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SFC Clerk 11/22/2004

**SANTA FE**

**BOARD OF COUNTY COMMISSIONERS**

**REGULAR MEETING**

**September 14, 2004**

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

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

September 14, 2004

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:05 p.m. by Chairman Paul Campos, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

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

**Members Absent:**

[None]

**IV. Invocation**

An invocation was given by Deacon Juan Martinez from St. Francis Cathedral.

**V. Approval of the Agenda**

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- B. Tabled or withdrawn items**

CHAIRMAN CAMPOS: One thing I'd like to discuss with the Commission is working from 1:00 to about 4:30 on all the administrative items, breaking at 4:30, going into executive session, going to public hearing at 6:00 and working until 9:00 and ending the meeting at 9:00. Does that work? Any suggestions? Commissioner Montoya

COMMISSIONER MONTOYA: That's fine. And then starting -

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CHAIRMAN CAMPOS: Public hearing from 6:00 to 9:00. End this thing at 9:00.

COMMISSIONER MONTOYA: Unless we can maybe complete the agenda. It depends on where we are on the agenda I guess.

CHAIRMAN CAMPOS: Is that a good plan to try to end about 9:00?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN CAMPOS: Jack? Fine.

COMMISSIONER SULLIVAN: Yes.

CHAIRMAN CAMPOS: Okay, Mr. Gonzalez, tabled or withdrawn items, and I think we also want to talk about Consent Calendar from the Commission.

GERALD GONZALEZ (County Manager): Thank you, Mr. Chair, members of the Commission. With respect to the order here, although the packets have retained their integrity, there has been a request by Commissioner Duran to move, under Section IX, Matters from the Commission, item B, and under Committee resignations, appointments and reappointments, item B. The first one is the proposed interlock ordinance and the second one is appointments to the DWI Council, to the end of the portion of the agenda that's Section XII, just before Matters from the County Manager. He wanted to be here for that discussion. So that's the request that I'm relaying to the Commission.

With respect to the other items-

CHAIRMAN CAMPOS: Wait a second. That's -

MR. GONZALEZ: Section IX. B and Section X. B.

CHAIRMAN CAMPOS: And X. B. Okay.

MR. GONZALEZ: Then with respect to the Consent Calendar, which is Section XI, subsection A, Land Use Case #1 and Land Use Case #2 have been tabled. Under subsection -

CHAIRMAN CAMPOS: Let me ask you a question about 3 and 4. Do we have materials on that?

MR. GONZALEZ: They should be in the packet.

STEVE ROSS (County Attorney): Mr. Chair, I e-mailed the Commissioners the material for -

CHAIRMAN CAMPOS: Joe Miller. What about 3? There is material for 3?

ROMAN ABEYTA (Deputy County Manager): Mr. Chair, it should be in the packet.

CHAIRMAN CAMPOS: Okay. Please continue.

MR. GONZALEZ: Thank you, Mr. Chair. The same section, XI, Consent Calendar, item C has been withdrawn. There's a new item D which is a resolution adjusting the boundaries for precincts 2 and 3. That was a late item but I believe packet materials have also been handed out for that to the Commissioners.

Moving on to Section XII, Staff and Elected Officials' Items, under section A, Corrections Department, there's the addition of item #3, a late item and I believe a memorandum has been passed out to the Commissioners for that item. Under subsection C,

Land Use Department, both items there, 1 and 2 have been tabled. Under subsection D, Projects and Facilities Management Department, item 1 has been tabled. Under subsection E, Sheriff's Department, item #1 has been withdrawn and then moving on to section XII, Public Hearings-

CHAIRMAN CAMPOS: Mr. Gonzalez.

MR. GONZALEZ: Yes.

CHAIRMAN CAMPOS: One question. Before we go there. We have Matters from the County Manager and that's the bargaining issues. Should we include that as part of executive session first and then come out and make a decision if you want a decision today?

MR. GONZALEZ: Yes. I think that was going to be the recommendation of the County Attorney.

CHAIRMAN CAMPOS: Okay. So we won't deal with that until after executive session.

MR. GONZALEZ: That's correct.

CHAIRMAN CAMPOS: And executive session, how long are we going to have, Mr. Ross?

MR. ROSS: About an hour, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Please continue.

MR. GONZALEZ: Thank you, Mr. Chair. Under Section XIII. Public Hearings, subsection B, the Land Use Department, item #2 has been tabled. Item #4, there's a request to table. And then item #15 has been withdrawn and item #14 has been withdrawn also. So 14 and 15 also withdrawn.

CHAIRMAN CAMPOS: On these tablings, what is the rule, Mr. Gonzalez, last minute tablings. Does there have to be some justification, some good cause? I know we had some discussion in the past about that.

MR. GONZALEZ: Generally speaking it's because ordinarily the proponents have not been prepared to go forward and although we've got the staff materials in the packet some questions have been raised that they're not prepared to address and I don't know if there's anything else under these particular items that Roman would care to call to the Commission's attention.

MR. ABEYTA: Mr. Chair, item #4 under Public Hearings, the Las Animas Subdivision.

CHAIRMAN CAMPOS: Hold on one second. Item #B4?

MR. ABEYTA: Yes. XIII. B. 4. That case had been tabled because it was at CDRC and had been tabled for several months at the CDRC. We got a request in yesterday from the applicant requesting tabling because they wanted the opportunity to address some concerns that were raised at the CDRC meeting.

CHAIRMAN CAMPOS: CDRC gave it a negative?

MR. ABEYTA: It's my understanding they gave it a negative recommendation.

CHAIRMAN CAMPOS: The water pumping test, right?

MR. ABEYTA: Yes, and they want to try to resolve those issues before they

come before the Board.

CHAIRMAN CAMPOS: Okay. Is that all from staff?

MR. GONZALEZ: That's it, Mr. Chair, members of the Commission.

CHAIRMAN CAMPOS: Okay, Consent Calendar withdrawals? Any Consent Calendar withdrawals? Okay.

COMMISSIONER MONTOYA: Mr. Chair, move for approval as amended.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN CAMPOS: Discussion?

