold the kite festival at the industrial park, the Commissioners understandably said No. Is this why they don't want an industrial park? one asked. So they can fly kites? Well, actually, yes. That is one of the reasons.

Nearly 20 years later the Commission has come to agree with us and the industrial park site is now the Lamy Park. We were eventually given permission to use the industrial park site

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for the kite festival but the festival had outgrown the space and the cholla and chamisa that protects those ruins that are there would have to be removed. The kite festival came to be held on the Lamy Junction site. The last festival held at the site was in 1988. Over 600 people attended and over \$4,000 was raised. Some of this money was given to the Fire Department. Some was used to start up the Lamy Water Users. Some to reroof the belltower. And some was used to fight two mining proposals, one to turn the Cerro Colorado into rip-rap and one to mine three miles along the Galisteo Creek. The Cerro Colorado is still standing, and the gravel mine has been restricted to a couple of acres near the highway. And we owe the Commission a debt of gratitude for that as well.

When Mr. Miller came to own the site, he refused his permission to hold the festival, claimed it was bad for the grass. Actually, in case you're wondering, it's really not bad for the grass to hold a festival once a year if it's in the spring. In ancient China and Japan the communities would hold kite contests and people would come and they'd have these contests in the rice fields. What it actually does is all those big feet tromping around, they'll press the grass or seed into the ground so that when the rains come, they won't be washed away and they're grow.

This kind of—if we'd been able to keep holding the kite festival, but it just wouldn't fly without the field, it would have been 22 years tradition this spring. This brings us to the present. We're here tonight to decide what the future holds for this site and we are all here to urge you to purchase the Lamy Junction site as public open space. I'd like to now to maybe ask the members of the audience who are in support of this project to stand, and that way they don't have to all come up and speak to you. Is that all right?

CHAIRMAN DURAN: Sure.

MS. PILNOCK: Some have left but there's still quite a few people. You've seen maybe from the packet that we handed out last week that support for this project comes from up and down the corridor. We've received financial pledge from the Belicia Homeowners Estates, which is at the very northern end of the highway. We've received a contribution from the Eldorado Residents Association, and we've received numerous individual contributions from residents in Los Caballos, Los Nubes, Tierra de Casta, and Old Road Ranch. And we would like really to thank all of our neighbors for the support they've shown us in these efforts. The Eldorado Wilderness is not available to everybody and I guess the rest of us would like to have access to some kind of public space.

The site's location makes it a hub, combined with the pub and Cerro Colorado and the ranches across the way, it forms an incredible panorama of the Galisteo Basin, which is visible from US 285, County Road 41, County Road 33, the mainline of the Burlington National Santa Fe, and the short-line Santa Fe Southern. It forms a gateway not only to the Village of Lamy, but to Galisteo and to the ridge that separates us from the majority of the subdivisions. Natural features include the grasslands and the winds, as we've heard concerning the kite festival. Recreational uses could include connecting planned area trails, the kite festival, apparently could still be held on the lower location, on the lower location of the property, without impacting any of the sites.

2227231

Cultural, it's important to preserve the ruins for the future, even if we don't dig them right away, we need to keep them for history, for our grandchildren so they'll know what has gone before. Other considerations you might want to think about, the appraisal was done by the County and the price is \$100,000 below appraisal. This is really the only significant site in this area that is available for purchase. Considering it's potential for future development, without some kind of community plan in place, there's really no telling what's going to happen. Although it seems like water's not available now for much development of the site, I don't know if you read in the paper, someone has a scheme to bring water from Washington state on the trains into Lamy and then truck it into Santa Fe. I know it sounds like it's really not feasible, but at some point in the future we are, we're going to have pipelines to the Great Lakes or something. We will get the water here one way or the other. The fact that there's no water now doesn't protect the site.

And I would also like to see as we've seen concerning the kite festival, even one private owner, although it might not visually impact the area so much, what it does is it keeps the site from being used by the community. I think our community would really like to start holding the kite festival again. We believe it would benefit the entire county. It was a family event. There were not too many of those at that time. People still come up to me and say, Whatever happened to the kite festival. So we thank you for your consideration and we would urge you to purchase this property. And I'll just give you some pictures I found of the kite festival so that you can kind of see what fund it was.

CHAIRMAN DURAN: I flew a kite there once.

MS. PILNOCK: Did you win a prize?

CHAIRMAN DURAN: No.

MS. PILNOCK: I'm not sure if I've forgotten anything important. I just can't overemphasize that the entire corridor community is united in their desire for this space. Really, Galisteo is quite a distance from our community, and people from Galisteo even came to our meetings because they want that site protected. I don't think anyone wants to say turn right at the Los Pueblos Motel when giving directions to Galisteo. Thank you for your consideration.

CHAIRMAN DURAN: Is that you?

MS. PILNOCK: No, that's not me. That's one of our judges.

CHAIRMAN DURAN: It looks like you.

MS. PILNOCK: The judging was taken very seriously.

CHAIRMAN DURAN: Okay, anyone else out there that wants to speak to this issue? What's the pleasure of the Board?

COMMISSIONER GONZALES: Mr. Chairman, I think that this has gone through a long process as indicated tonight. Two years. I think that the Commission has not made as aggressive purchases in the Eldorado/Lamy area as we have in other areas, so I'd like to move to approve the recommendation by COLTPAC with the amendment by the staff that the \$200,000 that would be allocated out of the gateway funds would be allocated out of the unprocured general obligation money, and with that, thank the community for their efforts if this is passed to bring this forward.

2227232

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

MR. OJINAGA: Mr. Chairman, Commissioners, it would be a total amount of \$242,000.

COMMISSIONER GONZALES: That's fine. \$242,000. Thank you.

COMMISSIONER TRUJILLO: And I second that.

COMMISSIONER SULLIVAN: Discussion.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman, I certainly think we can move forward with a property that's this important. I have concerns which we can't discuss in the open meeting because as the agenda indicates we have legal issues going on with Mr. Miller going on at this point. I think that some of those legal issues may have some interconnection and I think we can make a, give direction to move forward. But I would also like the staff and Mr. Kopelman, as they see appropriate, to have some additional discussion with Mr. Miller as regards this property. This is not an isolated event. It's part of properties that he owns all on the east side of 285 and the County has a number of issues with him, not the least of which is lawsuits, as was mentioned by one of the speakers, the first speaker.

Steve, let me just ask you, are there some, without getting into specifics, which you can't, are there some areas that we can pursue there while we're pursuing this property?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I've had some discussions with his attorney and we certainly can sit down and roll up our sleeves a little on some of these and we can probably discuss this further in an executive session, maybe even on the 15<sup>th</sup> if that's what the Commission's desire is.

COMMISSIONER SULLIVAN: I'd like to be able to indicate our, and have that authorization to staff, to proceed, but have it brought back if there's some way that we can—I'm trying to get more than one problem resolved here at a time and any time we spend ¾ of a million dollars it seems that we may be able to have some openings to do that, which affects the whole area. And the look of the whole area for the future, which has been a concern of mine for a couple of years. So if that, Commissioner Gonzales, doesn't detract from your resolution or from your motion—

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Sullivan, I'd like to discuss that a little bit only in that I have some concerns about the issues surrounding Joe Miller are extremely complex. They're multiple issues. This piece of property is brought forward by the community. It was not intended by the community in their efforts to bring it forward so it can be a means for us to resolve many of these issues that remain outstanding with Mr. Miller and so I think it would be somewhat unfair to hold this property hostage, if you will, based on whatever other issues that we could work out. And I know where you're going and I appreciate that because I know they're very complex and very difficult with Mr. Miller, but that's not the concern of the people who have brought this forward here tonight. The concern is the 91 acres of open space to be used by the community and not thrown into some overall solution for that whole area. If we can go down that route I think it would be great, however, I wouldn't want us to come back and say, We're not going to buy this property

2227233

because Mr. Miller has not conceded on other issues that the County's trying to work on so therefore we're not going to buy it and therefore the community losing out and us not achieving this objective.

So if tonight, if we approve this, we're sending out a clear message, no matter what, we're going to buy it, but we're also going to go into discussions to see how we can use this purchase in addition with some of the other issues to work out some issues with Mr. Miller. I think I'm okay with that. If we're sending out the message that we're going to buy it contingent on the resolution of issues with Mr. Miller then I don't believe I'd be in support of that.

CHAIRMAN DURAN: I think that this property needs to stand on its own feet and we're either going to approve it or disapprove it, and if we approve it, then we can only hope that Joe Miller, and I believe this, will end up doing the right thing on the other issues that we're discussing with him. So I'd like to call for the question.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Discussion. As I mentioned earlier, I've gotten calls from some COLTPAC members and they're very concerned. They feel that there's been undue pressure placed on them to approve this property, which they did not highly rate. I would say that it would not hurt to hold this up for another 30 to 60 days so we could make the right decision. It's really difficult I guess to have all these people here and tell them, No, wait 60 days, but I think it's important to the County. I think it's important to the program and I believe these people are very credible people and I think we need to go that extra step. I think we should wait a little bit and not rush into things.

Staff, I think, in this case, we're talking about how important this site is, talked to the Pueblos, and said would you contribute to saving this, and they said No. You take care of it. There's hundreds of these sites. How many times are we going to be confronted with this question about saving a particular site because it has archeological value. Are we, COLTPAC doesn't have that much money and that wasn't the purpose of COLTPAC.

COMMISSIONER GONZALES: But Commissioner Campos, first of all, the majority of the COLTPAC members have approved this. Second, that was a promise that we made to the voters when we threw this referendum out there. There was a site that was either threatened for development. It was threatened to spare the cultural integrity of that site, that their taxpayer dollars would be used to purchase that property. We've done it in other parts of the county, we can do it here.

COMMISSIONER CAMPOS: You can do it here too. All I'm asking is to wait for 60 more days—

COMMISSIONER GONZALES: The majority of the COLTPAC have made the recommendation.

COMMISSIONER CAMPOS: So we can go talk to some of the COLTPAC members and get the story straight.

CHAIRMAN DURAN: I'd like to say one thing. I think that Lamy is a very significant community in our county and I've spent considerable time there. I can see where this

2227234

piece of property is special to you and I think that it preserves your community far into the future and maintains the sense of the rural character that you all have been striving for. So I would call for the question.

**The motion to approve the purchase of the Lamy Junction property passed by majority [4-1] voice vote with Commissioner Campos voting against.**

CHAIRMAN DURAN: Congratulations.

**X. B. Public Works Department**

**1. Ordinance No. 2002-10. An Ordinance replacing Ordinance No. 2001-6, Comprehensive Solid Waste Management Ordinance, to clarify the definition of a covered load**

CHAIRMAN DURAN: Can you just give us the basics on how we're amending this thing?

JILL HOLBERT (Solid Waste Manager): Yes, Mr. Chairman, members of the Commission. In the past the Commission has asked that we clarify our definition in the Solid Waste Ordinance regarding a covered load, that it wasn't clear enough. So the new language is a little more specific. A definition will be added that does not currently exist for a secured load, *any load and any covering thereon which is fastened so as to prevent said covering or load from becoming loose or detached and to prevent said load from dropping, sifting, leaking or otherwise escaping*. This is almost verbatim from the State Highway Department regulation. We would add that to the ordinance and then any reference in the ordinance to a covered load, secured load would be added to that reference. So I think the purpose here is to make a more specific definition of covered load. And you are required to hold one public hearing for this change in the ordinance.

CHAIRMAN DURAN: So if I had a truck load of plastic bags with trash, I wouldn't have to have a cover over that. Is that correct?

MS. HOLBERT: Mr. Chairman, you would not have to have a cover. However, you would have to fasten that load. So in other words, the bags could not be loose in the bed of the truck. They would either have to be tied down. Anything you could do to prevent it from becoming detached out of the truck bed, air-borne out of the truck bed.

CHAIRMAN DURAN: So I'd have to cover it?

MS. HOLBERT: You'd could tie it down.

CHAIRMAN DURAN: Weren't we having a problem with that? That there were some people driving to the landfill with bags of trash and they weren't letting them in there because it wasn't covered? The trash was contained. They weigh 50 pounds.

MS. HOLBERT: Mr. Chairman, it wouldn't have to be covered, it would just have to be prevented from being detached from the load. Some people use gear nets. Some

2227235

people throw a door on top of it. Something that will prevent it from becoming air-borne.

CHAIRMAN DURAN: Didn't you have an issue with that? Someone call you about that?

COMMISSIONER TRUJILLO: As long as the trash is contained, like Jill says, prevented from flying away from the truck or the vehicle. As long as it gets to the transfer station, I don't see why we need a tarp. Because we were issuing all kinds of citations for people that didn't have tarps and a truck was going to the transfer station, five bags in a pick-up with racks, totally contained, and they were getting cited.

CHAIRMAN DURAN: But what she's saying is even with that even with that you'd still have to have a tarp or a net, and if you're going to have a net, you might as well go buy a tarp.

COMMISSIONER TRUJILLO: As long as they're contained I don't think we need a—

CHAIRMAN DURAN: But that's not what you said, right? So if I had a truck with a six-foot high container.

COMMISSIONER TRUJILLO: A rack.

CHAIRMAN DURAN: A rack. You would still make me tie those things down.

MS. HOLBERT: No, Commissioner. That's not exactly what I'm saying. The definition says that it has to be prevented from dropping, sifting, leaking, or otherwise escaping. If you have sideboards that are six-feet high, you have done that. You have prevented it from escaping.

CHAIRMAN DURAN: Okay. Good. Any questions? Is there anyone out there that would like to address the Commission concerning this issue? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval.

COMMISSIONER SULLIVAN: Second.

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

**The motion to approve Ordinance 2002-10 passed by unanimous [4-0] roll call vote, with Commissioners Duran, Gonzales, Trujillo and Sullivan all voting in the affirmative. [Commissioner Campos was not present for this action.]**

- IX. H. 2. Resolution No. 2002 - \_\_. A resolution relating to the proposed additional taxable area within the Santa Fe County, New Mexico county improvement district (Rancho Viejo Improvement District Windmill Ridge - Units I & II/College Heights), directing C.R. Walbridge & Associates, P.E., engineers, to prepare, submit and file with the county clerk certain preliminary plans, estimates of costs of improvements to be completed, and plats with**



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**addendum, and to prepare as-built plans and certified schedule of schedule of costs of improvements already completed, all in connection therewith**

ROBERT STRUMOR (Bond Counsel): Mr. Chairman, members of the Commission, Robert Strumor, Hughes and Strumor, Limited, Company, your bond counsel for this proposed item. What we have in front of the Commission is one of the preliminary resolutions relating to creating another taxable area within the Rancho Viejo improvement district. The district was created in 1998 and subsequent to that a series of bonds was issued in just under \$2 million for the first taxable area within the district for infrastructure.

The resolution is preliminary to two public hearings and a referendum which if the Board determines to go forward and this resolution calls for plans and specifications and cost estimates to be submitted by the developer and in fact, this entire process is at the request of the Rancho Viejo Corporation under the County Improvement District Act. The next step after this would be the submission of the plans and specifications which would actually nail down the true cost of the project and then would call for a preliminary hearing on whether or not an improvement district tax would be imposed that notice is published four consecutive weeks and the hearing presents an opportunity for all the affected landowners to come in and address any of their concerns before the Board.

There also is a 30-day litigation period subsequent to the preliminary hearing that would permit any of the affected landowners to go to district court and challenge the proposed action. Subsequent to that, if the preliminary hearing was successful and concluded, the Board would then consider an ordinance which would call for the referendum or the election within the district, calling for a vote of the landowners which must be passed by at least 51 percent of the owners of the platted tracts, each tract getting one vote and that ordinance, when it's adopted or considered, is another public hearing, notice published at least two weeks prior to that and then the election, in theory would be held if the ordinance passed and the members of the district would vote yea or nay on the imposition of the tax and whether or not bonds would be issued.

