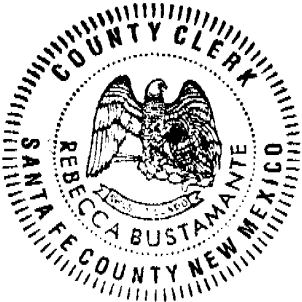


SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

September 10, 2002



Paul Duran, Chairman
Jack Sullivan, Vice Chairman
Paul Campos
Marcos Trujillo
José Varela Lopez

1227587
COUNTY OF SANTA FE
STATE OF NEW MEXICO } ss
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 9 DAY OF OCT A.D.
20 02 AT 9:57 O'CLOCK a .M
AND WAS DULY RECORDED IN BOOK 2230
PAGE 177 - 266 OF THE RECORDS OF

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

Marcella [Signature]
DEPUTY

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

(Public Hearing)
September 10, 2002 - 4 p.m.

Agenda

*New Commissioner at 3:30
sworn in
Jose Varela Lopez*

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
- V. Approval of the Minutes *August 13, 2002 - approved w/amendments*
- VI. Matters of Public Concern - Non-Action Items
- VII. Matters from the Commission *August 15, 2002 - typos/printing errors*
- VIII. Consent Calendar

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

- 4-10* 1. CDRC CASE #V 02-5071 - Richard Cordova Variance (Approved)
- 3-1* 2. CDRC CASE #V 02-5130 - Isabel Tafoya Appeal/Variance (Approved) *Varela-Lopez*
- Approved* 3. CDRC CASE #DP 01-5131- Village at Eldorado Preliminary Development Plan (Approved) *admitted*

approved B. Resolution No. 2002 ¹¹¹A Resolution Requesting an Increase to the Capital Fund (301)/Housing Capital Improvement Assistance Program 2000 to Realign the Fiscal Year 2003 Budget With the Fiscal Year 2002 Unexpended Grant Award Available for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

approved C. Resolution No. 2002 ¹¹²A Resolution Requesting an Increase to the Capital Fund (301)/Housing Capital Improvement Assistance Program 2001 to Realign the Fiscal Year 2003 Budget With the Fiscal Year 2002 Unexpended Grant Award Available for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

approved D. Resolution No. 2002 ¹¹³A Resolution Requesting an Increase to the EMS Health Care Fund (232)/Health Care Division to Budget Revenue Received From an MOA With St. Vincent Hospital for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

IX. Staff and Elected Officials Items

2230179

A. Land Use Department

- approved*
1. Request Direction Regarding a Request by the City of Santa Fe to Utilize the Santa Fe Downs for Santa Fe Children's Football League and the Santa Fe Public Schools Junior High and Freshman Football Games
 2. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 2001-9, "An Ordinance Relating to Wireless Communication Antennas, Towers and Other Facilities; Prescribing Regulations for Location, Placement, Appearance and Design," for the Purpose of Clearly Designating Discouraged and Encouraged Locations as Described in Ordinance No. 2001-9. Tom Dominguez

B. Matters from the County Manager, Estevan López

C. Matters from the County Attorney, Steven Kopelman

1. Executive Session

- remove*
- a. Discussion of Pending or Threatened Litigation
 - i. Santa Fe County vs. Town of Edgewood
 - ii. Santa Fe County vs. Los Campanas
 - b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

X. Public Hearings

A. Land Use Department

1. Ordinance No. 2002 – An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (First Public Hearing). Katherine Yuhas
2. 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. No. 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
3. Ordinance No. 2002 – An Ordinance Amending Ordinance No. 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, and 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
4. CCDRC CASE #01-5570- Thornburg Master Plan. Thornburg Enterprises Ltd., Applicant, Santa Fe Planning Group, Agent, Requests 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 Sq. Ft. and 4,015,000 Sq. Ft. 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 Minto, Within Sections 24 and 25,

Minto

Township 15 North, Range 8 East (Commission District 5). Penny Ellis Green TABLED FROM AUGUST 26, 2002 MEETING

THE FOLLOWING CASES WILL BE HEARD AT THE CONTINUATION OF THIS MEETING ON SEPTEMBER 18, 2002 AT 5 PM:

5. **CDRC CASE #MP 02-5070**- Richard Cordova Master Plan. Richard Cordova, Applicant, Jon Paul Romero, Agent, Request Master Plan Approval for a 8,000 Sq. Ft. 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
6. **EZ CASE #DL 02-4340** – J. Anthony Peperas Land Division. Leonard Lopez, Agent for J. Anthony Peperas, Requests Plot Approval to Divide 10.40 Acres into Four Lots. The Lots will be Known as Lot 2A-1 (2.563 Acres more or less), Lot 2A-2 (2.563 Acres), Lot 2-A-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
7. **EZ CASE #DL 02-4380** – Tom J. Sedillo and Kathy Sedillo Family Transfer. Alarid and Associates, Agent for Tom J. and Kathy Sedillo Request Plat Approval to Divide 2.64 Acres into Two Tracts for the Purpose of a Family Transfer, The Tracts will be Known as Tract 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 District2). Vicente Archuleta
8. **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 Sq. Ft. of Art Gallery Space and 2,0000 Sq. Ft. of Retail Space. The Property is Located on Banana Lane off of US 84/285 in Cuyamungue, Within Section 28, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green
9. **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 Lot 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
10. **CDRC CASE #DP 02-5230** – Heart and Soul Animal Hospital. Natalie Owings, Applicant, Linda Tigges, Agent Request Preliminary and Final Development Plan Approval for an Animal Sanctuary With Sheds and Pens for 100 Animals, a Gift Shop, Manager's Quarters, Assistant's Quarters, Staff Cabin, and an Outdoor Classroom on 130-Acres. This Request Also Includes a Variance of Article VII, Section 6.4 (Water Availability Assessments) of the Land Development Code. The Property is Located off County Road 63A on the North Side of State Road 50 in

Glorieta, Within Sections 35 and 36, Township 16 North, Range 11 East (Commission District 4). Wayne Dalton

11. CDRC CASE #DP 02-5310 – Phillip Padilla Development Plan. Phillip Padilla, Applicant, Al Quintana, Agent, Request Preliminary and Final Development Plan Approval for Light Commercial Use (Sales or Business Offices or Non-Industrial Shops) on 0.78-Acres. The Property is Located off Agua Fria Street Within the Historic Community of Agua Fria, Within Section 32, Township 17 North, Range 9 East (Commission District 2). Wayne Dalton
12. TDRC CASE #V 02-5280 – Trujillo Variance. Elvira Trujillo and Lorraine Benavidez, Applicants are Requesting a Variance of Article XIV, Section 3.4 (Tesuque Lot Size Requirements) of the Land Development Code to Allow a Family Transfer Land Division of 0.395 Acres into Three Lots. The Lots will Consist of 0.157 Acres, 0.0798 Acres and 0.158 Acres in Size. The Property is Located off White Boulder Road, in the Traditional Community of Tesuque, Within Section 31, Township 18 North, Range 10 east (Commission District 1). Penny Ellis-Green

XI. ADJOURNMENT

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

2230182

September 10, 2002

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 4:00 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 by County Clerk Bustamante and indicated the presence of a quorum as follows:

Members Present:

Commissioner Paul Duran, Chairman
Commissioner Marcos Trujillo
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner José Varela Lopez

Members Absent:

None

An invocation was given by Pastor O'Dell from Santa Fe Baptist Church.

IV. APPROVAL OF THE AGENDA

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

CHAIRMAN DURAN: Any amendments to the agenda?

ESTEVAN LOPEZ (County Manager): Mr. Chairman, Commissioners, there are no amendments to the agenda. I would like to point out to the public, however, that under the Public Hearings, the way we've scheduled the agenda is that the first four items, that is three water ordinances and the Thornburg master plan would be heard this evening and then the meeting would be recessed to be continued on September 18th at 5:00 p.m. with the remaining cases to be heard on that evening. But there are no changes to the agenda otherwise.

CHAIRMAN DURAN: Okay. I'd like to make one request. It was at my request that staff put an executive session discussion about Santa Fe County vs. the Town of

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Edgewood and the reason that I asked for that is that I had some concerns that weren't addressed in the last executive session and I had some questions and I needed more information about that request. [audio difficulties] to pull these thing off the agenda and just let the direction as given to staff at the last meeting go forward without any further discussion. So that's the only amendment I would like to make.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In my packet there was an amendment to the St. Vincent's MOU that was in the packet but I didn't see it on the agenda. Are we supposed to be acting on that today?

CHAIRMAN DURAN: Was it in the back? The front? Consent Calendar?

COMMISSIONER SULLIVAN: It was up in the Consent Calendar area. It was right at the end of the Consent Calendar items.

MR. LOPEZ: Mr. Chairman, Commissioner Sullivan, apparently that—I think that was part of agenda item VIII. D, just informational purposes regarding that item.

COMMISSIONER SULLIVAN: Have we already acted on it?

MR. LOPEZ: I believe so, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. It looked familiar.

MR. LOPEZ: I believe we already acted on the amendment to the MOA, so that was provided as part of that packet material just for informational purposes. There's a specific budget amendment that's to be acted on today.

CHAIRMAN DURAN: Okay, any other amendments? Changes? What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval of the agenda as amended to delete executive session item 1.a. i.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

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

V. Approval of the Minutes: August 13, 2002

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: Just for purposes of clarification, the case of Isabel Tafoya, appeal and variance should be LCDRC Case #02-5130 and I believe that it refers to the property as being in La Cienega and it actually is in the Village of La Cieneguilla.

CHAIRMAN DURAN: Okay. And that's on the agenda, right?

COMMISSIONER VARELA: Right.

CHAIRMAN DURAN: So let the record show those changes or corrections. So back to the minutes of August 13th. Any changes to those minutes?

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COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I've got some typographical changes which I can give to the recorder if that's okay.

CHAIRMAN DURAN: Okay. So the Chair will entertain a motion to approve the minutes.

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER CAMPOS: Second.

The motion to approve the minutes of August 13, 2002 passed by unanimous [4-0] voice vote. [Commissioner Varela was not present at the August 13th meeting.]

August 15, 2002

CHAIRMAN DURAN: Any changes to the August 15th minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd like to enter into the record some typographical changes which I can give to the recorder.

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

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER SULLIVAN: Second.

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

The motion to approve the August 15, 2002 minutes passed by unanimous [3-0] voice vote. [Commissioner Varela was not present at the August 15th meeting.]

VI. Matters of Public Concern – Non-action items

CHAIRMAN DURAN: Is there anyone out there in the audience that would like to address the Commission concerning any matter? Okay.

VII. Matters from the Commission

CHAIRMAN DURAN: Do any of the Commissioners have any matters they'd like to bring up for discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I would just like to congratulate our new Commissioner, welcome him on board and just say that I look forward to working with you

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and having some interesting discussions here on these important issues.

COMMISSIONER VARELA: Thank you.

CHAIRMAN DURAN: Likewise.

COMMISSIONER SULLIVAN: Likewise.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: I'd like to get some guidance on an issue that has affected my community and maybe we need the Sheriff's Department here. Maybe we can schedule him for next week. And that's a jurisdictional issue between law enforcement agencies, the BIA and the County Sheriffs and the State Police. Because the jurisdictional areas overlap, especially in the northern part of Santa Fe County. There are some issues there on who responds to a criminal complaint or an issue like that. That has been brought up to my attention and I'd like to have you research it or have the County Sheriff address it.

MR. LOPEZ: Mr. Chairman, Commissioner Trujillo, let me see if I understand this correctly. So you would like for staff in conjunction with the Sheriff's Department or Sheriff's Office to research jurisdictional issues, particularly in areas in or around—

COMMISSIONER TRUJILLO: The reservations

MR. LOPEZ: The reservations in northern Santa Fe County.

COMMISSIONER TRUJILLO: Exactly. And get a legal opinion.

MR. LOPEZ: And then present our conclusions at the next meeting?

COMMISSIONER TRUJILLO: Exactly. If you would please.

MR. LOPEZ: We'll try and do that.

COMMISSIONER TRUJILLO: Or if Steve can address those issues now, I'd like to listen to them.

STEVE KOPELMAN (County Attorney): Mr. Chairman, Commissioner Trujillo, generally speaking, the Sheriff's Office does not have jurisdiction on the reservation. The Sheriff's Department, State Police, would have jurisdiction outside the reservation boundaries. Okay? I don't know if there's any agreement. I'll need to check that. I'm not aware of any cross-deputization agreements that may be in place between the Pueblo and the County. I'll check into that. I should be able to have an answer for you tomorrow on that.

COMMISSIONER TRUJILLO: We had a situation, Steve, the last couple of weeks where there was a stabbing on non-Indian land. It was in the Pojoaque Valley, non-Native American land, and the BIA claimed that they had jurisdiction of the crime scene. This happened on non-Indian land to non-Indians. It so happened that the culprit was Native American, but it happened outside, well, within the reservation but on non-Native American land, private property. The BIA claimed that it had jurisdiction. These are private citizens, taxpayers, law-abiding that are under the auspices of ostensibly the County Sheriff. And so the issue is who has jurisdiction in that case?

MR. KOPELMAN: Mr. Chairman, Commissioner, it sounds as though, based on what you're telling me it should be, the jurisdiction should be with the County and the Sheriff's Department, but like I said, I'll follow up on that and find out more information and

get something back to you very shortly.

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COMMISSIONER TRUJILLO: Thank you.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I didn't know if you were going down the line.

CHAIRMAN DURAN: Mr. Lopez.

COMMISSIONER VARELA: Just one thing for clarification. If I would be referred to as Mr. Varela or Mr. Varela Lopez. The second last name is my mother's last name. Just to let everybody know. So Varela would be fine. That's fine. That's about all.

CHAIRMAN DURAN: Varela Lopez is what you'd prefer?

COMMISSIONER VARELA: Or Varela. Whichever.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: That sounds like an important clarification. To get the name right. Just a couple of items on issues in my district, Mr. Chairman. We had a lengthy discussion at a previous meeting about improvement district bonds and I wanted to ask Katherine a question. Katherine, the bond counsel who indicated that they represented Santa Fe County for that Rancho Viejo improvement district bond, how are they selected? They indicated their fee would be about \$50,000 and so that would require a competitive selection and I don't recall that having taken place, at least since I've been on the Commission.

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioner Sullivan, about three years ago we did a solicitation for bond counsel and it was for one year with options to renew up to four years. And in that solicitation and subsequent contract, Hughes and Strumor was the contractor selected and also, it's not actually a requirement. They indicate they are bond counsel for the County, however the County does not pay them. They are paid out of the proceeds of the bond sale, but their rate is established that it's in our contract for that type of fund financing of s-amount per thousand on general obligation bond. So their fee is actually determined by the amount of the bond and it is in our contract that they would also be bond counsel for any conduit financing or special improvement districts with the County.

COMMISSIONER SULLIVAN: In the year and eight months that I've been on the Commission, I don't recall that contract coming forward for renewal. You say it's on a year to year renewal?

MS. MILLER: Yes. And it came forward, I believe a year ago June. Now we have not, as a matter of fact, that contract probably expired this June and they are not on contract with the County at this time. The work that they had previously done is under that contract, but we do not actually hire them or pay them under this scenario.

COMMISSIONER SULLIVAN: Well, I have a concern about that. If they're representing us, which they're doing, right? Shouldn't we be the ones hiring them?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, under the previous agreement, for our issues, yes we do select them and they have been our bond counsel on those issues. On this particular issue at the time that it started back last—gosh, I think we've been on this for a year or more, they were the bond counsel at the time. Now that we have not renewed

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that agreement with them, we could actually go out for solicitation for a different bond counsel or for them.

COMMISSIONER SULLIVAN: Is \$50,000 a reasonable fee to do the legal work? Have we paid that much?

MS. MILLER: I would have to go look at—it is not an unreasonable amount for the amount of time that they have done on this particular issue and the fact that it originally was around \$6.5 million. I'd have to go back and look at our contract at the time that they were hired for the initial services and see what it is, what their fee is per thousand for general obligation. That would be the closest thing to relate it to. But we have not even gotten to the point of an issuance and we don't pay them anything at this point.

COMMISSIONER SULLIVAN: I understand that their fee comes out of the bond issue but the less the bond issue is the less the tax is on the residents, if it in fact goes forward. So I guess my question is, shouldn't we be selecting that legal counsel if they're representing us and at a minimum, it seems that if the contract has expired, it needs to come back to the County and certainly we're not prepared to discuss it today but we need to discuss what is the function of the legal counsel, what is a reasonable fee for this type of work and who are they representing in this case. So I'm unclear on it, quite frankly, and if the contract has expired, that sounds like something we ought to take care of at the next opportunity.

MS. MILLER: Mr. Chairman, Commissioner Sullivan, yes. We were going to resolicit for bond counsel services for our entire—

COMMISSIONER SULLIVAN: For everything.

MS. MILLER: Yes.

COMMISSIONER SULLIVAN: And that's something you plan to do.

MS. MILLER: Yes, it's actually in the works now.

COMMISSIONER SULLIVAN: Oh, it's in the works now. Okay, thank you.

CHAIRMAN DURAN: Could I add to that?

COMMISSIONER SULLIVAN: Sure.

CHAIRMAN DURAN: Katherine, what did Mr. Mendoza do for us?

MS. MILLER: Mr. Chairman, he's actually not on contract with us at the moment. He was previously our financial advisor, which is an underwriter and financial advisor on bond issues. There's bond counsel and there's underwriter services, which the bond counsel is the legal issues concerning the bond issuance and the underwriter or financial advisor is the one who recommends the structure of bond financing and the rates, that type of thing.

CHAIRMAN DURAN: Didn't Mr. Mendoza review our bond, the bond documents for us?

MS. MILLER: Mr. Chairman, under his previous contract, yes, he did. But currently, because we do not, the County itself has any bond issuances that we are moving forward with, we do not have a financial advisor on contract or specifically, bond counsel at this time.

CHAIRMAN DURAN: Okay. Thank you. Commissioner.

COMMISSIONER SULLIVAN: Another question I had, and maybe Katherine

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you can respond to, or Estevan, is that we talked several meetings ago about doing an audit and a review of the previous bond issue at Rancho Viejo. Where do we stand on that?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, we've requested the actual financial data of the reimbursement from Rancho Viejo as to what they submitted to the trustee on that bond for audit purposes. I have not received that information yet. And what we'd like to do upon receipt of that information to determine how much volume there is of data for an auditor is we've already contacted a couple auditors that may be able to do that for us for a relatively small fee.

COMMISSIONER SULLIVAN: Okay, and kind of on the same topic, we were talking, at least I was with you and with the County Manager about putting together, again, if the Commission decides to go with these assessment districts, or more of them, and assessment district ordinance. And we looked at some sample ones. Where are we on that?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, we've been working to put actually a solicitation together to solicit services on that one. One of the issues we have in this current year is there are no funds currently budgeted for putting out a solicitation. I've spoken to Estevan about that and what we would like to do as far as coming forward to the Commission for money when we have a better idea approximately what it will cost for those services.

COMMISSIONER SULLIVAN: But you are putting out a solicitation to get a feel for what it would cost?

MS. MILLER: Yes.

COMMISSIONER SULLIVAN: Just to write the ordinance?

MS. MILLER: Yes. Well, and the other issue concerning—

COMMISSIONER SULLIVAN: The evaluation.

MS. MILLER: The evaluation. Yes.

COMMISSIONER SULLIVAN: Okay. So that's in the works.

MS. MILLER: Yes.

COMMISSIONER SULLIVAN: Then I had one last question, Mr. Chairman. I don't see our housing guru out in the audience. Oh, there he is in the back. He always sits in the very back corner.

CHAIRMAN DURAN: Trying to hide from you.

COMMISSIONER SULLIVAN: My question, Mr. Anaya is where do we stand on the status of the Rancho Viejo affordable housing now that we have the County regulations in place and operational?

ROBERT ANAYA (CHDD Director): Mr. Chairman, Commissioner Sullivan, staff has reviewed—the County Attorney, myself and Mr. Abeyta, have reviewed the affordable housing plan submitted by Rancho Viejo and have recommended, after several revisions that we go ahead and move forward with that affordable housing plan. And we are subsequently waiting for submittals from the developers of potential homebuyers that would fall under the affordable housing regulations.

COMMISSIONER SULLIVAN: Do we have any physical affordable homes

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built yet?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, we have, it's my understanding some houses that are underway but we have not certified to any buyers as of yet. Rancho Viejo is waiting for the regulations to be final and for our affordable housing plan that they've submitted to be approved and I think today the plan was actually signed off on. And I would just ask for clarification on that from our County Attorney.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, my understanding is that today, it was signed off to officially, so they need to move forward now and implement the plan.

COMMISSIONER SULLIVAN: And you say you were waiting for the regulations to be final? Was there something else?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, the regulations were final but we did have as part of our affordable housing regulations a requirement that those developers utilizing the affordable housing requirement that they must submit an affordable housing plan for approval, specifying the individual lots to be sold as affordable housing units, their location and size for our approval. That's the document that was signed off today I believe.

COMMISSIONER SULLIVAN: Okay. And that document I presume, Mr. Kopelman, conforms to the breakdown of the affordable housing that was in the development agreement that the Commission approved.

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

COMMISSIONER SULLIVAN: I'm specifically interested in the zero to sixty percentile groups that we had quite a bit of debate about. So that plan is in compliance with that?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, yes.

COMMISSIONER SULLIVAN: So is there any estimated time when we can begin to see that affordable housing move forward?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, I believe now that the plan is approved that Rancho Viejo will now be submitting certifications for our review and approval for actual homebuyers in the next couple of months.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER TRUJILLO: One issue, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: We've been talking about affordable housing now for about eight years and I guess we're facing an uphill battle, affordable housing. I just read the other day that the median affordable house has gone up from \$230,000 to \$265,000 here in the City of Santa Fe. Is there any expectation that we're going to make a dent in providing affordable housing and having an impact on that median so that there are houses out there that are affordable to the local residents? I don't want to call it a euphemism but I think that we need—something else needs to be done so that we can address that issue in the City of Santa Fe and Santa Fe County. Is there anything in the works?

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MR. ANAYA: Mr. Chairman, Commissioner Trujillo, the City of Santa Fe and the outlying areas in and around the City of Santa Fe continue to be a very difficult place to do affordable housing development but I do think that the percentage that we are going to be getting out of the Community College District is definitely a starting point of Santa Fe County but my no means the end. And that there's other areas in Santa Fe County, not only close to the city limits but in the north as well as the southern part of the county that need to be explored for future development and I think you're absolutely right that that has to occur in close partnership with the City of Santa Fe and their affordable housing process as well, especially in the EZA.

COMMISSIONER TRUJILLO: Thank you.

CHAIRMAN DURAN: I have a couple issues. Estevan, I got a call from the Corps of Engineers last week who indicated that they have \$150,000 available to complete a reconnaissance study for the river, the Santa Fe River, and that would start at Camino Alire all the way down to say, 599, which was something that we wanted to do about four or five years ago but the money for the program dried up. They now have the money available and if you could give me a call some time tomorrow or the next day so I can give you the name of the individual at the Corps. He wants to meet with yourself. I think Mr. Jim Sandoval over at the County, he's been involved in the river restoration project with the City, and Katherine Yuhas and Paige Morgan who's been involved with the Santa Fe Watershed. Because they want to know what we would like to see come out of this reconnaissance and what areas of interest that they should be dealing with.

MR. LOPEZ: Mr. Chairman, I'll give you a call and make sure that we contact all those individuals and set up such a meeting.

CHAIRMAN DURAN: Then the other thing, I was wondering if you could bring something before us at the next County Commission meeting that deals with our commitment to the animal shelter and their understanding that we've made a commitment to them to move the Santa Fe County animal control unit out to that site, because what they've done based on verbal commitments we've made to them, they've designed a location within the facility and are actually building it with the idea that we're going to go over there and move from where we are right now. So if you could get the details of all that and bring it before us so we can make a decision as to whether or not they should continue thinking that we're going to go there or not.

And then the other thing is, for the last three years, or the last several years, the County Commission has funded a program called Fore Kids and it's a gold tournament that is put on by this non-profit and the money from that goes to pay for the kids of Santa Fe County to take lessons out at the Marty Sanchez golf course, to help fund private lessons at the Genoveva Chavez Recreation Center for ice skating and other athletic type events. The problem is that the last time that we did that, we actually paid \$5,000 to the City and the money never got allocated towards those programs. So now what they're trying to do is all the money that's raised go to the non-profit and then they would then fund the individual programs for teaching the kids golf and all of that.