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

CHAIRMAN CAMPOS: Mr. Gonzalez, there's a lot of cases on Land Use. We had talked of maybe doing a second meeting. What's the discussion on that?

MR. GONZALEZ: Mr. Chair, it depends on how quickly they go. We have tabled a number of items there and if we need to, we can always table. My suggestion would be that after we've had a chance to go over this agenda, now that it's been approved by the Commission, Roman and I will get together and see if there's any additional suggestions with respect to moving some of those cases.

CHAIRMAN CAMPOS: Okay. Thank you.

**VI. Approval of Minutes**

**A. July 28, 2004**

COMMISSIONER MONTOYA: Mr. Chair, move for approval.

COMMISSIONER ANAYA: Second.

**The motion to approve the July 28<sup>th</sup> meeting minutes passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]**

**B. August 10, 2004**

CHAIRMAN CAMPOS: Is there a motion to approve?

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: I have a few typographical corrections.

CHAIRMAN CAMPOS: Non-substantive typographical corrections?

COMMISSIONER SULLIVAN: Correct.

CHAIRMAN CAMPOS: Okay, is there a second?

COMMISSIONER MONTROYA: Second. I have one too, Mr. Chair.

CHAIRMAN CAMPOS: With corrections from Commissioners Montoya and Sullivan.

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

CHAIRMAN CAMPOS: Anybody in the public that would like to address the Commission?

REBECCA BUSTAMANTE (County Clerk): I'm Rebecca Bustamante. I'm the County Clerk and I want to bring you, I want to make you aware of some concerns regarding the general election. I'm bringing these concerns to you because you are in charge of funding elections and I have sent memos to the County Manager in the past and I have not received an answer so I don't think it would do me any good to send a memo. But I think that you need to be aware of some concerns and I need some help.

During our budget hearing our election budget was cut even though we tried to explain the election process. Today I'm before you to let you know that the general election will be very expensive. The primary was costly but the general will be a lot more. I can't tell you how much it will be but it will be expensive. Our voter registration has increased dramatically since the primary. We were approximately at about 81,000. If the trend continues the way it's continuing we will probably be 90,000, 91,000 by the general election. So that's like about a 10,000, 11,000 increase.

We're receiving an average of 300 absentee ballot requests per day. As an example, prior to any election before we sent out about 25 ballots overseas. We are now well over 300 and every day there are e-mails for me asking me how do they get a ballot overseas. So I want you to be aware of that.

On October 5, 2004 we will have ready to put in the mail well over 10,000 absentee ballots. I don't know exactly how much the postage is going to be but I estimate the postage is going to be about \$.80 per ballot. I don't know how you want to handle the cost. I don't have it in the budget. Is the mailroom going to process them individually? Is someone going to take them over to the post office? These are things that I think you need to be aware of and we need addressed before October 5<sup>th</sup> because on October 5<sup>th</sup> I have to mail those ballots.

The workload in our office is incredible. We'll meet our obligation but everything you've been reading in the newspapers is happening in Santa Fe County. We are receiving duplicate registrations. We are receiving duplicate requests for applications for ballots. But we don't know they're duplicates until we do all the processing again. So everything you've been reading about in the papers is happening in Santa Fe County.

As you know we're a Class A county and we're mandated to have the four sites. I want to commend Tony and his staff for really helping us out. But out in Eldorado we did have a problem. And we did find a site and I'm very thankful to them. And we will be operating. We

will be opening our sites on October 16<sup>th</sup>. But one suggestion I would like to make to you is now that you're building the senior center in Eldorado that you might want to put on an additional room and then have that as a permanent site for future elections because there's always going to be an alternate site and I'm sure it's going to be in the Eldorado area because it does take in a lot of the people there. That's just a suggestion.

One of the things that's happening is that all of the applications that are coming in for ballots have marked "All". Which means that for every election for two years, unless the law is changed, they automatically will get an absentee ballot for every single election. On February 2<sup>nd</sup> the new Clerk will have an election with the school board. On March - I'm sorry. I shouldn't have said February 2<sup>nd</sup>; I have second on my mind. On the first Tuesday in February and on the first Tuesday in March she will have two elections. She will have a school boards election and she will have the college board election.

Now everybody in Santa Fe County who's registered is affected by the school board because they're either Moriarty, the Santa Fe Public Schools, or the Pojoaque. So all of those "Alls" will have to be sent an absentee ballot. Now, that could be, depending on how many we have for the general, that could be another 11,000 or so. So she will need postage. Although the postage will be reimbursed back by the Community College and by the schools, there are still up front monies that have to be used before the reimbursement.

Lastly, I would just like to say that we're a Class A county now. I do not believe that the Clerk's office can continue operating the way we've been operating in the past. We are the only Class A county that program our own machines. We deliver them our own machines. We do everything in our office. Most counties have an IT Department that do most of their entering, etc. As we continue to grow it's just impossible to do it with staff. As you know we're here now night and day. I have already instituted mandatory overtime and also we cannot take off at any time. We're just too busy.

I just bring these concerns to you and I hope somebody will work with me to see how we're going to address especially the postage problem on October 5<sup>th</sup>. Thank you.

CHAIRMAN CAMPOS: Ms. Bustamante, have you come up with any figures? As far as money needs?

MS. BUSTAMANTE: I really don't. I believe the primary cost is about \$180,000.

CHAIRMAN CAMPOS: The primary.

MS. BUSTAMANTE: Yes. I would think the general is going to cost \$300,000 or more.

CHAIRMAN CAMPOS: And how much do you have in the budget for the general?

MS. BUSTAMANTE: I think it's \$70,000. But postage has me real concerned because I think we probably have used our postage now just mailing the absentee applications, although anything I can do by e-mail, I have sent it electronically. The other thing is that we will electronically sending ballots overseas. And we are already incurring quite a bit of costs calling around the world. Thank you.

CHAIRMAN CAMPOS: Any questions, comments?

COMMISSIONER ANAYA: Gerald, do you have any suggestions on where we can get that money from?