For the issues of the resolution and the legal process which we're following, I'm prepared to present and respond to any questions or project questions. In other words, what has happened at the Rancho Viejo property previously and what the plan is now. Bob Taunton from Rancho Viejo is here to answer those questions. So as I said, what this resolution does is it directs the engineers to come back to the County with plans and specs, essentially and inform us of exactly what their plan is and at that point the Board would have an opportunity to determine whether or not this should go to a preliminary hearing.

COMMISSIONER GONZALES: Mr. Chairman.

COMMISSIONER SULLIVAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Bob, I just have a couple of questions. A lot of the questions we've asked before when we've gone through this process, but this was a statute that was enacted by the legislature four years ago, five years ago?

MR. STRUMOR: Well, the act itself have been in effect for several years. It

2227237

used to be called the Assessment District Act. It then became the Improvement District Act. But in 1998 I believe, the legislature enacted the improvement district property tax and I believe when we did the Rancho Viejo Phase I, that was either the first or one of the first two improvement districts done under that statute.

COMMISSIONER GONZALES: Are you prepared or do you have the ability to talk about the intent of the statute? Why would the legislature create something like this?

MR. STRUMOR: Well, I can only—obviously I'm a constant reader of the statute, but the theory behind improvement districts, and it's the area that we get into, the tax-exempt financing portion, is to permit a developer or landowners themselves to request of the County to do an infrastructure project and finance it with tax-exempt or municipal bonds at a rate that is much lower than conventional financing. And the theory is that those costs would be passed on to the homeowner and enable, essentially, a more affordable housing product to be offered to an existing community.

How that works exactly, in other words, how it's been implemented by this particular company, they would answer that, but the theory behind the statute is to take advantage, essentially of the spread between commercial bank rates and tax-exempt bonds.

COMMISSIONER GONZALES: So is that something that's practiced around New Mexico or is Santa Fe County the only County that—

MR. STRUMOR: We have done it in several different counties and several cities, so as a practical matter, Bernalillo County has done it for years, Santa Fe County has done it on its own for some of its own projects in the past, and for developer requests, basically Dona Ana County, which we're working in now, and Santa Fe County are both on a similar path of at least responding to a request to create one of these districts.

COMMISSIONER GONZALES: So has it ever been challenged as something that goes contrary to the intent of the legislature?

MR. STRUMOR: The challenges that I've been—not involved in, because I haven't done the litigation, it's essentially government sponsored districts for a particular improvement. I'll give you two examples. Bernalillo County, the Comanche Griegos Road district was proposed 15 years ago and never—it was completed now but abutting landowners challenged that and in Angel Fire, New Mexico there was a water system project and several landowners wanted to remain on a septic system and they challenged. So the challenges that I'm aware of are by taxpayers according to the legal process which is provided for a landowner to challenge a creation. But I'm not aware of any challenges to the recent statute which was the improvement district tax or a year ago it was amended to provide some technical changes which I can go into in summary, if the Commission wants. But essentially, it didn't change the concept or the method of creating the district but put some additional requirements in and then took some out.

COMMISSIONER GONZALES: So before I go into specifically asking questions about Rancho Viejo, to the work that you've done here in Santa Fe County as they relate to these public improvement districts, as I recall, this Commission has approved these type of districts up the Hyde Park area, is that correct?

2227238

MR. STRUMOR: That's correct.

COMMISSIONER GONZALES: So was it followed in a similar route? Was it the statute that was used to create—

MR. STRUMOR: No, that happened before I got here but I believe that was a straight assessment, meaning rather than a tax, it was imposed co-equal with the property tax but one of the main differences is that it can be paid off at any time that a purchasing landowner can pay it or assume it. So there are some differences. I think the Hyde Park was not under the improvement district tax but was a straight assessment. But the hearing process for both is ver similar.

COMMISSIONER GONZALES: So when we talk about improvement districts, a public improvement district, has that already been created, moving onto the Rancho Viejo area now. Has that already been created?

MR. STRUMOR: Well, at least we believe, based on the transcript of the proceedings we've been involved in that the district of 2500 acres was created back in '98 and the first series of bonds essentially required the imposition of a tax on about 350 acres of what I call Phase I.

COMMISSIONER GONZALES: Can you hold on there, I'm sorry. So you're saying the public improvement district was created for 2500 acres.

MR. STRUMOR: Right.

COMMISSIONER GONZALES: And you're saying that the first assessment when there was actually an election was done on 350 acres?

MR. STRUMOR: Correct.

COMMISSIONER GONZALES: So is this process that we're going through tonight a continuation of moving onto the second phase of the public improvement district that was already created?

MR. STRUMOR: Yes it is because there's no existing tax on the area proposed to be taxed now. In other words, no Rancho Viejo Phase I homeowner will be part of this new improvement tax. So in other words, it's not a tax on a tax.

COMMISSIONER GONZALES: So existing homeowners right there who are in this first 350 acres—

MR. STRUMOR: Are not taxed.

COMMISSIONER GONZALES: Will not be taxed.

MR. STRUMOR: Not in addition. In other words, they have their regular property taxes and on top of that they have the tax that was imposed for Phase I.

COMMISSIONER GONZALES: So help me understand, for the new individuals who will be taxed, because it's going to be, I'm assuming that to create a taxable area that an election has to take place. Is that right?

MR. STRUMOR: Correct. There will be no tax unless an election approves a tax.

COMMISSIONER GONZALES: Okay. So the election creates the taxable area. So when the taxable area is created then there is a property tax assessment for improvements?

2227239

MR. STRUMOR: Correct.

COMMISSIONER GONZALES: So, to a person who buys a home, let's say, I don't know what the average lot in Rancho Viejo is but 5,000 or 7,000 square feet.

MR. STRUMOR: I don't know either. They do though.

COMMISSIONER GONZALES: Or whatever it is. Will there be, the tax that's assigned to that lot, will it be prorated based on the size of that lot in comparison to the total taxable area? Or will it be based on some assessment?

MR. STRUMOR: I think it's pro rata based on value. In other words—

COMMISSIONER GONZALES: It's based on value.

MR. STRUMOR: Yes. It's no more than 10 mills of the net assessable taxable value, I believe is what is proposed.

COMMISSIONER GONZALES: So is all that can be passed on to them through this property tax assessment, this taxable area, are issues or items that are approved by the Commission like water, wastewater, roads, those types of facilities, or can there be other things passed on to them in the tax?

MR. STRUMOR: Well, essentially you can do parks and open space. You can do medians. You can do utilities. You can do a lot of other things but I think this is more limited.

COMMISSIONER GONZALES: What is the limit?

MR. STRUMOR: It's limited, I believe it's limited to water and roads.

COMMISSIONER GONZALES: Will it be explicitly stated on the ballot question?

MR. STRUMOR: Yes. The ballot question will define what the improvements are for, yes.

COMMISSIONER GONZALES: So it would be limited to just roads and water. So all they'll be taxed for is the payment of roads and water that are credited to this new taxable area.

MR. STRUMOR: Correct. Based on their evaluation of their property.

COMMISSIONER GONZALES: And in theory, how would they otherwise pay for this?

MR. STRUMOR: Well, in theory, the developer would improve it with commercial money. In other words, either bank loans or their own funds or some non-tax-exempt funding. In other words, the advantage is the spread, as I said between what money costs to go get from a commercial lending institution and what investors will pay for these bonds, which will be a lesser rate.

COMMISSIONER GONZALES: So—I'm sorry. I apologize. So what's the tax benefit then? What is their tax benefit?

MR. STRUMOR: Well their tax benefit—

COMMISSIONER GONZALES: Is there a tax benefit? I'm assuming they're getting a tax benefit.

MR. STRUMOR: Yes, there is. And the difference between the straight

2227240

assessment and the improvement tax is the improvement tax is deductible to the taxpayer for federal income tax purposes.

COMMISSIONER GONZALES: So they'll get a deduction of what they're paying for on that infrastructure on their property tax. Whereas if we didn't have this process, they would basically, the developer would charge the cost of the infrastructure on to the sale of the house, and all they would get to deduct would be the interest on the house and the land itself.

MR. STRUMOR: Right. So they deduct their property tax and they deduct whatever the value of the 10 mills is.

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER GONZALES: I just have a couple more.

MR. STRUMOR: We're here to please.

COMMISSIONER GONZALES: I'm sorry.

COMMISSIONER CAMPOS: Direct examination by the advocate for the bond.

COMMISSIONER GONZALES: So—I'm sorry. Just an interesting comment there. So help me continue to take this forward then. So if this is—so if the taxable area is created through a vote, through a referendum, so there's a tax that's assessed against the property.

MR. STRUMOR: Correct.

COMMISSIONER GONZALES: Who does that tax go to? Or collects the revenue? To the County?

MR. STRUMOR: It's collected the same way regular property taxes are and my understanding is that the Assessor just adds it as a line item to the bill.

COMMISSIONER GONZALES: So who pays for the actual construction of the water and roads going through this?

MR. STRUMOR: Well, in the prior taxable area, and I believe it's proposed in this, the developer, essentially, is taking the economic risk of paying for the infrastructure and then coming to the County and asking the County to be the issuer. So in theory if the County said no, the infrastructure is there anyway, but there would not be—

COMMISSIONER GONZALES: So the County would not be obligated to purchase the facilities that would be constructed just because this tax had taken place.

MR. STRUMOR: Well, no. If the tax went on, yes. But prior to that, there is no obligation. This is a process that the Board reviews every time there's a resolution or ordinance and makes its independent decision.

COMMISSIONER GONZALES: And I guess I go to that point because what happens in a case where the developer does not construct the facilities according to County standards? Is that leverage given to the Commission not to buy it if it doesn't meet the requirements that the County has laid out.

MR. STRUMOR: Of course. I think the developers will tell you the process they use to make sure that doesn't happen. I think the County, I'm not there on site but I believe the County is involved throughout. But the risk of a non-conforming project is virtually

2227241

eliminated by the developer taking its economic risk, building it, hopefully to County standards and then if it passes, it's eligible to be acquired, similar to the presentation earlier tonight on the roadway where there was a question as to whether it met County standards where it couldn't be acquired. Similar standards apply to these type of projects. They have to meet County standards or the developer will just have built it at its own money and that's the end of it.

COMMISSIONER GONZALES: No further questions, and just for the record, Mr. Chairman, Commissioner Campos, you're a bright person. I certainly expected more from you than those snide remarks. Appreciate it.

CHAIRMAN DURAN: We're going to start at your end, this way and then the next one we'll start over there. Did you have anything you wanted to add?

COMMISSIONER TRUJILLO: Yes. I'd like to know what the percentage of private ownership is in Rancho Viejo.

MR. STRUMOR: I'm going to really have to defer to—

COMMISSIONER TRUJILLO: Okay, I'll ask that question when you—

CHAIRMAN DURAN: Well, I have some questions.

COMMISSIONER SULLIVAN: I thought you were going down this end.

CHAIRMAN DURAN: No, I was going to go this way. I'm just trying to simplify this whole thing because I'm a little confused and I'd like to think everyone else is too. So how many lots are going to be in this phase?

MR. STRUMOR: I'm not sure.

CHAIRMAN DURAN: Okay, well, let's say that there's 200.

MR. STRUMOR: Fine.

CHAIRMAN DURAN: Okay. And let's say it's going to cost \$2 million to put the infrastructure in.

MR. STRUMOR: Correct.

CHAIRMAN DURAN: For that phase. So is the plan to distribute, I mean divide that \$2 million by the 200 lots?

MR. STRUMOR: I don't think so. I think it's based, some of the lots are far bigger than others and I think it's based on essentially assessed valuation. So—

CHAIRMAN DURAN: The assessed valuation of the lot?

MR. STRUMOR: Right. I guess it would be the improved home.

CHAIRMAN DURAN: So since Rancho Viejo doesn't sell lots, they sell home/lot packages.

MR. STRUMOR: Right.

CHAIRMAN DURAN: So the assessment will then be based on the—

MR. STRUMOR: On the completed home.

CHAIRMAN DURAN: The value of that completed home.

MR. STRUMOR: Correct.

CHAIRMAN DURAN: So if it's \$2 million, I guess I'm having a hard time figuring out how you're going to allocate the cost of that infrastructure over the number of lots in that phase.

2227242

MR. STRUMOR: Could I defer to Bob on this?

CHAIRMAN DURAN: Sure.

COMMISSIONER SULLIVAN: Mr. Chairman, they just do a mill levy assessment. It's a mill levy assessment. Just like a school bond issue. They assess ten mills on the value of the house and land, just like a school bond or any Community College District bond issue.

CHAIRMAN DURAN: So how did they arrive at the ten mills?

COMMISSIONER SULLIVAN: Well, they just divide the cost, the final cost—

CHAIRMAN DURAN: Of the infrastructure.

COMMISSIONER SULLIVAN: Of the infrastructure up by what, they set the ten mills arbitrarily. They could make it 20 mills. Whatever this Commission would approve. The problem with ten mills, as I mentioned earlier in the meeting, is that that represents 55 percent increase in the taxable valuation of the property in that area. Eighteen mills is what is charged on your property tax bills, up to a ten mill tax levy is a 55 percent increase. Now, we went and reviewed the properties in Goodyear and received a presentation from the Suncorp, the Phoenix corporation that owns Rancho Viejo Corporation, about how they used these in that area. And in that area, and in fact what they did, and I'll pass these down and give one to the Clerk so you can see. [Exhibit 1] What they did was give us a listing of these various assessment districts that they used down there. You'll see in the ones that I've circled, just picking out the first one as an example, the typical assessment district that they use, this capital improvement district which they call CFD districts in Arizona, is a \$2 or a two mill levy on a \$17 or a 17 mill tax bill.

If you look all the way across the bottom, you'll see similar amounts, \$3 on a \$16 bill and so forth, per thousand. That represents about 13 percent increment of their tax bill. Here we're saying we're going to represent 55 percent of the tax bill. Now we don't even state that in this resolution. We don't say, but as Mr. Strumor said, they've said it's going to be up to ten percent. And that's, ten percent is what they used on the first assessment district.

CHAIRMAN DURAN: So you're saying that the \$2, which is allocated to the infrastructure represents 12 percent of the 17.

COMMISSIONER SULLIVAN: Correct. Or 13.

CHAIRMAN DURAN: So the total is \$17 per thousand.

COMMISSIONER SULLIVAN: Correct. The difference in Arizona being they tax, I believe on the total value of the house instead of a third.

CHAIRMAN DURAN: And here it's \$18.

COMMISSIONER SULLIVAN: Here we have a current \$18 per thousand, or 18 mill tax levy on the value, but the difference in Santa Fe County is that we—our taxable value is 1/3 of our assessed value. So in essence, we pay 1/3 of the taxes that they do in, in total taxes that they do in Arizona or in Phoenix or in Goodyear. And that's a different issue, but the issue here is still, the percentage remains the same. The use of these in other areas is nowhere near going more than 50 percent of your taxable value. Now, why does that concern me so much? Why shouldn't we just say, Oh, that's their problem. If they want to buy a house

2227243

there they need to live there. They need to pay this premium. Why it concerns me is two reasons. Number one is that I'm concerned that we're creating taxable, financial gated communities. Once the people in Rancho Viejo have this high a tax, which they do and I've received numerous complaints about the tax levels in Rancho Viejo compared to others. Then they have no incentive or interest in voting for other taxes, voting for County bond issues, voting for school bond issues. They're already taxed up to their ears. So you eliminate that.

Number two, this tax applies to affordable housing just the same as it does to other housing. So what this does is it eliminates—yes, it helps people if they can deduct it from their income tax, but it reduces the people who become eligible for affordable housing, because it's an additional cost they have to pay. When you do the calculations of can you qualify for a \$130,000 home you have to take all of the mortgage costs that you have to pay to determine that. This becomes one of those mortgage costs. So, and thirdly, we've come, we've discussed this before, does this or does this not help the community overall? Does this help the developer or the community? We've discussed and we agreed, I believe, Commissioner Gonzales, to do an audit of the first one. I don't think that's been done yet, and an evaluation of whether it has.