And I talked to Katherine about this and we might have a problem being able to do that

because we really don't have a contract with them. But there might be a way of doing it through the Lodgers' Tax if this organization can promote Santa Fe County and have signs that promote Santa Fe County activities and other events that the Lodgers' Tax promotes, we might be able to do it that way. But the problem is we need to find out about that soon. So I'm wondering if the Commission has any problem with giving staff direction to allow Katherine to investigate that program and see if we can find a way to help fund those programs through the Lodgers' Tax.

COMMISSIONER SULLIVAN: Mr. Chairman, I think that's fine. Wasn't that going to be a temporary situation with them until a permanent county facility was being built or do I have this wrong?

CHAIRMAN DURAN: No, no. This is about—are you thinking about the animal shelter?

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN DURAN: Oh no, that's a different thing. I'm sorry. I'm on to something else.

COMMISSIONER SULLIVAN: Oh, you're off the animal shelter. I'm sorry. What are we on?

CHAIRMAN DURAN: You must have been reading something. It's a program that we've funded in the past for this non-profit organization called Fore Kids which puts together a golf program.

COMMISSIONER SULLIVAN: Oh, for the golf, youth golf.

CHAIRMAN DURAN: I'm just wondering if I can get a consensus here to allow staff to investigate that possibility with the Lodgers' Tax and if there's any way of doing it that the Lodgers' Tax people might be able to contribute to that effort.

COMMISSIONER SULLIVAN: And doing it without the middleman? Is that what you're thinking?

CHAIRMAN DURAN: Right. Doing it directly—the middleman being the City.

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: Sounds like a good plan to me.

COMMISSIONER TRUJILLO: Sounds fine.

COMMISSIONER CAMPOS: Well, I think the question is, is it in the budget? I have a concern that a lot of money is not being spent on our projects of highest priority and we kind of bleed ourselves by spending money on many little projects. So I don't know if this money is in the budget now. That would be my first question.

CHAIRMAN DURAN: It's the Lodgers' Tax budget.

COMMISSIONER CAMPOS: It doesn't matter. It still public money.

CHAIRMAN DURAN: I know it's public money.

MS. MILLER: Mr. Chairman, Commissioner Campos, we do provide approximately \$30,000 a year to advertise events that are held out in the county and promote

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Lodgers' Tax facilities and whatnot, in the Lodgers' Tax fund. And it's for events that occur out in the county and that can promote where they can provide advertising and things like that for county events or County facilities. What we—when I talked to Commissioner Duran today, one of the things that I felt might be possible is also advertising all of our facilities if we sponsor a whole advertising—and also putting our brochures from our Lodgers' Tax advertising firm into all the packets of the people who are planning and things along that line to advertise county events as well as this event. It raises a lot of money in this community and brings people to facilities in the county.

COMMISSIONER CAMPOS: He's not proposing advertising as I understand it. He's proposing \$5,000 to pay for kids to have golf lessons. Am I misunderstanding that?

CHAIRMAN DURAN: You are misunderstanding that.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: What I'm saying is if there is a way of using Lodgers' Tax money to promote Santa Fe County in this golf tournament that would be a wonderful thing to do for the children of our community because the money then goes to fund programs put on by this Fore Kids organization that help those kids that can't afford it take golf lessons, ice skating lessons and other athletic activities.

COMMISSIONER CAMPOS: Well, if it's consistent with the way the \$30,000 can be spent for advertising for the county to bring people in the county, I have no problem with that, but if it's going to affect another part of that plan, shifting the advertising budget around, that's something—I don't have the facts to comment.

CHAIRMAN DURAN: Why don't you check with the Lodgers' Tax Board and see what they say.

MS. MILLER: I was going to state, Mr. Chairman, that those funds are there for that. People come throughout the year, different events that occur out in the county. They come to the Lodgers' Tax Advisory Board requesting that we help promote the event. That is what the money is for and that way it reduces costs and we also get our County facilities, lodging facilities, etc. advertised as a result of that, in connection with advertising the event. It is consistent with the way that we use those funds and that was why I recommended to Commissioner Duran that that was a possible way to jointly work with this entity at promoting their events and our facilities.

CHAIRMAN DURAN: If it's going to bankrupt the fund, please don't do it. Tell them not to do it.

MS. MILLER: Mr. Chairman, like I said—and I can talk to the Advisory Board. They just do not meet until after this event and typically, they will recommend something to us in line with what the Commission has budgeted for this type of thing. This is very much in line with what we do fund with those funds.

COMMISSIONER TRUJILLO: Mr. Chairman, these are not general fund monies. These are specific monies from the Lodgers' Tax which are earmarked for specific purposes and proposals go in and they need to be justified, and they're voted on on the basis of the justification. It's not done in a vacuum. It's a very meticulous protocol process and there are

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checks and balances in the process.

CHAIRMAN DURAN: Don't break the law. Just see what you can do.

MS. MILLER: It doesn't break the law, Mr. Chairman, Commissioners. It's in line with that. I wouldn't recommend it if it did and that is why you requested is there a way that we can work with this event to help raise funds for the event, and what it really does is it promotes our facilities and helps advertise their event and brings people to the event which advertises Santa Fe County. That's what those funds are designed for.

CHAIRMAN DURAN: That was my understanding. Okay, then the other thing is, Jack, are you here to give us an update on the Santa Fe Rail? Just give us the two-minute drill. I just want to make sure that we're on track, that we haven't lost the funding and that we're proceeding forward.

JACK KOLKMEYER (Planning Director): Mr. Chairman, I wasn't exactly here to give you an update but I can tell you that two things have occurred within the last month. One is that we were given an additional \$3 million dollar appropriation by the federal government that brings our total up now I think to around \$10 million for this project. That happened a month ago. And last Thursday our application was approved for \$4.4 million. So we are ready to begin acquisition of the right-of-way for the commuter train.

CHAIRMAN DURAN: Good.

MR. KOLKMEYER: That enough? That was only 30 seconds.

CHAIRMAN DURAN: That was beautiful. I like it. And then the last thing is an update on the Code rewrite.

ROMAN ABEYTA (Land Use Administrator): Mr. Chairman, we originally put out a request for proposals. We didn't receive any, so what we did is we went back to the scope of work and we rearranged it, broke it into categories. We put out a request for quotes again on that and we expect to receive some firms that are interested and we hopefully will have someone selected by the end of the month or early October.

CHAIRMAN DURAN: What is the Code rewrite going to entail?

MR. ABEYTA: It's going to entail taking the general plan, the new growth management plan and updating the Code so it complies with the new general plan and then recompiling all the other ordinances that have been adopted since then, and then close up some loopholes that are in the Code right now.

CHAIRMAN DURAN: Okay. That's good. Thank you. So any other questions, concerns from the Commission?

VIII. Consent Calendar

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

- 1. CDRC CASE #V 02-5071 -- Richard Cordova Variance (Approved)**

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2. CDRC CASE #V 02-5130 – Isabel Tafoya Appeal/Variance (Approved)

3. CDRC CASE #DP 01-5131- Village at Eldorado Preliminary Development Plan (Approved)

CHAIRMAN DURAN: Are there any items on here that any of the Commissioners would like to isolate for discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Items A. 1 and 2.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, are you talking about just A items or the entire Consent Calendar?

CHAIRMAN DURAN: No, no. Just on A. Just to get—because these typically are—

COMMISSIONER TRUJILLO: Move for approval of item 3, Mr. Chairman.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

The motion to approve item VIII. A. 3 passed by unanimous [5-0] voice vote.

CHAIRMAN DURAN: Commissioner Campos, you had a concern about item 1?

COMMISSIONER CAMPOS: Items 1 and 2 are the same objection. It's the objection to granting of variances without ordinance authority. My position is that we do not have authority to grant these order and issue these orders today because we did not have authority to grant those variances because the actions committed did not have the factual basis as required by the ordinance and the variance itself went beyond what is authorized. So that would be my objection for the record to items 1 and 2.

COMMISSIONER TRUJILLO: Mr. Chairman, for the record, Commissioner Campos always articulates the same argument, the same position regarding variances. I'd like to get some legal opinion on whether we can approve variances or not or do we have to comply with the letter of the law, verbatim. We cannot circumvent the Code. If we're doing that illegally, we should stop doing that because I'm always hearing from Commissioner Campos the same argument that we don't have the authority to approve variances. Is that the case?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, I've done a legal opinion and I think that might be the best approach is I'd be happy to do a legal opinion and circulate it to members of the Commission, and articulate really what the case law is and what the statutes say.

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COMMISSIONER TRUJILLO: Could you give us a synopsis of the legal opinion?

MR. KOPELMAN: Well, the statute has certain requirements that need to be found in order to allow variances to be granted. And those findings have to be made by the Commission. There is case law on variances and there are cases that limit the authority of a local governmental body to award variances in certain cases. We had a recent EZA case that went up to the Court of Appeals that got reversed from a decision of the EZA granting a variance and the district court approved it. So there are definitely guidelines. And I think the easiest way, rather than try to give you a very quick, off the cuff answer if it's okay with the Commission is to give you a legal opinion that we can discuss maybe in more detail in the future.

CHAIRMAN DURAN: Well, if variances are against the law, I'd like to know why the City of Santa Fe has a committee called the Board of Adjustment that grants or denies variances and has had it for the last 20 years. The other thing is that I really think that if you're going to accuse us of breaking the law at every meeting when we talk about these things, I think you should just file a lawsuit against us. If we are truly breaking the law, I think it's your duty to file some legal action against us. So that's my thought. Any other questions about items 1 and 2.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: If I could abstain from taking any vote on item 2 to be consistent with the previous decision that I made when I was on the LCDRC.

CHAIRMAN DURAN: Okay. Let the record note that.

COMMISSIONER CAMPOS: Mr. Chairman, actually, these decisions have been rendered already and they're coming forward simply for approval of the written decision. So the decision was made by other Commissioners. I don't know if Commissioner Varela is in a position to vote on items 1, 2, today because he didn't participate in the original decision making.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I think from a legal standpoint if the Commissioners reviewed the minutes. The decision is merely reflecting the fact that the written decision doesn't memorialize the minutes in the proceedings so I think it would be okay for him to vote. I think his reason for abstaining, he and I have talked about it before, had to do with a potential conflict on case number two because of a relationship.

COMMISSIONER TRUJILLO: Move for approval of items 1 and 2.

CHAIRMAN DURAN: I'll second that. Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman, Commissioner Varela, just said that he could not vote on 2 but he could vote on one, so by making them both together, then you don't allow him to vote on one or the other. So I think you should separate them.

COMMISSIONER TRUJILLO: I'll separate them. You're not going to vote

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on the 2, Commissioner Varela? Okay, so I'll make the motion to approve case number 1.

CHAIRMAN DURAN: Second. Any further discussion?

COMMISSIONER SULLIVAN: Excuse me, Mr. Chairman. I just want to clarify that voting in favor of this motion does not indicate a vote in favor of the variance, that the votes, and correct me if I'm wrong, the votes that were taken during deliberation on the votes that indicate whether we did or did not favor the variance. This is just agreeing that the findings of fact and conclusions are consistent with the minutes. Is that correct, Mr. Kopelman?

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

COMMISSIONER SULLIVAN: Thank you.

The motion to approve VIII. A. 1 passed by majority [4-1] voice vote, with Commissioner Campos voting no.

CHAIRMAN DURAN: Item number 2. What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: I'll second that. Any further discussion? Let the record show that Commissioner Varela is not going to be voting on this.

The motion to approve item VIII. A. 3 passed by majority [3-1] voice vote, with Commissioner Campos voting no and Commissioner Varela abstaining.

VIII. B. Resolution No. 2002-111. A Resolution Requesting an Increase to the Capital Fund (301)/Housing Capital Improvement Assistance Program 2000 to Realign the Fiscal Year 2003 Budget With the Fiscal Year 2002 Unexpended Grant Award Available for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

MR. ANAYA: Mr. Chairman, Commissioners, prior to the close of a fiscal year and during the budget process staff makes recommendations based on the estimated expenditures for our funds that we have within the Housing Authority. This particular budget adjustment request brings into line the actual budget that we had at the close of the fiscal year and I would stand for any particular questions.

CHAIRMAN DURAN: Any questions of Robert?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER VARELA: Second.

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

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The motion to approve Resolution 2002-111 passed by unanimous [5-0] voice vote.

VIII. C. Resolution No. 2002-112. A Resolution Requesting an Increase to the Capital Fund (301)/Housing Capital Improvement Assistance Program 2001 to Realign the Fiscal Year 2003 Budget With the Fiscal Year 2002 Unexpended Grant Award Available for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

MR. ANAYA: Mr. Chairman, Commissioners, for the reasons previously stated, this particular capital fund budget is being requested to be realigned with actual expenditures as of the close of the fiscal year.

CHAIRMAN DURAN: Any questions of Robert?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: I'll second that. Commissioner Sullivan, for discussion?

COMMISSIONER SULLIVAN: Just a comment that I found the line item chart that was done here, I don't know if Katherine did that or Robert did that to be useful. I hadn't seen that on previous BARs. Is that an innovation? Are we going to be seeing more of that or what's the genesis of that? Is that to reduce the length of my questions?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, actually what we did on these budget adjustments was to provide you with the backup that Finance keeps to substantiate where we moved the money from and we thought it would be helpful for the Commission to have that information as the backup.

COMMISSIONER SULLIVAN: I like it.

CHAIRMAN DURAN: Good. Any further discussion?

The motion to approve Resolution 2002-12 passed by unanimous [5-0] voice vote.

VIII. D. Resolution No. 2002-113. A Resolution Requesting an Increase to the EMS Health Care Fund (232)/Health Care Division to Budget Revenue Received From an MOA With St. Vincent Hospital for Expenditure in Fiscal Year 2003 (Community and Health Development Department)

MS. MILLER: Mr. Chairman, Commissioners, this is a request to budget the funds for the lease on the old Magistrate facility. That lease came into effect September 1. I did need to pay the first month lease but we have the lease that was approved by the Commission and the amendment from St. Vincent's so we had some money from St. Vincent's and we went ahead and moved forward and paid that first payment. But I'm requesting that we establish the budget for the rest of the year to continue on lease payments.

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CHAIRMAN DURAN: Any questions of Katherine? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER SULLIVAN: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman, one item on the MOA amendment that's in the packet and we discussed this a little bit at the last meeting about this Progress Review Committee and its decision making authority. And I wanted to bring up a suggestion to the staff to consider and perhaps being back to the next meeting on that and that is that I noticed that there's no members from the Health Planning Commission that participate in that and I discussed that just briefly with Robert. I don't know, Robert, if you had any comments that you might want to add to that. Would it be useful to have a member of the Health Planning Commission on that to improve communications?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, I think it would be useful tool to have one of those members. I would just ask your direction and the Commission's direction as to would it be the chairman or what would your desire be relative to who that individual should be.

COMMISSIONER SULLIVAN: I didn't have anyone particular in mind. I just thought the Commission themselves could designate someone. It most probably would be the chair but if the chair was too busy or didn't feel that he or she could attend the meetings that they could appoint someone else. It just seemed like it would be good to have their input into the process.

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, I think it would be a good idea to have a member from the Health Planning Commission on that committee.

COMMISSIONER SULLIVAN: Would that require another amendment to the MOA?

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, it would, but we would be happy to prepare that amendment to go forward at the end of the month.

COMMISSIONER SULLIVAN: Does anyone have any—

CHAIRMAN DURAN: I thought we had talked about this. I thought they had agreed, Gary Buff had agreed to get somebody on there. Isn't that what we talked about?

COMMISSIONER SULLIVAN: I think he was in general agreement when we talked about it at the Indigent Fund but I think we need to formalize it and bring it forward as another amendment.

CHAIRMAN DURAN: Okay. That's fine with me.

COMMISSIONER SULLIVAN: And go through the process.

MR. ANAYA: Mr. Chairman, Commissioner Sullivan, just for clarification so that I understand your direction. Currently we have three members from the County, three members from the hospital, one member that's at large, then you want an additional member in addition to the at large member from the Health Planning Commission.

COMMISSIONER SULLIVAN: That's correct.

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MR. ANAYA: Mr. Chairman, Commissioners, we'll bring that back to you.

CHAIRMAN DURAN: Any further discussion on the motion, or the issue? Let the record show that I'm going to abstain from voting on this.

The motion to approve Resolution 2002-113 passed by unanimous [3-0] voice vote, with Chairman Duran abstaining. [Commissioner Trujillo was not present for this action.]

IX. Staff and Elected Officials Items

A. Land Use Department

1. Request Direction Regarding a Request by the City of Santa Fe to Utilize the Santa Fe Downs for Santa Fe Children's Football League and the Santa Fe Public Schools Junior High and Freshman Football Games

MR. ABEYTA: Thank you, Mr. Chairman. I received a request from the City of Santa Fe Parks and Recreation Department and the Santa Fe Public Schools to utilize the Downs at Santa Fe infield for football games for the Santa Fe Children's Football League, Santa Fe High School, Capital High School and St. Michael's freshman and junior varsity football games. The request is for a special use permit that would be good until November 9, 2002. Staff has discussed this with our legal department and the County Manager and I'm inclined to issue the permit but I would like to talk to the BCC and see if there's any objections to doing that. Again, this is for the City of Santa Fe and Santa Fe Public Schools. It's not for the Downs at Santa Fe. If the Downs had made the request we would not approve it and we've made that clear to the Downs.

Gerard Martinez from the City of Santa Fe is here also if you have any specific questions for them but based on the—some of the conditions of approval would be that all teams and spectator activity will be restricted to the southeast portion of the infield only. No games will be able to be started after 5 p.m. They'll have to provide portable toilets for the spectators and the players. No permanent structures will be built. No temporary structures will be built for concession stands. They won't be allowed to prepare any food. No alcohol will be served and they'll have to provide traffic control, clean-up and assistance with these restrictions.

The City of Santa Fe Parks and Recreation Department will provide insurance coverage for all the activities. One park supervisor will be available to assist with field preparation and clean-up. Temporary barriers to restrict any activity beyond the above stated area will be required and then they'll have additional on-call crew as needed. And again, I just wanted to bring this to the Board's attention and that way if you have any questions or concerns or additional conditions, I could know that before we issue this permit.

CHAIRMAN DURAN: Could we put a condition on there that every visitor to the facility take home a bag of manure?

COMMISSIONER TRUJILLO: The facility is not limited to City of Santa Fe

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teens. I'm getting some real good comments from the Pojoaque area in northern Santa Fe County that that is a really great facility, that they played this weekend and the facility is great. There's limited facilities in Santa Fe County and so this is really filling a void, if you will.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, that's correct. It's my understanding that the Santa Fe Children's Football League includes teams from not just the City of Santa Fe but the surrounding area as well.

CHAIRMAN DURAN: Can we bet? Can we bet while we're out there?

COMMISSIONER CAMPOS: Mr. Chairman, a question for Mr. Abeyta. Do you feel that this is consistent with the Code as it's written now?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I believe it is consistent with the Code because it is a community use. Again, had the Downs of Santa Fe requested this we would not entertain that because of their master plan and the conditions, but since it's a community use it's for the City and the public schools, we can issue a special use permit with strict conditions.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Any other questions of Roman?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one clarification. There's nothing in the packet about this but I read a newspaper article about it this morning, which briefed me. The article said there would be no compensation to the Downs for this use. That they are providing it free of charge. Is that correct.

MR. ABEYTA: I'll let Gerard answer that.

GERARD MARTINEZ (City Staff): Mr. Chairman, Commissioner Sullivan, that is correct. There is no compensation.

COMMISSIONER SULLIVAN: And the City schedules these games and as Roman just said, takes care of the liability insurance on it. So the County does not need to participate in that. Is that the situation?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, that is correct. And Mr. Abeyta here does have the rider that we have attached to the permit request.

COMMISSIONER VARELA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER VARELA: I just wanted to state that I think it's an excellent idea and would wholeheartedly support it, especially since they are talking about traffic control and that the games are going to actually be early and everything else. I think it's great for the kids.

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

COMMISSIONER SULLIVAN: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: There's a motion to approve.

COMMISSIONER TRUJILLO: Second.

CHAIRMAN DURAN: A second. Any further discussion?

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The motion to approve allowing football at the Santa Fe Downs passed by unanimous [5-0] voice vote.

- IX. A. 2. Request Authorization to Publish Title and General Summary of an Ordinance Amending Ordinance No. 2001-9, "An Ordinance Relating to Wireless Communication Antennas, Towers and Other Facilities; Prescribing Regulations for Location, Placement, Appearance and Design," for the Purpose of Clearly Designating Discouraged and Encouraged Locations as Described in Ordinance No. 2001-9**

CHAIRMAN DURAN: Is this the ordinance that we've approved? We approve it, right?

TOM DOMINGUEZ (Subdivision Engineer): Mr. Chairman, members of the Commission, yes, that's true. And that is the same one. What this is is, if you recall, we went through the public hearing process, we mentioned encouraged and discouraged locations and we said that we'd come back before you to do a map that was going to be a digital map where we'd go out and GPS sites and we're just requesting permission to go out and do that now.

CHAIRMAN DURAN: Oh, to do the GIS sites.

MR. DOMINGUEZ: And it's strictly for encouraged and discouraged locations.

CHAIRMAN DURAN: Any questions of Tom?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one question, Tom. Do we have criteria? I recall there were some criteria in the Code. Are there Code criteria for what encouraged and discouraged means?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, if you recall, if you have the ordinance in front of you I'll read, the discouraged locations were those which were going to be the viewpoints within the visual treasures, visual resource and inventory analysis and then the Santa Fe treasured resource. So we referenced those two documents that had a pictorial reference but what we want to go out now is actually do a digital representation of those areas and have a digital map associated with it.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER VARELA: Second.

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

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The motion to approve getting GPS points to describe encouraged and discouraged locations for cell towers passed by unanimous [5-0] voice vote.

IX. B. Matters from the County Manager

CHAIRMAN DURAN: Estevan, do you have anything?

MR. LOPEZ: Mr. Chairman, I do not have any matters to discuss with the Commission.

CHAIRMAN DURAN: I notice there's a few people out there from the Edgewood area and I just wanted to let you know that earlier in the meeting, we deleted the discussion of Santa Fe County versus the Town of Edgewood in executive session. So the Chair will entertain a motion to go into executive session.

IX. Matters from the County Attorney

1. Executive session

a. Discussion of pending or threatened litigation

ii. *Santa Fe County v. Las Campanas*

b. Discussion of possible purchase, acquisition or disposal of real property or water rights

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

[The Commission met in executive session from 5:05 to 6:05.]

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

X. Public Hearings

A. Land Use Department

1. Ordinance No. 2002-__ . An Ordinance Addressing Water Conservation for all Sources and Uses of Water within Santa Fe County (First Public Hearing)

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioners,

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the first thing that I'd like to point out to you about this ordinance is that it addresses all of Santa Fe County, everyone who uses water in the county and every type of water that is being used, groundwater, surface water, effluent. But specifically exempted from this is anyone who is irrigating plants for retail or wholesale. That means all agriculture, nurseries and I guess anything else that would fall into that category. Those are all exempt from anything that's within this ordinance. [Letter attached as Exhibit 1]

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Does that mean that acequias are exempt from this ordinance?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, that's correct. Acequias would be exempt from this ordinance.

COMMISSIONER TRUJILLO: Okay. Do we specify that clearly in the ordinance? Is there language to that effect in the ordinance?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, I think I actually need to add a section that clearly defines what is exempted. It is listed within the ordinance itself but I think right up front it needs to be stated more clearly and I'm going to do that for our second public hearing.

COMMISSIONER TRUJILLO: Thank you, Katherine.

MS. YUHAS: Sure.

CHAIRMAN DURAN: Katherine, if this is adopted, how does it apply to properties within the EZ?

MS. YUHAS: Mr. Chairman, I have to think about that one. It may be that this also will need to be taken to the EZ. Steve?

MR. KOPELMAN: Mr. Chairman, members of the Commission, this would not apply in the Two-mile. It would apply outside the Two-mile but not within the Two-mile. I think we probably need to take that ordinance to the Extraterritorial Zoning Authority.