MR. GONZALEZ: Mr. Chair, Commissioner Anaya, apart from our front office budget I don't have any immediate suggestions. I know that Susan has been looking at that as an issue, and not to be flip, because I understand that it's a serious issue and we would be more than happy to sit down and meet with the County Clerk and probably with the County Clerk-elect if we could all three of us get together with Finance, that would probably be helpful in terms of resolving where we're moving forward to.

CHAIRMAN CAMPOS: Could you do that within the next how many days?

MR. GONZALEZ: We could do that within the next week or so.

CHAIRMAN CAMPOS: Is that okay, Ms. Bustamante?

MS. BUSTAMANTE: Yes. I'm just concerned with the general election. The County Clerk-elect will have the money reimbursed. Any monies expended for the February election and the March election. That is reimbursed to the County. Because we always send out a bill to all the entities who have an election that we fund whether it be a city election or a county election. We bill them for all our costs and they reimburse us. So that is not a problem. The problem is the general election.

CHAIRMAN CAMPOS: Would you be available next week to discuss this with staff?

MS. BUSTAMANTE: I will be available after Monday. We are in mandatory training starting tomorrow.

CHAIRMAN CAMPOS: Okay. Thank you very much. Anyone else?

COMMISSIONER ANAYA: Mr. Chair. There's a Mr. and Mrs. Dan Anaya and they've got an issue concerning a road. I believe Governor Miles Road, and Dan, you can go ahead and come forward and let us know your concerns. Thank you, Mr. Chair.

IMOGENE ANAYA: My name is Imogene Anaya and this is my husband Dan Anaya. Thank you for your time, Commissioner Anaya.

CHAIRMAN CAMPOS: Please state your address.

MS. ANAYA: My address is 3252 Governor Miles Road. And part of that area that we're concerned about is county but part of it is attached to the city. And because of that the County, the City, no one seems to have any concern or has been able to assist us in getting kind of traffic devices, something to slow the traffic down through there. It's a bout a quarter mile and between that strip of road cars go through there probably - and this is no exaggeration, probably about 70 miles per hour. It's a residential area. We're fortunate enough that our house is far enough back but there are others there who their house is at a minimum of 40 feet from the road. There are children there who play. Our concern is that there is no one there, no one within the City or with the County has been able to address that and let us know how we get for the County to take it over to do striping, to enforce it, to put curbs. Anything. Just something. Even a speed limit sign.

We're kind of at our wit's end now. We don't know what to do. We've contacted other



Commissioners. We also contacted the City. We've contacted the state. We've contacted a number of people and everyone says it's a private road. Our concern is that if it's a private road, why is it that there's access through the neighborhood to get to the other side, which is a city road.

CHAIRMAN CAMPOS: It could be a public easement but not a public road.

MS. ANAYA: Right. I think that's kind of what we found out.

CHAIRMAN CAMPOS: You can have one without the other. Maybe you can talk to Mr. Abeyta and he can direct you to appropriate staff to see what we can do about this to understand what it is, if it's a public road, public easement, and go from there. We need the facts. Right now it seems we don't have enough facts but it looks like a dangerous situation on possibly a private road. It's not Governor Miles? It's connected to Governor Miles?

MS. ANAYA: It is Governor Miles Road.

CHAIRMAN CAMPOS: It is Governor Miles Road.

MS. ANAYA: The problem is that part of it was picked up by the City. When that road was developed it was developed by Tom Neal, he opened that up for his subdivision, for this property. And when Pueblos del Sol went in, what they did is they went ahead and someone, someone, I don't know who, granted that easement. No one seems to know that. When we research we can't find anything. The City just went in there, in fact right now the road is closed because the City is in there, which is on the County part. They're in there right now tearing it up to add a sewer line that goes back into the property behind us, which happens to be Mission Viejo, the new subdivision. So what they're doing is, the City is coming in, they're tearing up the road and no one wants to take any responsibility for that.

CHAIRMAN CAMPOS: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, what I would like to see is Roman and the Manager, you guys, get with Public Works Department. Public Works get with the City of Santa Fe, their Public Works Department and come back to us our next meeting and give us an update on that road, who owns it and what we can do to help these folks out. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: How many families access this road right now? Is there a lot of -

MS. ANAYA: Access to get to their own property or to -

CHAIRMAN CAMPOS: Use this strip. Yes, to get to their own property.

MS. ANAYA: Well, it's hard to say because people who actually live on Governor Miles Road, which is within the county, I would say there's probably over 100 homes, I would guess.

CHAIRMAN CAMPOS: Okay.

MS. ANAYA: But that road is used as access to get to Pueblos del Sol, which is, as I'm sure you know, a huge development on its own. Plus now that they've opened up the road from Richards on to Cerrillos Road and between there to Nava Ade, that's diverting more traffic through there as well. The Community College, you can tell during the summer time it's a little quieter, not much, but you can tell that the students of the Community College and at

this new high school can just barrel through that road continuously. They're using it as a thoroughfare and it really is not a thoroughfare.

CHAIRMAN CAMPOS: Okay. We'll look into it and we'll try to get back to you as soon as we can on this. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Ms. Anaya, do you happen to know who paved that road?

MS. ANAYA: No, we don't, and we can't find out.

COMMISSIONER SULLIVAN: Because I've had you and other residents talk to me about the problem there and I drive that road almost every day and I've never seen anyone go 70 but there certainly –

MS. ANAYA: If you lived there you would know that.

COMMISSIONER SULLIVAN: I was just saying I haven't seen them. I wasn't doubting that you may have seen something like that. But until they started that sewer line connection I'd drive it twice a day. But I checked myself with the County Public Works and it's not on the County Road system which is approved by the State Highway Department every year, the mileage and so forth. Why it is is unknown. I think, as Commissioner Anaya says, you could get with the City because it's a logical piece of road for the City and a portion of Governor Miles to the east is curb and guttered, has sidewalk. This is paved, has no shoulder, has no curb and gutter, has no sidewalk, and other than the driveways it has no drainage either.