Now I know Rancho Viejo has submitted some documents to Katherine Miller concerning their accounting procedures. I've looked at those. It's basically a methodology for accounting for land value and profit and overhead, where they allocate 25 percent to the land and it varies from year to year. Substantially, in fact. That didn't answer the question which I think we need to answer as a public policy question of where does the—is this money actually helping to reduce the costs of the housing. There's nothing there that indicates that that's reducing the cost. You're still selling the house and property for the most the market will bear and there's nothing illegal or improper about that. That's to be expected. But it's a long answer to your question, but my understanding is, and Mr. Taunton can correct me if I'm wrong, but this strictly goes as a mill levy right onto the tax bills.

And further, I believe this is not a \$2.5 million issues, it's a \$3.5 million issue because we have expenses of the issuance and contingencies, which I wanted to ask Mr. Strumor about, and also capitalized interest. And what I believe that means is that during the period that the bond can't be repaid by the property owners because there's not enough of them there to pay the principal and interest, the developer pays that. Well, that sounds reasonable, but what happens is the developer capitalizes that and takes it out and adds it on to the bond cost. So the property owners are in fact paying twice. They're paying not only for what they have to pay, as a ten mill levy, but they're paying the capitalized interest of what the developer paid until enough people came on board to carry the indebtedness. And that gets wrapped by capitalization into the bond.

I think if anything, the developer while the developer is owning that amount of property should pay, should pay his fair share.

CHAIRMAN DURAN: This is really my dime, but go ahead if you want to address—

MR. STRUMOR: No, I don't want to do anything to interrupt. But if you wanted me to address that one specific item.



2227244

CHAIRMAN DURAN: Yes. Please do.

MR. STRUMOR: Mr. Chairman, members of the Commission, Commissioner Sullivan, the way that capitalized interest works essentially, the assessment or the tax is only levied to pay debt service. That's the law. During the capitalized interest period, debt service is provided for so there is no levy. So essentially, the capitalized interest period is a wash. More bonds are issued but those funds are used to essentially repay the debt. So the property owner doesn't get taxed during the capitalized interest period. There are no assessments then.

COMMISSIONER SULLIVAN: But the property owner is only paying for \$2.5 million worth of improvements but he's funding, through the mill levy a \$3.5 million bond issue. Isn't that correct?

MR. STRUMOR: No, I'm not going to argue that point. I'm just saying—

COMMISSIONER SULLIVAN: Am I right or wrong?

MR. STRUMOR: Yes, but the way the financing works it's not an additional cost.

COMMISSIONER SULLIVAN: It's within the ten mills, I agree with that. But if the developer were to pay his fair share as a property owner until the rest of the—until he's sold all of the property that he owns, then he wouldn't have to capitalize that interest. Isn't that correct?

MR. STRUMOR: Well, that essentially goes into policy again. In other words, in all the project financing that we do around the state, capitalized interest is used to some degree during a project period, whether an issuer, like this Commission makes a policy decision to not permit that is totally within your discretion.

COMMISSIONER SULLIVAN: Okay, but I just want it clear that that's what the \$500,000 is, is that while, in other words while the developer owns lots 1 through 100, just like I own lot 101, I pay my fair share, he's having to pay for his 100 lots for this same bond issue, which he's used to build the improvements. But then, he goes back and gets rebated for that because it's capitalized into the cost of the bond. So in essence, in the end, he doesn't pay any of it. Isn't that correct?

MR. STRUMOR: No, I don't think that's correct.

COMMISSIONER SULLIVAN: Explain why that's not correct.

MR. STRUMOR: Well, I'll let Bob answer that but in one other thing, there's also a shortfall guarantee from the developer in favor of the County basically, that if there isn't any money to make these payments, whether there's not enough capitalized interest or whether something bad happens, they're on the hook for it.

COMMISSIONER SULLIVAN: The capitalized interest goes to make interest payments.

MR. STRUMOR: Correct. I'll let Bob respond.

BOB TAUNTON: My name is Bob Taunton, general manager for Rancho Viejo. Mr. Chairman, Mr. Sullivan, let me just review the first bond deal that we did and try and clarify your question about does the developer receive some sort of rebate for capitalized interest. We received a recovery, the first bond issue, for the value of the infrastructure only.

2227245

And that's the only recovery we will receive. Okay. Not for capitalized interest. If we own lots and we're paying and we're paying assessments, we're paying those assessments. That's an expenditure that we have. We also have an obligation for any shortfall.

In the first bond deal, because there was not any capitalized interest, and that had a lot to do with the marketability of the bonds, the bond underwriter said in order to sell these bonds you're going to have to take that out. Which we did. And we'd be prepared to do that this time too, if that's necessary. But as far as the money that was received by the developer, it was strictly for the value of the infrastructure that is listed in the resolution.

COMMISSIONER SULLIVAN: I'm talking about this bond issue, this capitalized interest.

MR. TAUNTON: It would be the same thing.

COMMISSIONER SULLIVAN: This capitalized interest goes to pay interest on the bonds until there are enough property owners out there to pay it.

MR. TAUNTON: Correct.

COMMISSIONER SULLIVAN: That otherwise you would need to pay.

MR. TAUNTON: That we would receive—

COMMISSIONER SULLIVAN: You don't get it physically as a check. It's just you don't have to pay it.

MR. TAUNTON: We don't have to pay it.

COMMISSIONER SULLIVAN: You don't have to pay the interest because it's capitalized.

MR. TAUNTON: If there's a capitalized interest, if that's included in the bond deal, everybody benefits from that.

COMMISSIONER SULLIVAN: I understand that. I don't see how the property owner benefits because it increases the amount of the bond, which increases their mill levy.

MR. TAUNTON: You're talking about two different things here. So if we could separate them out so we could deal with them I'd like to do that. But if I may, could I just respond to some of the statements that Commissioner Sullivan has made, some of which are not accurate?

CHAIRMAN DURAN: Sure. I pass my dime over to him.

MR. TAUNTON: First of all, I don't think that discussing how taxes are done through CFD financing in Arizona has anything to do with what we're doing here in Santa Fe County. I haven't had a chance to review the information that he's passed around so I can't speak to it and I don't think it's really relevant to what we're talking about.

COMMISSIONER SULLIVAN: Well, let me just state that the reason I did that is because of the submission that you made to the Chairman was a letter from the City Manager from the City of Goodyear stating that in his opinion, capital improvement bonds were a good thing. And I wanted to be sure that the Commission realized that in the City of Goodyear, Arizona, the average capital improvement bonds are about 13 percent of the cost of the tax structure that each of these subdivisions deals with, whereas this one will be 55 percent.

Were the City of Goodyear looking at a 55 percent increase, he might not have been

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quite so sanguine in the letter. That's why I felt that was relevant. And this was given to us by your controller, so I'm sure it's available, but I have an extra copy if you would like. It's right here.

MR. TAUNTON: Well, I'd be glad to look at it, but how taxes are handled, how the CFD works in Arizona, it's a different statute than what we're talking about here. So you're mixing apples and oranges, which I don't think is beneficial to the discussion tonight. The issue about the audit. There had been a request to do some sort of audit of the first tax district, perhaps look at how we handle it internally. We provided not only a methodology but also income statements to Katherine Miller. We said this is what we do, this is how, if we receive a recovery through the improvement district, which is an accelerated repayment, we either wait for properties to sell and close, and receive a proportionate amount of money from those closings to reimburse the land development costs, or we receive in combination with most of the infrastructure being paid that way, this recovery from the bonds which accelerates our return. That's really what we're talking about here.

We put the infrastructure in. It's done according to County specs. It's inspected by the County. We go through a punchlist, etc., etc. It's only roads—arterial roads, not internal roads. It's also the County water system. It has to be infrastructure that is maintained by the County. That's the way the statute reads. So wastewater, utility, parks, trails, drainage, those kinds of things, unless they're associated with a road and are required as a result of a road, they're not reimbursed. So it's a very narrow spectrum of infrastructure that we can do through this bonding system. So we did provide the financials to Katherine Miller. She was able to see that what we do in terms of reducing the development costs and passing that savings along to our customers does in fact happen.

COMMISSIONER SULLIVAN: No, let me correct that. I discussed this with Katherine and I've also discussed it with others in the accounting profession and what the financials that you submitted were just simply that—financials, allocation of land costs and profit and overhead and in an arbitrary manner, you allocated 25 percent, which is a perfectly reasonable, and it was on raw land it was 45 percent this year and it was 22 percent last year. Purely accounting mechanisms and I don't think that those answered the question.

MR. TAUNTON: How do I deal with statements by Mr. Sullivan that are contrary to fact? We can stand here all night and argue. We gave that information—

CHAIRMAN DURAN: You know what? Commissioner Sullivan, we're going to give the applicant an opportunity to state his case uninterrupted, without you continually badgering him, basically. So please let him make his statement. If you disagree you will have an opportunity later in the meeting to cite your disagreement with him, but let's try and keep some order in this thing and show a little bit of respect to the public. Go ahead, Mr. Taunton.

MR. TAUNTON: If I could explain the benefit to the homeowners, which I think is what we're all talking about here. The benefit to Rancho Viejo is an accelerated repayment of development costs for just those items. That really is our benefit. Mr. Strumor's talked about a spread in interest rates and so on and really, since we go out and build the infrastructure first and then have a recovery, the district acquires the infrastructure. It's really

2227247

less of a spread issue and more of an acceleration, accelerated repayment.

When we price our product, whether it's lots or houses, we subtract the recovery from our land development costs, dollar for dollar. So when we start working on, okay, what are the appropriate margins for our company to achieve? To give a return to our shareholders and stay in business, we start with a lower basis on day one. That's the information that we gave Katherine Miller. It's based—the point of the ratios is, that really isn't germane to what we were trying to illustrate. The illustration that Katherine saw, and that I have here is that we subtract, dollar for dollar those infrastructure costs that we receive back in the way of an advanced recovery. There's no double dipping. We don't get that recovery and then pretend we didn't and charge the infrastructure costs, the full lot development costs. So that's very, very clear in the information that we gave here. It calculates into a land development ratio which then can be tracked in the financial statements. And that's why we gave her the financial statements.

The essential advantage to the consumer is that they pay less for a lot, if we're selling estate lots, and they pay less for a house than they would if the infrastructure tax were not in place. Now I've handed out an illustration that goes through a financial analysis, mortgage, downpayment, etc., loan balances after seven years, that illustrates what would happen based on our average costs. Not our median. Our median is lower than that, but our average cost of a home over this current phase that's in the taxable area. Then I also added in what we would have to charge to recover the bond amount, the bond recovery that we would have and what that would mean to the purchase price of a house. You can see that the downpayment goes up. The purchase price goes up, the downpayment goes up, the loan amount goes up, and I worked through a number of calculations there, including what would happen at the time of resale after seven years? How much equity would the customer have? And the indication there, which is very obvious, is that if you pay less for your house to begin with, and you sell it for the market rate, whatever that market rate is, if you bought lower than somebody else who bought higher you're going to have more equity at the end of the day and that's what that illustrates.

It also shows that with the bond financing, your monthly payment is equivalent to what you would be paying if you were paying principle and interest on a higher mortgage amount. So the benefits to our residents are that they purchase a house for a lower price. It costs them less money to get into it. There is no significant additional, if any, cost on a monthly basis when you compare the mortgage without a property tax or without the improvement district tax, versus having the improvement tax. And at the end of the day when they sell their property they have more equity. And the other aspect that is really important to understand is that this financing is not due on sale. You could take the position that we're going to allocate so much debt to each one of these houses we have out there and then when you sell your house, you have to pay that back. That doesn't happen with this financing.

You pay while you own it and when you sell your house, the encumbrance travels with the property so it's readily assumable by the next buyer. We've had folks out there that have sold their houses that were in the first taxable area. They've had no difficult reselling their houses and of course they didn't have a bond payoff that they had to make. They had to pay off

2227248

their mortgage, but the bond amount isn't in their mortgage. The bond payment was just assumed by the new resident. So that's really a great advantage. It's long-term financing that isn't due on sale, which I think we all understand increases your equity.

As far as selling for the most the market will bear, Commissioner Sullivan has made that statement, that is simply not what we do. We take our land development costs and our own building costs and we attach the appropriate margin on it to achieve what we need to achieve in the way of a return. Rancho Viejo is setting the market. What we do out there, we're a market unto ourselves. We can't compare ourselves to the north side. We can't compare ourselves to Las Campanas. There are a few projects that are competitive with us, but essentially we're setting the market; we're competing with ourselves in terms of market value.

Again, as was stated by Mr. Strumor, this new tax has nothing to do with the first tax area. This is a completely new tax area. It's all platted lots. Commissioner Sullivan will probably remember in an early discussion that we had some months ago, when we had proposed doing a larger bond amount, authorization but probably just selling a smaller amount, he insisted that what we should be working with are the platted lots, the actual approved subdivisions, so we have scaled back the bond amount and we have restricted it to the 341 lots that are involved in College Heights, Windmill Ridge Unit I and Windmill Ridge Unit II. So all of the lots are platted and of course they will have greater valuation when improvements are put on the property in addition to our improvements that we're doing with the land.

Some of the improvements that are included this already exist and have been out there for a long time. Richards Avenue going through Windmill Ridge. College Drive which access College Heights. The water system in College Heights and the water system in Windmill Ridge Unit I, they all exist, they have been constructed according to plans and specs approved by the County. They've been reviewed by the County, etc. What's left to be done and what's currently underway is the further extension of Richards through Windmill Ridge Unit II and the water system in Windmill Ridge Unit II. That project is under development right now and those improvements will be in place before the end of the year, prior to any bond sales. So once again, we're dealing with a situation where the infrastructure is in place. The costs are known, the improvements are in place according to specs and standards. Everybody can see them. The homeowners can see the value that they have. You can define them. It's the same as the first taxable area.

The other thing that I'd like to mention too is that in anticipation of doing Phase 2 of this improvement district taxable area, we undertook our housing prices and land estate lot prices based on the formula I described earlier. In other words, those folks who live in College Heights, those folks who already live in Windmill Ridge, have received the price reduction benefit, yet they have not been taxed. And of course if this all goes through this year, they will not come on the tax rolls until next year, because there's always a lag between valuation, when properties are sold and when they come on the tax rolls. So we have residents out there who have enjoyed the price reduction benefit and have yet to pay any tax and if this didn't happen, wouldn't pay any tax.

So it's not a future benefit we're offering to the folks in this taxable area. Those that

2227249

live there and those that are under contract have already received it. So are there any other questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me understand, Mr. Taunton. Of the College Heights and Windmill Ridge I and II, that comprises the 341 units, is that correct?

MR. TAUNTON: Correct.

COMMISSIONER SULLIVAN: Windmill Ridge has 185, Windmill Ridge II has 136, College Heights has 20.

MR. TAUNTON: Correct.

COMMISSIONER SULLIVAN: In your statement here it says that Windmill Ridge I has 224 units. Is that just a typo?

MR. TAUNTON: It is. It originally was 224 when it was approved, but as a result of final approvals on Windmill Ridge Unit II we moved some of those units into Windmill Ridge Unit II and are in the process of modifying the plat and development plan in some fashion to reduce the 224 in Windmill Ridge Unit I down to 185.

COMMISSIONER SULLIVAN: And then how many are sold in College Heights?

MR. TAUNTON: How many are sold out of the 20? My guess, 15 or 16. I can't recall exactly.

COMMISSIONER SULLIVAN: Just roughly. And how many in Windmill Ridge I?

MR. TAUNTON: Windmill Ridge I, we are, maybe 130, perhaps.

COMMISSIONER SULLIVAN: So what does it take, because in your letter you said that 80 percent had been sold, so that would be somewhat less than 80 percent. But what does it take when you go out for election? You have to get 51 percent of the voters?