CHAIRMAN DURAN: We might want to do that. If it gets approved here I would suggest that we probably take it to the EZ for their consideration and adoption. Any questions of Katherine?

COMMISSIONER CAMPOS: Mr. Chairman.

[audio difficulties]

MS. YUHAS: ...and I'll be able to present it to you.

COMMISSIONER TRUJILLO: And what are we measuring? Because a lot of wells out there, when they were given a permit by the State Engineer, they were given 3.25 acre-feet of water, that is for both irrigation and domestic use. Are we measuring that they don't go beyond the 3.25? And there's other wells out there that are limited to .25 acre-feet of water. So what are we measuring? And are we going to differentiate between those wells?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, that's what we will be doing is looking at each individual well and keeping track in our database. So if a certain lot is approved with a quarter acre-foot, we'll be measuring whether or not they're using a quarter

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acre-foot each year. And those lots that have three acre-feet, we'll be measuring to make sure they stay at three acre-feet or one or whatever it is. So we'll track that.

COMMISSIONER TRUJILLO: Very good. So we'll have that information.

Very good.

CHAIRMAN DURAN: Okay, this is a public hearing. Is there anyone out there that would like to address the Commission concerning this ordinance? Please step forward. State your name for the record.

WALTER WAIT: My name is Walter Wait. I live at 48 Bonanza Creek Road in Santa Fe County. I'm here this evening representing the San Marcos Neighborhood Association. Mr. Chairman, members of the Commission, in general, our association supports the adoption of an ordinance addressing water conservation within Santa Fe County. We do have several comments, however, on the draft, which we'd like to bring to your attention.

First, we note that the water conservation legislation seems to apply only to domestic uses, with the exception of control on leaky irrigation systems. And it doesn't attempt to monitor or control agricultural misuses. Since the county's largest water users are our agriculture uses, we would like to see some paragraph in the ordinance that at the very least encourages agricultural conservation of water and wonder if new agricultural uses might also require metering to ensure that our resources are not being squandered.

Secondly, under domestic well use metering, what is the database that is referred to? Is it in place, and if not, when and who is going to construct it? We don't want to put an ordinance in place without having the necessary infrastructure in that database to be able to gather the information that we need. There are thousands of permits recorded that have metering as a precursor to building. How do we capture these unreported meters? They're out there but we have no place or no names to associate with them because we haven't been recording that set of information accurately. And if we are doing it, or if we're not doing it, we should be able to try.

Could we place provision for the County Clerk to notify the folks responsible for this database when a property that requires water metering is transferred? Otherwise we fear that the database will quickly become obsolete.

Third, under water waste, the proposed ordinance states that water waste does not include water used by contractors—contractors is the term that we're concerned with. The word "contractors" needs to be defined, we feel, and we believe that the clause could become a large loophole for water abusers if we don't clearly define what a contractor is. Is it any contractor of any kind or are we specifically dealing with a contractor who uses water for a specific type of building contract? It seems like that's the intent but the wording doesn't really reflect that.

And finally, we believe that while the provisions for enforcement of these rules are adequate, the fines for a single offensive are not high enough to cause persistent violators to clean up their acts. We believe that fines should start at the \$20 as suggested, but then we feel it should go up to \$100, \$500, maybe \$1000 for repeat offenses, otherwise major abusers will just build the fine into their cost of doing business and it won't do us any good at all. Thanks for listening.

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CHAIRMAN DURAN: Thank you, sir. Next speaker please. Please state your name for the record.

RITA HORTON: I am Rita Horton, southern Santa Fe County. I have represented the Estancia Basin for many years. This ordinance addresses conservation for all sources as well as uses of water within Santa Fe County. The Land Use Planning Department is driving water out of Santa Fe County. I will send over 1000 acre-feet to Bernalillo County this year. Kings are sending water to Bernalillo water this year. I don't know how much. I could figure it out. But unless Land Use changes their 100-year standard for southern Santa Fe County, I will have 2600 acre-feet that leave Santa Fe County. That isn't nice.

Kings plan to send at least 6000 acre-feet to Bernalillo County. We are not allowed to develop. We're not allowed to grow. Irrigated agriculture uses at least 2.5 acre-feet per acre each year, of which 75 percent blows away. Evapo-transpiration losses that we cannot afford. We don't want high density. Five-acre, ten-acre, twenty-acre suburban homesites, executive sites, we call them, should be allowed to drill for water and manage their sewage. Sewage is going to be a horrible problem in southern Santa Fe County and the Estancia Basin. We've got to control growth as much as possible, diminish high density. By diminishing high density, we will control motor vehicular emissions. We will have better quality air to breathe with the bigger lots and my blessing to anyone who wants the larger lots. It is a water conservation. Their water will go back into the aquifer. It will have to be carefully cared for in their septic systems. And I mean carefully.

Gentlemen, we should be allowed to develop as Santa Fe is developing. You cannot today fulfill your obligation for water from the Rio Grande. You can from your wells if you drill diligently and well. There are ways to get water but you still have a sewage problem that will ruin your wells regardless of where they are. Everything is going to flow to the river and you will have sewage problems. The same as we will in southern Santa Fe County. To conserve water we have to use it wisely. We must not send it out of the county because we're not allowed to use it in the county. Thank you, gentlemen.

CHAIRMAN DURAN: Thank you, Rita. Next speaker please. Please state your name for the record.

LINDA HERMANSON: My name is Linda Hermanson. Mr. Chairman, Councilors, thank you for this opportunity to speak about this matter. My name is Linda Hermanson. My husband Gerald and I own Hermanson Construction. We are a full construction company in the Albuquerque and Santa Fe area. We've been in business 20 years. We are a small, family-owned corporation and we employ 25 people who in turn take care of 66 dependents. I am speaking to a provision in the ordinance under the drought emergency provisions, specifically which states that in times of a drought that swimming pool permits will be held in abeyance.

Gentlemen, in order for us to build a swimming pool we must be permitted. To have our permits held in abeyance therefore prohibits us from earning a living. This is something which affects us greatly. We are a small company. We pay gross receipts taxes to the County and to the City and this is something which affects our livelihood a great deal. In reviewing this

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ordinance I find that there are provisions made for other industries such as landscapers, which allows them with some provisions to continue. Our industry appears to be the one that has been selected to bear a disproportionate burden of the water conservation measures. I ask you to take a look at this and consider that we are currently employing design and technical things on our swimming pools which not only aid in water conservation but also in water harvesting. We live here. We raise our kids here so we understand about the need for water conservation. This is our kids future too. But we also understand that we have 66 people that we keep going every week with these paychecks and so we have an obligation to these people as well.

Our company and other pool dealers, we are currently working on these measures and at present, our firm is working with Mr. Karl Sommer and with Katherine Yuhas, the County Hydrologist to see if there isn't some way that we can create a win-win situation for both the County and for the pool builders, which would allow us to continue our earning a living while also being good neighbors for the County. Excuse me. Mr. Sommer will address this in a bit more detail. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

KARL SOMMER: Mr. Chairman, members of the Commission, my name is Karl Sommer. I'm here on behalf of the Hermansons to make some specific requests that we're working with Ms. Yuhas on and we're here tonight, we know this is your first hearing and that you'll have another crack at this. In the interim period between this hearing and that, we will present some more specific language to Ms. Yuhas. We have already sent a letter to her, talked to her and I believe that over the course of the next month we might be able to work out something that meets the goals of the County as stated in this proposed bill and also meets the needs of those employed in the field of pool building in Santa Fe County, such as the Hermansons. And the Hermansons specifically.

Basically, what we're looking at is allowing construction of pools to continue, not allowing them to be filled during a drought emergency. The period of time in which the ordinance would affect pool building is during a drought emergency. There is a lack of specific language related to what is a drought emergency, what level of drought emergency and the ordinance could use a little more clarification on that and we've proposed indices to be used. We raise the issue because some standard ought to be used and I think there are different levels of emergencies that might be declared and we want to clear up any ambiguity there.

If people are allowed to continue construction, people like the Hermansons can continue to employ their people and continue to work while there is a drought in effect and no water would be used other than the water, obviously in construction. We believe that's a reasonable solution that meets the County's goals and also meets the Hermanson's goals. There are other issues in the ordinance that need some clarification from your all's standpoint in my opinion. They deal with not just the portions of the ordinance that are in effect in a drought emergency. There are provisions in the ordinance that seem unclear and probably need some clarification.

Just a couple of examples. Outdoor conservation, paragraph 2 - washing hard surfaces is not permitted. I think I understand what that's after but it's pretty broad and you don't want people washing down their sidewalks. I assume that that's what that's after. But washing hard

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surfaces doesn't reach that. I think that could use some clarification.

Vehicle washing is only allowed with the use of shut-off hose nozzles. Does that mean in car-washes or is that at home? That's just a minor clarification that could be made and that kind of clarification is needed throughout the ordinance.

Number 7, in the same area. For construction and landscaping purposes permitted by the New Mexico Environment Department to use treated wastewater. Potable water use is prohibited. If you look at that just quite literally, currently, the New Mexico Environment Department allows treated wastewater on landscaping. So is potable water now prohibited for use in landscaping? I think that what we're getting at here is the use of graywater, perhaps. Or maybe not. And currently, graywater is not allowed by the New Mexico Environment Department to be used on landscaping unless it has some sort of treatment. That's a minor clarification, but we can work with Ms. Yuhas to clean these things up so that when it comes time to apply it, those of us who are having to live under it can live under it with some certainty and the County can have better compliance and probably more willing compliance if it's clearer.

With respect to the drought emergencies, there are indices that can be used, commonly used. It's the Palmer Indices for drought severity and we provided, you've all probably heard of it before. It's been used. That might be a measuring stick that you might want to think about. The clarification that the Hermansons are looking for in drought emergency provisions is in paragraph 3 where all permits for swimming pools shall be held in abeyance until such time as the drought is over. Well, first of all, the drought emergency or the drought? The term drought is a little vague and it could use some clarification. And if we're going to go by a state-declared emergency, when does that end? What is the mechanism by which it ends?

So that's a clarification that could be used. We're looking to allow people to issue permits, continue construction, but not to use, occupy or fill those pools until the drought emergency or whatever language you come up with is over. I believe that your County staff is working hard on this issue for you and for the benefit of really all of Santa Fe County. We'll continue to work with Ms. Yuhas and at the next hearing, present to you some specific proposals that will give you a chance to look at them in a maybe a legislative form and we'll present them to staff as well and you can get their comments as you wish at that time. I appreciate the opportunity to speak and would answer any questions.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I think Mr. Sommer, there's a perception out there that have swimming pools wastes a lot of water or uses it in a way that's not in the public interest. And maybe for the next hearing, Ms. Yuhas and you can present information as to the evaporation, water loss, water waste. I think that would be helpful to me to understand this issue a little bit better.

MR. SOMMER: Certainly. We've met with Ms. Yuhas and sent her a letter and what we really propose is conservation measures beyond the scope of this ordinance which I don't think she felt fell within the scope of what she was trying to accomplish here. But they

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go exactly to what you're talking about. The requirement that if you're going to have a swimming pool, that you use a catchment system. The requirement that the decks around the pool be built in such a way that they catch the water. Requirements related to the kinds and types of covers that can be used and other measures.

The Hermansons are well versed in this. They know the actual kind of water use and we'll bring that information forward to you next time and maybe in the interim send you a letter with that so that you have a chance in advance. Thank you very much.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Thank you. Anyone else out there like to address the Commission on this ordinance? Please state your name for the record.

ORALYNN GUERRERORTIZ: Good evening, Commissioners. I'm Orallynn Guerrerortiz. Just a couple of things. I think one of the most important is the way it's currently written, this will impact our traditional communities. I hope that we do get surface water exclusion for acequias. I also think in the past we've tried to encourage individuals' reuse of stormwater and their own wastewater and I think that that should also be in here. My concern would be on the emergency drought provisions. If someone wanted to have their own garden, in the past, if people were hauling water, we would encourage that. In this, you wouldn't even be able to do that, meaning taking water from your shower and moving it over. I'd rather not see the chile crop of Chimayo disappear because of this ordinance in any given year. So I'd hope you take into account the desire to encourage alternative water sources other than groundwater.

The other concern I had on outdoor conservation again, on the construction and landscaping purposes permitted by the New Mexico Environment Department to use treated wastewater. Potable water use is prohibited. Currently, in my own experience, I've found that the lines out at the wastewater treatment plant to get reclaimed water are as long as three hours. The City on projects in the county have even discouraged continued use of that reclaimed water because they don't want to see the lines getting longer. They have encouraged well water use. So either we need to come up with more supply points for reclaimed water, or we need to rethink this provision because I don't think it's working well currently and it could get disastrous. I don't know how it would affect some place like Sandia Park. Would they come all the way up here to try to get reclaimed water if they were doing a construction site? Which would increase construction costs dramatically. That's it. Thank you, gentlemen.

CHAIRMAN DURAN: Thank you. Next speaker please. Please step forward.

GERRY POWERS: Mr. Chairman and Commissioners, my name is Gerry Powers. I recently received a development permit for renovation of the Country Club Apartments on Airport Road and was required to put in \$78,000 worth of new landscaping. If I was prohibited from using the existing water supply for watering that vegetation and had to use treated wastewater and haul enough to do the entire complex, I'm sure that it would die in a matter of a few months. And that's—there's something to me that's inconsistent about having to install all this irrigable plants during a drought and then being prohibited from watering. It seems like a waste of money.

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CHAIRMAN DURAN: Thank you, Gerry. You're going to be here for the next meeting, too, right? Do you have any suggestions on language you would like? How you might want to change that? And if you do, why don't you provide it to Katherine and she can let us—

MR. POWERS: Okay. One thing that will come up in the next hearing regarding the domestic wells is that all public water supply in New Mexico is only 10 percent. So to put in some real Draconian type measures that are going to make it very difficult for people to save a miniscule amount of water when the real problem lies—the vast majority of water is being used for irrigation and nothing is being done for agricultural conservation. So that would be the bulk of my suggestions with regard to those type of measures. I don't know how you prevent people from using potable water when you're requiring to install all of this landscaping that requires watering. There should be some exemption for that, not have to do that, or allow us to water it so it doesn't die.

CHAIRMAN DURAN: Aren't you on the City water system, though?

MR. POWERS: No, those are on individual wells. So I'll try to provide some language if we can come up with something along those lines.

CHAIRMAN DURAN: Okay.

MR. POWERS: Thank you.

CHAIRMAN DURAN: Next speaker please. Okay, that ends the public hearing portion of this ordinance. This is the first meeting and do the Commissioners have any questions of staff or want to make any comments?

COMMISSIONER VARELA: Mr. Chairman, I have a comment. I've heard several people talk about agricultural water as using the most amount of water in New Mexico. I was recently reading a study that was commissioned by the Interstate Stream Commission and it says that while 89 percent, I believe it was, of water in New Mexico is owned by agricultural rights, only 29 percent is actually used in agriculture because municipalities are using 11 percent and we have 30 percent that goes to evaporation and we have another 30 percent that goes to riparian areas. So while ag does own the majority of water in New Mexico, it is not using the majority of water. I just wanted to make that clear.

CHAIRMAN DURAN: Okay. So this is the first public hearing. The next one will be held next month in the land use meeting? Okay. Thank you very much.

X. A. 2. 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. No. 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)

MR. ABEYTA: Thank you, Mr. Chairman. The proposed ordinance will require all developments within the Community College District to utilize a public water system, with the exception of existing neighborhoods and rural zones. The new ordinance defines a public water system as a system owned and operated by the City or County of Santa Fe. The ordinance is attached as Exhibit A.

On August 1, 2002, the Community College District Review Committee met and postponed action on the proposed ordinance. The committee requested more information regarding the County's long-term water plans and suggested other changes to the ordinance related to water supply. The committee was scheduled to meet again on September 5th but did not. The BCC may conduct this first public hearing and then take action on the amendment after the CCD RC makes a recommendation. I stand for any questions.

CHAIRMAN DURAN: Any questions of Roman?

MR. ABEYTA: Mr. Chairman, if I may also add, this ordinance has already gone through the EZC and EZA and has been adopted for the portion of the Community College District that's within the Two-mile EZ jurisdiction.

CHAIRMAN DURAN: Thank you. Any questions of staff. This is a public hearing. Is there anyone out there that would like to address the Commission concerning this ordinance? Okay. This is the first public hearing. We'll have another one next month. What's the date of that meeting?

MR. ABEYTA: Mr. Chairman, the CCD Review Committee needs to meet on this. I believe they meet the second Thursday in October so this might not actually come back to the Board until November, just depending on the dates.

CHAIRMAN DURAN: And the one before though would be at the next land use meeting, which is what date?

MR. ABEYTA: That would be the next land use meeting in November. October 8th is the next land use meeting but that's before the CCDRC will be able to meet. So November 12th will be when the final hearing will be for adoption of this ordinance.

X. A. 3. Ordinance No. 2002-__ . An Ordinance Amending Ordinance No. 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, and 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)

MS. YUHAS: Mr. Chairman, Commissioners, this is the second hearing and several points have been raised since our last hearing that need to be considered this evening. The first is that the last part of the changes to this ordinance, the part that is 6.2.2.e, where acequia water rights would not be allowed to be used for this provision, that probably needs to be removed from this ordinance. The legal department has given me advice that they don't think we can exempt a certain type of water right from being used for this purpose. It's my understanding that some other work is being done regarding acequia water rights and their transfer process, and that might be the way to address this. If there are more questions on that, probably Steve is a better person to answer them than me.

The second thing that has been raised by a number of parties is that a quarter acre-foot of water per lot will not allow for horses and orchards and other traditional land uses, even on pieces of land that are large enough to allow for that type of water use, if you understand what I mean. Even on a very large lot, if it was created as a part of a Type III subdivision, they would still be restricted down to that quarter acre-foot if they didn't buy water rights. That may not be something that we want to do.

CHAIRMAN DURAN: Let me ask you a question. So if someone came in and asked for—this was adopted and someone came in and asked for approval for a 15-lot subdivision and all of them were five acres or more, they would be restricted to a quarter acre-foot with this new ordinance?

MS. YUHAS: That's correct, Mr. Chairman. I have some ideas about ways that we could change this. They're not all my ideas.

CHAIRMAN DURAN: So does this supercede, does this do away with our policy that's in existence right now relative to geo-hydros? So geo-hydro reports have no bearing at all?

MS. YUHAS: Mr. Chairman, a geo-hydro would still be done, but you'd also need the water rights to support it. So you'd have to do the geo-hydro and show you had the water physically in the ground, and then for everything over a quarter acre-foot, you'd also need to have purchased water rights.

CHAIRMAN DURAN: Okay, but presently, under my scenario, these 15 lots were over five acres and they were in the area where the minimum size lot was 2.5, with the water conservation restrictions, they would not be allowed to have half an acre-foot, even if

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they proved—

MS. YUHAS: Unless they purchased it, that is correct.

CHAIRMAN DURAN: Unless they purchased it.

MS. YUHAS: That's the way it reads now.

CHAIRMAN DURAN: And what were your suggestions on that?

MS. YUHAS: There are three scenarios that I've, at least worked out. Maybe there are more but the first is that in any lot that is below the minimum lot size in a hydrologic zone and proposes to use more than a quarter acre-foot, must purchase water rights. So if you were in the basin and your lot was less than 2.5 acres, then you would have to purchase water rights in order to use more than a quarter acre-foot. And if you were in the basin fringe and you were less than 12.5 acres, then you would have to purchase water rights to use more than a quarter acre-foot and continuing on into the other zones the same way.

Another suggestion that has been put forward on this is that we just eliminate this provision. And the third—

CHAIRMAN DURAN: Eliminating it would mean—

MS. YUHAS: It would mean that we would just take out the provision that says Any lot that proposes to use more than a quarter acre-foot.

CHAIRMAN DURAN: Okay.

MS. YUHAS: And the third, I have to read this carefully, is that this section could exempt those Type III subdivisions that are summary subdivisions, so those that are up to five lots. So then five lots could be created without the quarter acre-foot restriction. Most subdivisions that are in traditional communities are either these summary review subdivisions or they are exempt through family transfer or some other process. So that might be a way to address this also.

COMMISSIONER TRUJILLO: Mr. Chairman, is five lots the threshold between subdivisions and lot splits?

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, five lots is the amount that can be done administratively. It is that.

COMMISSIONER TRUJILLO: I thought it was under five. I thought it was four. Roman, is it five lots?

MR. ABEYTA: Mr. Chairman, they're still considered subdivisions but—it used to be four and now it went up to five. As of '96 it went up to five.

COMMISSIONER TRUJILLO: Mr. Chairman, I have a question regarding the acequia water rights. Or the acequia stipulation in here. Can't we cite in here the verse and the Code or the ordinance that specifically protects acequia water rights so that this ordinance can also be conscientious and sensitive to the protection of acequia water rights. I know that we're working on an ordinance that will do that, but can we include it in this ordinance so that this ordinance is also sensitive to that issue?

MR. KOPELMAN: Mr. Chairman, Commissioner Trujillo, the only problem is that that other ordinance hasn't been adopted yet. And so that ordinance is probably going to be coming forward within the next month or so and that ordinance has a lot more specificity so the

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only thing I'm thinking about in order to satisfy your concerns might be to have language to the effect that the use of any acequia water rights shall be subject to any County ordinances dealing with protection of acequias.

COMMISSIONER TRUJILLO: I think that's appropriate.

MS. YUHAS: Okay. I got that and I can change that section to read as just what Steve said. There were two more points that were raised. The first is that this ordinance should address how we deal with projects that are in different phases of approval. At what point are we going to apply this new ordinance to projects. So if someone has a master plan, do they have to meet it? If they're at preliminary, final plat? At what stage are we going to make this now a requirement for people? And the last question was regarding agriculture. I think it's clear to all of us that we don't mean to regulate agriculture with this ordinance but to some individuals in our community, they had a question about it and I wanted to make it clear that there is no restriction on agriculture with this ordinance.

So what I was going to include was in 6.2.2.d, that last paragraph, it would read, for all non-residential development with the exception of agriculture. Or with the exception of agricultural projects. And then it would move on forward from that.

CHAIRMAN DURAN: Katherine, can you explain what a Type I and a Type II subdivision is? Maybe Roman, can you—

MS. YUHAS: Maybe I'll need Roman's help on this one.

CHAIRMAN DURAN: Why don't I ask Roman.

MS. YUHAS: Thank you.

CHAIRMAN DURAN: I need to know what the difference is between a I, a II and a III.

MR. ABEYTA: Mr. Chairman, a Type I subdivision is 500 parcels or more, any one of which is less than ten acres in size. A Type II subdivision is 25 to 499 parcels, any one of which is less than ten acres, and a Type III subdivision is 13 to 24 lots, any one of which is less than ten acres.

CHAIRMAN DURAN: And typically what we see here, what we've seen here lately has been Type III subdivisions. There are very few of the I and II.

MR. ABEYTA: Right.

CHAIRMAN DURAN: And so—okay. I'm fine for now. Any questions of Katherine? Did you have anything else to say, Katherine?

MS. YUHAS: No, only that I'd like to have the question regarding the quarter acre-foot restriction somehow answered before we finish and the master plan.

CHAIRMAN DURAN: You guys want to talk about it now or do you want to wait until after the public hearing?

MR. ABEYTA: Mr. Chairman, I need to correct. A Type III is two to 24 lots. Not 13. The new proposal addresses 13 to 24.

CHAIRMAN DURAN: I'm sorry. Tell me again. A Type III is what?

MR. ABEYTA: A Type III is actually two to 24 lots. I had mentioned earlier 13 to 24 because I was confused with the ordinance that would apply to 13 to 24.

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CHAIRMAN DURAN: So if somebody was doing a two lot subdivision—

MR. ABEYTA: It's considered a Type III subdivision.

CHAIRMAN DURAN: But the way that it's written now, only those that are over 13 would have to—

MR. ABEYTA: That are over 13. Right. Exactly. This would only apply to Type III subdivisions that have more than 13 lots, or 13 or more lots.

MS. YUHAS: But that quarter acre-foot would apply to all of them, the way it's written right now. So the restriction says you only get a quarter acre-foot on your lot before you have to buy water rights, that would apply even if you're only doing a two-lot subdivision right now.

CHAIRMAN DURAN: I'm sorry. Say that again.