But the rest of Governor Miles, including the piece that goes out to Cerrillos Road is the City street. It's all City. And also, Richards Avenue from Rodeo to Governor Miles is the City street and the intersection is the City. And the County starts south of that towards the Community College. So it makes sense that that would be within the city boundary and I think what we need to do is get our Public Works people, and I believe both of them are on leave this week unfortunately, or they'd be here to help us work this out and get them with the City to see if we can at least at the outset get some additional traffic warning and speed signs and better enforcement there, because my understanding also is that there's no – neither the City nor the County will do enforcement along the road, although the speed limit is 25, there's nobody enforcing.

MS. ANAYA: Right.

COMMISSIONER SULLIVAN: Is that right, Sheriff? Do you know where we're talking about? Do you want to come up and just help us out on this a little?

GREG SOLANO (County Sheriff): I came in just because I heard the discussion from outside. Mr. Chair, Commissioner Sullivan, our understanding has always been that that entire route is the City's. As you said the intersection at Governor Miles – my brother lives to the west on Governor Miles and it's always been my understanding that it was the City's. We had an accident there at Governor Miles and Richards this weekend and it was handled by the City because it's their understanding also that it's the City's. That doesn't mean that we can't necessarily go in and assist a little bit with some enforcement but usually we have to put the majority of our enforcement in County roads because I have enough complaints and things on County roads. But I can also get with the Police Chief and talk to her about it and see if we can

work out to get some additional enforcement there.

CHAIRMAN CAMPOS: Could you work with Mr. Abeyta on that?

SHERIFF SOLANO: Sure.

CHAIRMAN CAMPOS: Okay.

DAN ANAYA: Mr. Sullivan, I've talked to you and I've talked to the City in the past and when I talk to the City, this is what they told me that it is not their road and that the only way that they would ever pick up that road is that if the County would curb it and put gutters and have it ready for the City to pick it up and they said by no means were they ever going to pick that road up until it was curbed and everything, passed on by the County to them. I talked to the Traffic, I talked to everyone for traffic calming at that time, they did the research for me at the City and they said it is not their road. They said they are happy to annex it, to take it over if the people wanted it, and that's as far as they went there.

I've also talked to everyone in the County with the Public Works and they just - the answer they give me is it's not a maintained road by the County, never has been and they can't do nothing about it.

CHAIRMAN CAMPOS: Quick question for you. Is this road in the county or in the city?

MR. D. ANAYA: It's in the county.

CHAIRMAN CAMPOS: So then it can't be a City road.

MR. D. ANAYA: Right. And that's what the City -

COMMISSIONER SULLIVAN: It can be if it's annexed.

CHAIRMAN CAMPOS: But it's not annexed.

COMMISSIONER SULLIVAN: It's not at this time, no.

MR. D. ANAYA: It's a County road. We're paying County taxes. It's a County road. And what I understood is that when the road was built that they didn't go through the proper procedures of getting our road to be assisted by the County is what I've heard from everyone when I talk to everyone. The issue is I've asked if I could make this a private road and stop it from being a thoroughfare for the Community College and they told me not even to go there with that, that I'd be thrown in jail. I've gone from people that tell me to make it a gated community and stop it and everybody has told me. That's why I'm here. I've been trying to get someone to help me for the last year on this and I've asked people to call me back and I get the same answer all the time.

The City is - they're using our road to make their traffic go through there to Jaguar Estates. There's potholes in there. No one maintains the road. The City will come to where the curbs are at, which as I said, they will actually pick up the blade and go down to the end of the road and drop the blade and have one part that's the County's they will not grade it.

CHAIRMAN CAMPOS: Thank you very much.

COMMISSIONER SULLIVAN: I think Mr. Chair that what we need to do is, I'm sure the City would have trouble taking it over if someone didn't pay for that and I think what we do have here is some potentially improper procedures during the subdivision, during the development phase that weren't caught and I'm just surprised that no one knows who paved

the road. That's a substantial expense to pave that piece of road. It's half a mile long. So I think what we're probably end up having to do in that area is get with our legislators like Jim Trujillo and people in the state legislature and see if we can get money to repave and hopefully curb that road to match at least pretty close to what Governor Miles is. And if we could do that, then the County could take the road over and contract to have it paved and then make an agreement with the City hopefully to turn it over to the City like the rest of Governor Miles is. But the key is going to be to find the money to pave it. And typically where we get our money for paving roads is from the legislature. We have some money for graveling roads but we don't have money for paving roads.

Now I'll condition that by saying that in November we're putting an issue on the election for a bond issue for road improvements. And if the voters approve that ballot measure then we will have some money to do road paving and we'll have to develop a priority list and this certainly would be one of those that we could improve and then either take over ourselves or hopefully move it over to the City and have them maintain it once it's built to their standards. That's what they're telling you is we won't take it over till it's built to our standards, and we tell developers in the county the same thing. We won't take over your roads in a subdivision until you build them to County standards. So it's very logical and of course you're standing right in the middle of all that.

MR. D. ANAYA: Right. And just to let you know my issue isn't about the road taking over. The reason I'm here is I need your help more for traffic calming. Can we get a speed limit sign? That's all I'm asking. Can you stripe the road? I'm not asking for outrageous things. There's not even striping on that road or speed limit signs. That's all I'm asking for is to try to do that and nothing's happening. Not even on that. We're not asking for enormous thing. A speed limit sign, striping.

CHAIRMAN CAMPOS: It's not a County road; we can't do much on it right now, but we'll look into it and try to get back to you in a month or so.

MR. D. ANAYA: Thank you for your time. We appreciate it.

CHAIRMAN CAMPOS: Anybody else out there who has a matter of public concern?

**IX. Matters from the Commission**

**A. Proclamation Declaring September 27, 2004 as Family Day  
(Commissioner Duran)**

CHAIRMAN CAMPOS: There's nothing in the packet. Do you have it?

COMMISSIONER MONTROYA: Mr. Chair, I just received it right before the meeting and I'll just read it quickly, Mr. Chair, on behalf of Commissioner Duran.