MR. TAUNTON: Correct.

COMMISSIONER SULLIVAN: Okay. So at the present time you have, let's just say approximately 42 percent of the voters, of the residences that are occupied.

MR. TAUNTON: Yes, if your math—

COMMISSIONER SULLIVAN: Right. Assuming my math is correct. 146 divided by 341, whatever that amounts to. So it's somewhat less than the 80 percent. So at present Rancho Viejo has the controlling interest in the properties. So it's safe to anticipate that despite the public hearings, despite the protests, despite anything, that the election will be favorable for the passage of this bond. Is that correct?

MR. TAUNTON: May I just correct one thing I said earlier?

COMMISSIONER SULLIVAN: Sure.

MR. TAUNTON: When we talk about what's sold, what's sold doesn't necessarily mean it's closed.

COMMISSIONER SULLIVAN: What's closed. Okay.

MR. TAUNTON: So it's obviously a smaller number because we have houses

in backlog that are under construction. I just can't recall what that number is. 2227250

COMMISSIONER SULLIVAN: So the 146 would be sold or closed?

MR. TAUNTON: Would be sold. It would be sold.

COMMISSIONER SULLIVAN: So less than that would be closed.

MR. TAUNTON: Correct.

COMMISSIONER SULLIVAN: So obviously, only the people with closed homes could vote. So it's a sure thing that the election will be favorable for the passage of the bonds. Would that be—

MR. TAUNTON: If we have control, absolutely. We wouldn't vote against the decision.

COMMISSIONER SULLIVAN: So that's just a legal formality that we'll go through on the election, because you control the controlling interest in the properties.

MR. TAUNTON: It will be a landowner vote and if there are more votes in favor, it passes.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN DURAN: People also have the option to buy or not buy.

MR. TAUNTON: That's right.

COMMISSIONER SULLIVAN: Yes. So we have 146 people who have bought who weren't aware that there was going to be an assessment district.

MR. TAUNTON: No. Mr. Chairman, may I correct that?

CHAIRMAN DURAN: Please correct that for the record.

MR. TAUNTON: For the record, and we have shown this to Commissioner Sullivan in the past and we showed it in the package that we gave to the County is that with every purchase contract, at time of contract, every buyer signs a disclosure about the improvement district. And we go so far as to calculate, at a ten dollar maximum tax rate, what the cost would be based on, we go \$125,000 house, \$150,000, \$200,000, up to \$400,000 and then we run out what that is on an annual basis and on a monthly basis. Now I'm not saying everybody who buys will vote in favor of it, but everybody who buys has seen that disclosure and has signed that disclosure at time of contract, before, when they're still in their financing, it's also discussed prior to contract when our sales folks are meeting with the customers before they even get to the contract process. Because normally what we do is we end up doing reservations first and then the story of Rancho Viejo is told at that time.

COMMISSIONER SULLIVAN: Okay. And so when you get to the end of the closing, when the title company or whoever the closing company is puts together the summary of probable closing costs, is that put into those closing costs estimate?

MR. TAUNTON: If the tax exists. In the case of College Heights, Windmill Ridge, there is no tax. So there's no estimate.

COMMISSIONER SULLIVAN: So it's on the disclosure statement that they signed when they signed the contract for sale, but it's not on their estimate of whatever they call it, the best estimate of—

MR. TAUNTON: Good faith.

2227251

COMMISSIONER SULLIVAN: Good faith estimate on closing costs.

MR. TAUNTON: Well, there is a—our mortgage company uses a standard default one percent of the purchase price for taxes. And our calculations are that that, this improvement district tax plus the regular taxes would amount to .93. So in the good faith estimate that is included. Now on the closing statement, because there's no tax, there won't be a line item that has any kind of proration.

CHAIRMAN DURAN: Are you suggesting that they are being less than honest about this? Sure sounds like you are.

COMMISSIONER SULLIVAN: I'm suggesting from, at least based on my own experience, when you close on a house it's a very emotional time and—

CHAIRMAN DURAN: It's not on the closing statement.

COMMISSIONER SULLIVAN: It's not on the closing statement. You go through documents after documents after documents. You've seen this in the disclosure in the contract of sale which may have been 30 days earlier, that probably this tax, although legally made aware to the purchaser, is probably the last thing on their mind and that they're not aware, there's no prominent statement that says, You're going to be taxed 50 percent more than the other people in the area.

CHAIRMAN DURAN: I think that's an unfair characterization.

COMMISSIONER SULLIVAN: No, it's just mathematics.

CHAIRMAN DURAN: Fifty percent?

COMMISSIONER SULLIVAN: It's 55 percent.

MR. TAUNTON: Mr. Chairman, may I correct that.

COMMISSIONER SULLIVAN: Please do. If the 55 percent is wrong, let's get that corrected right away. Is that incorrect?

MR. TAUNTON: I want to deal with your prior statement if I may.

COMMISSIONER SULLIVAN: Okay. And then—

MR. TAUNTON: Which is not correct.

COMMISSIONER SULLIVAN: Okay. Fine.

MR. TAUNTON: And that is that, first of all, anybody who's closing in Windmill Ridge and College Heights, there is no tax to even talk about. All there is is our disclosure about a tax that could be coming in the future and we say that there's a landowner election that would have to occur. We explain briefly what the process is and any questions they want to ask about it, they do.

CHAIRMAN DURAN: Do you explain to them how much that might be?

MR. TAUNTON: Yes. As I said in the disclosure, we give sample purchase prices and what that would be.

CHAIRMAN DURAN: And what the increase in the tax could be?

MR. TAUNTON: Just dealing—we don't discuss the other taxes. We just discuss the improvement district tax, because obviously, there's several things that make up the general tax.

CHAIRMAN DURAN: And does that shoot it up 50 percent from the normal



2227252

situation? I'll let you go ahead and finish. I'm sorry. Go ahead.

MR. TAUNTON: Well, let me give you an example. On a \$125,000 house, the improvement district tax would be \$417 total in \$35 per month. But let's remember one thing. If you are buying a new house from Rancho Viejo in a given year, the improvement district tax will not apply to the following year. It's got to be in place. You have to own it as of January 1 of that calendar year. So if you bought on January 2, or January 3, you won't see the first half tax bill until it's the following year. So there's nothing to show. The only way you'll see a proration is if you're in a taxable area and you are buying a resale house. Then of course the title company would have the information about the taxes prorated.

COMMISSIONER SULLIVAN: I think we understand that. But correct me if I'm wrong on my characterization, because if I am, and I want to be honest with you I want to correct it right here, that if the levy is ten mills, it will represent a 55 percent increase in the tax that the homeowner would pay were they not in this district.

MR. TAUNTON: Commissioner Sullivan, I don't know what the County mill rates are. I only know what the maximum tax rate is. If in fact that is the maximum tax rate. It is possible that when we sell the bonds, the first time we have to sell them with the \$10 rate as the maximum and minimum, fixed rate. But it's possible in this second bond sale, because we've been through it once, that we might be able to get a better deal from a bond buyer and we might be able to have the tax rate set as a maximum of ten percent but could be lower based on the ability, the debt service, if you like, from the valuations of the property. So over time it could subtract.

COMMISSIONER SULLIVAN: If you don't know what the tax rate is then you can't answer the question. I'll just have to tell you and you'll have to accept that last year's tax rate on my tax bill was 17.56 mills, which rounds off to 18. This year's rates I don't believe have been set yet. But they're generally in the 18 mill levy and if you divide ten by 18 you come up with 55 percent.

MR. TAUNTON: Okay, if you're paying less for your house as a result of the fact that we have reduced the cost of the house, that means you're going to pay less County taxes because you have a lower valuation, right? You've paid less for your house.

COMMISSIONER SULLIVAN: Let me ask about—

MR. TAUNTON: So the price reduction in the house, in our view and in the analysis that I have given you more than offsets this tax increase plus the reduced price of the house from what we would have to pay to recover, we'd have to charge to recover the infrastructure, reduces the overall County tax bill.

COMMISSIONER SULLIVAN: These improvements, you indicated, are already in place. Who were the contractors for these?

CHAIRMAN DURAN: Wait. Before you get to that question. You still haven't clarified your statement to me. So what you're saying is that the mill rate right now is 18. And you're saying that they want to change it—

COMMISSIONER SULLIVAN: To 28.

CHAIRMAN DURAN: To 28. Is that correct?

2227253

MR. TAUNTON: Well, it would be an additional \$10 per thousand of the assessed valuation. Yes.

CHAIRMAN DURAN: Because right now it's about \$18 per \$1000. And so you basically want to change it to—

COMMISSIONER SULLIVAN: It would be \$28.

CHAIRMAN DURAN: So then his statement is correct.

MR. TAUNTON: I don't know what the tax rates are, so if it is 18—

CHAIRMAN DURAN: Well, they're 18.

MR. TAUNTON: And we're adding, ten, yes, it's 28.

CHAIRMAN DURAN: They've been 18 for several years, hovering right around 18.

MR. TAUNTON: I don't live in the County so I'm unfamiliar with that.

CHAIRMAN DURAN: So they are then a 55 percent increase. And I guess I'm concerned, how does that tie into your characterization here that it's like a \$12,000 increase in the property? Purchase price \$240,000 under Option A, that's with the improvement district financing and without it—

MR. TAUNTON: Well, if you look in the footnote, I explain how we arrived at that. It was simply dividing the three million five by 298 lots, which would be the number of lots—no, we've already sold lots, so I can't go back and raise prices, but let's say we hadn't sold any lots. It would be 298 lots that are market rate lots. The other 43 lots are affordable housing lots that we're doing in essentially Windmill Ridge I and II. I can't raise the prices on those because those are capped according to the ordinance and the regulations. There is yearly increases based on HUD rates and so on. If you divide the \$3.5 million by the 298, it comes out to an average of \$11,744. So I added that to what we expect is our average price of \$240,849 to come up with the \$252,593. And you can see as you go through, that the higher purchase price means higher down payment, means higher principle and interest payment, a bigger mortgage amount and ultimately means, potentially means less equity. And not as an attractive rate of return if you sell for the same price under either one of those scenarios.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: You say you have 143 property owners in the Rancho Viejo area?

MR. TAUNTON: Well, again, I'm just going from memory, Commissioner. Sold. So they don't become a property owner until they close.

COMMISSIONER TRUJILLO: Okay. So about 143 of those.

MR. TAUNTON: About 143 have been, in this taxable area, have been sold. But not all that many—we typically have 40 or 50 houses in backlog.

COMMISSIONER TRUJILLO: What if those 143 during the referendum would vote against the referendum? Would you give any credence to that?

MR. TAUNTON: Well, I'm assuming that most people, that many people, most people are going to vote against a tax increase.

2227254

COMMISSIONER TRUJILLO: So then if 143 would vote against it, would you give any credence to that? Would you step back and say, Hey, wait a minute. We're impacting these people in a negative way. Otherwise, it seems to me that Rancho Viejo is driving the results of the referendum of the election, and then why have an election? Because we already know what the outcome is going to be?

MR. TAUNTON: Commissioner, the reason why I probably wouldn't attach credence to it is because I would expect that most people would vote against it, and secondly, by selling them the properties that they would have closed on, if all 143 had closed by this time this election took place, they have already received a purchase price saving. We discounted the price by the value of the recovery from the bonds and we haven't even sold those bonds. We haven't seen that recovery. We've spent the money. We financed it. So they have received in my view a benefit that's equivalent to, if not superior, based on this analysis, to having the improvement district tax.

COMMISSIONER TRUJILLO: Then why go through the referendum if we already know—

MR. TAUNTON: Well, the statute requires that, Commissioner.

COMMISSIONER TRUJILLO: If we already know what the end result is going to be?

COMMISSIONER SULLIVAN: One other question, Mr. Chairman. The improvements are already in place and you mentioned that they were approved by the County. Could you elaborate on that?

MR. TAUNTON: If I may, I would like to have Isaac Pino, our land development manager answer that since he is the one that typically manages the land development process and deals with the County. So he's better able to answer that question, Commissioner, if I may.

CHAIRMAN DURAN: Just for everyone's information, the meeting's over at 10:00.

IKE PINO: Yes, Mr. Chairman, my name is Ike Pino. I'm the land development manager for Rancho Viejo. All of the infrastructure built to date was bid under the County's procurement process. That is to say we used the County's contracts and the County's form of contract. We obtained wage rates. We publicly advertised—

CHAIRMAN DURAN: While you're changing batteries, Estevan, I really need to ask you to try to manage these meetings a little bit better. A lot of people were here tonight thinking that we were going to be able to hear their land use cases and all these other things that we discussed cut into that time and I don't know if there's any way of doing it but maybe we need to have more meetings. Maybe we need to have specific meetings for land use cases and start on them right away and forget the ordinance and all this other stuff. But there are people we've been putting off for months that have been waiting to seek approval or disapproval for their projects and we can't get to them because we're dealing with these other issues and we need to, I think, have specific meetings delegated or directed strictly for land use and meetings specifically for these other issues.

2227255

[An unidentified speaker from the back of the audience complained on behalf of those present to hear the land use cases and asked if the cases were rescheduled that there be a set time for those cases.]

CHAIRMAN DURAN: It's not too much to ask and it's an animal that we've been struggling with for quite some time and we don't know how to deal with it. Everything is important to everybody and we try and give everybody an opportune time to speak their case and it's difficult. That's all I can tell you. I'm sorry that you have to come back again, but there's no other way we can do it. The County Manager will be posting a new agenda. Before we leave here we'll make a decision as to when we want to postpone the meeting to and maybe between now and then we can come up with a way of dealing with the land use cases on a land use case night and the rest of this stuff on another night. But I agree with you. It's not fair to you. It's not fair to anybody and I'm sorry that you got caught up in it but there's nothing we can do about it tonight. Thank you for your comments.

COMMISSIONER SULLIVAN: If you'd like to table it, Mr. Chairman, I'd be glad to table it.

CHAIRMAN DURAN: We're in the middle of this discussion, Commissioner.

COMMISSIONER SULLIVAN: Okay. I think Mr. Pino was discussing the construction process.

CHAIRMAN DURAN: We know you would like to table it. That's part of the problem.

COMMISSIONER SULLIVAN: Well, it's not a matter of liking it. It's a matter of when you have \$3.5 million that's put onto the agenda prior to us getting any of this information that we asked for in the previous meeting about whether this method of financing really does, from an independent standpoint, help the community. We haven't gotten that information. I wasn't aware that this would be coming forward until I thought we had an understanding at the last meeting we would get that information independently. We haven't done. It's been brought forward by one Commissioner, so now we have to deal with this. And also, unlike other communities, such as Bernalillo County and Albuquerque and Goodyear, Arizona, we don't even have any ordinances to deal with these assessment districts. We have state statutes but again, looking to Goodyear, Arizona, they have ordinances that say specifically how all these processes take place.

We should have an ordinance like that, just like the cell tower ordinance. In Goodyear you have to pay \$60,000 to file an application with the county to create a district. Here, all the staff time is free. So I think we're extremely premature in dealing with this both in knowing what the financial effect is on the residents and knowing what the financial effect is on the County in terms of staff time and effort and support that we've been giving to this. That's why I feel that this is, dollar-wise, any time you're going to increase my tax—not mine, but the residents of Rancho Viejo from 18 to 28 mills is not an insignificant issue.

CHAIRMAN DURAN: Mr. Pino.

MR. PINO: Mr. Chairman, to Commissioner Sullivan's question as to who were the contractors, for the College Heights water system, it was Gordon Construction. For

2227256

College Drive, it was R.L. Leeder.

CHAIRMAN DURAN: Just a second, Ike. You know, Commissioner, you need to help us try to find some clarity here. What does who the contractors have to do with what we're talking about?