MS. YUHAS: The restriction that says that you only get a quarter acre-foot before you have to buy water rights, that would apply even to people who are doing a two-lot subdivision. So if you had 80 acres and you divided it into two 40-acre parcels—

CHAIRMAN DURAN: You get a quarter acre-foot. And that's not sufficient for, if I wanted to have horses, or—

MS. YUHAS: And I think we can certainly see that on 40 acres that would be an appropriate use.

CHAIRMAN DURAN: Would you require a geo-hydro? Let's say this gets passed like this, would you require a geo-hydro in addition to acquiring water rights?

MS. YUHAS: That would depend on where it is within the county.

CHAIRMAN DURAN: If I actually wanted half an acre-foot or $\frac{3}{4}$ acre-foot, which is what the Aamodt suit is suggesting in the northern part of the county, this would even restrict that, right?

MS. YUHAS: Yes.

CHAIRMAN DURAN: So it didn't matter what the settlement was in the Aamodt lawsuit, this would restrict it even further.

MS. YUHAS: I think so. Yes.

CHAIRMAN DURAN: Is there a reason for you wanting to do that?

MS. YUHAS: Mr. Chairman, when we wrote this, I don't know that I had contemplated that situation, a two-lot subdivision that was large lot. Or even a five.

CHAIRMAN DURAN: Well, now that you have had the time to think about it, what's your suggestion on that?

MS. YUHAS: I think that it might be appropriate, either to enact something like my first suggestion that says any time that you are less than the minimum lot size in a region and want more than a quarter acre-foot you have to purchase water rights. So that's one option.

CHAIRMAN DURAN: So if I had an 80-acre piece of land that the minimum was—I'm sorry. I had 160 acres with the minimum being 80, and I had three acre-feet of water on that 160. And I split it into two lots, you mean to tell me that you would only let me get a quarter acre-foot per lot?

MS. YUHAS: That is what this language says. I am not proposing that we keep

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it that way.

CHAIRMAN DURAN: So you're suggesting under that scenario would be that I would be entitled to how much water?

MS. YUHAS: If you are in the Homestead Zone, which is 160 acre minimum, then you would get half an acre-foot on each piece of property if you didn't do a geo-hydro to prove more.

CHAIRMAN DURAN: And that's typically, the Homestead is typically the farming—

MS. YUHAS: That's just the way it works in the Homestead.

CHAIRMAN DURAN: So is half an acre-foot adequate for me to have five horses?

MS. YUHAS: Yes.

CHAIRMAN DURAN: And a house?

MS. YUHAS: Yes. And a pool. And a couple apple trees, probably.

CHAIRMAN DURAN: Okay. So half an acre-foot is reasonable.

MS. YUHAS: Mr. Chairman, it depends on what usage you want on a piece of property. But I think that we don't want to be restricting people who are out in the county and have this traditional use of land to only a quarter acre-foot. I think we need to find a way to not have that be what the provision says.

CHAIRMAN DURAN: I think that part of my question here is, some people want to live out in the country and have a rural life and they're going to buy 80 acres out there with the dream that they want to have kind of a country home and we're only going to let them take showers and wash their dishes. It seems a little ridiculous.

MS. YUHAS: Mr. Chairman, I agree with you and I think either, I think maybe the first suggestion that says that if you are at less than the minimum lot size, then you need to purchase water rights. That might address that the best. What that would mean is if you're in the Homestead area and you are on a tract that was less than 40 acres, that you would need to purchase water rights to have more than a quarter acre-foot.

CHAIRMAN DURAN: And that formula would apply to the Basin or scenario or thought would go to the Basin.

MS. YUHAS: Yes.

COMMISSIONER TRUJILLO: Are you putting, isn't the ordinance putting, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: The property owner in a very precarious situation? And in fact, in tradition communities have a disparate impact on traditional water rights because that's the only available water right in those areas and they're going to go from traditional agricultural use to domestic use. And we're going to lose them. And that's talking contrary to the ordinance that we're working on to protect the traditional acequia water rights, because there's no other water rights. When the State Engineer gives you well permits, they give you a well permit for whatever, 3.0 acres or .25 acres, or whatever, ostensibly, those

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water rights are used to use as you want to use them. So I think that that language places the property owner in a very precarious situation because it seems like we're superceding or circumventing the State Engineer's protocol, permit process and we're compromising traditional water uses.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, in general, in the traditional communities the lot sizes are so small that people—for developments I'm saying, the lot sizes are small enough that a quarter acre-foot is all those people are going to have anyway. Because that's all they need for a house. It's when more is wanted than a quarter acre-foot that this would come up and be an issue.

COMMISSIONER TRUJILLO: Even outside a traditional community, if you're asking the property owner to go after water rights, they're going to go after traditional water rights because there's nothing else. Even outside of a traditional community.

MS. YUHAS: Mr. Chairman, Commissioner Trujillo, you are correct. For the most part, that is what is available.

CHAIRMAN DURAN: So what's the purpose of this? What's the real purpose of this? Is this to limit growth or to prevent growth from occurring? Is it to really try to manage the resource more efficiently? I think if it's to manage the resource more efficiently that we could definitely do something about it but I kind of have some concern that if we're using this as a way to control and stop growth that it's not the right tool to use. There are other ways of doing that.

MS. YUHAS: Mr. Chairman, I understand your concern and certainly part of what is coming behind this is the concern regarding domestic wells and the proliferation of domestic wells in our community that do impair traditional uses of water and people who have permitted water rights for their acequia or for a groundwater right that they're pumping and irrigating. And that was from a hydrologic perspective, that was my concern regarding domestic wells.

CHAIRMAN DURAN: If I could just ask one more then I'll leave the floor to you. What about the number of water rights that are out there? Have you spent any time finding any? Do you know that there are people out there buying them right and left?

MS. YUHAS: Mr. Chairman, I couldn't say people are out there buying them right and left. I would not say that that is the situation. No.

COMMISSIONER TRUJILLO: Or if they're even available.

MS. YUHAS: There are some available. People are purchasing water rights. As I've explained at other Commission meetings there isn't a database of what's for sale.

CHAIRMAN DURAN: How do you know there's not a run on them or that they're even buying them?

MS. YUHAS: Mr. Chairman, it may be that there is a run on them. I do know that some people have come in for permits where they have purchased water rights and are in the process of trying to transfer them, in the amounts of ten acre-feet or less is what I've seen recently. But I have not seen a lot of that. As you know, we see mostly Type III subdivisions where people don't have to buy water rights. That is correct.

CHAIRMAN DURAN: Okay. I'll yield the floor. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chairman, I think regarding the availability of water rights in recent testimony that we had from a couple of the developments that were approved out on Route 14, they indicated that there were water rights available and that their cost varied, depending on whether they were Middle Rio Grande rights or whether they were Santa Fe Basin rights and they had substantial cost differences. I think in terms of probably what staff is recommending here and I've met with the staff and discussed this ordinance with them, is that as these domestic wells are used they may impair rights. They may impair other water users. They may impair traditional community users.

But there's no way that you know if that's going to happen because through the three acre-foot permit, they're entitled to just withdraw the water without any hydrological control, without any State Engineer permit process in terms of a public hearing or review by the State Engineer of the hydrological effects. So what's happening now is that three acre-foot, 72-12-1 wells are already impairing traditional users. It's just that they're not paying for it. They're impairing them free. Under this situation, if someone wanted to use more than the quarter acre-foot or using Katherine's modification, the minimum in that particular zone in which they were in, they would have to bring water rights to the project and allow the State Engineer to make an evaluation if there was any impairment. That's what the process is about.

So I think that's a good thing. I think that puts some control back to the State Engineer to allow traditional water rights to be protected. In terms of the quarter acre-foot, we've seen, according to our water utility department that uses are generally in the .19 to .21 acre-foot area for a traditional residence so I think that that's fairly generous. We've even seen variances and lot splits here where we've had two families on a well and the two families are limited to .25 and that's been agreeable to those families and they've reported—

CHAIRMAN DURAN: Two families on .25?

COMMISSIONER SULLIVAN: Yes.

COMMISSIONER TRUJILLO: Or .25 for both families.

COMMISSIONER SULLIVAN: No, for both families.

CHAIRMAN DURAN: I don't remember that.

COMMISSIONER SULLIVAN: Yes, we've approved variances that way. And that's felt to be acceptable. But I think in the end, the purpose is not to squeeze down the individual homeowner. A domestic well is just that. It's meant for the individual homeowner and for gardens and some fruit trees, traditional uses that we certainly don't want to impair here. I think the intent is the misuse of the domestic well beyond that to where, as just one example, several months ago, we had a development before us for approval that was only 1500 feet from the Santa Fe County water system and yet that development was approved to go ahead with three wells. I forget the number of lots. It was around 15 lots or 16, something on that order. That's a development that clearly should have been on the Santa Fe water system. But because we had the provisions that allowed domestic wells to be used for these numbers of lots we allowed that subdivision to drill three wells.

COMMISSIONER TRUJILLO: That was a condition, right? That when the

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water line went in front of it that they were mandated to connect.

COMMISSIONER SULLIVAN: Right. And that condition would never have been filled because no one would ever pay for that water line. Once they had the wells in place, they've got their water supply. There would be no reason to put a water line there. I think, to answer Commissioner Duran's question, I think the intent here is to use, as I read it, to use residential wells, domestic wells, which they're called for the purposes for which they're intended. That use has been extended far beyond that.

CHAIRMAN DURAN: We're talking about two different—we're not talking about the non-residential uses.

COMMISSIONER SULLIVAN: No, I'm just talking about domestic subdivision and that subdivision example was one and I think that we, the 12-lot limitation simply comes about as a result of taking one three-acre-foot well and saying each residence in that 12-lot subdivision could use a quarter acre foot, so a quarter acre-foot over a three acre-foot well would sustain 12 units. If you have to go over 12, you've got to drill a second well in that area. And if you drill a second well in proximity to the first well, then you really should be looking at the impact of those wells to the surrounding community. So I think the 12 makes sense from the standpoint of the three acre-foot well provision that the State Engineer allows. That's where that came from is my understanding.

CHAIRMAN DURAN: I'd just like to make one comment. When you said that .2 acre-feet has been used to service two homes, that that's kind of an acceptable norm, I need to disagree with you. I think that it has occurred. I just talked to Roman. There have been several cases that have been under variances and by no means represents a normal situation.

COMMISSIONER SULLIVAN: I didn't indicate that it's the norm. I would say the normal situation, according to our water utility company is an average use of about .2, .21 acre-feet per residence. On the normal usage, that's what they're experiencing. Other large developments in the Community College District are telling us that it's as low as .19 acre-feet per residence. I think .25, which is 30 percent more than that is a good, reasonable use and one that we've been using for several years now on approvals for single family subdivisions. That seems to be reasonable. I understand the provision of when we get into larger lots and how can we provide for the horses and llamas and whatever else we want. And the recommendation that Katherine has seems reasonable.

[audio difficulties – the portion in italics is based on the reporter's notes]

Ms. Guerrerortiz distributed Exhibit 2, and explained that the Santa Fe County Code encourages cluster development to limit the number of wells and protect the production of existing wells. She expressed concern that the proposed ordinance would promote avoidance of subdivision rules by encouraging serial subdivisions in the EZ and exemptions in the County. The Ordinance also prohibits horses in new developments, and threatens the lifestyle of County residents.

Ms. Guerrerortiz recommended enforcing stricter water conservation methods, fixing the geo-hydro map and making applicants prove they have sustainable water. As a final note, she strongly suggested the Board consider establishing impact fees.

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MR. SOMMER: ...but the economic reality is that it's hard, hard, hard to sustain agricultural uses on an economically viable basis and as that shift continues to occur, as a county, we must provide incentives, one, to preserve those uses, make them more economically viable. Second of all, in instances or at a time when it is not any longer viable, what do those families do when there is a restriction that they cannot alienate their property to a use where there is a market for it.

So I think it's a sensitive issue. I think it's one that requires some thought and I don't have the answer on that subject, but I do believe that there is a very tough issue to be decided on that alone. This ordinance doesn't address it and maybe the one coming forward will have an opportunity to address it. But they should dovetail. They should be consistent. They should provide incentives for people to preserve their agricultural uses and in instances when that is no longer viable, there should be a way out for those people who have held on to their rights to the very end to benefit somehow from their use.

So my comments are very general in nature and I apologize that I'm not here tonight with something more specific but I raise those two issues for you to consider and take as much time. I implore you to take as much time as necessary to do this right. I think that the goal of the County is to make sure that the proliferation of domestic wells does not impair permitted water rights or acequia rights or ag rights that are in place. I think that there's a mechanism in the State Engineer's Office that we should hear about as to when that happens, what occurs. The second is your own system is threatened by this particular ordinance. Make provision for your own system. At the very least, make provision for your own system. And third, with respect to the acequia uses, let's be careful that we don't put those people at risk and let's make sure that we provide some incentive for them to preserve their uses and there are creative ways to do so. It might be partial transfers. Those sorts of ideas that allow them to maintain the economic viabilities of their lifestyle which I think is central to the hearts of at least a few of you up there. So thank you very much.

CHAIRMAN DURAN: Karl, I have a question for you. From a legal point of view from out there in the private sector, if we were to adopt this in some form and we made it applicable to—what do you think if we made it applicable to those projects that had—if they had final plat approval, they wouldn't be subject to this ordinance. Anything short of final plat approval they would be subject to the ordinance.

MR. SOMMER: I think that the issue related to the applicability of this ordinance is one, you have a legal standard and two, you have some discretion. And that is, you could state in this ordinance what you wanted it to apply to and that would be upheld. Like for instance, if you said, this ordinance shall apply to those subdivisions not having final plat approval. For those subdivisions having final plat approval, this ordinance shall not apply. You could say that very clearly. That would clear up the legal issue in my opinion if you were specific as to its application.

If you said nothing then you're going to face the issue of the person who has final plat approval but they haven't recorded and they haven't spent a dime on that approval. The question will be does this ordinance apply to them? It's a legal quagmire that I think that you all

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could clear up by being very specific as to its applicability. I do tend to agree that the law is pretty clear in New Mexico that you cannot vest a right unless you have an approval in the form of some sort of permit and then you substantially rely and change your position in reliance on that permit. That's the law generally. You could change that by specifying that we want it to apply to these developments and not to these developments, and that's what I would suggest that you do if you want to clear it up. If you want to leave it to a law then Mr. Kopelman will need another lawyer to handle those ones. But I think that's the issue you raise in that and I think that the best way to do it is to clear it up by saying what you want it to apply to.

CHAIRMAN DURAN: But do you think you're going to be coming here representing some of your clients because they went forward with their project with the understanding that there was some reasonable expectation that the ordinances as they apply today allowed them to improve their property, and by adopting this ordinance it would render that process, it wouldn't work anymore under this ordinance. So basically their master plan approval is void because they don't have the water rights.

MR. SOMMER: I may well be here arguing that a particular party has some kind of approval which they've relied on to their detriment which created a vested right of some kind. Those are all difficult cases to decide. They're difficult cases to argue, but I can tell you that the further along a party is in the process, the more reliance they have on the ordinance as it was and the kind of approvals given is going to solidify that right to a greater degree. If I'm talking about a master plan that I've done nothing in reliance upon I think that Mr. Kopelman and his staff will say, Well, that's just a master plan. If I have a preliminary plat, which I've gone out and fulfilled the conditions of and I've changed my position substantially in reliance on that preliminary plat approval—for instance there are many plats out there right now that have preliminary plat approval that say you cannot file until you acquire x, y, and z.

That might be access, it might be water rights, it might be water rights transfers. The minute you have a reliance like that, I think we're into a gray area of the law and I may well be here arguing on behalf of those people. So I would say, if you can, make it as clear as possible. That would put me out of a job insofar as I'd be here arguing those cases because all I'd have to do is read what it says, that's how it applies and that's better for my clients. I think it's probably easier for staff to apply as well. I hope I've answered your question.

CHAIRMAN DURAN: You did.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Sommer, I guess I don't understand that you were necessarily agreeing with Chairman Duran that it would void somebody's master plan or preliminary approval if they found that they needed to bring water rights to the subdivision or to the development, they were over a limit for their particular zone, then they would go through the process of acquiring those water rights. The net benefit of that is that it retires a water right somewhere else and that keeps the playing field level. We're not mining our aquifer. We're retiring a water right and adding it to another. So is it your feeling that by having someone go out and purchase a water right, just as if they might have to purchase a

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traffic light, if that's what the traffic study indicated. Would that, do you feel that by having to do that that would void the subdivision?

MR. SOMMER: I'm not sure that's what he said. I think that what he said was if a master plan was rendered void by virtue of the passage of this ordinance, what would be the issue I would be arguing? That's how I understood the question.

COMMISSIONER SULLIVAN: Why would it be rendered void if they simply had to get water rights? I guess the concern that I see is that there are an untold number of old master planned subdivisions hanging around which we see coming up that have exceeded their five-year time period and they've been approved, an extension for another two years and another two years, and these are—or they may be in the preliminary stage as you indicate, these are the types of subdivisions that should be updated. Development has occurred around them. The site conditions have changed. There should be some mechanism that the impact on any neighboring wells that that subdivision would have should be adjudged. And just because they happen to have some level of approval, five, seven, nine years ago, doesn't seem to be a good criterion.

Now Mr. Kopelman all along has said that the approvals don't vest any right in any subdivision until after final plat and recordation. Am I stating that correctly, Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, that's generally the state of the law. The holdings of the New Mexico courts on vested rights. As Karl indicated earlier, it's having the final development approval plus reliance and that seems to be what the courts have held.

COMMISSIONER SULLIVAN: So you're not taking a position in opposition to that, are you?

MR. SOMMER: What I'm saying is thus far in New Mexico, the situation of what constitutes an approval upon which you may rely in a subdivision context has not been addressed and what the general law is, that you must receive an approval and then rely substantially on that approval in changing your position. In New Mexico what has been said is the approval is a permit, relying on that. So that's what the state of the law is. There are many circumstances, Commissioner Sullivan, in Santa Fe County where approvals are granted at a master plan level with conditions that you must fulfill in order to move to the next step. The fulfillment of those conditions often requires that you go out and spend money in the circumstances that you talked about. Acquire water rights. Go buy the water rights. So in that case I would have an approval of a master plan conditioned upon my acquisition of water rights and under this ordinance they better not be acequia rights or they're not going to be good enough, and I would have a reliance.

That issue has not been addressed in New Mexico and Commissioner Duran asked me am I going to be up here arguing? You bet I'll be up here arguing if that person has a vested right in the master plan if he changed his position in reliance on that.

COMMISSIONER SULLIVAN: Okay, so let me understand. Your position then, as an attorney for developers is that once a master plan submittal has been made and conditions have been applied to it, the applicant only has to address those conditions. And

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having done so is entitled to proceed on and eventually to recording. Now, my understanding—

MR. SOMMER: Well, that's a misstatement of what I said, but go ahead.

COMMISSIONER SULLIVAN: From Mr. Kopelman is that the County Commission has the right at each development step to add new conditions to the proposal. Do you disagree with that?

MR. SOMMER: I don't think that it's a one-size-fits-all. If you tell a party at a preliminary level that you cannot apply for a final subdivision plat until you acquire water rights and transfer them to a particular location, and in reliance on that preliminary plat approval, the party does so, I think Commissioner Sullivan, there is an issue, a significant issue as to whether or not you can require something in addition on that water right and say that you have not vested any right in that preliminary plat.

Now, additional conditions? Certainly, I think you can apply additional conditions, but you cannot void an approval granted when the party substantially relies and changes their position in doing so in the manner that you suggested.

COMMISSIONER SULLIVAN: A standard condition is usually compliance with all ordinances in effect that the time of final approval. That's standard language that I've seen in the applications or in the approvals of conditions. So wouldn't that take care of that issue?

MR. SOMMER: Wouldn't that take care of the issue?

COMMISSIONER SULLIVAN: That condition. That if new ordinances are passed between the time an applicant starts the process and completes the process, the applicant is required to abide by those new ordinances. Isn't that reasonable?

MR. SOMMER: I think it certainly bolsters the County's position to add that type of condition. I don't think there are too many people who are going to just lay down and die after having relied on an approval. So I think that the condition that you comply with whatever we passed at the time you get the final plat approval probably bolsters the position. I don't think it answers the questions ultimately.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN DURAN: I have just a comment. I really think that if we are going to adopt this ordinance in whatever form it is, it turns out that it goes forward and we maintain the provision that people need to acquire water rights in order to get a Type I, II or III subdivision, that we better be pretty darn sure that number one, there's water rights out there and that the process is available to them. If we're doing this just so that people—if we're doing this so that development stops entirely and we just throw a wrench into the development process, I don't think that's fair and I don't think it's right. I think that we should make sure that there are water rights out there and for three meetings now Ms. Yuhas has not been able to give me substantial information relative to who has water rights out there. It's all hearsay. And I really think that if we're going to adopt an ordinance that is going to have a major impact on master plan approved projects and even future projects that we should be able to substantiate the requirement, or back that requirement up with proof that we're not just creating some situation that is never going to be achieved.

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MR. SOMMER: If I may just add one other item that I meant to tell you. I understand clearly the desire to protect traditional ways of life and how water relates to that. One of the uses, there are many traditional uses by many long, long established families in New Mexico that aren't on acequias, that ranchers, and they're also using wells for agricultural purposes and I think there's a desire to protect those uses as well and we ought to think about those as well as we move forward under this ordinance or the adoption of an ordinance like this to protect agricultural uses in general. Because many of those agricultural uses don't exist on acequias. They're ranchers off acequias and they are people who use wells and they've had wells for many years.

[audio difficulties]

RITA HORTON:...The Edgewood carinuous limestone enveyment is going to have to have sewers. It just is too delicate to do otherwise and I believe Mr. Duran has some of that information. He has a map of the Edgewood caves. So he can see what we're dealing with. We're not dealing with the same thing you deal with up here. We have a different world down there and we need be handled not with acequias but with a tremendous amount of water. When it comes to geo-hydrology studies, I have spent over \$500,000 in geo-hydrology studies. I can tell you each level water is flowing through in my wells. I can show you pictures of the water flowing in my wells and rising vertically to get over high-angle faults. I know what that country is like.

You can drill and many hit a fracture. If you fail to hit a fracture you could be in trouble. It's the fracture flow systems we have to protect. We are different from you up here. They can buy water rights a lot of places. But we need big water rights to be retired, not a miniscule amount. Thank you.

COMMISSIONER SULLIVAN: Thank you, Ms. Horton. Next speaker please.

GERRY POWERS: Mr. Chairman, Commissioners, my name is Gerry Powers. I'm the current president of the Santa Fe County Landowners Association. I live in the Estancia Basin and I'm here tonight to speak on behalf of the Landowners Association with regard to this ordinance. I do have some material I would like to hand out if I may. That will add some support to my arguments. I think I left one out for Commissioner Duran, didn't I? I understand the intent of the ordinance is to reduce the impacts on current water rights users in traditional communities. However, I think it's important to know exactly what those impacts are.

The Office of the State Engineer has done a recent study in Technical Report 49 which is attached to my letter, which shows that all domestic wells in the State of New Mexico utilize less than one percent of the water pumped in New Mexico. So if we're looking for ways to reduce impacts on current and existing users I think the place to look would probably be in the other 99.5 or 99.7 percent of the uses. There's a letter attached here also from Ballew Groundwater, Peter Ballew, who's a respected hydrologist, which shows that according to the State Engineer's own calculations, when it comes to the actual, the figures I was talking about of less than one percent are actually pumping, whereas the impact to stream depletions is only one tenth of one percent. So the stream users, including acequia uses and irrigated users in the stream systems are being impacted by one tenth of one percent by domestic wells.

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I think what Ms. Horton said is an important factor as well. In fact the point's been made by several people that the way of life of people in southern Santa Fe County in rural areas is substantially different than in the northern part of the county. The State Engineer's Office recently reduced the amount of water available under domestic permits to one acre-foot from three acre-foot that was mentioned by Commissioner Sullivan, because he calculated it would take at least one acre-foot to maintain the domestic uses, traditional domestic uses of horses and gardens in the rural areas.