Whereas, the use of illegal drugs and the use of alcohol and nicotine constitute the greatest threats to the wellbeing of America's children; and

Whereas, surveys conducted by the National Center on Addiction and Substance

Abuse, CASA, at Columbia University, have consistently found that the more often children and teenagers eat dinner with their families the less likely they are to smoke, drink and use illegal drugs; and

Whereas, teenagers who virtually never eat dinner with their families are 72 percent more likely than the average teenager to use illegal drugs, alcohol and cigarettes; and

Whereas, teenagers who almost always eat dinner with their families are 31 percent less likely than the average teenager to use illegal drugs, alcohol and cigarettes; and

Whereas, the correlation between family dinners and reduced risk for teen substance abuse are well documented; and

Whereas, parental input is known to be one of the most crucial factors in determining the likelihood of substance abuse by teenagers; and

Whereas, family dinners have long constituted a substantial pillar of family life in America;

Now, therefore we the Board of Santa Fe County Commissioners hereby proclaim the 27<sup>th</sup> day of September Family Day, a day to eat dinner with your children throughout Santa Fe County. We urge all citizens to recognize and participate in its observance.

CHAIRMAN CAMPOS: Is there a motion to approve the proclamation?

COMMISSIONER ANAYA: So moved.

COMMISSIONER SULLIVAN: Second.

**The motion to adopt the Family Day proclamation passed by unanimous [4-0] voice vote. [Commissioner Duran was not present for this action.]**

CHAIRMAN CAMPOS: Commissioner Montoya, I understand you have to leave shortly. Do you have any matters that you'd like to address?

COMMISSIONER MONTOYA: Mr. Chair, just quickly, the meetings that I've been having throughout my district have been going well and I encourage continued participation. Next one will be tomorrow night in Sombrillo. I just wanted to recognize one of our County employees in the Assessor's office and I received an e-mail from Jose Benito "Ben" Garcia commending Sylvia Lucero from the Assessor's office. In a nutshell what she helped him do was eliminate having to do a lot of commuting between Los Alamos where he works and here in the County Courthouse and helped resolve an issue regarding his property valuation. I just wanted to recognize Sylvia for the good work that she's doing and thank her for that on behalf of one of our constituents as well. And that's all I have, Mr. Chair.

CHAIRMAN CAMPOS: Okay, Commissioner Sullivan.

COMMISSIONER SULLIVAN: I just have one item, Mr. Chair. And that is as many of us may have seen and read about and seen on TV over the weekend after Zozobra, we had one of our Capital High Students severely injured after the Zozobra celebration by a blow-dart. I'm glad the Sheriff is here because I want to get his comments. I was aghast at what I saw on television that comprises these blow-darts.

They're lethal weapons and somehow need to be treated as such.

I had the opportunity this morning to speak personally with John Denko, who as most of us know was formerly the City Police Chief and is now the cabinet secretary for the Department of Public Safety. And he agreed that while this particular case, if the perpetrators are caught, is a felony because it's an attack, a felonious attack, carrying these weapons in a public place, concealing them or in any way using them other than to attack someone is, it would appear is not illegal. He is going to review the issue with his legal counsel in the Department of Public Safety and I'd like to ask that our legal staff touch base with him. He did indicate that we could pass an ordinance and his suggestion was that an ordinance be structured around the carrying of these weapons in public places, as opposed to private, supervised shooting ranges or personal property where you might use them for sport. But they are clearly lethal weapons in a public setting.

And in this particular case the student had her lung punctured and collapsed, went to St. Vincent apparently just in time. So, Sheriff, can you add anything to this? Have you had any experience with these toys that are in my judgement far from toys?

SHERIFF SOLANO: Mr. Chair, Commissioner Sullivan, the majority of sales of these type of weapons, they fall in line usually with the numchuks and these blow-darts and a lot of the oriental weapons are done through flea markets and things like that. There are a few specialty stores that sell these items, not only within the city limits but in the county. The majority of these sales are done in things like flea markets, which makes it much harder to regulate.

But what I would like to see is something that would make it illegal to sell these things to anyone under 18. That's one thing I would like to add if we're looking at this. And the other thing is we have to probably structure some kind of illegal to carry law around them being used for some of the sporting events that they are used for. Not so much the blow-darts. I'm not sure they have any kind of tournament or anything for those but I do know for some of these other similar weapons like the numchuks and there's pontu swords and things like that that are also all sold in this kind of thing, class and category. You'd probably have to make some kind of exception for when they're being taken to and from an event or a sporting event or a karate event or something like that where they may be used.

I think it's a very good idea. I think that it's something we should look at and that we should also look at restricting the sales to those under 18.

[Commissioner Montoya left the meeting at this point.]

COMMISSIONER SULLIVAN: The comparison to me seems to be like rifles with silencers on them. They're so insidious you can't apparently determine where they came from. They're easy to conceal and lethal, extremely lethal. We don't permit silencers on weapons, do we?

SHERIFF SOLANO: No. That's a federal law. But they are. They're very

lethal. A lot of these things that are sold as toys can be used as weapons and that's kind of sold both ways. It's sold both as weapons and actually sold as toys. I've been to flea markets when they're selling them to 10 and 12 years old that are buying them as toys. And the darts are so small and actually are very accurate and will penetrate very far - it penetrated through the skin and into a lung. That shows you how far they're penetrate. But they are very dangerous.

COMMISSIONER SULLIVAN: Thank you, Sheriff. I appreciate your input on that. Mr. Ross, I hate to give you yet another thing for your department to work on but could you add any thoughts on this or where we could go from here?

MR. ROSS: Well, what we'll do, Commissioner Sullivan, members of the Commission, is we'll work with John Denko and the Sheriff and try to work on the problem over the next couple weeks and try to report back to you maybe in a month or so.

COMMISSIONER SULLIVAN: Okay. I'd like to give the Sheriff an ordinance or something that he could use to confiscate these weapons when they're obviously in a public situation where they can be misused and are, apparently, being misused. That's all I had, Mr. Chair.

CHAIRMAN CAMPOS: Thank you. I have nothing, Commissioner Anaya.