COMMISSIONER SULLIVAN: Okay, I'll explain. In an area where these districts can be created, the contracts do not come under the state procurement code. A developer can hire whatever contractor he wants and in some areas, and I'm not—I don't know what the situation is here. As Mr. Pino says they were all competitively bid, then that wouldn't apply. That was the reason for my question. But in some areas abuses to these assessment districts, these capital improvement districts have occurred because developers have hired firms that they have a financial interest in. There has not been an arm's length transaction between the firms that do the construction work and the developer itself. And as a result, prices can be inflated, paid off by the bonds, and everybody makes an excess profit. That's one of the problems is lack of arm's length transactions with these districts that have occurred.

Now, Mr. Pino is saying that I assume that all of these were competitively bid so you're assuring me that we don't have that problem here.

MR. PINO: Mr. Chairman, Commissioner Sullivan, that's correct. I don't know if you want the names of the rest of the contractors.

COMMISSIONER SULLIVAN: I think just, I'm looking for an assurance that none of the contractors that you've used on this district, because these improvements are already in, according to Mr. Taunton, with the exception of some still to be built in Windmill Ridge II, are being built, or will be built by any firms that have any financial interest or financial relationship with Rancho Viejo or Suncorp.

MR. PINO: Mr. Chairman, Commissioner, there is no financial relationship between any of those contractors and Suncorp or Rancho Viejo, Inc.

COMMISSIONER SULLIVAN: Thank you. That clears up that. And my last question, not necessarily for Mr. Pino, but we talked about the capitalized interest, we also have a cost of issuance and contingencies of another half million dollars. Mr. Strumor, could you tell us what that includes?

MR. STRUMOR: Yes, Mr. Chairman, Commissioner Sullivan, that is a high-end estimate that would include underwriting fees, whatever the investment bank charges to place the bonds, essentially bond counsel fees, which are incurred on the County's behalf and paid for out of bond proceeds, other counsel, possibly bond insurance, and it's a high estimate. So the actual number will be something less. And that is really a question for the bond underwriters who are not here tonight. I know what some of the expenses will be and would like to correct something.

The staff time of the County is not free. The statute permits a recovery of administrative expenses, federal tax law permits the recovery of approximately 1/8 of one percent added on to the bond interest rate over the term of the bonds or a one-time administrative fee of actual expenses. So there is a mechanism to recover staff time and that's certainly within the prerogative of the Board.

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So the estimates of expenses were on the high end. I don't know exactly what the final number will be but bond issuance costs are appropriate, lawful and customary expense of selling the bonds because it just can't be done for nothing. There has to be some expense.

COMMISSIONER SULLIVAN: And how much of that is legal fees?

MR. STRUMOR: Well, I only know what ours are. I don't know what the other counsel fees are. I think ours on in the \$50,000 range.

COMMISSIONER SULLIVAN: So if we just simply leave in—the developer went out and built these \$2.5 million worth of improvements, that price would obviously be passed along to the purchaser in the price of the home. We're now adding a million dollars to that, in terms of the capitalized interest and the costs of issuance and contingencies.

MR. STRUMOR: I think the developer said that the capitalized interest is something that could be negotiated. So it's not 100 percent certain that it would be in.

COMMISSIONER SULLIVAN: But the current proposal is to do that.

MR. STRUMOR: That's what's in there.

COMMISSIONER SULLIVAN: That amounts to about \$2,900 or about \$3,000 per house on the 341 homes.

MR. STRUMOR: I'm not going to argue—either do or argue the math.

COMMISSIONER SULLIVAN: Okay. Just trust me and my handy-dandy calculator. So I think when we say we have savings of whatever they might be, we also have costs that are passed on, additional costs to do this. Would you agree with that?

MR. STRUMOR: Well, of course. There has to be an expense of doing a bond issue and depending on how it's structured, it's either economical or not economical to even do it at all.

COMMISSIONER SULLIVAN: And has the County collected fees for its staff services in the past?

MR. STRUMOR: Not—you know, I don't recall. I thought there was some administrative fee that was charged in the last deal but I don't want to be held to that because we do these on a regular basis, but as a policy matter, there's a mechanism to recover the County's staff expenses.

COMMISSIONER SULLIVAN: Then one last question. Assuming the election is already a given, there's also a protest period for these residents who may not want their taxes increased.

MR. STRUMOR: Absolutely, yes.

COMMISSIONER SULLIVAN: And the residents come in and make a protest to us as the County Commission? Is that the mechanism?

MR. STRUMOR: Well, there's several different types of protest. After the preliminary hearing, assuming it's concluded and it's determined to go forward, there's a 30-day protest period where the taxpayer or the landowner can go to district court. It's a court challenge. The initial one is court challenge.

COMMISSIONER SULLIVAN: So it doesn't come back to the Commission?

MR. STRUMOR: It always comes back. It has to come back for an ordinance.

2227258

Right.

COMMISSIONER SULLIVAN: After the protest period—

MR. STRUMOR: Yes, it comes back after the protest period. Absolutely.

COMMISSIONER SULLIVAN: Can the County Commission then turn it down if the majority of the landowners have voted in favor of it, which they will?

MR. STRUMOR: Not according to the statute. In fact in some similar statutes where there is a majority of interest already owned, I know Commissioner Trujillo was saying why even have the election? Well, because in theory, between now and then enough people can buy lots and get a controlling interest but some of the statutes provide a waiver of the election and affidavit process where if it's really—like they own 100 percent of the lots or over 90 or something, there is no election. But that's not what we have here.

COMMISSIONER SULLIVAN: So even if there's a protest to the district court, to the Commission, and even if the Commission were to say that they felt that protest was valid, once the election takes place, it's a done deal. It's all over.

MR. STRUMOR: Well, I'm going to have to disagree with your preface. If there's a court challenge, the court could invalidate the election. In other words, you have the preliminary hearing process and a 30-day court challenge period. You have a public hearing with an ordinance. Any taxpayer can always challenge the adoption of an ordinance. In other words, taxpayers have rights all along this process and there are individuals that own lots that have the right to do that. So from a legal, technical standpoint, we have a proposer or a developer that has a majority interest but between now and whenever the election is, and we don't know exactly when that's going to be, that's could change.

COMMISSIONER SULLIVAN: Well, it's very unlikely. If there's forty that aren't closed, he's only got 100 closings out of 341. My question is that we at the County Commission don't have any further recourse. If the protests come to us and were we to agree to those, if the election comes out in the affirmative, the statute requires that the district move forward.

MR. STRUMOR: Yes, that's correct. In other words, but there's a long time and many appearances in front of the Board. In other words, there's no legal requirement that an elected body ever do anything. It's whether or not a presentation to the elected body is acted on and approved. So at every step, of which this is a very preliminary step, the Board of Commissioners has recourse. Once the ordinance is passed calling for the election and the imposition of the tax, 30 days passes and it goes into effect without a challenge, then the tax will be imposed. There's also another protest period obviously when that ordinance calling for the issuance of the bonds, potentially interested parties can challenge the bond issuance. So the legal process is, the safeguards are essentially public input and public protest all along the way.

The other safeguard is the elected body is really not obligated to take any steps but there's a statute, essentially, that permits an elected body to use a process which in fact this body has already done for this particular entity. However, there's no requirement to do anything ever. They're making a presentation. The statute we use on a daily basis and have been over it from our perspective, specifically authorizes these particular "best interests of the

2227259

County” by approval of the body. So the safeguard is every step comes before your Board. But you’re correct, Commissioner Sullivan, once that election is held and it’s affirmative, the tax gets imposed and bonds are authorized.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. I’m sorry for the length of it. I think it’s important. We do have other issues coming forward. Let me just summarize what I think are the concerns here, my concerns. One is the amount of the tax.

CHAIRMAN DURAN: Make it quick, please.

COMMISSIONER SULLIVAN: Two is the fact that it’s premature and we don’t have ordinances to deal with these properly. We don’t have the mechanisms to be reimbursed and we, I think, don’t have the information that we asked for other than a submittal from the developer, independent information as to is this really good public policy. So I think we’re premature in addressing this issue for that reason. Thank you for your patience.

CHAIRMAN DURAN: Can I just say one thing? We’ll probably table this but I’d like to go very real quickly some numbers with you so that when we meet again to discuss this you need to help me work through. If I buy a \$250,000 house out there with a 28 mill rate on it, over a seven-year period, I’m paying \$17,500 over what that person pays who doesn’t have—that pays 18 mills. And I don’t see where the savings is. If I buy that same house and you charge me for the infrastructure \$12,000, I, along with the other 298 property owners pay \$12,000 more for that house.

MR. STRUMOR: The taxable valuation is one-third of the assessed valuation.

CHAIRMAN DURAN: I did that.

MR. STRUMOR: Okay.

CHAIRMAN DURAN: I’m still paying \$17,500 under the assessment, 28 mills, I’m paying \$17,500 more than if I was paying 18 mills. And if I bought that house for \$262,000 and paid for it up front, over that same seven-year period, I would be paying \$5,000 more. So the difference is do I want to pay \$17,500 over a seven-year period or do I mind paying \$5,300 more because I’m paying for it up front. And I know that there’s added equity in the house but even still, it does pencil out. It seems like an exorbitant amount of me to pay over a seven-year period. The savings are minimal.

So as we move forward, I really think that we’re not going to be able to deal with it tonight, Bob.

MR. TAUNTON: Mr. Chairman, are you looking at the examples that I brought?

CHAIRMAN DURAN: No, I made my own examples.

MR. TAUNTON: Why don’t we look at the examples?

CHAIRMAN DURAN: Because I’d rather use mine.

MR. TAUNTON: We’re talking about a maximum tax, a district tax over six years on a \$240,000 house because there’s a lag of a year before it’s on the tax rolls, so \$4,817. What was your number again? What was your total?

CHAIRMAN DURAN: I took a \$250,000 house. I divided it by three.

MR. TAUNTON: Did you divide by 1000 after that?



2227260

CHAIRMAN DURAN: Yes. I divided it by 1000 and then divided that by three, times the mill rate.

COMMISSIONER SULLIVAN: Actually, and it goes more than seven years of course. The bond issue goes more than seven years.

CHAIRMAN DURAN: Right. But the initial homeowner—

COMMISSIONER SULLIVAN: Depends on if the homeowner owns it—is the bond here ten or fifteen years?

CHAIRMAN DURAN: Another thing is the initial homeowner isn't the only one that's affected by this. It's every owner afterwards that's affected.

COMMISSIONER SULLIVAN: It passes on. That's correct. And if you charge me \$12,000 at the beginning, more, so that you can pay for the infrastructure, then that cost ends with me. It doesn't go—if it changes hands every seven years, what's that four different people that will experience the increased tax.

MR. TAUNTON: Mr. Chairman, I'm trying to work through your math here and see if I can do it. You've got a \$250,000.

CHAIRMAN DURAN: Right. Divide it by 1000.

MR. TAUNTON: No, you divide it by three.

CHAIRMAN DURAN: Well, either way. Divide it by 1000, and then—

MR. TAUNTON: And then you divide 1000 into that. How many thousands go into that one-third value?

CHAIRMAN DURAN: \$250,000 divided by three.

MR. TAUNTON: So that's 83.33. Now what mill rate do you want to multiply by?

CHAIRMAN DURAN: Well, if it's \$18 per thousand now and with yours it's 28.

MR. TAUNTON: Well, the difference is ten.

CHAIRMAN DURAN: Well, what's 28 times—

MR. TAUNTON: What's 28? Twenty-eight—it'd be \$2,333.

CHAIRMAN DURAN: If it's \$28 per thousand.

MR. TAUNTON: Yes, it would be \$2,333 per year.

CHAIRMAN DURAN: Times seven. It's \$17,500.

MR. TAUNTON: But that includes your regular County taxes.

CHAIRMAN DURAN: I know. What I'm saying is under a normal scenario I wouldn't be paying—what would I be paying under 18 mills?

MR. TAUNTON: Under 18 mills?

COMMISSIONER SULLIVAN: You'd be paying 45 percent.

CHAIRMAN DURAN: Forty-five percent of it?

COMMISSIONER SULLIVAN: Just take 45 percent of your \$17,500.

MR. TAUNTON: Eighteen mills over seven years would be \$10,500.

COMMISSIONER SULLIVAN: In the seven-year period you'd be paying about \$10,000 more.

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CHAIRMAN DURAN: \$10,000 more.

MR. TAUNTON: No. It's \$5,800. The example here based on \$240,849 would show you paying, over seven years, and you only pay—as I said there's a lag of, for a new home, there's a lag of a year, so you really only pay six years of taxes. And that would be \$4,817. So if it was a \$250,000 home, it would just be slightly more than that.

COMMISSIONER TRUJILLO: Mr. Chairman, isn't the reality that you're going to end up paying more either on option A or on option B? On option A, you're going to have a tax deduction, on option B you're not.

MR. TAUNTON: Correct. You're paying either way.

COMMISSIONER TRUJILLO: You're going to pay either way. The improvements are going to happen regardless.

MR. TAUNTON: Right. Exactly.

COMMISSIONER TRUJILLO: Whether it's option A or option B. And that's bottom line. And one of them it's tax-deductible and the other one it's not. And that's it.

MR. TAUNTON: That's right. And a lower purchase price.

COMMISSIONER TRUJILLO: And a lower purchase price. The equity is higher on one than the other, but that's a simple as that.

COMMISSIONER SULLIVAN: I think that would be true except that we've got a million dollars in additional costs that we wouldn't have otherwise that are essentially administrative costs. We've spent \$3.5 million to build \$2.5 million worth of facilities. So even if you take the assumption that you are reducing the house price that much and I don't think we can stipulate to that, you still have additional costs that are about a third just to finance it. I would agree, Mr. Chairman, I would make a motion to table if you like and we'll get these questions you have answered along with some of the ones I had.

CHAIRMAN DURAN: Let me just—time out. Estevan, would you explain to me what we talked about just a few minutes ago and the concern—

MR. LOPEZ: Mr. Chairman, I've been approached by some of the people here that were here to address issues involving Sonterra and Thornburg, specifically, and they're wondering if they might be released. Whether those might be tabled and I guess what I would recommend is that if you want to continue until 10:00, to the extent that we're able to hear another case that that be the Eldorado Case and that all others be put off to another date, so that these people might be able to go home. And if you're willing to do that, then the question is should be just put it off to the 26<sup>th</sup>, which is the date we were scheduled to continue this or shall we schedule another date also?

CHAIRMAN DURAN: I think we need to schedule another date and I would suggest, if it's a matter of—we can't have public hearings that start at 6:00 and expect to go through everything by 10:00. Why don't we—and the problem is that public hearings need to be held at a time that the community can attend, outside the work hours. Why don't we have a meeting on a Saturday, have it in the afternoon, and get through all this stuff? I know it's everybody's special time but it's not fair. It's not fair to the applicant. It's not fair to us. It's not fair to staff who stay here to talk to us about this thing and advise us and then we never get to

2227262

it.

MR. LOPEZ: Mr. Chairman, as far as I'm concerned we can do a Saturday. Just tell me which one. There's the 17<sup>th</sup>, there's this next Saturday.

COMMISSIONER GONZALES: Why not do it in the morning as opposed to an afternoon?

CHAIRMAN DURAN: What do you mean?

COMMISSIONER GONZALES: If you're going to do it on Saturday—

CHAIRMAN DURAN: I don't care when on Saturday.

COMMISSIONER GONZALES: If that's what you want. Or we can do it on the 29<sup>th</sup>.

CHAIRMAN DURAN: Don't we have a meeting on the 29<sup>th</sup>? We have an EZA on the 29<sup>th</sup>.

COMMISSIONER GONZALES: On the 27<sup>th</sup> we have EZA. And we have a special meeting on the 26<sup>th</sup> already.

COMMISSIONER SULLIVAN: Mr. Chairman, I think we have enough meetings this month. I think we can put it off to the next land use meeting or just keep plowing through. We've already had four County Commission meetings this month.

CHAIRMAN DURAN: What do you mean plowing through? Staying here tonight?

COMMISSIONER SULLIVAN: Not tonight, no.