So we believe that this ordinance if it was voted in would seriously impact the ability to use our current traditional ways of life for a potentially miniscule savings on less than one percent of the water utilized in New Mexico. With regard to the ability of people to buy water rights to transfer, this is really completely unworkable in my experience. I have tried to buy water rights. I've bought water rights and tried to transfer them to domestic wells in the Estancia Basin and the process is extremely long and arduous and eventually ends in denial. I've met with the State Engineer on behalf of the Landowners Association as well as myself individually on this issue many times and in fact their rules are getting more and more difficult to transfer water rights. When you apply for transfer it usually takes a couple of years at least to get to a hearing. I was turned down on several of these transfers and went up on appeal. It lasted several more years. I've done that three times now and finally, in talking to the State Engineer I've given up any hope of being able to transfer these rights.

There are so many different criteria that have to be met to transfer that essentially, transfers are only being allowed within the same administrative block, which means that unless you live right next door to a farm and can buy a well permit there, you cannot transfer these rights. So the idea of being able to transfer and buy water rights if anybody wants over a quarter acre-foot is completely unworkable.

In a recent meeting with the State Engineer's Office, they've also said that they plan to implement a new policy which is that you can no longer transfer if you have an 80-acre farm or a 300-acre farm, you can no longer transfer water rights in small parcels. I was told that I would have to dry up my entire 80-acre parcel and quit farming it to transfer one acre-foot to somebody's domestic well on the other side of the valley on the potential idea that I could eventually transfer the rest. But I risk losing my entire farm by doing that because if I stop pumping, under the use it or lose it laws I would lose my water rights.

In the last legislative session, a bill was proposed to limit, to grant the State Engineer the right to deny domestic permits on the theory that there would be some conservation gained by this. That bill never made it out of committee for the very reasons that I'm talking about tonight. It was recognized by the committee that the State Engineer himself calculated that we were using less than one percent of all of the water in New Mexico utilized in domestic wells. So any potential conservation and savings is very minute compared to the large impacts, negative impacts of people being able to utilize their property, being able to live in a traditional way, having horses, etc.

I was just doing some calculations when I was sitting here and from my experience, horses utilize anywhere from 30 to 50 gallons a day. If you had five horses that's about a third

of an acre-foot alone. If you have one garden in the Estancia Valley, one acre is about 1.25 acre-feet. And then the household uses about a quarter of a foot just for indoor uses. So I think the State Engineer has already taken steps in the Estancia Basin by limiting domestic permits to one acre-foot and reducing that from three acre-feet to take into account any possible conservation that he can foresee without destroying our way of life.

I think that wraps up my comments. There's a lot of material attached to what I gave you from people as well that goes into some greater depth about the negative consequences of this type of an ordinance. I'd be glad to answer any questions if I might.

CHAIRMAN DURAN: Thank you, Gerry. Next speaker please.

ROSANNA VAZQUEZ: Good evening, Commissioners, Mr. Chairman. My name is Rosanna Vazquez. I'm not here on behalf of any particular client of mine. I'm here as Karl is, someone who reads the ordinances and often has to interpret them and provide guidance to their clients. I'm not as old as Karl so I haven't been around here as long as he has so I can't look back on 15 years of what the County Commission has done, but I can look back on the last few years. In the last few years what has happened, or the policy directives that have come out of this County you can summarize in three separate policies. Those are one, promote affordable housing. That has been an issue for the County Commission, this current County Commission as well as the previous other County Commission. The second policy that's really been brought up has been to somehow protect traditional lifestyles and when I speak of traditional lifestyles it is not traditional communities, solely traditional communities like that of Chimayo or La Cienega but it is traditional lifestyles which would include agricultural use and ranching uses in the county.

The last policy directive that has really come out in probably the last two or three years has been the concern of this Commission and the staff of protecting the use of wells and that has been proliferated through many different ordinances. It was brought out in the Community College District Ordinance and in fact, it is coming before you to limit the use of wells in the Community College District Ordinance. If it is the intent of this ordinance to limit the use of wells, then I think a closer study needs to be looked at where exactly you want to limit the use of wells. You are already doing that in the Community College District, where you've prohibited the use of private wells. You could look at in the areas like the 285 corridor area that's being brought before you soon, the Simpson Ranch area as well and other areas where they may be areas of high growth.

This Commission designated areas of high growth in its last general plan and I would suggest that those would be the areas where you would limit the use of wells and limit the amount of water that is taken out of those wells. With respect to some of the changes that have been requested by Ms. Yuhas, she made a statement with regard to if you could prove more water through a geo-hydro you would be allowed to use more water. I would request that that language be added in the current ordinance that is before you because the way that this language reads it does not afford that availability.

The language with respect to geo-hydro she's referring to is currently in the County Code as it stands without this amendment. I would agree with Ms. Oralynn Guerrerortiz that

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the current regulations on geo-hydro do allow you and the geo-hydrologist as well, the State Engineer, to review whether there's an impairment issue and you do also have water restrictions, which would also allow you to enforce restrictions and limit the use of wells.

There is some confusion as to what is traditional uses of land, and I don't think that's clear in the County Code. I would submit that traditional uses of land do include ranching, which includes livestock, includes horses and includes farming, which would be severely hurt by some of the water restrictions that you set forth here. Another concern is that agricultural uses is not specifically described in this ordinance or anywhere and it's unclear whether horses are included in those agricultural uses.

There was some mention made to how around the county many subdivisions are using .21 to .19 acre-feet of water per year. There are some subdivisions using .19 and the only ones that really are recorded and Ms. Yuhas knows about is Rancho Viejo. And one of the reasons .19 is being used at Rancho Viejo is because they have promoted a cluster development which would be discouraged by this ordinance as it is written now.

The one section that everyone has been silent on in this ordinance is the language with respect to commercial development and limiting the use of a well for commercial development up to one acre-foot. I know that there is somebody that will speak before you with respect to that commercial development but I would submit that there would be a detrimental effect on small businesses. The State Engineer has specifically allowed under a 72-12-1 well domestic uses to include certain commercial uses already. That 72-12-1 statute has been proposed to be amended before the state legislature, as the previous speaker said, not just this last session but probably the last five sessions before it. And every single time it has come before the legislature it has not gone forward because of the concern that our state legislatures have on the effect of changing those rules to the homeowners as well as the small commercial developers.

With respect to the discussion that you had with Mr. Sommer regarding the vested rights, there are other arguments that can be made as well as the vested rights and I do believe that in New Mexico there is a gray area in the law when there has been reliance on an approval and there has been money spent with respect to that project. I would also argue that there would be an argument that could be made if the rules were changed at a level where somebody has already relied upon certain approvals.

Another issue that has been raised by this Commission in particular has been the concern over economic impact of subdivisions that come forward. The question that has been raised through the discussions on the assessment district in the Community College District, are what are the fiscal impacts to the County with respect to these subdivisions. That question needs to be asked here. As Ms. Guerrerortiz said, when the subdivision laws were changed in the mid-1990s there was much research done as to the economic impact of having to acquire water rights, and that's why the 24-lot number comes out. There's been no such study here, and I believe that that would be something that would have a detrimental effect on affordable housing, another policy directive that this Commission has promoted.

We heard earlier in this Commission meeting that the average median price of homes has gone up in Santa Fe to \$230,000 to \$262,000. To require water rights for a subdivision

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would increase that price and make affordable housing that much more difficult to acquire.

Commissioner Sullivan, with respect to your [inaudible] that are added, I would agree with you that conditions that are added by staff after [audio difficulties] Usually what occurs and correct me if I'm wrong, but at preliminary development stage, what the standard condition is that it should comply with the redline comments of Highway, Public Works, [audio difficulties]

PAUL CRAVENS:... the costs of moving out there are more prohibitive than they are to buy property, say, in Albuquerque on Albuquerque's west side. It costs more to move out to Edgewood. People that have already bought five-acre tracts have pretty much already moved out there. I got that information from one of our leading real estate agents, Howard McCall.

For me, like I said, for domestic use, like Mr. Powers said, less than one percent of all the water used in New Mexico is used by domestic wells. I was up at the state legislature this last session and in Representative Stell's committee that was also brought forth, that less than one percent of all the water used in New Mexico is used by domestic wells. In our particular area in the Estancia Basin, the wells, the water that's taken out of the ground is used and is treated and it put back into the aquifer through our community sewage systems. So none of the water is really leaving the basin, as opposed to the agricultural uses where the water is drawn out of the ground, it's irrigated, evaporated and out of the area. So a lot of the water that's used for agricultural uses, not that I'm trying to minimize agricultural uses but most of that water leaves the basin.

So domestic wells don't have a significant impact on the water use in our area. Also the fact of using purchased water rights. I tried two years ago, the farmer that had the property immediately adjacent to mine was looking at selling his property and I said, Well, what can I do to buy your water rights because I'm planning on doing a development on my property. And I found out that I couldn't purchase his water rights unless I planned to prove some beneficial use within the next year. Which meant that I'd have to take and put all my property into production and start growing alfalfa or something if I was going to be able to hang onto those water rights. If I didn't prove beneficial use of those water rights, I couldn't use them even though I planned to start a subdivision two years later. So we'll have to change the language or work with the State Engineer on the transfer of water rights, because right now it's just not workable where it's at now.

Also, like Commissioner Sullivan suggested, to make the analogy of the water rights kind of like being street lights. It's not really a commodity. I can't purchase them and put them in a warehouse somewhere. If I don't prove beneficial use within one year then I've lost them. I've lost all the money that I invested in them. And when you all put this law into effect, all the available water rights are going to jump in price tremendously so what might have cost me a few thousand dollars is going to cost me four or five times that much. And then my cost of building the subdivision is going to increase enormously.

Another problem is reducing the number from 24 lots right now before I purchase water rights to 12 lots. That's going to pretty much double my price on the lots that I have to sell and

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it's already going to impact a market that's already overburdened. So I guess for me and for some of the other people that are not here tonight. This is really going to increase our cost of developing the property that we have. I purchased this property eight, nine years ago and I've drilled a well to prove the availability of the water. It's right in the Basin area. It's got all the things going for it. It's right on Dinkle Road. You all have paved Dinkle Road right up past where my property is. It seemed like everything was going along real, real well, and now I've got this which is going to double my cost of developing this property and I can't see that there would be any substantial increase to the County as far as water conservation or water use or any other thing. So those are my comments to you and I would just ask you to really consider this a little more carefully before you adopt it. Thank you for your time.

CHAIRMAN DURAN: Next speaker please.

STACY CROSSINGHAM: I'm Stacy Crossingham and I'm here representing the Village at Eldorado. I have two issues at hand that I'm very concerned about with this new ordinance. Number one, I am very concerned, it's very hard to get water rights, especially in the Galisteo Basin. I had inquired with several people about getting water rights when we thought it might be an issue previous in our plans and to no avail. There was one person who was willing to sell one acre-foot and that was it. That was all that was available on the 285 South Corridor area Galisteo Basin.

Wouldn't it be more effective if this ordinance had incorporated in it water conservation measures for future developments, both residential and non residential instead of restricting growth, which brings employment opportunities and many other benefits. Instead of discouraging those benefits that bring to a community, wouldn't it be better to encourage water conservation and make that a requirement of development. We have spent hours in this very chamber and well over a million dollars has been committed and some of it already spent based on the approvals we were given on our project. We have submitted this morning for final development plan and we're hoping to get through that in October.

I do think that this will affect, like the previous gentleman said, house sales in rural areas. It will increase them and probably put a lot of people out of reach of being able to afford a house. But my biggest issue without belaboring this is to encourage water conservation and not put restrictions on that might not be able to be met. Most importantly, having gone through preliminary and now final and master plan and the whole thing on our project, I'm concerned about where, if this ordinance gets passed, what does this do to our project? I think I would be up here with Kurt Sommer arguing our case having spent well over a million dollars based on approvals. So I encourage you to rethink, if this is passed who this is going to affect and if this is the right way to go about conserving water in our area. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker. How many more speakers are there?

DAVID THORNBURG: Commissioner Duran, Commissioners, my name is David Thornburg. The issue that I want to speak to was brought up by Karl and I just want to reiterate that the way I interpret the ordinance as it's written right now, it could be applied to projects that have alternative sources of water besides the County water system or domestic well

system. And I strongly feel that it's, for a number of reasons, it's inappropriate to be requiring water rights from a development such as mine that has a water source from the City of Santa Fe.

CHAIRMAN DURAN: I don't think you're correct, sir. The ordinance doesn't state that, and Katherine—where in the ordinance do you interpret that?

MR. THORNBURG: Well, it just, what I interpret is that it says all Type I, Type II, and Type III are subject to this ordinance. My subdivision would be included in that all-encompassing statement.

MS. YUHAS: Mr. Chairman, we could change this to say Type III subdivisions utilizing 72-12-1 wells and make it clearer for anybody who's concerned. It does specify the types of wells when you get down into Section 6.2.2.d and it is only domestic wells. It would not apply to this subdivision.

CHAIRMAN DURAN: In your thinking, Commissioner Sullivan, was that, would the Thornburg's project apply?

COMMISSIONER SULLIVAN: Mr. Chairman, no. A Type III subdivision, of course what Mr. Thornburg is proposing which we'll hear later on this evening is a Type III subdivision.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: But his water source is the City of Santa Fe according to his submittal so he doesn't come under this because he's not proposing a 72-12 well.

MR. THORNBURG: Okay. Thank you. I just wanted that clarified.

CHAIRMAN DURAN: Okay. Good. Thank you. Next speaker please.

COMMISSIONER SULLIVAN: And that same comment applies to the previous comment about clustered subdivision. The County still encourages in the Community College District clustering of subdivisions, the use of the County water system, the use of the City water system if that's available to extend. So all of that continues to be applicable. It's only when the applicant is proposing 72-12-1 wells as the water supply that this then kicks in.

CHAIRMAN DURAN: The 72-12-1 wells, but these wells that you're talking about could be used as a source of water for cluster development, not in the Community College District but in other areas.

COMMISSIONER SULLIVAN: They could be now, that's true up to 24 lots and this would change it to 13 lots, 12 lots. It has nothing to do with the clustering. It has to do with the number of units divided in the subdivision. Or 18 or whatever the number is. At least that's my understanding from discussing with the staff. Excuse me, ma'am.

RITA LOY SIMMONS: My name is Rita Loy Simmons. Have you missed me?

CHAIRMAN DURAN: We have. Where have you been? We haven't seen you.

MS. SIMMONS: Where have I been? Well, I haven't been here to devil you for a while, Paul, but one day I was up here and a little girl asked me about prices of homes in Albuquerque and in Edgewood and I said, Were you born and raised in Santa Fe? Oh, yes. I said, Do you like Santa Fe? Oh, I love it. Well, why are you asking me about Albuquerque and

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Edgewood? Very simple. New York prices and Santa Fe wages. And you have made this point over and over and over that you want to encourage affordable housing and I was shocked at the median price of houses in Santa Fe.

We're still relatively affordable in southern Santa Fe County, but wouldn't it be wonderful if God had been an engineer, life would be perfect. We would all look ourselves in the mirror and see a perfect example of a human being, a perfect example of a mental, capable entity, and we would be so moral. But you know I think he had a sense of humor and a sense of whimsy, because look at us now. And if we were to approve what Santa Fe itself has become, there is no way you five gentlemen in good conscience could approve Santa Fe as it stands today. But it exists. It evolved. And my point is evolution is. It happens.

And the thing that the previous speakers have pointed out is with good conscience, Mr. Duran's questions and Mr. Trujillo's questions were very pointed and very good. And the previous speakers have made some very salient points. Now I'm going to add questions, reiterate some of the questions that I heard. I have to put on glasses now to see my own writing.

Where did Ms. Yuhas get her formula that assures you that one-fourth of an acre-foot is enough and for what size lot? For small lots I agree, but for larger lots I agree with Mr. Duran. It isn't. I've heard a lot tonight about the horses. I have two horses and I have ten cows and one rooster and four cats and two poodles. There are formulas, I'm sure. But depending on the heat, the time of year, the amount of water that's out there, how much they're getting from their fodder, it changes every year. Water rights will certainly go to the highest bidder. Soon they'll be equal to liquor licenses. I hope I can sell a few at that point but Mr. Cravens has pointed out some of the problems on water rights transfers and so has Mr. Powers.

Now, I don't know where in your formulas this .19 or .2 acre-foot is what size residence and what size lots. A 4,000 square foot residence with ten people in it or a 1,000 square foot residence with three people in it. That's going to be very different. The cost of geo-hydrology as my mother pointed out, is horrendous. And even at that, you people will not approve subdivisions based on her hydrology study. How many developers are going to be bankrupted if they get far enough down the approval process only to have the rug pulled out from under them?

My son was in college and he was trying to change from engineering to business. So he applied to the business school and kept taking all the classes that were required. But they kept changing the rules every year. And in the fifth year, in the semester he was to graduate, he found they had changed them once again. Now at some point you need to state where the requirements can no longer change on the permitting process. If you have your preliminary plat, then how many changes can be made? And this begs the question of how long does it take to put a subdivision through Santa Fe County. It's not a matter of weeks or months, it's become a matter of years. And how many changes can be made and requirements added in those years. So you have to look at the mom and pop land splits as you would find in northern New Mexico where dad's trying to give to his children, and our sympathies have to be there, or you have to think in terms of the rancher who can no longer economically afford ranching and wants to put

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his land to this highest and best use and the market place has finally reached him, only to have the rug pulled out from him as Mr. Cravens pointed out.

Engineering puts people in a box, whether we want it or not. Discretion was the most beautiful word I heard tonight. And I understand Commissioners have discretion. But we have written discretion out of the laws and out of the ordinance and out of the rules and the regulations so very often. I love the word "discretion." The word control just makes me want to run and hide because if any of us could have control over everything we would be married to the perfect mate and we would be making the perfect amount of money. But we're not. So control is a scary word to me.

Now, how knowledgeable is Santa Fe County in the ability of people and the distance that people can transfer a water right? I think we're fairly naïve or it appears tonight that the County is looking only from their perspective and not looking at the county as a whole and the State Engineer's requirement. It was my understanding that there is one subdivision in Santa Fe County that the State Engineer said, We're sorry, County, but you can't demonstrate a 100-year water availability. And then, I don't know if this is true, rumor has it that the County Commission simply exempted themselves from that requirement. You have that right. You can exempt yourself from the State Engineer's findings if you choose to.

My mother likes the larger lots. I do too. I live on 100 acres right now and I feel crowded. She lives on 1000 acres and she feels crowded. There are people in the neighborhood who live on two acres and they're very content. I think that the choice of cluster housing is important as long as you have a way to take care of sewage. Edgewood is looking very carefully at how do we grow the sewage system to go to clusters. I also think that it's equally important to have the larger lot choices. I don't think one or the other is the answer for everybody.

So you have declared that you do not want to stop growth and yet we keep trying to engineer our permitting process, our rules and regulations and the net effect is stop growth. But you're not neutering any of the children that are being born to the people in Santa Fe County. You can't stop growth, but you can severely restrict it and put it into the hands of the New York prices and the New Mexico wages.

I had one other question. I thought the Type I, Type II, and Type III subdivisions, etc. I thought those were state descriptions. And I know that the County has the ability to change descriptions but I'm very mystified by the change in these types. Gentlemen, thank you for once again suffering my presence. Good evening.

CHAIRMAN DURAN: Next speaker please.

RHONDA KING: Good evening, Chairman Duran and Commissioners. I'm Rhonda King and I live in Stanley in the southern part of the county and this evening I'm here representing King Brothers Ranch. I'd like to point out several concerns with the ordinance. I will try to be brief as many of them have already been touched on. But in the first Section, 6.2.2.c one of the provisions that we have concerns with is that all Type III subdivisions that propose to allocate more than .25 acre-feet of water per year per lot, I'd like to give you an example just to illustrate my concern. If you had a 20-acre lot or 20 acres and you wanted to

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create four 2.5-acre tracts, and then you wanted to leave the other ten acres as one tract, this new ordinance would require you to actually put a restriction of .25 acre-feet on that ten acres, even though you'd only created five lots.

And the dilemma that that actually proposes is in the future, if that ten acres was to be further subdivided, it would not be allowed to be subdivided. The current Code, the way it's set up is if that one acre, I'm assuming that this is in the Basin, that one acre would be allocated one acre-foot of water rights. When and if it was subdivided in the future, each of the four lots being 2.5 acres would each have .25 acre-feet. So in essence, what you have done, if you add this proposal in there is limited any further division of that lot which is contrary to the whole basis of the Code and the way the Code is set up by its geological zones.

So I think that could have some very detrimental effects on larger lots and would not only prevent any other further subdivision of those lots but also, if you had a larger lot it would prevent you from using that lot for other uses other than residential, if you wanted to use it to have a few animals or if you wanted to water an area larger than just a small lawn, if you wanted a garden. So I think that's something that the Commission should give consideration to.

Also that same language there does not take into account that the county maps that were developed that show the various hydrological zones aren't perfect. They were basically I guess a best guess based on information. And in the actual Code, if you are in one zone—let's say you're in the Basin Fringe Zone—and you had a piece of property that maybe you had subdivided and it was at 12.5 acres and that had already been restricted to a .25. Or if you added in the clarification language that Ms. Yuhas had suggested, then even if you came in with a geo-hydro report and you showed that you were actually in the Basin Zone there and you had more water available, you wouldn't be able to further subdivide that. So I think that even with the actual clarification saying that if you go below or at whatever a current hydrological zone allows, such as a Basin Fringe if you went to 12.5 or say 12, then you'd be restricted to that .25. It doesn't take into account that you can then come in and do a geo-hydro report and if you show that there's more water and you're not actually in the Basin Fringe but in the Basin, it would prevent you from being able to further subdivide that even though you would meet the Code and the water available would be there.

The other comment that I would like to make, there's been several comments made about the fact that you can get a domestic well and you can get three acre-feet. Well that is the case on some very large lots, but the minute you come in to actually submit a subdivision into the County, they automatically reduce that down. And again, that's based on what hydrological zone you're on. So it's very rare that any lots, when they are brought into the County for subdivision would ever even have more than one acre-foot, even though a domestic well under the SEO guidelines would allow a three acre-foot. And has been stated earlier, recently in the new Estancia Basin guidelines, the State Engineer has allowed only a one-acre foot for domestic well uses.

Another comment that I'd like to briefly discuss is just the difficulty of transfers. It's very difficult to transfer. We've had an application at the SEO for over eight years now that's been going through the process to transfer and it's not particularly controversial. Also, the State

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Engineer has said that they will not allow you to transfer your water rights out piecemeal, what they call piecemeal. And if you had a lot, a subdivision, such as the ones proposed here that maybe needed water rights for ten lots, that's only 2.5 acre-feet if you figure that each one would have .25 acre-feet. The State Engineer has said for instance, if you're irrigating 160 acres and you have irrigated that entire amount, they want you to actually pool that amount and stop the entire 160 acres. You cannot actually allocate or take the 2.5 acres that would be required, retire those, allow them to be used in the subdivision and keep farming your other 157.5 acres. So I think that's something that needs to be considered.

While we talk about transfers and while the state laws allow it, it's very, very difficult and it's very costly and I think it would certainly prohibit and could end up making many subdivisions much more costly and again, reduce availability of affordable housing.

One last comment that I would like to leave the Commission with is in regards to water conservation and certainly the legislature has grappled with this issue and there's been a number of bills brought before the legislature. And this last legislative session, there was a technical report presented by the SEO that showed basically domestic wells use only one percent of all the water use in New Mexico. And if we really wanted to make a difference and ensure a long-term, sustainable future of water for the citizens of New Mexico, that there were other things that we needed to address, and primarily those items were setting up some type of water banking mechanism, which there was a law that was passed and the Governor signed, which allows for a pilot program in the Pecos River to test the concept of water banking.

The other items that were mentioned were the eradication of salt cedar and Russian olives and the non-native plants, and then restoration of our watershed. So the legislature actually allocated \$30 million this last legislative session in order to actually further these various things which can ultimately ensure a long-term water supply for the citizens of New Mexico.

And I know I said that was my last comment but I have one last comment. In regards to farming, my family, my grandparents came to New Mexico in 1918 and actually my Grandpa King traded a Model-T Ford for 160 acres of land and a donkey and a dug-out, much to my grandmother's chagrin, because she realized now her only mode of transportation was a donkey. But my grandpa promised her a better way and he indeed did succeed. But I don't know any farmer or rancher that ever wants to sell their land. I don't know any farmer or rancher that doesn't love his land and if you look through history and you look at the many foreclosures on farming and ranching, many times the farmer continued to farm when there was no economic viability, just to try to hold on to his land because he loved his land and that was his way of life.