COMMISSIONER ANAYA: I also would like to thank Sylvia Lucero from the Assessor's office for doing such a fine job. We have some new employees at Santa Fe County, and with us today from the Health Department, Greg Smith is in the audience. Greg's a new employee. I want to thank you for joining us. We have from the Public Works Department Danny Sandoval, road construction laborer, Leonard Martinez, road construction laborer. In the Fire Department we have Jess Ivy, firefighter/EMT, Steve Moya, firefighter/EMT, Burt Quintana, firefighter/EMT. In the Sheriff's we have Deborah Anaya, deputy cadet, Michael D. Martinez, a deputy, Steve Smitty, deputy cadet, Christopher Yardman, a deputy cadet, and Corrections, we have Roger Jimenez, case manager. We want to welcome you all to Santa Fe County. That's all I have.

CHAIRMAN CAMPOS: Thank you, Commissioner.

COMMISSIONER SULLIVAN: Welcome.

**X. Committee Resignations/Appointments/Reappointments**

**A. Request Appointment to the Santa Fe City/County Energy Task Force**

MR. ABEYTA: Thank you, Mr. Chair. We received some letters of interest, some resumes that we attached to the packet. We received four names, Henry Robledo, Reuben Montes, Eric Lujan and Ken Hughes. Pursuant to the resolution, Mr. Chair, the Board of County Commissioners can make four appointments. The City Council makes four appointments and the board itself, the Energy Task Force, will appoint a ninth member. So we're requesting that you approve these appointments today.

CHAIRMAN CAMPOS: Let me ask you a question. You only got four?

MR. ABEYTA: Mr. Chair, yes. We only got four.

CHAIRMAN CAMPOS: Okay. Did you get anything from Gail Ryba? She sent me an e-mail I guess last night.

MR. ABEYTA: Mr. Chair, as of the date we ran this report, no, we didn't. But if you want to consider that, that's fine.

CHAIRMAN CAMPOS: Yes, I would like to. In fact she's very qualified. My concern about the names that I have here is that only one person seems to have any knowledge or experience on energy issues and that would be Ken Hughes. So I'd like to make a motion to appoint Ken Hughes and Gail Ryba to the task force. And as far as Gail, you haven't seen anything really on her. She did work on PNM's project power. She has a PhD in chemistry. She is the New Mexico representative on the Southwest Energy Efficiency Project, which is working with the governor's office on the Energy Efficiency Task Force. She's a technical consultant to a number of energy programs in this area. She's a consultant to the New Mexico Hydrogen Business Council.

So she's very, very familiar with energy. I think she would be a very strong member so my motion would be to nominate Hughes and Ryba for two of the positions. Is there a second?

COMMISSIONER SULLIVAN: I'll second.

CHAIRMAN CAMPOS: Discussion.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: So we can appoint four people?

CHAIRMAN CAMPOS: Yes.

COMMISSIONER ANAYA: I just feel that she might be qualified but I'm looking at these four people here who in a timely fashion sent their resumes in and I'm not saying she's not qualified but maybe we could leave Gail as an alternate and put these four people that are listed here on the Energy Task Force because they did apply in a timely manner and that's my comment.

CHAIRMAN CAMPOS: Okay, there's a motion and a second.

**The motion to approve passed by majority 2-1 voice vote with Commissioners Campos and Sullivan voting in favor and Commissioner Anaya voting against.**

CHAIRMAN CAMPOS: Okay, the ayes have it. Ken Hughes and Gail Ryba have been appointed. There are two other positions. My suggestion is that we put it out to bid again. The three individuals, Robledo, Montes and Lujan simply don't have, looking at their resumes, much in the – let me take that back. Robledo does have a lot of experience in energy. Montes and Lujan do not. Robledo has an industry connection. Apparently, he's been a consultant for a number of years. But I think we need people with a little more knowledge and experience about energy. It's not just enough to want to serve on a public committee. I think we need people – they're going to have to make some critical, they're going to have to provide us some critical advice in the near term. So that would be my suggestion. Is there a motion for the



other two positions?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I would like to move to put Eric Lujan and Reuben Montes for the other two.

CHAIRMAN CAMPOS: Okay. Is there a second?

COMMISSIONER SULLIVAN: Mr. Chair, I didn't see too much experience on Mr. Montes' part. I know he's worked with Hands Across Cultures and some good – and of course he's been before us before on the Forest Service issues and we certainly appreciate that. But I didn't see too much that compelled me to think he might be the best candidate.

CHAIRMAN CAMPOS: I think Mr. Montes is a very active member of the community. He's a good man, but he doesn't have anything in his resume concerning energy. Nothing. Eric Lujan doesn't either. Okay.

COMMISSIONER SULLIVAN: Let's see. Mr. Lujan is a Highway Department engineering technician, I believe.

CHAIRMAN CAMPOS: Is he the same Eric Lujan that ran for City Council? Is that right? Anybody know?

MR. ABEYTA: Mr. Chair, yes.

CHAIRMAN CAMPOS: Is the same Eric Lujan? Okay. I thought that might be the case. Okay, motion, no second. Is there any other motion? I'd like to make a motion that we go out and publish and ask for additional applications, some other members and emphasize that we do need folks with an energy background and that we do this as soon as possible. I think we may need to contact organizations that are interested in energy issues so that we could have these two appointed. I have gotten an e-mail from Patty Bushee. She says that she will talk to the Mayor this week about getting the four appointees. They have not appointed from the City so I expect the City will appoint this month some time. So I would like to have our people in place by October if that's possible. I know you've tried; I know you've gone public.

**XI. Consent Calendar**

- A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:**
  - 1. CDRC CASE #S 04-5050 – Rosa Linda Subdivision (Approved)
  - 2. CDRC CASE #A/V 04-5071 – John Montano Appeal Variance (Approved)
  - 3. CDRC CASE #Z/DP 04-5130 – Stanley Union Church (Approved)
  - 4. CDRC CASE #APP 04-5151 – Joe Miller Appeal (Denied)
- B. Request Authorization to Enter into Grant Agreement with the State of New Mexico Children, Youth and Families Department (Corrections Department)**
- C. Resolution No. 2004-\_\_ . A Resolution Requesting an Increase to the**

**Corrections Enterprise Fund, Electronic Monitoring Program to Budget a Grant Awarded through the State of New Mexico Children, Youth and Families Department for Expenditure in Fiscal Year 2005/\$18,500 (Corrections Department) WITHDRAWN**

**D. Resolution No. 2004-111. A Resolution Adjusting the Boundaries of Precincts 2 and 3 in Chimayo Area (County Attorney)**

COMMISSIONER ANAYA: Move for approval.  
CHAIRMAN CAMPOS: Is there a second?  
COMMISSIONER SULLIVAN: Second.