COMMISSIONER GONZALES: What about the 15<sup>th</sup>? Just move it to the 15<sup>th</sup> since we have a Commission meeting on the 15<sup>th</sup>.

COMMISSIONER TRUJILLO: And just follow the agenda on the 15<sup>th</sup>.

COMMISSIONER SULLIVAN: The 15<sup>th</sup> we're bringing forth—here's the book for the 15<sup>th</sup>. These are all the items we didn't get done in the last meeting.

COMMISSIONER GONZALES: Those are all administrative. We could start the meeting earlier and get to this by the evening.

MR. LOPEZ: Mr. Chairman, but we also have those presentations by the State Engineer and the Environment Department at 6:00 on the 15<sup>th</sup>.

COMMISSIONER TRUJILLO: When are we starting on the 15<sup>th</sup>?

MR. LOPEZ: The continuation of the last meeting is at 2:00. Then we have another special meeting at 6:00 with the presentations on the water.

COMMISSIONER TRUJILLO: Can we start the meeting at 9:00.

MR. LOPEZ: You still need to the public hearings and the presentations after hours.

COMMISSIONER SULLIVAN: There's a big rush here but some of us work and have lives and businesses to attend to and I think four County Commission meetings a month is sufficient to keep things moving. If we get a little behind, we get a little behind but I do think it's important as you've indicated to set a specific time when the people from the Route 14 area can address those two issues together, both Thornburg and Sonterra, because they're interconnected.

2227263

COMMISSIONER GONZALES: Why couldn't we just—we have a land use meeting scheduled for the 26<sup>th</sup>?

MR. LOPEZ: Mr. Chairman, that's what I would recommend.

COMMISSIONER GONZALES: We start with this on the 26<sup>th</sup>—

MR. LOPEZ: With these items on the 26<sup>th</sup>.

COMMISSIONER TRUJILLO: Continuation.

MR. LOPEZ: Continuation. And we could start it at 5:30 if you'd like.

COMMISSIONER GONZALES: Or 5:00. That way we stay on calendar as opposed to just bouncing back and forth.

CHAIRMAN DURAN: Okay, I don't mind doing that. Here's the thing. We have that ordinance that we're going to talk about that affects the subdivisions. When are we going to hear that? Because there are people that came from all over the place in the county to come and address it.

COMMISSIONER SULLIVAN: That's up to you, Mr. Chairman. Whenever you'd like to hear it.

COMMISSIONER GONZALES: Can we continue tonight? It's up to you.

CHAIRMAN DURAN: And then we continue tonight and then we get accused of taking this thing late into the night and everybody's punchy, as if we're not punchy enough as it is.

COMMISSIONER SULLIVAN: I think we just move it, Mr. Chairman, to the 26<sup>th</sup>. Like we say, that's the extension that we already did and we keep the same—

CHAIRMAN DURAN: Well, how about this? Is there any reason to do this? Are any of these things so time-sensitive that we can't get through the land use issues before we start adopting new ordinances? For instance the water ordinances, the well ordinances and all that. I just need some help figuring out when we can tell the public we're going to hear that so that they can come here expecting to hear it and reasonably expecting to hear it.

COMMISSIONER GONZALES: I guess Commissioner Sullivan, if you'd be willing to delay that a month, or what? To put that on hold?

CHAIRMAN DURAN: It doesn't matter to me. If you want—you're leaving after this month so it really doesn't matter.

COMMISSIONER SULLIVAN: We can hear those ordinances tonight if you like. If there are people here as you indicate for it and hear the Eldorado on the 26<sup>th</sup>.

MR. LOPEZ: Mr. Chairman, I think that a lot of the people that might have been here for the water ordinance might have left when we said it was going to go to ten.

CHAIRMAN DURAN: They did?

[An unidentified speaker in the audience confirmed this.]

CHAIRMAN DURAN: Okay, I give up. I'm turning it over. You make the decision.

COMMISSIONER CAMPOS: Okay. All the cases will be postponed to September.

COMMISSIONER TRUJILLO: September? August 26<sup>th</sup>.

2227264

COMMISSIONER SULLIVAN: Let's finish. Let's table this item. Let's move to the Eldorado. There should be enough time to hear Eldorado and then we're done and we move the others to the 26<sup>th</sup>, just like we suggested.

COMMISSIONER GONZALES: Before we table I just have a quick proposal, real quick for consideration. As specifically to this issue, as Commissioner Trujillo indicated and first of all I wanted to go back to what Bob Strumor indicated, that the new area that would be under construction is the new taxable area. That would be subject to the tax. I got confused with Bob saying that there would be some people in the old taxable area that were going to have some of this tax.

MR. STRUMOR: No. No.

COMMISSIONER GONZALES: Okay. So anything that we're talking about exists for all future homeowners in Rancho Viejo.

MR. STRUMOR: No, there were some discussions about improvements in the ground. And I think that was directed at the new district, to let the Commission know that most of the work is already completed. But there's no tax on that yet.

COMMISSIONER GONZALES: The problem that I have, Mr. Chairman, is there's still lots of time that needs to take place in this process for the Commission to consider what this district would look like. But I, in listening tonight, know that as indicated by Mr. Strumor that the County can recover administrative expenses and what I would propose to address Commissioner Sullivan's points, which were very extensive and required much debate, would be that the County would hire some type of constituent advocate or administrator that would be paid for out of the bond proceeds to assure that competitive bids are issued, that the developer does not personally profit from this mechanism, and that the tool, this financing tool, if done in theory to actually benefit the homeowner, that that is all validated to the Commission. Because I don't think we're ever going to go back and determine what was done in the past. The only way that we can determine whether this is going to be valid or not for Santa Fe County is to have a Commission watchdog that's actually funded to oversee this. So I propose that that be in place as we go forward so that the Commission will have continuous oversight every step of the way to assure that there's no malfeasance or inappropriateness that's being conducted by the developer.

COMMISSIONER CAMPOS: Mr. Chairman, I think that's something to think about at the next meeting. One issue I'd like to discuss before we table is the question of creating an entity that has its own tax base and thus would not be concerned politically if the County got into a problem and had to raise taxes generally. It's like—I think it was described as a gated community, basically. They've got what they want and that's it so we're creating a situation where the county as a whole may not be benefited. I would like to have more extensive discussion from all the Commissioners. I would like to have their ideas the next time we talk about it. It's a curious, interesting issue and I think it's an important issue.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Campos, I believe that this is an effective tool. And I have differences in how it's been discussed this evening. As Commissioner Trujillo indicated, the homeowner is going to pay for this either

through their property tax payment or through paying for it in the infrastructure costs. I propose that the Commission allow this resolution to go forward with the change that we allow for an administrator to work with Commissioner Sullivan and yourself to make sure that adequate oversight is done and that this district is administered properly in accordance with the statutes and that it actually does benefit the end residents.

The issue of policy discussions and setting up separate tax districts, those are big, long-term policy issues that will take several meetings to go over that we're not going to solve in the next meeting. I think this is an effective tool before us and I'm not in favor of tabling. I think that we ought to move forward with it.

COMMISSIONER CAMPOS: I think there's a motion to table. Is that right?  
No. Motion to table.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's no discussion on a table. But I just want to say that Rancho Viejo I think represents a unique situation out there. Their land base is low and they are able to provide an affordable project and a quality project out there. I know that to be true because I know what else is being offered out there and there are a lot of people buying out there because of the product and because of the lifestyle that they've been able to create out there and the value. Specifically, the value. And if they don't want—provided this disclosure is made adequately to these people, Bob, and I really would like to see that disclosure and you need to assure me that you're doing it properly and they know that they're going to be paying for this assessment. I don't have a problem with approving the assessment district. The motion is to table.

**The motion to table failed by a [2-3] voice vote, with Commissioners Sullivan and Campos voting in favor.**

COMMISSIONER GONZALES: Mr. Chairman, I'd move for approval of the resolution with the amendment to allow for the administrator to be put in place to be act as Commission oversight of this project.

COMMISSIONER TRUJILLO: Do we need public comment? I think we need public comment—not yet, we don't?

COMMISSIONER GONZALES: That would happen when it was brought forward for the election.

COMMISSIONER TRUJILLO: That would happen during—okay.

COMMISSIONER GONZALES: Whether the Commission chooses to go forward.

COMMISSIONER CAMPOS: Well, there's a gentleman who's asking for public comment tonight. Is that what you're saying, Commissioner Trujillo?

COMMISSIONER TRUJILLO: Well, if it's incorporated in the process then I'm satisfied with that.

COMMISSIONER CAMPOS: Well, you know there is really no real election.

2227266

They own all the lots or most of the lots and it will be approved.

COMMISSIONER GONZALES: But Commissioner Campos, before the election can take place it still has to come back to the Commission. This does not grant an election to automatically take place.

COMMISSIONER CAMPOS: So what's the point? We know it's going to happen.

COMMISSIONER GONZALES: This grants a process of an ordinance to go forward to allow the Commission to determine whether they want an election or not.

COMMISSIONER CAMPOS: You're the only effective stop to this if there's serious public concerns. Once the process moves to an election, the election happens and it gets voted in.

COMMISSIONER GONZALES: But how many more County Commission Board meetings are in place before they actually have an election?

MR. STRUMOR: At least three.

COMMISSIONER GONZALES: Commissioner Campos, there are three more County Commission meetings that are going to take place before this is allowed to go forward over the next couple of months or however long it's going to take.

COMMISSIONER SULLIVAN: Mr. Chairman, Commissioner Gonzales, if you want to move forward with this as at least obviously three appear to do, I would ask that you remove the capitalized interest.

MR. STRUMOR: The developers have indicated they would agree with that.

COMMISSIONER TRUJILLO: Okay.

MR. WAIT: Point of order.

CHAIRMAN DURAN: You're out of order, sir.

MR. WAIT: Point of order.

CHAIRMAN DURAN: You're out of order. No, this is not a public hearing issue. I'm sorry.

MR. WAIT: Is this a public hearing?

CHAIRMAN DURAN: This item is not a public hearing item.

MR. WAIT: Why are we here?

CHAIRMAN DURAN: That's a good question. If you want to come up and say something, come on up. Please come to the podium.

MR. WAIT: Mr. Chairman, members of the committee, I appreciate your ability to hear me at this late date. My name is Walter Wait. I live at 48 Bonanza Creek Road in Santa Fe. Since this process appears to be so good, and it may very well be, I think that the Commission can expect other developers to want to participate in this same type of situation. I think that the Commissioners should at least consider at least two on tonight's docket would be very, very interested in being able to do the same, have the same tax benefits so that they can conduct their own infrastructure work.

Now, one of the things that is a question there or may be a question or should be a question is if we are confronted with numbers of these wishing to partake in this kind of bond

2227267

issue is how will it affect the County's ability to conduct their own bond issues? What is the limits to our bonding, and how much of that bonding issue will we be giving away, in a sense to developers who wind up controlling our tax base?

The second thing is if the taxes for some of these properties will be so high, and that seems to have been proven, what happens with an economic downturn? Will the people who own these properties suddenly find themselves with a tax burden too much for them to bear? Wouldn't it be better then for some of these new homeowners to purchase their properties up front, take the tax advantages of their mortgage tax advantages instead of this? These are a couple of things to think about.

Third is if we've got these infrastructure questions and each of the developers are on their own to develop this infrastructure—under the County Code, granted—where are we going to coordinate these activities so that the infrastructure is built to the benefit of the community. Now, for example in Rancho Viejo, we're talking about arterial roads, we're talking about sewage systems. If each of these individual developers develop independently of one another using our bonding authority to do so, are we able to control the overall larger picture so that the County manages its growth and not the developers. Thank you for your time.

CHAIRMAN DURAN: We're in the middle of a motion.

COMMISSIONER GONZALES: Mr. Chairman, I just think Mr. Wait brought up some good points, particularly if the County diminishes its ability to deal with our—or the impact it has on our bond rating and if the taxpayers, if this is in default, if the taxpayers of Santa Fe County are held responsible.

MR. STRUMOR: There is absolutely no effect because the assessment is a lien on the property. So in the event these taxes aren't paid by the landowners, the bonds will be paid off through a foreclosure. So this has no effect on the ability of the County to do any other kind of bonding or its bonding capacity.

COMMISSIONER GONZALES: Does it diminish our rating?

MR. STRUMOR: No.

CHAIRMAN DURAN: But those people that have the increased tax are not going to vote for another bond issue. If it was an open space bond issue or another bond issue because you can only squeeze so much out of them.

MR. STRUMOR: You know, that's a policy decision I guess for the Commission. I don't know that.

CHAIRMAN DURAN: You know what? I'm not going to go with the motion. I think we need to table this thing and talk about it more.

COMMISSIONER CAMPOS: Move to table.

CHAIRMAN DURAN: There's a motion to approve. I'm sorry.

COMMISSIONER TRUJILLO: I'll second the motion to approve.

**The motion to approve the resolution failed by a [2-3] voice vote with Commissioners Gonzales and Trujillo voting in favor.**



COMMISSIONER CAMPOS: Move to table.  
COMMISSIONER SULLIVAN: Second.

2227268

**The motion to table passed by majority [3-2] voice vote.**

CHAIRMAN DURAN: Okay, Estevan, so what did we decide to do? We're not going to hear the—

MR. LOPEZ: Mr. Chairman, before we move off of that, are we tabling to a date specific or just—

COMMISSIONER CAMPOS: State date indefinite.

CHAIRMAN DURAN: Let's postpone the Sonterra—

COMMISSIONER CAMPOS: No, this case.

CHAIRMAN DURAN: Oh, this case.

COMMISSIONER CAMPOS: The one we just voted on.

CHAIRMAN DURAN: When's the next time it can come forward? How about in 30 days?

COMMISSIONER SULLIVAN: Land use meeting on second Tuesday of September.

CHAIRMAN DURAN: I'm more than willing to sit down with you and talk more about it. I just have—I'm not clear. I'm not comfortable with it.

MR. TAUNTON: Mr. Chairman, we'd like to do it as soon as possible so I prefer less than 30 days. I'm happy to meet with you any time.

COMMISSIONER CAMPOS: Mr. Chairman, there's a lot on our plate. I don't know if this is urgent, if we need to hear it this month. We have so much to do right now.

MR. TAUNTON: Mr. Chairman, we started this process ten months ago and we have been put off, put off, put off all through the spring as we wrestled with the affordable housing aspect of this and finally we got that behind us.

CHAIRMAN DURAN: Let's do it on the 26<sup>th</sup>. We can do it through the administrative—

MR. LOPEZ: Mr. Chairman, the administrative meeting is on the 27<sup>th</sup>.

CHAIRMAN DURAN: How about we do it then?

COMMISSIONER TRUJILLO: The 27<sup>th</sup> is fine.

CHAIRMAN DURAN: And I'll make myself available to talk to you about it, as well, I'm sure will everyone else.

MR. TAUNTON: Thank you, Mr. Chairman, members of the Commission.

MR. LOPEZ: Mr. Chairman, so then Sonterra and every other case except Eldorado would be tabled to the 26<sup>th</sup>, the continuation meeting? Is that correct?

COMMISSIONER SULLIVAN: We're down to—if we're going to leave at 10:00 I'm not certain that 20 minutes is going to be adequate.

COMMISSIONER CAMPOS: We can't do a case in 20 minutes.

MR. LOPEZ: So maybe we table everything else from here on to the 26<sup>th</sup>.

2227269

COMMISSIONER TRUJILLO: To the continuation.

MR. LOPEZ: To the continuation of the 26<sup>th</sup>. And we also need to determine what time we'll start it on the 26<sup>th</sup>. Can we start at 5:00.

CHAIRMAN DURAN: We can start any time you want.

MR. LOPEZ: These are all public hearings.

COMMISSIONER SULLIVAN: It's public hearings.

COMMISSIONER TRUJILLO: Five o'clock is fine.

COMMISSIONER SULLIVAN: I think 5:00 is okay.