But reality is, it is very, very difficult to sustain, even on a large scale, which ours would be considered in Santa Fe a large scale ranching and farming operation, to sustain when you compare prices and when you're getting the price of your product today is basically less than what you were getting for it 25 years ago, but the cost of your equipment, the cost of buying fertilizer, the cost of buying your seed, has increased over the last 25 years at the rate of inflation, it makes it very difficult, very difficult to actually make it something that's profitable.

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So while I think we all want to try to maintain our rural lifestyle, I think that this Commission needs to realize as Karl Sommer stated earlier that sometimes it's not possible and it's not economically feasible. And sometimes portions of those properties have to be sold in order to subsidize the very lifestyle that they love so much. And with that, thank you, Commissioners.

CHAIRMAN DURAN: Thank you. Well, I would like for the Commission to consider—it seems to me that there's a lot of work that needs to be done on this ordinance, a lot more discussion, understanding and more understanding of the public's comments and rather than spend the next couple hours debating the issue, without fully understanding the concerns that the community has expressed this evening, I'd like to make a motion that we table this until the next land use meeting and hopefully we'll have some time to discuss the issues amongst ourselves and other members of the community.

COMMISSIONER TRUJILLO: I agree with you, Commissioner. I don't feel that I'm ready to vote on this issue. I think I'm more confused. There's a lot of convolution to the proposed ordinance and the effect, the impact that it has on the existing regulations and ordinances that we have not only in Santa Fe County but also state statutes, State Engineer. So the best thing to do is to table it. I was ready to vote against the ordinance but I agree. I'll second your motion to table.

CHAIRMAN DURAN: Okay, to save time here and since it's a table, let's just stay with that there's no discussion on a table. Let's just find out if the table succeeds.

The motion to table passed by majority [4-1] voice vote, with Commissioner Sullivan voting against.

MR. KOPELMAN: Excuse me, Mr. Chairman. Is that tabled to October 8th? Because we need to table it to a date certain.

CHAIRMAN DURAN: Yes.

COMMISSIONER TRUJILLO: If we table it, what are we going to do in the interim, between now and October 8th or whenever? Do we give direction to Katherine to do something? There's a lot of issues and I'm not convinced—

CHAIRMAN DURAN: One of the things that I was thinking is maybe we should put together—first of all, I think that Katherine, you and the sponsor of the ordinance, I'd like to say that I think it has some merit. I'm just not sure if in its present form we're ready to adopt it as an ordinance without considering all the other—considering the community's concerns and the impact it's going to have here. This is going to be a long term, it's going to be hard to change this ordinance once we adopt it so we might as well adopt it in a proper form and one that works, with less variances, less variance cases coming up.

MS. YUHAS: Mr. Chairman, I agree with you. Some very important points have been raised this evening that we need to consider before we can adopt this. Absolutely.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I would just add that I think we can and

should certainly work this ordinance into a point that it's effective and meets it's goals. I just wanted to mention, Representative King, comments or examples that she gave about dividing into the four 2.5-acre lots and the one acre lot, that particular situation wouldn't even come under this ordinance because it's not a 12-lot subdivision. Likewise dividing into ten lots wouldn't come under this. I think what we're trying to do here is manage and protect wells, existing wells that are in areas where an applicant proposes a new well. And one mechanism to do that is to grant a baseline and then to add on if you want additional water through a water right. I think that's workable. The one percent comments, I think, unlike the state legislature which of course has to look statewide and look at the state picture, we have to look at the certain growth areas that we're dealing with -- [audio difficulties the following is constructed from the reporter's notes]

Chair Duran moved to table the amendments and direct staff to investigate the issues brought forward by the public and Commission. Commissioner Trujillo seconded and the motion passed by majority [4-1] voice vote with Commissioner Sullivan voting against.

Following a discussion with staff regarding scheduling the next hearing, the Chair moved to authorize staff to add this item to the November 12, 2002 agenda. His motion was seconded by Commissioner Trujillo and passed by majority [4-1] voice vote with Commissioner Sullivan voting against.

- X. A. 4. CCDRC CASE #01-5570- Thornburg Master Plan. Thornburg Enterprises Ltd., Applicant, Santa Fe Planning Group, Agent, Requests 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 Sq. Ft. and 4,015,000 Sq. Ft. 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 Sections 24 and 25, Township 15 North, Range 8 East TABLED FROM AUGUST 26, 2002 MEETING**

MR. DOMINGUEZ: ...and all water will be provided by the City water utility. The remainder of the staff report was previously read at the August 16th meeting and unless you want it read again, we can just rely on that, that was read into the record.

COMMISSIONER SULLIVAN: I'm sure the Commission would like to hear the whole thing read but I'll overrule that.

MR. DOMINGUEZ: Thank you, Mr. Chairman, and the only thing I would add, there were 22 conditions read into the record at that meeting. We have an additional four

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that I would like to read in right now.

COMMISSIONER SULLIVAN: Go ahead.

MR. DOMINGUEZ: Condition number 23. A fiscal impact study—

COMMISSIONER SULLIVAN: Wait a minute. Let me stop you. I'm sorry, Tom. Mine only go to 19. Is there 22 already.

MR. DOMINGUEZ: Mr. Chairman, that's correct and they should have been in the packet. The packet we have shows all the conditions. We'll get you a copy now.

COMMISSIONER SULLIVAN: Oh, okay. I see. These are already in the packet though.

MR. DOMINGUEZ: Yes, Mr. Chairman.

COMMISSIONER SULLIVAN: You're adding these to what was approved by the—

MR. DOMINGUEZ: There was 22 read at the August 26th meeting. As a result of the public hearings that evening there was a consistency of the four additional conditions and we'd like to read those in now.

COMMISSIONER SULLIVAN: Okay. Go ahead.

MR. DOMINGUEZ: Condition 23. A fiscal impact study will be conducted by the County for the entire Community College District prior to preliminary development plan and plat submittal. The BCC shall promptly review and assess the fiscal impact study to determine the fiscal viability of the Community College District plan and ordinance. If the fiscal impact study is not complete within one year, the developer has the right to petition the Board and be allowed to submit a preliminary development plan and plat.

24. This master plan is subject to a demonstrated need for residential units through revised housing projects to be completed by the County and reviewed by the Board.

25. This master plan grants no vested rights to the developer.

26. No onsite wells shall be allowed for use by this project.

Thank you, Mr. Chairman.

MR. ABEYTA: Mr. Chairman, I may just add that these conditions were written based on the notes that staff had taken from the last meeting. Specifically, condition number 23, there was a lot of discussion surrounding that so the Board may want to add additional language to that condition or clarify the intent of that condition. Because again, staff did not have the minutes available to them and we went off of the notes that we had but there was a lot of discussion surrounding condition 23. So the Board can certainly add or take away from these conditions as they feel fit.

COMMISSIONER SULLIVAN: Okay. Thank you, Mr. Abeyta. Is the applicant present?

SCOTT HOEFT: Yes, we are, Commissioner.

COMMISSIONER SULLIVAN: Would you like to make a presentation? Are you in agreement with the conditions as presented by staff?

[Duly sworn, Scott Hoelt testified as follows:]

MR. HOEFT: We are. We have a modification to item number 23 and if allow

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me to approach, I can pass that out to you. [Exhibit 3]

COMMISSIONER SULLIVAN: I don't think we do have it from the previous submittal. It's not in our packets so you better pass it out again.

MR. HOEFT: Commissioners, we have just a brief presentation. We'd like to reiterate, based on the last hearing that we've met with the neighbors on several occasions over the last few months. The initial proposal was approved by the CCDRC on March 7. We had three neighborhood meetings and we utilized that time from our subsequent tablings to see if we can meet some of the demands of the neighbors, some of the conditions that they were looking for us to try to modify the plan. The top plan that you see that I handed out. I think it's called "revised plan" is the result of those neighborhood meetings. The following three plans in that packet demonstrate some of the reiterations that we went through on that. And largely, what we want to point out is the concern was the location of the higher density residential uses near Vista del Monte and what we have agreed to with the neighbors was to pull that density away from Vista del Monte, transfer some of that density to the northwest part of the site and keep the alignment of Vista del Monte as shown, pulled into the site. With that we stand for questions.

COMMISSIONER SULLIVAN: Are there questions of the applicant?

COMMISSIONER TRUJILLO: At the last meeting there was some issue with an existing well there. And you articulated that you wanted to use that well as a supplemental, or to irrigate for landscaping. Has that gone away?

MR. HOEFT: Has that gone away, Commissioner? Yes, it has. There's a condition, the last condition in your packet states something to the effect that we are not allowed to utilize onsite wells for this development and we agree to that condition.

COMMISSIONER TRUJILLO: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have a question perhaps better answered by staff, but stand by in case you might want to add to the response. Roman, in your memorandum, which is in the packet, dated November 29, 2001, where you outline the master plan submittal requirements, under water supply, you indicate that applicants proposing to utilize either City or County must submit a water budget projecting water demands for each phase and a full project build-out. Now, I took a look at the water budget and I believe it projects for a usage of 248 residences, which is consistent with what the letter from the City of Santa Fe mentions that its commitment to provide water would be, up to 248 residences, or I believe 156 acre-feet. Yet we're dealing here with the potential of 742 residences. So has the applicant submitted a water budget for the full master plan proposal?

MS. YUHAS: Mr. Chairman, Commissioner Sullivan, forgive me, I just walked in. But I think that what your question was was regarding the water budget and the water budget that I have seen is the one that is part of the technical evaluation that the City did which includes 48 single family homes, 200 apartments and 1,632,600 square feet of commercial space. Which calls for 256 acre-feet of water approximately. And I'll the applicant to answer exactly how that was going to be—

MR. DOMINGUEZ: Mr. Chairman, I'll also add to that. If you recall, part of the submittal process we require that the submit the range, the bottom end and the top end of it. I believe what the applicant is showing in their water budget is where they're going to fit in that range and they're looking at that 248 number.

COMMISSIONER SULLIVAN: So that all that they're requesting, so the intent here as Ms. Yuhas mentioned is about a million square feet of commercial, yet the letter from the staff her mentions 4,001,500 square feet of commercial. So is the intent here that we follow the same procedure that we did with San Cristobal, that the number of residences is going to be reduced to 248 and the number of square feet of commercial is going to be reduced to one million? It seems that we can't have it both ways. We either have a master plan for 742 residential units and four million square feet and we have a water budget that matches that or we have a master plan for one million square feet and 248 units.

MR. DOMINGUEZ: Mr. Chairman, you're correct in saying that we need to look at this and tie this down. I believe the response I tried to give was when we first came before the Board and we asked how these should be submitted to the Board, the direction we were given was you all wanted to see the range, what the low end of the range was to the high end of the range. And that's the reason you see here between 294 and 742 etc. The water budget as submitted by the applicant shows what they are proposing, where they're going to hit in that range and that's what you'll be giving approval for or acting on this evening. You won't be giving approval for a range. You'll be giving your approval for what the water budget shows and the applicant can further address that if you need that.

COMMISSIONER SULLIVAN: Okay, so your interpretation again, we'll have the applicant respond to that if necessary is that if approval is given this evening, it will be for 248 residential units and one million plus or minus square feet of commercial space. Is that the intent? Perhaps Mr. Hoeft you want to address that.

MR. HOEFT: Commissioner Sullivan, no I would not say that is the intent of what you're looking at.

[audio difficulties]

[Duly sworn, Dina Chavez testified as follows:]

DINA CHAVEZ: [audio difficulties] -- legally, I do not feel that approving this development or any further development for that matter, is being responsible with our water to our community. What we anticipate the worst case scenario too might be is that a possible transfer of these water rights to the County, thus legitimizing the use of their wells. That could be a possibility down the line. So maybe they won't use them as you had said but maybe they'll transfer them out into the county. This is again, another possibility, which I really don't want to be vigilant to every single time this development comes to the floor.

I just need to know whether the developer is planning to use these wells to supply their development. Why were they permitted for municipal and commercial then? That's a question. I'm leaving it out there. You all can think about it and answer it maybe later. Or they can answer it. The State Engineer has already determined that any well drilled in the Rancho Viejo district will not support any infrastructures for growth of any kind and will adversely affect

other well users. So my question is why did the State Engineer issue well permits for the Thornburg wells for municipal, commercial, industrial and irrigation, but then state that there is no water to really support the infrastructure for using the wells at all.

The water facts are pretty simple but they're quite difficult. Each of these developments is relying on the City and/or its diversion plans of the Buckman well. The City mainly seems to be the main way they're going to get their water or plan to get their water. What the City decides and implements directly affects the County. One of my concerns is the Buckman water is coming from the County and going to the City. Of course that's a temporary supply of water but it seems that a lot of folks are thinking of it as more of a permanent mentality or maybe they don't know and they think that's just where the City is always going to get their water, but that wasn't the original plan.

The City cannot be relied upon to cover any shortages. New budgets and regulations in place make it very difficult to connect to a water system, even within city limits and almost impossible outside of the city limits. So I guess I don't understand how the Thornburg developers get an agreement from the City for water. What about the 100-year sustainable water rule? That's not even being considered here and I really thought that that was one of the main reasons why development could be justified for being put in.

Another issue is the Buckman wells, of course were used as a temporary water supply to the city. Using these wells with a permanent mentality will eventually dry up our county domestic wells because of course they do affect all of us out in the Rancho Viejo region and the Highway 14 region and that trickle down affects to La Cienega. They're in kind of a crisis now and we're in a drought. Yet rainfall records indicate that we've gotten more rainfall than any other period since 1950 yet we are still dry. Still a drought. This is directly related to population growth and development.

Well records on Highway 14 area already indicate water levels are dropping. Whatever development occurs in the Rancho Viejo area directly and adversely affects La Cienega by default. It's blatantly obvious that the sustainable water supply is not available long term for any more development.

CHAIRMAN DURAN: Ma'am, I need for you to start wrapping it up. You've been up there for ten minutes.

MS. CHAVEZ: I don't think I've been here for ten minutes. The San Juan/Chama diversion plan is three to five years away from an answer to how much water is available. How much goes to the City and how much goes to the County? That agreement will expire in 2016. In other words, it's a temporary water supply. As I understand it, the allocations of water must first be litigated due to discrepancies over what amount goes where. The diversion project should not be considered until water is proven.

Whatever agreement the Thornburg developers have with the City is positively not jibing with the present actual state of our water supply and demand. We're already in a stage 3. Our trees are already dying and we're already struggling. This City cannot promise paper water and that is what appears the Thornburg developers have, paper water. If the County approves this master plan with these wells in place, it's setting a precedent that will have disastrous

effects on the people who live here now and in the future generations. Every other developer that happens by will see that this is a pretty loose system and they'll develop regardless of having absolutely no wet water. Or worse, they'll again take it from our agricultural areas.

May I suggest that the same conditions that were placed on the Sonterra development that apply to the Thornburg development also, and in addition, capping off those wells altogether so that we don't have to remain vigilant as to the possible use of them later. Education and explanation of our current water situation has been done ad nauseum and we are still here debating the issue. Where's the water coming from? That's still the issue. At some point, someone or many people are going to be held accountable for these decisions that are being made right now. Approving master plans for enormous developments without proving wet water, or approving the master plans and hopes to get water from anywhere, even from our farmers is absolutely negligent and self-serving. Without proof of wet water, there's no way to convince me that there's any logic to having this development built or any development built until there is actual proof water. So I'm just asking again to show me the water. Thank you.

CHAIRMAN DURAN: Next speaker please. We have 45 minutes.

[Duly sworn, Leroy Lucero testified as follows:]

LEROY LUCERO: Mr. Chairman, Commissioners, thank you for your time. I'm Leroy Lucero. I live in the Valle Lindo area on Vista del Monte. My concerns here are basically the same as everybody else's. I was pretty relaxed about the water issue when I heard that they were not going to use it. However, the refusal to cap these wells raises my concerns again. Well, they're not going to use it for this development but what about future developments? Are they going to use it again? Are they going to use them at that time?

At this point we all live with well water and our concern is, like everybody else's, the depletion of our wells. Other concerns that I have is the environmental impact that these developments impose on our area. They are pretty severe, because it's a very high density that they're proposing. The apartments that I wasn't aware of that they were proposing to put up were—well, this is going to put a lot of people in that area. We're going to have the same problems that they're having on Rodeo Road and those developed areas there. They have a high crime effect because of the density that they have in that area.

The other is the increased traffic. Vista del Monte is going to be taking a lot of traffic and that's where I live. I'm going to have a heck of a time getting out of my driveway to get on the road because it's going to be coming off of 599, from the developments up the road and all the other traffic that's going to be going through there to the Community College and Richards Avenue.

The other part is the County services. We are having a hard time trying to finance our law enforcement to be able to keep up with this population growth that we have. There's a high crime area in that area. Also the environmental impact that it's going to have by the waste, what they were proposing about the water issue, the potable water and the others. I don't know how that's going to work. If they pump that water into our aquifer. I'm sure it's going to affect it in some way. So to sum it up, these are just my concerns that I have and I would appreciate it if you all would take them into consideration. Thank you.

CHAIRMAN DURAN: Thank you. Next speaker please.

MR. WAIT: My name is Walter Wait, 48 Bonanza Creek Road, Santa Fe. I just got another call last week from one of our neighbors. It was another neighbor whose well dried up and asking what to do. I urge the Commission to approve only a plan that has water or which stipulates they are going to use the City water that's available to them. And the County insist that no development occur without the City water. The City produced 13,136 acre-feet of water in 1999. There are limits to what they can provide and I question if they can even locate the additional 156 acre-feet that this subdivision is asking for.

Nonetheless, if the City can provide the 156 acre-feet, so be it. But don't go and create a master plan that gives them the opportunity to develop an area without water. I urge you to place the same restrictions on this plan as you have on the Sonterra master plan as well. Thank you.

CHAIRMAN DURAN: Thank you, sir. Next speaker please. Could you help her, Roman? You are under oath, correct?

[Duly sworn, Patty Burks testified as follows:]

PATTY BURKS: I'm Patty Burks and I live on Vista del Monte. And that's in Valle Lindo Subdivision. And I'm representing a few people that couldn't be here tonight but have tried to be at a lot of the meetings that we were not heard at. They've asked me to address some of the concerns that we all have. We've had enough time over the last seven months or so to really try to have all this information that you have to consider and that we have to consider. We've had enough time to kind of really come to some clear concepts of what is going on here and so tonight there's only four people here, maybe five, to represent their views but I want to be able to express their discouragement too in the process, in the idea that the Commission has already approved two out of three of these major subdivisions around us and I want to address some issues, one being that I have in my hand—I want to point out some flaws with the Community College District plan and one of them that is very concerning that I think we need to discuss maybe further is first of all, in 2000, I've a district circulation map for the Community College District and it actually shows Sonterra. It shows Thornburg. It shows San Cristobal. It shows the subdivision layout. It has the streets. It has the lots. It has the full subdivision in some form or another in those areas.

Now, in 2000, in the year 2000, it is written here, it's printed here by the County, that they had already realized that these three subdivisions were going to get passed. Otherwise, I would like the staff, the Land Use Administrator to explain why these subdivisions that do not exist now are on this map. So I want to refer you to this exhibit.

MR. ABEYTA: Mr. Chairman, those three projects all had previous master plans that were approved, so the map that was done at the time reflects the master plan approval they had in place, with the exception of the State Land. The State Land wasn't subject to master plan approval but they had already prepared a master plan and was ready to come in. So that map reflected what had been approved at the time, previously.

MS. BURKS: I was totally unaware that Sonterra was approved already.

MR. ABEYTA: The master plan was approved by Register. Register was the

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property owner and I believe that it like 99 lots.

MS. BURKS: But was it called Sonterra?

MR. ABEYTA: No. No.

MS. BURKS: It does have the lot layout.

MR. ABEYTA: It has the lot layout that was approved. Because again, master plans were approved for these properties previously before the Community College District.

MS. BURKS: Well, this has been very discouraging for a lot of our neighbors and me. We've been to hearings already for how many months now and we're trying to tell you that we're living on domestic wells out there and—

CHAIRMAN DURAN: Patty, you need to please remember that this project is not served by domestic wells.

MS. BURKS: Right. But we have to protect our domestic wells that are servicing us.

CHAIRMAN DURAN: And we have protected you by not allowing domestic wells to take place out in that area. We understand the domestic well problem out there.

MS. BURKS: I want to point out that maybe you need to try to understand it a little better because I want to read this to you.

CHAIRMAN DURAN: Patty, we're not letting people drill wells. What do you want us to do? What else can we do?

MS. BURKS: My theory, and I've gone to talk to the State Engineer hydrologist there at the State Engineer's Office is that no matter where the County or the City intends to get their water and is currently getting their water from, that pumping, the continuing pumping at Buckman is going to have an impact on all of our wells and that's what we're seeing. We're seeing areas around the county that are drying up. So our concern, all these four months in front of you Commissioners is that we see nothing in this CCD plan to protect us in case our wells, as only being a matter of time that they run dry. There is nothing—we just happen to be an established subdivision over there. We've been there since the 50s on 2.5-acre lots that have been served by these domestic wells. And we don't see anything in this ordinance or this plan. And we've looked. We've had plenty of time to look through it, that allows an emergency plan in place to protect us in case our wells run dry.

And I just would like, I did prepare a statement and I'd like it to be inserted into the record. We need to stop and think here because the CCD is brand new. It's a barren piece of land, practically, except for existing neighborhoods like ours. And we have to stop and think before we go any further. Because of our current drought conditions, residents of Valle Lindo have reviewed the CCD plan and the ordinance and they've found not one reference to the protection of our water source that existing residents in the Community College District have relied on for over 50 years. The plan concerns itself only with future development while completely neglecting to address any protection CCD homeowners who are served by domestic wells. The plan does not offer any emergency plan to provide water in the case that these wells dry up, nor does it offer any details as to who will be monetarily responsible for providing water and infrastructure if and when such emergencies occur. And we've been seeing those

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emergencies happen.

It is our belief that continued approvals of new development utilizing the Santa Fe County Water Utility or the City of Santa Fe water for their water supply will increase pumping of the aquifer at Buckman. Continued overpumping at Buckman, which was only to be used temporarily has impacted areas wells. Reports of wells running dry—excuse me, Tom. Do you mind? I'm trying to concentrate on what I'm reading here and if you wouldn't mind. If you need to talk, maybe please could you go to the other room? Continued overpumping at Buckman, which was only to be used temporarily has impacted area wells. Reports of wells running dry, and dropping water tables in areas around Santa Fe such as Pojoaque, Silverado, Eldorado and San Marcos have been witnessed. The plan has failed.

The plan's failure to concern itself with the lives and welfare of its existing residents, by completely omitting such important life-threatening information will have very real legal ramifications to Santa Fe County. It is public knowledge that the County is aggressively seeking water rights to pump out of the Buckman well field. It has been increasingly clear that it wants to have enough water rights to serve all the development that you guys have been approving. But we say Not at the cost of running our wells dry and no back-up plan to deliver water to us. Why should we be the ones to be put in the situation of hauling water indefinitely. We know that you are currently seeking approval by the State Engineer for a move to transfer water rights from Socorro to Santa Fe to be pumped at Buckman. Reliable, professional hydrologists at the State Engineer's Office have confirmed our concerns that yes, Buckman well pumps the same aquifer that serves our domestic wells and that continued pumping of the well at that location is bound to have a negative effect on wells in all the areas of Santa Fe County.

Because of this, we demand that the Commission deny the Thornburg master plan and request consideration of Sonterra and deny further approvals of San Cristobal Village, Rancho Viejo, Windmill Ridge III and IV, Oshara and all other development in the CCD until the County can prove to our satisfaction that in an emergency of our wells running dry that it can provide adequately for immediate water availability to all of our homes at the County's expense or someone else's expense and that the basic need amendments have been made to the Santa Fe Community College District Ordinance, Article XV to reflect that protection.

So that's the end of my prepared statement and I just want to reiterate that I don't see anything in the plan that has a contingent, emergency reaction to getting us water when our wells run dry.

CHAIRMAN DURAN: Thank you very much.

MS. BURKS: I am not quite finished. I've waited seven months to do this and I think it's quite important. I also want to bring up the fact that going through this whole plan, I've seen so many conflicts of vision, so many contradicting terms, so many changes of old definitions, no emergency troubleshooting, and it's written by developers, not the people of the area.