**The motion to approve the Consent Calendar passed by unanimous [3-0] voice vote. [Commissioners Duran and Montoya were not present for this action.]**

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

**A. Corrections Department**

**1. Update on Release Procedure and Transportation Issue, Santa Fe County Adult Detention Facility**

GREG PARRISH (Corrections Department Director): At the last meeting on August 31<sup>st</sup> Commissioner Sullivan raised some issues regarding transportation and we subsequently talked about not only transportation issues at the adult facility but also property matters. I was requested to bring back an update. At this time I'd just like to report that the transportation issue in particular, we're still conducting meetings with the Santa Fe Trails regarding a possible grant of \$60,000 and the City and the County would come up with an addition \$60,000 to extend the bus route out to the Public Safety building and the Corrections Department and also to serve the park out there and the residential area. Those conversations are still continuing and we anticipate having additional meetings in the near future regarding that.

Regarding the property issue at the jail it came up that the individuals that are released are not necessarily given all their property and that their valuable property is stored somewhere else, and then they have to return to the jail to pick it up. I met with the warden and the monitor and talked to the warden about updating and providing a plan of action to correct this procedure and he has developed a procedure where all of the property will be taken from an individual to be stored in storage bins including the valuable property which will then be locked in a secure area where it will be maintained. Each individual bin with the person's property will have a padlock with a key and that key will then be given to the inmate and it will be his responsibility to keep that key. And when he leaves he will pick up all his property, including his valuables that have been secured at that time. So when he's released he will be leaving with all his property, everything, and he won't have

to go back.

The only exception to that would be should they lose that key then they would have to use a master key and he'd have to come back another day to get that property. But as long as the inmate comes in with his property, maintains his key, which will be on a break-away type chain that each individual will have, when he's release he will at that time then be issued all his property including his valuable property and money, and he'll go out the same way he came in.

They plan on implementing this after they've inventoried the property boxes to make sure they're not damaged and after they have purchased approximately 600 locks. So they don't have a time frame as of yet. They were checking on the cost of the locks. But we hope to implement that within the next 60 days and thereafter they will update the property for everyone coming into the facility.

The downside, as I indicated if the individual loses his lock he would still have to come back on another day when the master key is there that his property can be released. Also, inmates when they come in, right now their money is put into a trust fund and if they stay at the facility they have access to that trust fund to purchase commissary items. With the new procedure everything will be locked up in the bin and they won't have access to that money. They'll have to get it from friends and relatives like other inmates do at this time. That's the update on the property and transportation. Regarding that item I'll stand for any question.

CHAIRMAN CAMPOS: Are you satisfied with that solution?

MR. PARRISH: I think it's a good solution. It's going to put a burden on our contractor to make sure they keep that area secure and safe and people's property is secure. And any thefts are going to be reported to the Sheriff's Department. But they not only have to lock up the storage bin, they have to keep where they store the storage bins, this room, secure. And they're taking some measures to address that. As long as they're conscientious I think it will work.

CHAIRMAN CAMPOS: What about the telephone issue that we talked about last time?

MR. PARRISH: They do have access to a telephone and there's signage now that indicates – or it's supposed to be up there. I haven't physically looked at it yet – signage saying that inmates leaving can make a local telephone call.

CHAIRMAN CAMPOS: But the telephone issue in a sense that you can call in and nobody answers. Or people who answer don't have adequate information.

MR. PARRISH: Since the last time we met I've made several phone calls out there. I still have determined that there's a lack of timeliness in getting to the phone. It rings a great deal of time. But I've gotten accurate information on the two or three times that I have called asking about check-out times and release times and things like that. And they've implemented a procedure where the individual answering the phone identifies himself as being with MTC and provides his name. And the three times that I've called that's happened, though the phone does ring a long time before someone answers. We'll

continue to monitor that and talk to the warden and the deputy warden regarding customer service along those lines.

CHAIRMAN CAMPOS: What about weekends? Have you called on weekends to see how that's working?

MR. PARRISH: I did not call on weekends. I called on off-hours but it was not a weekend.

CHAIRMAN CAMPOS: That could be the most difficult and it seems to be a very serious problem. So you think MTC is taking some steps to remedy the situation?

MR. PARRISH: I think they're trying to train their personnel on how to handle that. I've seen some positive things in the last few months.

CHAIRMAN CAMPOS: Do they have personnel? Are they simply not assigning the number of people that they need?

MR. PARRISH: I think the booking area where on off hours the telephones ring to is a very busy area and it's often a lot of things going on there. And if there's any shortage of staff they often collapse those posts. So it does become an issue. I'll continue to monitor and I'll check on the weekends also.

CHAIRMAN CAMPOS: I think it has to be monitored and the pressure has to be on MTC that they keep up with a better phone system.

MR. PARRISH: I know I have and I know the Sheriff has been very active in also doing it because he's run into problems with the same thing. So both of us will work on it.

CHAIRMAN CAMPOS: Almost everyone I've talked to has had the same problem and it's very frustrating.

MR. PARRISH: I understand. I'll continue to work on improving it.

CHAIRMAN CAMPOS: Any other comments, questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Greg, are you working with the City also on this other bus route? In the letter that we got with our materials dated July 9<sup>th</sup> to Gerald Gonzalez it talked about two routes, one was an extension to handle the Valle Lindo Subdivision and the jail, going out as far as the jail. And of course that would include the business park. There was a second routing that I've received calls about in the past that would take the bus service past the College and out into Rancho Viejo and circle around through Rancho Viejo and provide access out as far as IAIA and then go back down Richards Avenue. Is that one also being talked about?