MR. LOPEZ: Five o'clock?

CHAIRMAN DURAN: Yes. We have 20 minutes. You don't want to hear this?

COMMISSIONER GONZALES: I'm willing to stick around.

CHAIRMAN DURAN: Let's just hear this one case and go home right after this.

MR. LOPEZ: You're talking about Eldorado?

CHAIRMAN DURAN: Is that okay? We have 20 minutes. We might as well utilize it.

COMMISSIONER CAMPOS: We can't do this case in 20 minutes.

CHAIRMAN DURAN: This is the fifth time this things come up before us. If you don't know what it's about by now—

COMMISSIONER TRUJILLO: It's the last case before 10:00.

**X. C. Land Use Department**

**2. CDRC CASE #DP 01-5131 - Village at Eldorado Preliminary Development Plan. Allan and Stacy Crossingham, Applicants, Request a Master Plan Amendment to Include a Phasing Schedule of Two Phases, and Development Plan Approval of Phase I to Include: 6,000 Square Foot Pub/Restaurant, 13,000 Square Foot Theatre Complex with 3 Screens, Live Performance Stage, and Multi-Purpose Room, 30,000 Square Feet of Retail Space, 7,000 Square Feet of Office Space, Open Air Markets, Farmers' Markets, and a Coffee Drive-Through Kiosk. The Property is The Village at Eldorado (formerly Sierra Plaza) Located at the Southwest Corner of Avenida Vista Grande and Caliente Road, within Section 9 and 16, Township 15 North, Range 10 East**

CHAIRMAN DURAN: Penny, is what's being presented to us tonight exactly what was approved at the last meeting?

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioners, this is just Phase 1 that's being proposed tonight. It's a master plan

2227270

amendment to allow the development to take place in two phases and also Phase 1, which would be phases that you listed. Phase 2 would consist of the community service facility and that is not proposed at this time.

CHAIRMAN DURAN: But what's being presented to us tonight was already approved in the master plan.

MS. ELLIS-GREEN: Mr. Chairman, the Board approved the master plan July 10<sup>th</sup> and it is in accordance with the master plan, yes.

CHAIRMAN DURAN: Okay, so there's no intensification of the uses?

MS. ELLIS-GREEN: Mr. Chairman, the Board had actually requested that the movie theater go from six screens, I believe, to three and that is what is proposed.

CHAIRMAN DURAN: Right. And the number of seats was limited also.

MS. ELLIS-GREEN: The number of seats was limited to 400, or to go up to 650 if an analysis was done. The applicant is only proposing 400, so they have not increased the number of seats. They are in accordance with your conditions.

CHAIRMAN DURAN: Okay.

MS. ELLIS-GREEN: Mr. Chairman, would you like the staff report?

CHAIRMAN DURAN: Yes.

MS. ELLIS-GREEN: The master plan approval for this project was granted by the Board by on July 10, 2001. The applicant is requesting a master plan amendment to include a two-phase schedule. In Phase 1 the applicant is proposing the pub and restaurant, the theater complex with three screens, the live performance stage, multi-purpose room and retail and office space, open air market and a drive-through coffee kiosk. Phase 2 would be the community service facility and that is not being requested for development plan at this stage.

The proposed access is off of Caliente Road and off of Vista Grande as well. The applicant proposes to make the Avenida Vista Grande and Caliente Road intersection a four-way stop and proposes a right-in/right-out at the Avenida Vista Grande on Village Drive. Eventually, this intersection will also become a four-way stop.

Mr. Chairman, the decision of the CDRC was to grant a master plan amendment to allow for two phases and preliminary development plan approval for Phase 1, subject to the following 20 conditions. And Mr. Chairman, may I enter them into the record?

CHAIRMAN DURAN: Please.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. County Hydrologist
  - b. County Fire Marshal
  - c. County Subdivision Engineer
  - d. City of Santa Fe
  - e. New Mexico State Highway & Transportation Department
  - f. Public Works Department
  - g. State Engineer

2227271

2. The applicant must provide copies of approval from the NMED for the proposed liquid waste disposal treatment plan.
3. The portion of Village Drive must be developed meeting SFC Common Roadway Standards.
4. All utilities shall be underground.
5. All redline comment will be addressed. The drainage and grading plan is to be approved by the Development Review Division Director, original redlines will be returned.
6. A final fire inspection is required for all buildings.
7. All trees shall be 6 feet in height, 1.5 inch caliper at planting. All landscaping shall require only low to moderate use as per county code.
8. The applicant shall provide employee parking spaces.
9. All recommended improvements in the traffic impact analysis to be completed according to New Mexico State Highway and Transportation Department standards and requirements, and shall be coordinated with the New Mexico State Highway and Transportation Department and Public Works.
10. Water usage shall be limited to 3 acre-feet per year. A water meter must be installed on the well and water meter readings reported to the county hydrologist annually by June 30<sup>th</sup> of each year.
11. Every ten years the water meter must be replaced to ensure accurate water usage readings.
12. Water quality data from the wastewater treatment plant must be submitted to Santa Fe County on a quarterly basis by June 30<sup>th</sup>, September 30<sup>th</sup>, December 31<sup>st</sup> and March 31<sup>st</sup> of each year.
13. Applicant shall provide a minimum width for the one-way service area that is acceptable to the Fire Marshal.
14. Applicant shall comply with all conditions of approval placed on the master plan.
15. The applicant shall submit a financial guarantee, in the amount approved by the Commission, for all improvements including fire protection, full cost of onsite and off-site road improvements, parking, drainage improvements, retention ponding and landscaping prior to grading or construction permit issuance. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year.
16. Wastewater treatment facility and recycling system to be installed, tested and approved prior to Certificate of Occupancy
17. Fire hydrants shall be in place, operable, tested and approved prior to building construction. Final placement of all fire hydrants shall be coordinated with the County Fire Marshal prior to installation. The applicant shall install Knox Lock cabinets on all gates and buildings, to be approved by the Fire Marshal.
18. The on-site well must be registered as a public water supply.
19. An automatic fire protection sprinkler system will be required for all buildings, designs

for this to be approved by the Fire Marshal prior to permit issuance. 2227272  
20. Applicant shall submit an updated traffic impact analysis with current traffic count data, complete detailed construction drawings on the proposed driveway, circulation plan and all improvements needed to accommodate the increased traffic. This is to include Avenida Vista Grande and the intersection of Avenida Vista Grande with Caliente Road. All recommendations shall be in accordance with the new State Highway *Driveway and Median Opening Regulations*.

CHAIRMAN DURAN: Any questions of Penny?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple questions for the staff. Penny, does this also come back for final development approval to the BCC?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, at the master plan stage the Commission requested that the development plan be heard by the Board. Usually a development plan is just heard by the CDRC. I believe that the applicants are requesting that the final development plan would just go to the CDRC.

COMMISSIONER SULLIVAN: I reviewed the minutes in the master plan approval and the condition was that both the preliminary and final come back to the BCC.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, I'm not sure that it was split between preliminary and final but it was a requirement that the development plan come back in front of the Board as well as the CDRC.

COMMISSIONER SULLIVAN: Well, I guess I can find that if we have some time here but I would like the final to come back because particularly if it's split into two phases. What goes into the community services center?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, that has not been determined yet. A community service facility would be things like church, daycare, school, that kind of use. And that would have to come back for a development plan approval.

COMMISSIONER SULLIVAN: And what would happen if, I guess I'm concerned about the community services center ever getting built with the water limitations. What would happen if the first phase then ran out of water or got to the maximum of the water budget? The second phase will never get built. Would that be correct?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, that could happen. If the applicant ran out of water they would have to purchase water rights and prove up additional wet water as well.

COMMISSIONER SULLIVAN: It would seem to me that if we want to be certain that at least some of those community service facilities get built, maybe not all of them—maybe some portion of them, they should be in the first phase. Otherwise, what would we do? We could ask the developer to bond for it but that doesn't help the issue

2227273

because if there's not sufficient water, if the water's run out, and I have a concern with as close as is this water budget has been whittled that that could happen, then the community doesn't get the benefit of those things that have been presented to it as a real benefit of the project. How do we deal with that?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, that could happen and the applicant could just decide not to build Phase 2, as many applicants could decide that.

COMMISSIONER SULLIVAN: Okay, that's one question.

CHAIRMAN DURAN: Could I ask a question relative to that? So you mean all the community elements of the approval are going to be built in Phase 2?

MS. ELLIS-GREEN: Mr. Chairman, the master plan was for a total of 12 acres. Ten acres of that would be allowed to be commercial and actually several lots from the old Sierra Plaza have already been built out or approved as commercial. So the rest of the ten acres was to be approved as commercial, the other two acres for community service facility. The applicants are proposing—I think a condition of the master plan approval was that one of the theater spaces needs to be allowed for the community to use—

CHAIRMAN DURAN: And that would be in Phase 2?

MS. ELLIS-GREEN: No, that would be with the theater in this phase. They also are proposing a multi-purpose room and a live performance stage.

CHAIRMAN DURAN: In Phase 1?

MS. ELLIS-GREEN: In Phase 1, and that at master plan level was considered to be a benefit to the community.

CHAIRMAN DURAN: Okay. I thought you were going to wait until Phase 2. Any questions of Penny?

COMMISSIONER SULLIVAN: I had a question for Katherine.

CHAIRMAN DURAN: I'm sorry. Thank you for letting me tag on.

COMMISSIONER SULLIVAN: Penny, before you go, I just wanted to quote to you from the minutes of the Santa Fe County Board of Commissioners regular meeting of August 28, 2001. We were going through three conditions and Commissioner Trujillo is quoted, "Now item number 3, whether the preliminary and final development plan application should be brought back before the BCC. Commissioner Gonzales: Move for approval. Commissioner Campos: Second." And it was passed unanimously.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, I did just look at the findings of fact and that is correct. It was condition number 24 for the preliminary and final.

COMMISSIONER SULLIVAN: So we got that clarified. Thank you. The question I had for Katherine, could you explain to me, one of the comments made in the letters from, a letter from the Agora Center has to do with the determination of the 100-year water supply analysis and as I read, I'm paraphrasing, their concern, what they were saying is that in order for this to be excluded from water service, from the Eldorado water company, that it had to be less than five lots. So a lot was left off, was deleted from the

2227274

application, making it four lots.

But in the calculation of 100-year water supply, which is very dependent on how much area you're developing on to determine, that lot, which was Lot A-2, consisting of 11 acres, was added back in. So I'm not prejudging one way or the other, I'm just saying, they're asking why, and disagreeing obviously with that process, why the lot was taken off so they could avoid the five-lot requirement of the moratorium and hooking into Eldorado water and then the lot was added back in again to do the 100-year water calculation.

KATHERINE YUHAS: (County Hydrologist): Mr. Chairman, Commissioner Sullivan, I think in terms of the lots and how they're handled—Penny is actually able to answer that question better than I am. However, the lot that is in question is their open space, and I would allow anyone to count their open space as part of the water budget calculation. If they're willing to purchase an additional ten acres or have ten acres that they're not going to build on, you're certainly allowed to add that back into the calculation. But again, I would ask Penny to explain how it works with the five and the four.

COMMISSIONER SULLIVAN: Okay. So you're understanding is that the 11 acres in Lot A-2 will never be built on.

MS. YUHAS: I don't know that that's right. I need Penny to answer that.

COMMISSIONER SULLIVAN: Well, maybe Penny can clarify that.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, that is correct. The 11 acres is open space that cannot be built on. Most of it is a flood plain. And I believe that is noted on the master plan and we can certainly note it on the plat as well.

COMMISSIONER SULLIVAN: Is it noted as a condition?

MS. ELLIS-GREEN: It's dedicated as open space on the master plan. So it's not dedicated for any kind of site development.

COMMISSIONER SULLIVAN: But it could be a condition. That wouldn't be a problem since it's on the master plan.

MS. ELLIS-GREEN: That's correct.

COMMISSIONER SULLIVAN: Okay. So that's the reason. That's going to be open space in perpetuity is your understanding.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, that is correct. It won't be developed.

COMMISSIONER SULLIVAN: Okay. One other question that I had. In going back to the inquiries of Commissioner Gonzales, he had requested market information on this project and there was a great deal of testimony when the project initially came forward as to whether there was a market for this and what the market was and how that jibed with the traffic analysis. Now, the traffic is a different thing. I read that the Highway Department is saying that the traffic analysis is incomplete, but aside from that I didn't see a market analysis of any sort in here. Was there to be one?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, I'm actually reading condition 25, which was related to the theater use and required a market study if

2227275

the applicant wanted to have more than 400 seats. The applicant is not proposing more than 400 seats so that condition didn't actually get kicked in. It actually reads "This number may be increased to a maximum of 650 if a market study is provided supporting each such additional seat."

COMMISSIONER SULLIVAN: Okay, was there any condition, or was there discussion as to the market analysis regarding the traffic impact and how that dealt with the market vis-à-vis the traffic? That stuck in my mind and this is a year ago, so I've tried to bring it back up and maybe you can help refresh my memory.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, I'm not actually finding a condition that's related to the traffic and the market study. My understanding, or what I remember is that it was to do with the theater and the number of seats.

COMMISSIONER SULLIVAN: Okay. Because the other development plans that we've been reviewing in the Community College District and elsewhere always come with a market analysis and in this one I don't see that.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, that is a requirement in the Community College District. It isn't actually a requirement under the County Code at preliminary. It states in the County Code "if applicable" and that's why there was a discussion at master plan level.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN DURAN: Okay, is the applicant here? Please come forward, state your name for the record and state your case.

STACY CROSSINGHAM: My name is Stacy Crossingham.

[Duly sworn, Stacy Crossingham testified as follows:]

MS. CROSSINGHAM: Thank you for making time to hear this so late. I wrote a speech; I'm not going to even go into it. I'm going to leave myself open for questions. However, and there's a few people here that would like to make some comment. I would like to correct Commissioner Sullivan. The water budget that was presented in the packet that you received does include the community service.

CHAIRMAN DURAN: It does?

MS. CROSSINGHAM: It does.

COMMISSIONER SULLIVAN: That wasn't my question, Ms. Crossingham. My question was—and I understand that it does. My statement was, to Penny, what happens in Phase 1 if the water budgeted that you've estimated turns out to be wrong and you use more water in Phase 1 to get up to the point where you're now at three acre-feet. You've now used up all the water and you can't develop Phase 2 which is something that was promised to the community. And the answer that I'm getting is: tough, I guess. Do we have any mechanism to go back to your development and say, You need to restrict water to get back to your water budget so that other phase can be built, which you promised the community. And I'm not hearing that we have that flexibility.

CHAIRMAN DURAN: Why not? Why couldn't we do it now?



2227276

COMMISSIONER SULLIVAN: Well, maybe we could. I just didn't hear anything.

CHAIRMAN DURAN: We could do it now, couldn't we? If for instance, if that is the case, if in Phase 1 she uses all three acre-feet, which means that her water budget wasn't accurate, how could we make her go back and restrict some of the approved uses?

COMMISSIONER SULLIVAN: We couldn't tear down buildings. I don't know what else we could do, if they're already using recycled water in toilets and what have you -- you could close some buildings down -- sounds like that would be getting into a major legal tangle.

COMMISSIONER CAMPOS: Mr. Chairman, could I just say quickly?

An idea is that you could assign so many, like let's say two acre-feet to the first phase and reserving an acre-foot for the second phase. I think that's a way to do that.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, reviewing the water budget, it looks that about a quarter acre-foot of water would be used for Phase 2. So you could restrict Phase 1 to I believe about 2.75 acre-foot of water and therefore they couldn't use the additional quarter acre-foot for Phase 1.

CHAIRMAN DURAN: That would work. Does that work for you?

MS. CROSSINGHAM: We budgeted for it and the uses, to be honest in that development area what would serve it best is maybe a senior citizens' center. I don't think I'd put a school there because it's not located properly. But until we have uses for it, it doesn't pay to just build buildings. And that's where we're stuck on the community service. But we did incorporate some community service into the theater project initially.