CHAIRMAN DURAN: Which plan are you talking about, Patty?

MS. BURKS: The Community College District plan.

CHAIRMAN DURAN: That thing was written by the entire community out

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there.

MS. BURKS: The Route 14 area, I'm basically the only one listed, and I went to three meetings as just a regular resident. The rest of them are architects that are working with these developers and with these owners and that's it.

CHAIRMAN DURAN: The whole community was involved in it.

MS. BURKS: If the whole community was involved, it wasn't known. There was no notice.

CHAIRMAN DURAN: There was plenty of notice. We worked on it for four years.

MS. BURKS: And that's the problem is that it was worked on, that's one of the problems is that it was worked on when we weren't in an emergency situation like we are. One of my main buddies in this whole thing didn't make it tonight and she's got a lot of—she's very discouraged with the whole process. She's seen so many flagrant, just not abiding by the rules. Not abiding by what's in the plan and then creating this approval by association thing, which I would point to as the Sonterra and the Thornburg projects. They're too big and one of them deals more with residential and the other one deals more with commercial and they're not self-sustaining in their full development. They can't sustain on themselves. They are relying on each other to provide what they can't give so that they can satisfy the intent of the plan but I think if you guys continue to do it like this where you allow two developers or two owners to pair together, I don't see that in the plan at all.

I read this plan as a plan that looks at a development as a whole entity and not, you're not approving things because they're associated with some other developer because they can carry the commercial and we can carry the residential. That's not how I see the intent of this plan. And if you allow this thing to be approved right now as it is, you're going to set a precedent for future buddy-system approvals. And that's not the right, I don't think that's the right way we should be looking at this.

So anyway, I'm here as the representative of that little community that happens to be included in the district boundary and I think we deserve a little more respect and a little more of your ear as to how we think things should go. We just feel like we're not being heard. So anyway, that's—I could go into their road plan. What I will say is that we have met with them three times and it seems like they're willing to work through a route. Vista del Monte just isn't ready right now to be able to handle anything like that and I do have, I have pictures tonight that can give you the full flavor, I think the full picture of the area. We're as rural as anybody and we enjoy the rural quality of that area but the way this thing seems to be going, it's not respecting that.

The first page of the introduction, it says we take refuge in the words of Randall Orange in his thought provoking book, the problem is how to grow gracefully, in a manner consistent with the traditional character of the community so that new development fits harmoniously into the fabric of the rural landscape and helps to reinforce the local sense of peace and place. So with that, I just want you to maybe try to reconsider. Deny this for now until you can accommodate our concerns as far as being pretty much neglected in the Community College

District plan.

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: I'd just like to reiterate what you said earlier that the Community College District residents and I repeat resonates with public input. The whole plan is a blueprint that was put together by community for the sole purpose of protecting the quality of life in that area from traffic to water to open space, to commercial, to recreation. The whole gamut of quality of life issues. It took five years to put that blueprint in place. The status quo would continue in that area. The aquifer would be depleted in the next 20 years. And I can tell you, the emergency plan for that district is that the water lines from Santa Fe County will be taken to that area so that they will be available to other communities in that area when that aquifer is depleted. Hopefully it won't be depleted.

MS. BURKS: How could it not be depleted with all the approvals that have gone on in the last three months.

CHAIRMAN DURAN: Excuse me, Commissioner and Patty, I'm not going to allow any debate between the two of you to occur. The Commissioner was just making a statement and I thank you for your comments.

MS. BURKS: I just want to urge you guys, if you feel the need to approve tonight, that you keep the minimums that are established at that lower range because right now, in the situation that we are at, and not knowing the information, the status of the aquifer, I think that would be the safest way to go.

CHAIRMAN DURAN: Patty of the plans, the revised plans, which one do you and your community like the best?

MS. BURKS: Which ones are you holding there?

CHAIRMAN DURAN: It's revised plans B—

MS. BURKS: Are those addressing the roads?

CHAIRMAN DURAN: Yes. Where Vista del Monte does not go—it swings into the property and the space in between that proposed road and Vista del Monte is designated open space, or large lots. And I must say that I lean towards open space. So you're not familiar with these?

MS. BURKS: Yes, I've seen the options for the roads.

CHAIRMAN DURAN: Is there any one of those three that appeals to you?

MS. BURKS: Okay, Commissioner Duran, with all due respect I don't think enough study has been done. As a matter of fact Vista del Monte needs to be looked at very seriously because as you can see in the picture there. I have a picture of Vista del Monte there and it's a ten, ten, with two-foot shoulders. It's a very—

CHAIRMAN DURAN: I just wanted to know if you had seen these.

MS. BURKS: Yes, well, these are the kind of things that we saw, that I was able to get from Allen. I think I might have seen those two.

CHAIRMAN DURAN: Okay. Well, thank you very much.

MS. BURKS: I just want to say that I do have my suggestions, but I think if we can study it a little further and go through it a little further we're going to be better off.

CHAIRMAN DURAN: Thank you very much. Is there anyone else out there that wants to address the Commission?

MS. BURKS: May I just make one more—because I did bring these and I forgot to mention about them. It will just take two minutes. Turquoise Trail, Highway 14, it has been designated a scenic byway. And the State Land Office is allowing a 1000-foot buffer and I believe it is a beautiful area. It's gorgeous coming down. Of course it's relatively undeveloped. But I think we need to also consider with respect to the designation that whatever goes in there is pleasing to the traveler on 14 and it also is respectful to the existing neighborhood in Valle Lindo where we're at. I did present you with some photographs of Turquoise Trail business park and how they are not doing a very good job at screening their yards and there's a lot of construction, a lot of pipes. There's a stone company in there. They're just not screening, buffering their yards very good and it's starting to look really tacky as you can see. But these are—there's an association called Turquoise Trail Association and they've been working over the last five years to designate this highway from Tijeras all the way to the overpass at I-25 and Highway 14 and it is. It's official and there's a lot of sensitivity has to go on in the planning of what happens there. I think there's a lot of possibilities. So I wanted to give you this map and give you some more pictures of Highway 14 at this area and the signage that has gone up to designate it as a scenic byway.

CHAIRMAN DURAN: Thank you. Is there anyone else out there that would like to address the Commission. Okay, Mr. Thornburg, you guys can have the floor.

MR. DOMINGUEZ: Mr. Chairman, as Ms. Burks is gathering her things. I'd just like to extend an apology to her. We were not trying to talk over her. We were merely trying to verify what is in existence and isn't at this time. And the project on the Register property has master plan approval for 99 2.5-acre lots on individual wells and septic, and then the Thornburg property, and Mr. Thornburg, if you'd like to know the details of it, does currently have approvals for commercial in the area to the west side of State Road 14 so that was what we were trying to clarify.

[Duly sworn, David Thornburg testified as follows:]

MR. THORNBURG: Commissioners, my name is David Thornburg and I represent Thornburg Enterprises as a general partner. And I'm pleased to be able to stand here this evening and visit with you for a few minutes about the project that we're discussing here tonight.

CHAIRMAN DURAN: Mr. Thornburg, the procedure that we have followed in the past, this is your rebuttal period. You've made your presentation.

MR. THORNBURG: Correct. And that's what I intend to do, Mr. Chairman.

CHAIRMAN DURAN: Okay. Thank you.

MR. THORNBURG: First of all, we will agree to the 298 residential units and 1.4 million square feet as the maximum development on the property. Our water budget is for 156 acre-feet of water and that's the commitment from the City and we agree not to exceed the 156 acre-feet of water. So I want to get that over with right away. The Vista del Monte traffic situation, we've been talking to the neighborhood for a year or two years now about the

problems they have with that traffic and as you can see from the plans that we've given you, we propose to divert the traffic into the subdivision, basically make Vista del Monte existing a frontage road and we've tried everything we can to accommodate the development, take the traffic from the district, bring it through our project and take it off of those residential roads so that they don't have to deal with it.

As far as police and fire protection is concerned, we have, it's our belief that consolidating the development into this type of a density is going to be easier and less expensive for the County to provide services for and your study that you're getting ready to do we contend will support that. We'll see what the study says when it's complete. As far as environmental impact, the whole purpose of this project is to provide 50 percent open space at a minimum and to preserve the open space and connectivity between the open space in the district and in the county.

We're proposing a very high end project that going to be a model, not only for Santa Fe County but for the entire state of New Mexico. We plan on using every water conservation method that's been proven that works. We want to make this a model community for everybody because we believe that it's important to preserve the natural resources. And that in today's world with the technology we have there's no reason to continue to waste the resources that are out there. This will become evident as we come forward with our future proposals to you for preliminary and final development plan.

I want to make a comment. Ms. Burks alluded to the fact that we're in some kind of collusion with Sonterra. I've spoken with the principals in Sonterra one time in the last two years. The fact that these two projects came together at the same time is purely coincidental. We have had no communication whatsoever or input one way or the other with that project. In fact I'm not even aware of the details. I wasn't even here when it was discussed last month. So I'm not even aware of the details of the subdivision.

Now, pertaining to the water situation. We have a situation where we developed the Turquoise Trails business park in conjunction with Rancho Viejo back starting in 1989. At the time we were required to prepare and produce a community water system to supply water to that subdivision. There were not going to be individual wells for the system. It was proposed at that time that we would provide an existing well that was on the property. We would have water rights transferred to it and that we would provide irrigation for the landscaping within Turquoise Trails business park. And that was part of the submittal process in 1991 for Turquoise Trails business park. Subsequently, we went out and we purchased and we transferred water rights to these properties and the existing wells that were there and we drilled one additional wells. We have 20 acre-feet of adjudicated, consumptive use water rights that we spent over \$250,000 to acquire. the purpose of those water rights were to provide water for the Turquoise Trails business park. Subsequent to purchasing those water rights we, the community, the water system was, the state of New Mexico requested water to the State Penitentiary. We intervened in that case. The end of that was that we were granted water by the City of Santa Fe.

The first use of that water was for Turquoise Trails business park. So we did not use

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that 20 acre-feet of water for Turquoise Trails although we have been irrigating some of the landscaping within the business park as per the original agreement for that park with those water rights to this date. We have also planted trees along Vista del Monte which we basically let die this year because of the water situation. We've turned the well off and have not pumped the water that we needed to to keep those trees alive because we've been sensitive to the residents in the area and we didn't want to adversely affect their domestic rights to the water.

Therein lies a bit of the problem that we have with capping the wells. Now, we have wells that only have domestic rights attached to them and we agree wholeheartedly that those will be capped. There's no reason to have the domestic wells in place for any reason. They're not being used now and there's no reason to use them in the future. Back in 1997 we entered into negotiations with the County to purchase those water rights in those wells and that fell apart and didn't work. So it's not like the County of Santa Fe has not been aware of the fact that Thornburg has adjudicated water rights out there to those wells and we will agree, and would like to agree and hereby do agree that we will not use any of the water, any of those wells for this project, for anything that comes underneath this master plan. We effectively have got a very large investment in those water rights and in the future we would like the ability to be able to sell or market those water rights to someone else. If we cap those wells, essentially, those water rights will go away.

So we've got a big investment there and we would like the opportunity to be able to get rid of those in the future and recoup at least some of the expense that we have tied up in those water wells. That's the reason why we've hesitated to agree to cap those wells. But we're going to put some livestock on the property. It's going to be a couple of years more than likely before we're actually in development out there. And in the meantime we'd like to put some horses and use the one well to be able to provide water for the horses. So that's where we are with the water wells at this point. We've owned this property, as you've heard previously, since the 20s. We have valued the neighbors in Valle Lindo. We value Patty and her neighbors. They're going to be great neighbors and they are going to be very happy with what it is we're going to do, even though they have some legitimate concerns here. And we appreciate their concerns.

We've met with them several times and I think we've come to a position where we feel we've done what we can to address the concerns that we can and still have a viable subdivision. So I now stand for questions.

CHAIRMAN DURAN: Any questions of the applicant? Thank you, Mr. Thornburg. That concludes the public hearings process. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I wanted to address the language of a couple of the conditions that I think would be useful at this point and then if someone wants to make a motion, I disagree with them but I think there's a couple of things that, aside from condition 23, which staff said there may want to be some discussion about and the applicant has provided some amendments to it, I wanted to go through a couple of others. The condition 24, and I wanted to get that more close to the condition that was approved for Sonterra. I was the one

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that brought that forward so I have it written out. Let me propose some language changes to that and see if those are reasonable.

To be closer to what Sonterra's approval was, 24 should read, This master plan—do you know where I am? I'm on page 8 of the staff's summary, dated September 10.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: So you can follow along and holler if you don't like any of it. This master plan approval—inserted word—is subject to a demonstrated need for—insert the word additional residential units. And after units insert the phrase beyond those approved to date through—insert a—through a revised housing projections—insert the word analysis, to be completed by the County and adopted instead of reviewed by the Board. And add the final phrase as a revision to the County Growth Management Plan. That makes the language almost identical to what was approved for Sonterra. That was the first change that I would suggest.

In condition number 25, which states now, "This master plan grants no vested.." That one I would leave the same. Excuse me. Condition 26, regarding wells, I would insert at the beginning, The development shall be served strictly by the City of Santa Fe water system. Then the next sentence would be as it states there. No onsite wells shall be allowed for use by this project. Then I would insert a third sentence. Existing domestic wells shall be capped.

Mr. Thornburg was in agreement with that. And I understand the intent is that he would then be able to sell the water rights from the commercially approved wells. I would suggest condition 27, which would be: 15 percent of all residential units shall be affordable housing. There's been, apparently a back and forth over the language of the affordable housing because it refers to fee-simple units as opposed to apartment units or non-purchased units.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, if I may. Condition number six states the applicant shall comply with future amendments of the affordable housing requirements up to final approval of this project. That has been consistent with the condition we put on all of them because that would include the amendments we're bringing forward. It's in the definition of total housing. We will include rental, lease, and all of that. And there has been some discussion in the prior proposals, 20 percent, 25, whatever that was going to be so that number six staff feels would catch that.

COMMISSIONER SULLIVAN: Okay. But then I'm always concerned that that may not come about but you bring up a good point. So I would suggest that we say a minimum of 15 percent. I like to see it so we get into this issue that was brought up earlier this evening that, Oh gosh, you didn't tell us about that and now we've spent a lot of money and we can't make any changes.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, that's fine with us. Would you like that inserted in at the beginning of six? We would amend condition number of six, a minimum of 15 percent.

COMMISSIONER SULLIVAN: Yes. And if that's a better place for it that's fine. I just want the number out there and to indicate that it's applicable to both sale lots and for—

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MR. DOMINGUEZ: We'll add that too. We'll amend condition number six.

COMMISSIONER SULLIVAN: I'm throwing this out if this is acceptable to the Commission. I'm just putting this out for discussion. So your suggestion Tom would be that that go under six, which is fine, instead of condition 27. Let me ask for a clarification here because there may not need to be a condition on this. The original proposal showed Phase 1 to be all commercial. I see now in the breakdown that there are 105 residential units in Phase 1. Am I correct on that? Is that the understanding?

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

COMMISSIONER SULLIVAN: So we do have some mixture now in Phase 1, so that's good. So we don't need a condition to that. I would offer a final condition that a 500-foot setback shall be provided for development east of State Road 14 from the Valle Lindo Subdivision. I say east, because on the west is the commercial piece and east is where the residential portion of Valle Lindo Subdivision is. And that's the same distance of setback that we stipulated for the State Land Office subdivision. So I'd offer those for consideration by the Board. I think condition 23 reads pretty clearly and pretty reasonably to me and it also is what was approved for Sonterra. If the Commission wants to wordsmith that some more I guess they can do that.

[Duly sworn, Al Lilly testified as follows:]

AL LILLY: Excuse me, Commissioner Sullivan, can you clarify the 500-foot setback. The way you read it didn't seem to make sense.

COMMISSIONER SULLIVAN: Okay, let me read it again. A 500-foot setback shall be provided for development east of State Road 14 from the Valle Lindo Subdivision.

MR. LILLY: So the entire, are you saying the entire length of State Road 14?

COMMISSIONER SULLIVAN: No. The points where you intersect or abut the Valle Lindo Subdivision. Not along Route 14. Route 14 is a state highway. There's already, I believe setbacks. I think you have 100 feet—

MR. DOMINGUEZ: Al, I believe he's talking about the Vista del Monte property boundary.

COMMISSIONER SULLIVAN: Right.

MR. LILLY: Well, then that's north of Vista del Monte. Is that what you're referring to?

CHAIRMAN DURAN: Are you talking about right here? Right there?

COMMISSIONER SULLIVAN: Correct.

CHAIRMAN DURAN: That's 500 feet.

COMMISSIONER SULLIVAN: We're talking about where this subdivision abuts the Valle Lindo Subdivision, which is right along that—

CHAIRMAN DURAN: So that's County—

COMMISSIONER SULLIVAN: Vista del Monte. Right. And that's the end of the Valle Lindo Subdivision, correct? Correct me if I'm wrong. Valle Lindo Subdivision doesn't go north of there, does it?

MR. LILLY: No.

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COMMISSIONER SULLIVAN: So I'm saying within your property boundary there is a 500-foot open space setback from the Valle Lindo Subdivision.

CHAIRMAN DURAN: Commissioner—

MR. LILLY: We're willing to do that [inaudible] setback is shown on the plans.

CHAIRMAN DURAN: That right there.

COMMISSIONER SULLIVAN: I understand what you're willing to do but that's my condition.

CHAIRMAN DURAN: Okay. So what you're saying is this configuration of the road, which used to come along here straight, which was a continuation of Vista del Monte, which now in this plan arcs into the property is not acceptable?

COMMISSIONER SULLIVAN: No, the road—that's a good point. I should clarify that. I'm talking about a 500-foot setback for residential or commercial construction, not for the road. In other words—

CHAIRMAN DURAN: I know. Yes.

COMMISSIONER SULLIVAN: You see what I'm saying. The road could go through the open space there and it may need to. It needs to at some point come back to the intersection at 599 and multiple entrances out there may be a problem. So the road is acceptable in there in that setback but the construction of homes or commercial space, if we could limit that just as we did in the San Cristobal development, I think that's appropriate.

CHAIRMAN DURAN: Okay. Well, I would make a motion to approve this with your conditions with one change. Your last—I wouldn't accept your last one. I would say—what I would do is approve this revised plan which could be—which is the plan? The very top one? It's the one that doesn't have a number on it. The line should not be continuous or straight across so that those property owners, like that gentleman earlier who lives right here wouldn't be impacted by all the traffic and that this space right in here, which is designated large residential lots or open space is specifically open space. So that the residents along this road don't have any development right there.

So my motion would be—that's it.

COMMISSIONER CAMPOS: Mr. Chairman, there are some changes I would propose to paragraph number 23. And I know the developer has also made some proposed changes.

CHAIRMAN DURAN: Okay. So that would be my motion. Is there a second to that and then—

COMMISSIONER TRUJILLO: I second that.

CHAIRMAN DURAN: Let me just read this thing, because I know that they had some changes to 23. Did you come up with these changes?

COMMISSIONER CAMPOS: I did.

CHAIRMAN DURAN: Are they similar at all—let me read it. Has the applicant seen this? Oh, okay. It's basically the same concept except we get—could you just kind of explain it?
[audio difficulties]

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COMMISSIONER CAMPOS: ...it will deprive other citizens of the county of adequate services. It also defines that the Board shall determine when the date of commencement of the fiscal impact study shall be. The developer is saying that the one-year period shall run from the date of master plan approval. I don't agree with that idea. I think it hasn't started. It may not start for a couple of months so I think we need to allow the Board of County Commissioners the discretion to set that date.

CHAIRMAN DURAN: Well, why don't we say 18 months.

COMMISSIONER CAMPOS: Well, from what date? From the date of the master plan approval?

CHAIRMAN DURAN: Say from today.

COMMISSIONER CAMPOS: If it's approved today? That's an idea. The last sentence reads, why don't we look at that? The BCC shall determine whether there is good cause to grant the petition for preliminary plan and/or plat consideration and may allow that. So at the very end, let's say the 18 months runs. They come in and say, Okay, you haven't done your fiscal impact, we want you to consider our petition. What we have, at this point, this language would give the County, the Board of County Commissioners the right to see if there is good cause to grant that application and to proceed, as opposed to automatically going to that, to the preliminary plan and plat petition stage.

CHAIRMAN DURAN: Let me ask you, so even if it did go automatically to preliminary plan, we still have the right to deny or approve, or even add conditions.

COMMISSIONER CAMPOS: Basically, what this 12 or 18 months, they're asking for a waiver, they're saying, Okay, we don't really want to wait for the fiscal impact. We want to go.

CHAIRMAN DURAN: I'm just saying they're willing to wait 12 and if we say 18, and then if we haven't completed our due diligence or acted timely, that they can apply and then we still have the right to—

COMMISSIONER CAMPOS: Well, this is what this is saying. At this point we retain the discretion to decide whether we want to consider it or not.

COMMISSIONER TRUJILLO: I think it's the ubiquitous obstacles, bureaucracy. There's too many conditions already. Those laws are already part of the regulation. Why do we need to reiterate and be redundant with them. We know that, we give them 18 months. The County needs to act on due diligence and if they don't, then the applicant has some rights. And the Board of County Commissioners can still reject or propose conditions based on the merits of the case.

CHAIRMAN DURAN: We can't sandbag them forever.

COMMISSIONER CAMPOS: But we can wait till the fiscal impact study is done if we feel it's very important to do at this point.

COMMISSIONER TRUJILLO: I think this is a subterfuge to prolong the agony. This is just continuation after continuation.

CHAIRMAN DURAN: Okay. I would go with the—I would not accept yours as an amendment to my motion but I would agree to this one, that was provided by the

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applicant and it's real close to what staff had suggested.

COMMISSIONER SULLIVAN: Mr. Chairman, let me—

CHAIRMAN DURAN: Go ahead.

COMMISSIONER SULLIVAN: I don't think, I don't like their language that talks about within one year of master plan approval. Well, we could change that to 18 months.

CHAIRMAN DURAN: I would do that.

COMMISSIONER SULLIVAN: Okay. You would change that to 18. But using the word submittal versus approval. The problem is that what this language says is, the current language says you can't submit until we finish the impact study. And the changed language says you can go ahead and submit. And that's where we get into hot water is once the submittal process starts and once the staff must accept their submittal, then there's a time sequence going on and we're now pressured because we have this submittal in front of us. So I think that's the problem I have with this language.

CHAIRMAN DURAN: Well, in an effort to try and be timely, if you take it back to the submittal and kept it at one year, would that be better than changing it to approval and extending it to 18 months? Did I say that right?

COMMISSIONER SULLIVAN: I think that, I also thought that the year was a little short, but whether the Commission is okay with the year or whether it's 18 months I think the submittal word is more important, because we then get in, the clock starts ticking and the submittals start coming before we even have the impact study. I think that's the problem. I think that's more important, frankly to me than the 12 or 15 or 18 months is that they—

CHAIRMAN DURAN: What did ours say?

COMMISSIONER SULLIVAN: Ours says A fiscal impact study will be conducted by the County for the entire Community College District prior to preliminary plan/plat submittal.

CHAIRMAN DURAN: What number is that?

COMMISSIONER SULLIVAN: It's 23.

CHAIRMAN DURAN: Okay, yes I see. So tell me again. I'm sorry.

COMMISSIONER SULLIVAN: Did you want me to reread it? What it says currently, the staff language is A fiscal impact study will be conducted by the County for the entire Community College District prior to preliminary plan/plat submittal. And the BCC shall promptly assess and review the fiscal impact study to determine the fiscal viability of the Community College District plan and ordinance. If the fiscal impact study is not completed within one year, the developer has the right to petition the Board to be allowed to submit a preliminary development plan and plat.

CHAIRMAN DURAN: And what was wrong with that?

COMMISSIONER SULLIVAN: I think that's okay.

MR. HOEFT: The concern is the ability to allow us to submit a plan. If you think about this process that we're in right now, we submitted this one year ago. The submittal allows us to at least have staff start reviewing the application. That could take two to three months. If we can't submit until the report is complete we could lose three months right there.

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CHAIRMAN DURAN: When's the report supposed to be completed? Twelve months? Is that what it says?

MR. HOEFT: We've heard everything from—

MR. ABEYTA: Mr. Chairman, we haven't selected a firm yet but one of the criteria, depending on what condition is approved, we would obviously score a firm higher than can get the job done for us within a year. But it could take longer than a year.

CHAIRMAN DURAN: The fiscal impact statement might take more than a year?

MR. ABEYTA: It could. I don't want to come out and commit to less than a year without having selected a firm yet. But this is one thing we will consider in selecting a firm.

COMMISSIONER SULLIVAN: Mr. Chairman, I think we also don't want to encourage or entice the applicant to start the process until we have the results of that study. That result may be quite contrary to the master plan that they've submitted. And we may say to the applicant, we want you to submit a revised master plan and not spend the money to go out and start preliminary and final development plans, which is where you get into the heavy architectural and engineering costs. You're beyond the magic marker stage then. You're into detailed engineering. So that's my concern. I feel the submittal function is important.

COMMISSIONER TRUJILLO: Commissioner Sullivan, what if five years from now we still don't have—

COMMISSIONER SULLIVAN: Well, in this language it's one year. This language says one year.

COMMISSIONER TRUJILLO: From today.

COMMISSIONER SULLIVAN: Well, I would assume and I'd certainly be willing to say from master plan approval. From today.

COMMISSIONER TRUJILLO: If it's approve today.

COMMISSIONER SULLIVAN: Correct. But we want to get the study done. We don't them—

CHAIRMAN DURAN: Okay, let's do that.

COMMISSIONER TRUJILLO: Let's do that, then.

CHAIRMAN DURAN: Say one year from master plan approval.

COMMISSIONER SULLIVAN: From master plan approval. Okay. Let me make one clarification too. And that is the applicant, we heard different numbers. The number of residential that we're approving on this master plan is 294. Is that not correct? I think we heard 298 and 792 and so forth.

MR. HOEFT: 294.

COMMISSIONER SULLIVAN: 294. Okay. Commercial. You referred me to your proposed density chart on page 2. Right? Does this look familiar?

MR. HOEFT: Page 2 of the staff report?

COMMISSIONER SULLIVAN: Yes.

MR. HOEFT: Yes, I have that.

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COMMISSIONER SULLIVAN: Okay. Reference was made to 1.4 million square feet of commercial.

MR. HOEFT: That is correct.

COMMISSIONER SULLIVAN: All right. I add up the commercial on this and it comes to 1.08 million.

MR. HOEFT: I concur. There's a typo in the staff report. That 581,00 in the first, very first line item should be 981,000.

COMMISSIONER SULLIVAN: Well, I think that's too much. I think it should be 1.080.

MR. HOEFT: Excuse me, Commissioner Sullivan. 1.4 is what we are required to do by the ordinance. That is 25 percent in the neighborhood center, 50 percent within the employment center. We have the requirements and 1.4 is the minimum total.

COMMISSIONER SULLIVAN: Is that correct, Tom?

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, we need to keep in mind—I apologize because this was Penny's report. I don't know that this is a typo. It may be, but we need to keep in mind that the zoning, in effect, gives the minimum and if we in fact try and go down from that it's a change in zoning. It's a downzoning.

COMMISSIONER SULLIVAN: Okay. When we approved the San Cristobal development, we used and they agreed to the lower figure, which I think was 1.3 million.

MR. DOMINGUEZ: That's correct.

COMMISSIONER SULLIVAN: What is the lower figure here? Is it 1.08 million? Is it 1.4 million? Is it 1.6 million. I've seen all three numbers. In the staff report it's 1,080,050, if you add them up.

MR. DOMINGUEZ: Mr. Chairman, Commissioner Sullivan, if you give me one sec.

COMMISSIONER SULLIVAN: I'm just trying to get a feel for what the number is on the commercial.

CHAIRMAN DURAN: You don't want to just make the statement that it has to be the minimum? Or you just want to know, no matter what?

COMMISSIONER SULLIVAN: Let's just say the minimum. That will move it forward.

CHAIRMAN DURAN: Okay. So whatever the minimum is. Did you guys get the number? If you don't have the number, do you have all the amendments?

MR. ABEYTA: We have all the amendments and Scott's correct. The staff report was wrong. 581 should be 981.

CHAIRMAN DURAN: So whatever the Code states the minimum is.

MR. ABEYTA: Whatever the Code states.

COMMISSIONER SULLIVAN: Okay. So that is what we're approving as the master plan.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: And then we changed the language on 23,

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condition 23 just to add from master plan approval, which is today. Provided the Commission votes in favor.

CHAIRMAN DURAN: Right. Okay. There's a motion and a second.

COMMISSIONER CAMPOS: Is there any discussion?

CHAIRMAN DURAN: That's what we've been doing.

COMMISSIONER CAMPOS: You guys are still messing around with the—

CHAIRMAN DURAN: Go ahead. Did you want to say something?

COMMISSIONER CAMPOS: Yes, I think that Commissioner Trujillo is kind of committed to putting the interests of the developer ahead of the interests of the community. The fiscal impact study is essential and we should wait till it's done and that would be in the public interest. I'm not finished.

CHAIRMAN DURAN: I know, but it's not appropriate to have personal attacks on your colleagues up here. If you don't like something in the motion, address the motion.

COMMISSIONER CAMPOS: I am addressing the motion.

CHAIRMAN DURAN: You don't have to attack one of the Commissioners.

COMMISSIONER CAMPOS: I think we have to put the public interest above the developer interest. That is key. And running the 12 months from today, if master plan approval is granted is going to put too much pressure on the contractor, likely, because this is a complex proposal. It's a big proposal and that's basically what I think about what's going on here.

CHAIRMAN DURAN: Thank you. Commissioner.

COMMISSIONER VARELA: If I may, I would like to ask if we could add an additional condition and I guess it basically would be in response to what the folks were saying. If there's any way that we could have, I guess it would be 29 or 30, but ask the applicant to submit an updated service commitment from the City of Santa Fe at preliminary plan/plat submittal. I realize that as far as the water issue they don't have to have that until later on in the process, but given the situation that we are in and the concerns of the residents I think it would be better if we had something updated. In fact I would have felt a lot more comfortable with the situation if we had something more recent because I don't know what the City is thinking now after they said that there's not going to be any more water for anybody outside of the city. So that's one of my concerns. I wish Katherine had hung around a little bit longer—

MR. DOMINGUEZ: Mr. Chairman, Commissioner Varela Lopez, Gary, Katherine's boss has stayed here. They did have recent discussions, as recent as this morning with the City and it hasn't changed from this position.

CHAIRMAN DURAN: I would accept that as an amendment to the motion, as number 29.

COMMISSIONER SULLIVAN: I think it's a good amendment, Mr. Chairman because the City's commitment letter, which is dated back in November says subject to all the terms and conditions of now or future City ordinances. It's very broad. And since that time, all of the water budget language has been debated and an update of that water commitment would be an excellent idea.

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CHAIRMAN DURAN: Okay.

COMMISSIONER TRUJILLO: Mr. Chairman, I accept that, but I just want to clarify, Commissioner Campos insinuated that I was pro-development. The position that I'm taking is that I'd like to see this as fair process and completed within a timely period, not a pie in the sky maneuver or an obstacle that is set by this Board of County Commissioners. This process needs to be fair to everybody, not only the community but also the developer. And it needs to be completed in a timely way.

CHAIRMAN DURAN: I'd just like to say, Commissioner Campos if you want to stop development and growth in the community make a resolution and have us adopt an ordinance.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just to clarify the current, the new condition. Could you read that again?

COMMISSIONER VARELA: Basically, the applicant shall submit an updated service commitment letter from the City of Santa Fe at preliminary plan and plat submittal.

COMMISSIONER SULLIVAN: Okay.

COMMISSIONER VARELA: And if I could expand on my earlier comment. The reason I say this is because in this memorandum from the State Engineer's Office, they give a negative opinion as far as this project and the water because I guess basically they're saying that the City of Santa Fe does not have—they have sufficient rights but not sufficient places to procure water at this time. And then maybe Mr. Roybal could answer the question. Just a theoretical question. Since the County asks that a 100-year water supply be proven, and given the situation that we're currently in and we have no San Juan/Chama diversion and the Buckman wells are not a permanent situation, is there any way before this subdivision comes up for final approval to actually determine whether there is a 100-year water supply?

GARY ROYBAL (Utilities Director): Mr. Chairman, cg, it's my understanding that the Code does not require a 100-year supply when it's served by the County or City system. So there's no purpose of proving up a 100-year supply when it's served by the City or the County system at this point.

COMMISSIONER VARELA: Okay, so that would apply to I guess a private subdivision, private people only, and not to a utility per se?

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

COMMISSIONER VARELA: Thank you. That was my concern. Thank you.

CHAIRMAN DURAN: The utility doesn't have that requirement. Providing water to the community is going to be an ongoing process, not only for this Commission and future Commissions but the Commissions and Councilors forever.

MR. DOMINGUEZ: Mr. Chairman, before a vote, a point of clarification. Did you, I believe I heard you say that you would not accept condition 27, which was the 50-foot setback or 100-foot setback.

CHAIRMAN DURAN: We substituted that with adopting that plan.

COMMISSIONER TRUJILLO: Open space on the bottom there. ²²³⁰²⁵⁸

MR. DOMINGUEZ: Okay. Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: With the area under, south of the road
realignment being open space.

CHAIRMAN DURAN: Yes. It's not large lots. It's strictly open space.

COMMISSIONER SULLIVAN: And we settled on a year or did we go within
18 months?

CHAIRMAN DURAN: No, within a year.

COMMISSIONER SULLIVAN: We stayed with a year. Okay.

**The motion to approve the Thornburg master plan as amended passed by majority
[4-1] voice vote with Commissioner Campos casting the nay vote.**

CHAIRMAN DURAN: The other items on the agenda are going to be heard on
September 18, 2002 at 5:00 pm.

MR. KOPELMAN: Mr. Chairman, it's recessed, for the record.

RECESS

Chairman Duran declared this meeting recessed at approximately 10:30 p.m.


Approved by:

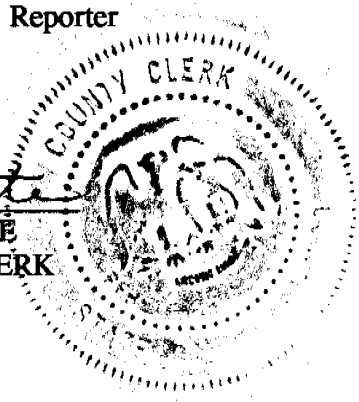

Board of County Commissioners
Paul Duran, Chairman

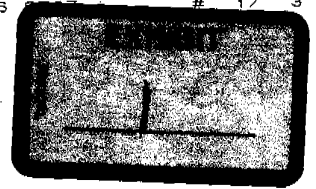
Respectfully submitted:


Karen Farrell, Commission Reporter

ATTEST TO:


REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK





Las Campanas SANTA FE

2230259

FAX COVER SHEET

Date: August 8, 2002

Number of Pages (including cover): 3

To: Kathryn Yucas

Fax Number: 986-6389

Company/Dept.: _____

Reference: _____

From: Michael Sand

Department: _____

Telephone #: 992-6436

Message: _____

This message is intended only for the use of the individual to which it is addressed and may contain information that is privileged, confidential and exempt for disclosure under applicable law. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone, and return the original message to us at the address listed below via the U.S. Postal Service.

August 8, 2002

By fax to (505) 986-6389

Kathryn Yuhas
County Hydrologist
P.O. Box 276
Santa Fe, NM 87504-0276

2230260

Re: Proposed County Water Conservation Ordinance

Dear Kathryn:

I would like to request the following changes to the language in the proposed Santa Fe County Water Conservation Ordinance. In my opinion, these changes do not materially affect the operation of the Ordinance; they are intended to recognize that the language as drafted does not address the existing requirements for Las Campanas and perhaps other established water users:

First, on page 1, Paragraph B(1), the ordinance lists reasons for conservation of water. Missing from the list is water to support economic development and recreation. The people of Santa Fe County cannot live here if there is no water to sustain their jobs and they may not choose to live here if there is no water for recreational activities such as parks and open spaces. To avoid the implication that these other values are not as important as agricultural uses, I would modify the phrase in Paragraph B(1) by inserting after "County residents" the words "**for County residents' domestic, recreational and economic needs**, and so that ...".

On page 2, Paragraph 1(B), there is no accommodation for other existing uses that would ordinarily be on a timer, but would also require occasional manual watering for specific areas. Timed systems sometimes are not set up properly, fall out of adjustment or simply don't do the job because of high winds or other factors beyond an owner's control. All golf courses, parks and playing fields, among other uses, will require hand-watering from time to time. After the words "... maintenance and contracting companies," we request you add "**and schools, government and commercial enterprises that cannot achieve adequate irrigation through the use of timed irrigation systems ...**". The last phrase would be modified to say "however, **all entities setting timed irrigation systems must ensure...**".

We request that Paragraph 6 be amended to accommodate at least those existing situations where the commercial use of grass is permitted and require more than 25% bluegrass. This would include, for example, sod farms and some uses in golf courses.

Kathryn Yuhas
August 8, 2002
Page 2

2230261

We request that the 25% Bluegrass mix be increased to 50%. In the alternative, after the word "permitted" in the first sentence add **"provided, however, this restriction shall not apply in circumstances where a 25% mix will not meet the commercial needs of a business enterprise."**

Finally, with reference to Paragraph 7, the problem we have with the current language is that it could be interpreted to prohibit Las Campanas from watering its golf courses with raw water, even if effluent is not available. This would mean the courses would die. Even if effluent is available, because of the dissolved solids in effluent, in order to keep the grass from dying there is still a need to flush the course with raw water from time to time. Therefore, we request that at the end of the first sentence, after the word "prohibited", you insert the words **"unless sufficient effluent is not available or will not satisfy the user's irrigation needs."** The second sentence, which seems ambiguous at best, then would no longer be needed.

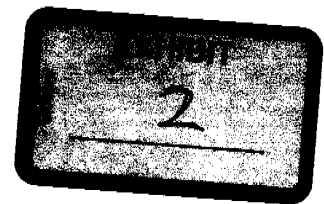
Will you please call me at your convenience to discuss these requests. Thank you in advance for your consideration. I look forward to hearing from you.

Sincerely,



Michael D. Baird
Senior Vice President and General Counsel

Cc: Steve Kopelman, Esq.
Chuck DuMars, Esq.



PROPOSED MODIFICATION OF ARTICLE VII, SECTION 6.2.2.C

- INTENDED GOALS**
- TO LIMIT NUMBER OF WELLS
 - TO PROTECT EXISTING WELLS' PRODUCTION
 - TO CURB GROWTH (?)

2230262

UNINTENDED CONSEQUENCES

- PROMOTES AVOIDANCE OF SUBDIVISION RULES BY ENCOURAGING SERIAL SUBDIVISIONS IN THE EZ AND EXEMPTIONS IN THE COUNTY. → NO IMPACT ON LIMITING NUMBER OF WELLS
- EFFECTIVELY PROHIBITS HORSES IN NEW DEVELOPMENTS
- NEGATIVE IMPACT ON TRADITIONAL LIFE STYLES IN TRADITIONAL COMMUNITIES
- INCREASES VARIANCE REQUESTS TO PROTECT HORSES, ORCHARDS, COMMUNITY SWIMMING POOLS, GARDENS, TRADITIONAL CROPS, ETC.
- INCREASES COMPETITION AND COST OF WATER RIGHTS TO THE DETRIMENT OF THE COUNTY AS WELL AS DEVELOPERS

WHAT'S NEEDED

- CODIFY SHARED WELL REQUIREMENTS CURRENTLY ENCOURAGED BY THE COUNTY HYDROLOGIST
- CORRECT GEOHYDROLOGIC ZONE MAP TO REFLECT CURRENT KNOWLEDGE
- LOT SIZES AND WATER ALLOTMENT STRICTLY CONTROLLED BY PROVEN, SUSTAINABLE WATER SUPPLY
- ESTABLISH IMPACT FEES TO PAY FOR THE COUNTY TO PURCHASE ADDITIONAL WATER RIGHTS
- ENFORCE CURRENT WATER RESTRICTIONS
- **REJECT PROPOSED MODIFICATION TO ARTICLE VII, SECTION 6.2.2.C**

GALLEGOS RANCH
CURRENTLY 780 ACRES
LOCATED IN BASIN ZONE

2230263

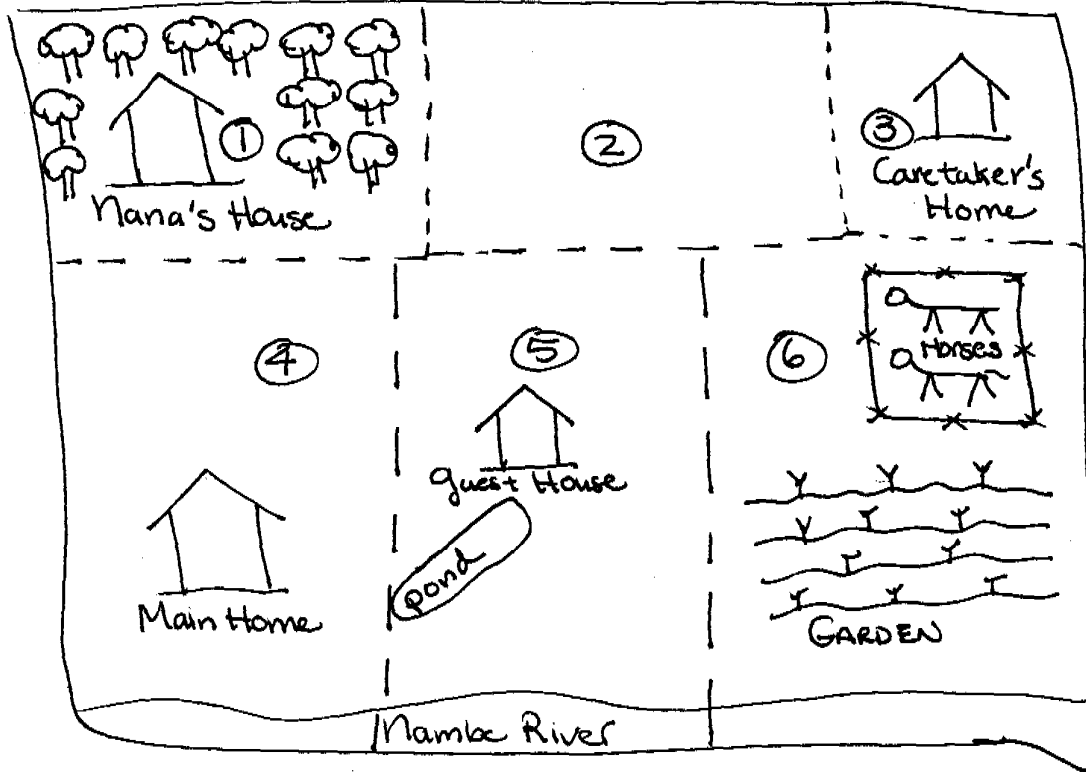
DESIRE: CREATE 4 – 5 ACRES LOTS FOR CHILDREN'S HOMESITES
 CREATE 10 – 5 ACRE LOTS FOR SALE
 KEEP RANCH

IMPACT OF PROPOSED ORDINANCE:

4 CHILDREN'S LOTS WILL HAVE 0.50 AF/YEAR RESTRICTIONS
10 MARKET LOTS WILL HAVE 0.25 AF/YEAR RESTRICTIONS
RANCH LOT 710 ACRES LIMITED TO 0.25 AF/YEAR RESTRICTION

SAY GOODBYE TO THE RANCH AND SAY GOODBYE TO LOGIC

20 ACRES IN NAMBE
MINIMUM LOT SIZE 0.75 ACRES WITH 1 AF/YR RESTRICTION



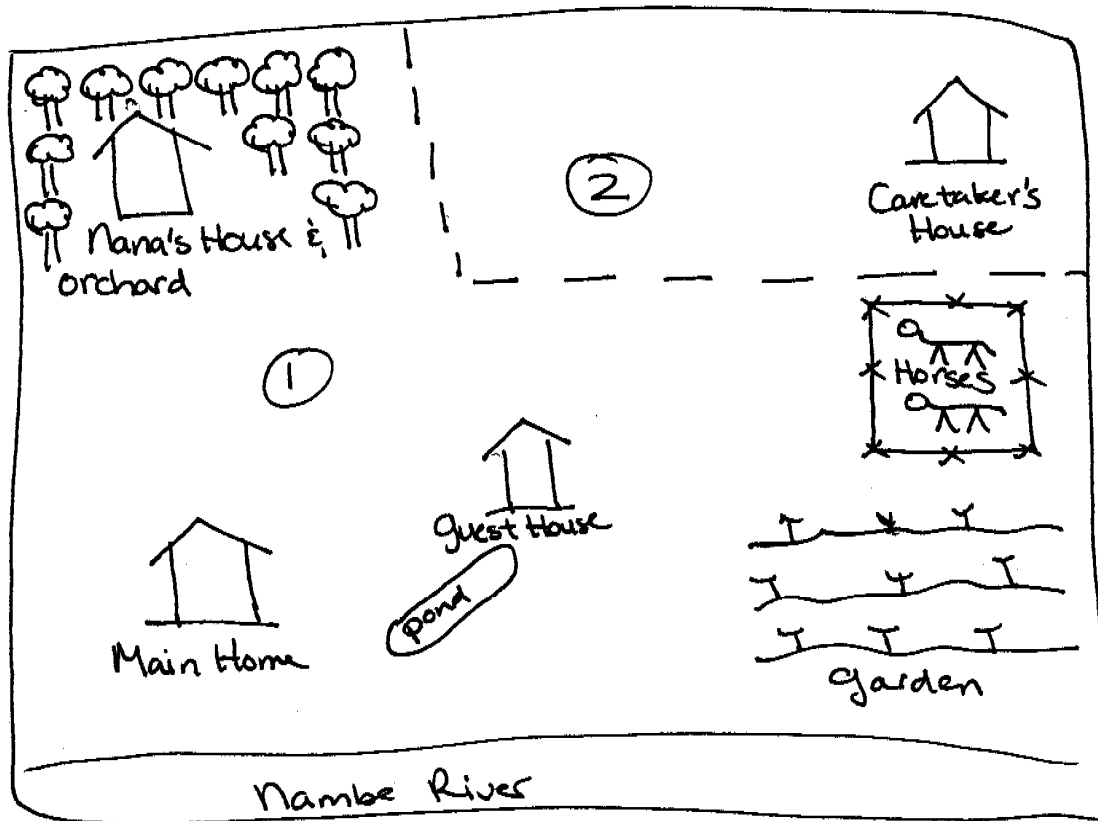
DESIRE: CREATE 6 LOTS 1.5 TO 5 ACRES IN SIZE

IMPACT OF PROPOSED ORDINANCE

ALL 6 LOTS WOULD HAVE 0.25 AF/YEAR RESTRICTION

SAY GOODBYE TO 100+ YEAR OLD ORCHARDS AND HORSES
AND SAY GOODBYE TO TRADITIONAL LIFE STYLES

2230265
20 ACRES IN NAMBE
MINIMUM LOT SIZE 0.75 ACRES WITH 1 AF/YR RESTRICTION



DESIRE: BREAK OFF 9 ACRES

IMPACT OF PROPOSED ORDINANCE

THE 9 ACRE LOT AND THE 11 ACRE REMAINDER WOULD HAVE
0.25 AF/YEAR RESTRICTION

SAY GOODBYE TO 100+ YEAR OLD ORCHARDS AND HORSES
AND SAY GOODBYE TO TRADITIONAL LIFE STYLES

SANTA FE
PLANNING
GROUP, INC

Principals
Al Lilly
Scott Hoeft

2230266

MEMORANDUM

September 10, 2002

TO: Penny Ellis-Green; Tom Dominguez; Board of County Commissioners
FROM: Scott Hoeft; Al Lilly
RE: "Thornburg Property"

Regarding the conditions of approval for the "Thornburg Property," the applicant requests the following change to Condition #23:

23) "A fiscal impact study will be conducted by the County for the entire Community College District prior to preliminary development plan/plat submittal approval. The BCC shall promptly review and assess the fiscal impact study to determine the fiscal viability of the Community College District Plan and Ordinance. If the fiscal impact study is not complete within one-year (1) of master plan approval the developer has the right to petition the Board to be allowed to submit a preliminary development plan and plat proceed with the preliminary development plan/plat approval process."