CHAIRMAN DURAN: You could come forward with a community service use that didn't even use a quarter acre-foot.

MS. CROSSINGHAM: We could.

CHAIRMAN DURAN: Which means that you could come in and ask for—

MS. CROSSINGHAM: Generally, we were looking at more governmental offices, if the area should incorporate down the road or whatever happens. There may be a need for a post office or any kind of government type office situation more than a school or a—

CHAIRMAN DURAN: You understand the reason for Commissioner Sullivan wanting to do that, right?

MS. CROSSINGHAM: Sure. I do. That's fine. It was in our budget and it's a very small amount that's needed for that purpose. Regarding the final development plan, we had originally planned to come here for preliminary and final. And as an active member on the Highway 285 Corridor Planning Committee, which I have a letter and some people to support, everything was done except the final road designs. As all of you know, we were involved in a—along with the County and us we were involved in a lawsuit from the Agora owner against the decision the County made last year, which we've won. And we held back on the expenses for surveys and road design work until that decision was made, which was just rendered July 25<sup>th</sup> in our favor.

2227277

So the only thing missing in this plan, everything's been signed off by the State Engineer with a favorable opinion, with the County staff, every department has signed off except the Highway Department and Public Works and that's in relation to the road design. So what we are requesting to expedite this is to be able to, since you know the structure of what we're trying to do. We're just doing a right-in/right-out on Vista Grande, that we avoid having to come back through this BCC process and just go to CDRC for that thing. I don't mind coming back to BCC for Phase 2, but for Phase 1, you basically have the packet of Phase 1 without the road design. So I'm requesting that we could removed that condition 4 and just go to CDRC like every normal development.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER SULLIVAN: Not a question, Mr. Chairman. I just feel, again, there are residents in Eldorado who favor this and I imagine there are some here tonight, residents who oppose this. We always have that. We had that before. But the traffic analysis is extremely critical and the 285 plan proposes a different access consideration than a right-in/right-out. And that's become extremely controversial. So in fact, the traffic is very important and that is the major issue that I would like to see come back in final. And the other issues, if they're taken care of, they'll not be a time-consuming issue. But that traffic plan is still unresolved.

MS. CROSSINGHAM: Mr. Chairman, Commissioner Sullivan, the road design is something that we are working together with highway corridor on. And the right-in/right-out, what happened is when we were originally on the committee talking about this, we were under the impression the County was going to participate because Vista Grande is a County road and that all the developers around the area would participate in the expense of this idea of what corridor is doing. We had a pow-wow here at the County level with staff and with the node owners of those properties in that corridor, and they basically came to the conclusion that until someone else builds, you just have to do what services your property. You don't have to go to the full extent. It's an unnecessary burden to have to spend that kind of money moving box culverts and everything and put that burden on one person.

Until Agora develops Phase 2, there's no need to be doing anything that would favor his property at my expense. The traffic analysis was included in the report. They are updating some figures per a new code with the Highway Department but the impact hasn't changed.

COMMISSIONER SULLIVAN: Didn't the Highway Department also say there's still the issue of the widening of Vista Grande and also the question of a traffic light at Caliente?

MS. CROSSINGHAM: No, there's no talk of traffic lights at all.

COMMISSIONER SULLIVAN: Would you like me to read it from the Highway Department's letter?

MS. CROSSINGHAM: Commissioner Sullivan, what they're addressing is they want the traffic analysis gentleman to address that issue. What they're doing is a four-way stop at Caliente Road. But it's only going to be a two-way stop at this point because there's not enough traffic between the Agora and our property being generated.

2227278

COMMISSIONER SULLIVAN: I guess I'm at a disadvantage here because we don't have members of the Highway Department here to explain that, but when we look at the Highway Department letter there's just a number of unanswered questions, which I assume the developer will be able to answer. But I would feel comfortable with staying with the original master plan conditions which is they come back and make that presentation as they originally were requested to do.

CHAIRMAN DURAN: This is a public hearing. Is there anyone out there that would like to speak for or against this project? Please step forward and state your name for the record. Are you for or against. And ma'am, are you for or against. Two for? Three? Three for.

[Duly sworn, Pamela Henlein testified as follows:]

PAMELA HENLEIN: Good late evening. My name is Pamela Henlein. I've lived in New Mexico and Eldorado for three years.

CHAIRMAN DURAN: Pamela, since there's no opposition, I'm going to ask you to keep it brief.

MS. HENLEIN: I will be very brief. I've participated in the US 285 South Highway construction corridor plan since its inception. I'm also involved with the Simpson Ranch Contemporary Community Plan. I'm on the architecture committee which examines all of the architecture of whatever may be built on those four corners of Vista Grande and 285. And I think I speak for myself and for the people of the Highway Corridor Plan who have spent two and half years of many hours of working with Stacy and also with the County to work on this project. We've had design charettes that were sponsored through the County and I think everything has gone amazingly well although it's slow as everyone knows.

The committee that's worked with Stacy on the corridor plan is very much impressed with her ability to work with the community, with what she has done to make this project be a good project for the community and how it's changed based on input. She's participated in every step along the way and I think my major message is just that the Highway Corridor Plan people are very much in favor of this project and what it looks like now as it's being presented to you.

CHAIRMAN DURAN: Thank you. Next speaker please.

[Duly sworn, Lynn Glaze testified as follows:]

LYNN GLAZE: Lynn Glaze. Good evening, Commissioners, my name is Lynn Glaze. I live out on the 285 corridor. I do have some property in a couple of the subdivisions and I'm buying property in another subdivision so I do have a lot at stake out there. I think the project is going to be a wonderful project for our community and I look forward to it going up. I hope it will allow us to spend more time with our family and our friends just by using the nearby facilities and the community events out there. Stacy and Allan Crossingham are outstanding citizens in our community and I would hope tonight that you would vote favorably for the vote. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please. Please state your name for the record.

[Duly sworn, Stephen Mee testified as follows:]

STEPHEN MEE: I'll be very quick. I've been coming to these meetings since <sup>2227279</sup> they started on the original hearing. I know it's a late hour but as you'll notice there's no one in opposition. We feel it's going to be a strong enhancement to our community. I have two teenage boys. It's going to be nice for them to have something to do and I think it's commendable that the project itself, while the second phase there'll be some community service areas, please note that the first phase there's community service enhancements that will have a stage and we'll be able to have our young children do more activities in the community without having to bring them into town. And I hope that you'll look favorably upon it and approve it this evening.

CHAIRMAN DURAN: Thank you. Well, I've always liked this project. I think it's something that the community out there has needed and it's finally reached a population, I think they really need something like this now. So I would like to make a motion that we approve this with staff conditions, and allow them final approval at CDRC and to not come to the Board of County Commissioners.

COMMISSIONER TRUJILLO: I have one question for discussion, just from staff. Is there a pretty assiduous review of the traffic by staff at the CDRC level on the recommendation that is made for road designs and intersections and things like that?

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, we would require that she receive favorable comments from both Public Works and the State Highway Department before she goes forward with final.

COMMISSIONER TRUJILLO: Okay. So that's taken care of in the process.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: Mr. Chairman, are you going to keep the water budget at 2.75?

CHAIRMAN DURAN: Oh, right. And that you hold back—is it .25?

MS. ELLIS-GREEN: Mr. Chairman, Katherine and I looked at the numbers and it would be .22 acre-foot for the second phase. So this will be 2.68 for Phase 1.

CHAIRMAN DURAN: With the right to be able to come in and ask for an adjustment if you find out that you don't need that much for Phase 2.

MS. ELLIS-GREEN: That is correct. The overall water budget was for 2.9 proposed and .22 is required for Phase 2. So it leaves 2.68.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: I guess, let me ask a question then also. What is the problem with sending it back to the BCC as we originally agreed on? Has there been some change? Nothing's been done with the traffic. The Highway Department says a traffic impact analysis for this project was the same study and it failed to analyze the most important intersection.

CHAIRMAN DURAN: Part of the reason our meetings last forever is because we can't delegate some authority to our committees.

COMMISSIONER SULLIVAN: Well, what happens at the CDRC is the staff may well do a very thorough analysis and the CDRC may or may not go with that.

2227280

CHAIRMAN DURAN: The traffic engineer is making the recommendations. If the State Traffic Engineer says it's fine. Go ahead, how many times do we have to hear it?

COMMISSIONER SULLIVAN: Well, but I'm saying if the staff and the State Traffic Engineer makes a recommendation, the CDRC is not obligated to abide by it. Just because the staff does a thorough investigation and just because the Highway Department makes a recommendation isn't going to make it so.

CHAIRMAN DURAN: If it's not a favorable recommendation then it comes to the Board of County Commissioners, correct?

COMMISSIONER SULLIVAN: Let's make that a condition in the motion. If the Highway Department does not render a favorable recommendation, or obviously until they render a favorable recommendation, or if they do not, then it will return to the Board of County Commissioners for resolution. Is that not--

CHAIRMAN DURAN: I really think that if the CDRC does not--if you don't get a favorable recommendation from the State Traffic Engineer that they won't approve your project anyway, you'll be appealing their decision to us anyway.

COMMISSIONER SULLIVAN: But they may well. In the past they've had a record of being considerably lenient in that regard. So I'd like that, to have that oversight.

CHAIRMAN DURAN: I'll accept that.

COMMISSIONER SULLIVAN: Is that reasonable? Okay. So we have that.

CHAIRMAN DURAN: So you must have a favorable report from the State Highway Department.

**The motion to approve CDRC Case #DP 01-5131 passed by majority [4-1] voice vote, with Commissioner Sullivan casting the nay vote.**

2227281

**RECESS**

Chairman Duran declared this meeting recessed at approximately 10:15 p.m.

Approved by:




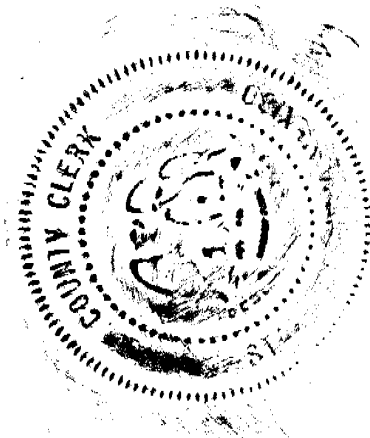
Board of County Commissioners  
Paul Duran, Chairman

Respectfully submitted:

  
Kareh Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



2000-01 PROPERTY TAX RATES FOR SELECT DEVELOPMENTS

DEVELOPMENTS	Goodyear General District Number 1	Village of Litchfield Greens (1)	Cotton Flower Ranch (1)	Caterpillar Buckeye (1)	Eagle Mountain	McDowell Min. Ranch & Scottsdale Min.	DC Ranch	Wild Flower Ranch	Estrella Mountain Ranch (2)	Dysart School District El Mirage	Dysart School District City of Surprise	Lakes	Ranch
<b>PRIMARY</b>													
<b>CONSTANT CHARGES</b>													
STATE OF AZ	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000	\$0.0000
MARICOPA COUNTY	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641	1.1641
JR. COLLEGE	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691	0.9691
EDUCATION EQUALIZATION	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123	0.5123
<b>SUB TOTAL CONSTANT</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>	<b>2.6455</b>
<b>VARIABLE CHARGES</b>													
CITY	1.3403	0.0000	1.3403	0.8981	0.0000	0.5289	0.5289	1.3403	1.3403	0.0000	0.4110	0.5868	0.8600
EL. OR UNIFIED SCHOOL	2.6218	2.6218	2.6218	2.6218	3.9682	4.0442	4.0442	2.5706	2.5552	4.5713	4.5713	2.5049	3.5353
HIGH SCHOOL DISTRICT	3.6158	3.6158	3.6158	3.6158	0.0000	0.0000	0.0000	3.6158	2.2354	0.0000	0.0000	2.8120	0.0000
OTHER	0.0000	0.0000	0.0000	0.0000	0.0000	0.0519	0.0519	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
<b>SUB TOTAL VARIABLE</b>	<b>7.5779</b>	<b>6.2376</b>	<b>7.5267</b>	<b>7.1357</b>	<b>3.9082</b>	<b>4.6250</b>	<b>4.6250</b>	<b>7.5267</b>	<b>5.8309</b>	<b>4.5713</b>	<b>4.9823</b>	<b>5.9165</b>	<b>4.3953</b>
<b>TOTAL PRIMARY</b>	<b>10.2234</b>	<b>8.8831</b>	<b>10.1722</b>	<b>9.7812</b>	<b>6.5517</b>	<b>7.2705</b>	<b>7.2705</b>	<b>10.1722</b>	<b>8.4784</b>	<b>7.2168</b>	<b>7.6278</b>	<b>8.5620</b>	<b>7.0408</b>
<b>SECONDARY</b>													
<b>CONSTANT CHARGES</b>													
FLOOD CONTROL	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534	0.2534
CNTRL AZ PROJECT	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300	0.1300
COUNTY LIBRARY	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421	0.0421
COUNTY FIRE	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096	0.0096
JR COLLEGE BOND	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503	0.1503
COUNTY BOND	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152	0.1152
<b>TOTAL CONSTANT</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>	<b>0.7006</b>
<b>VARIABLE CHARGES</b>													
CITY BOND	0.7413	0.0000	0.7413	0.6570	0.3331	0.6577	0.6577	0.7413	0.7413	0.0000	0.4400	0.6787	0.9500
EL. OR UNIFIED BOND	2.5070	2.5070	1.9346	2.5070	2.3841	1.4113	1.4113	1.9346	2.0787	1.5688	1.5688	4.9039	2.2213
HIGH SCHOOL BOND	1.5731	1.5731	1.5731	1.5731	0.0000	0.0000	0.0000	1.5731	0.6071	0.0000	0.0000	1.6552	0.0000
SPL DISTRICT	0.0000	0.0000	0.0000	0.0000	1.0239	0.0667	0.0667	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
SPL DISTRICT	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
SPL DISTRICT	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000	0.0000
<b>CFD SPL DISTRICT</b>	<b>2.0000</b>	<b>3.0000</b>	<b>3.4000</b>	<b>4.0000</b>	<b>3.0000</b>	<b>3.0000</b>	<b>3.0000</b>	<b>2.6000</b>	<b>1.3000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>0.0000</b>	<b>2.5000</b>
<b>TOTAL VARIABLE</b>	<b>6.8214</b>	<b>7.0801</b>	<b>7.8490</b>	<b>8.7371</b>	<b>6.7411</b>	<b>5.1357</b>	<b>5.1357</b>	<b>6.8490</b>	<b>4.7251</b>	<b>1.5688</b>	<b>2.0088</b>	<b>7.2378</b>	<b>5.0813</b>
<b>TOTAL SECONDARY</b>	<b>7.5220</b>	<b>7.7807</b>	<b>8.3496</b>	<b>9.4377</b>	<b>7.4417</b>	<b>5.8363</b>	<b>5.8363</b>	<b>7.5496</b>	<b>5.4257</b>	<b>2.2684</b>	<b>2.7094</b>	<b>7.9384</b>	<b>6.3819</b>
<b>2000-01</b>													
<b>TOTAL COMBINED TAX</b>	<b>\$17,745.4</b>	<b>\$16,663.8</b>	<b>\$18,521.8</b>	<b>\$19,218.9</b>	<b>\$13,993.4</b>	<b>\$13,105.8</b>	<b>\$13,106.8</b>	<b>\$17,721.8</b>	<b>\$13,902.1</b>	<b>\$9,486.2</b>	<b>\$10,337.2</b>	<b>\$16,900.4</b>	<b>\$13,422.7</b>

(1) CFD formation is under discussion  
 (2) This tax rate is not yet in effect. Estrella Mountain Ranch is in the process of issuing General Obligation Bonds which will increase the tax rate by \$1.30 as indicated in the table.

2227282