MR. PARRISH: I haven't attended any of these meetings yet. The last one was scheduled for last week was canceled. The first route, regarding the Turquoise Trail shuttle, that was basically the same thing we talked about almost two years ago. Them extending the Rancho Viejo and IAIA shuttle is something new that I haven't been familiarized with except through this communication that you also received. It sounds like it will be part of a discussion at future meetings that we have.

COMMISSIONER SULLIVAN: Yes, because I would think that IAIA

could also contribute to that particular one and with the growth out in that part of the Community College District it's about time that we had some bus access. I know that doesn't have anything to do with corrections. I think it's in your packet. I thought I would bring it up

MR. PARRISH: Commissioner Sullivan and Mr. Chair, I'd also like to say that the Legal Department is researching the issue about using the inmate welfare fund for transportation. This state does not have or they haven't yet identified anything having to do with how that money's to be spent. Other states are sometimes specific, but Grace Phillips is continuing to research that.

COMMISSIONER SULLIVAN: Okay, that was another question that I had raised last time because we had apparently had \$37,000 in escrow from when Cornell Corrections was the operator and whatever monies have been collected now from concessions. I wouldn't want to use all of that because there are certain items that we need to purchase as we go through the year but perhaps a good portion of that could go to that. That's all the questions I had, Mr. Chair.

CHAIRMAN CAMPOS: Thank you, Mr. Parrish.

**XII. A. 2. Request Authorization to Establish a 1.00 FTE Term Position for Court Liaison Position at the Santa Fe County Adult Detention Facility**

MR. PARRISH: Mr. Chair, this has to do with as you're aware, our current contract that takes effect October 1<sup>st</sup>. We have a population restriction in our contract where MTC is basically holding 400 beds for us so that it is necessary for us to make sure that we maintain our population below 400 or even reduce our population. This position would be designated to work at the jail to be a court liaison and work at establishing a tracking system for County inmates and also to be sure they're being present in timely fashion at court dates and also to follow up with the district attorney/public defenders office to make sure that the inmates are being moved through the process as efficiently as possible.

Any type of delay in court dates or judgement and sentences costs the County substantially. A reduction of ten inmates would basically equal to about \$420 dollars per day that the County pays out. In a year that would be \$153,000 in savings if we could reduce our population by ten. I think if we are able to establish this position, which was budgeted as a contract position as a term position it will very quickly pay for itself in the long run. We have not yet established it.

CHAIRMAN CAMPOS: About how many dollars to you have in the budget?

MR. PARRISH: We have I believe around \$50,000 worth in the budget for a contract employee.

CHAIRMAN CAMPOS: And how long of a contract are you looking at?

MR. PARRISH: Well, instead of a contract we're going to go to a one-year term employee so we'd have closer supervision of that individual. And that \$50,000 would be reduced by the benefits and the other things and a salary in the mid-\$30,000s -

CHAIRMAN CAMPOS: When do you expect to have a person on board?

MR. PARRISH: If you approve it today we'll start acting on that immediately.

CHAIRMAN CAMPOS: What kind of skills would this person have to have or experience?

MR. PARRISH: We'd be looking for someone with court experience, law enforcement, that might be interested in working for the County, along those lines. Someone that's been working with the courts, knows the system, knows the terminology and also how the courts work and law enforcement so they can help expedite the individuals through the system.

CHAIRMAN CAMPOS: Okay. Any other questions or comments? Okay, is there a motion to authorize the establishment of the FTE term position?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER SULLIVAN: Second. Good idea.

**The motion to authorize the FTE passed by unanimous [3-0] voice vote.**  
[Commissioners Montoya and Duran were not present for this action.]

## **XII. 3. Request Approval of Final Proposal to Provide Non-Secure Residential Treatment Center for the Bureau of Prisons**

MR. PARRISH: Mr. Chair, Commissioners, as you're aware, we've been looking at developing an RTC at the juvenile facility for several months, talking to the federal government. And as of last week they contacted us and indicated that they are ready for a final proposal from the County regarding housing juveniles in a non-secure residential treatment center. What I'd like to do is give you an overview. We've been working on this since almost March of this year. We're trying to answer the questions that the Bureau of Prisons has and some of the issues. Basically, we're looking at using part of the juvenile facility as a non-secure residential area that would be used to house approximately 17 juveniles and provide a step-down program as reintegration into the community.

As you can see from the memo, we're talking approximately a per diem of \$202 a day at this time. It would necessitate that we do some remodeling to the facility and I know Tony's here to talk to that issue regarding turning it into a residential type setting, and then Susan is also here to address any budget issues you may have. With that I'll let Tony speak briefly about some of the renovations that will be necessary.

CHAIRMAN CAMPOS: A couple of questions, Mr. Flores. Would you address, I guess you're going to address the capital costs and the O & M and overall how we're going to do at the end of the year.

TONY FLORES (PFMD Director): Yes.

CHAIRMAN CAMPOS: Okay. Thank you.

MR. FLORES: Mr. Chair, members of the Board, when we assumed operations, we, being the County, in January, Greg Parrish, the facility personnel and PFMD immediately undertook the task of finding out the future of the facility in terms of the types of different uses or program that could be run out of that facility. We currently have approximately 19,000 square feet of that facility that are unoccupied or do not have a current program in place. When the opportunity presented itself for a response to the residential treatment center and proposal, we immediately looked at an 11,000 square foot portion of that facility that is not occupied for the development of a non-secured residential treatment center. The issues that we have dealt with are mixing a secure facility with a non-secured program and how those two uses or two components would be inter-linked, cohabitating within the same facility.

We have looked at the type of renovations necessary to turn that 11,000 square feet into this residential treatment center for all intents and purposes taking an institutional setting and turning it into a home. We have started cost estimates as well as some preliminary engineering documents to determine what is the best route to take to be able to complete this task in 120 days if the agreement is accepted by the Board. During the capital outlay strategy meeting of January and February of this year this Board, at the direction and recommendation of staff allocated \$36,500 to this facility for capital outlay. As one of the remaining projects that was left or the remaining balances that were left through the capital outlay GRT.

CHAIRMAN CAMPOS: How much is that?

MR. FLORES: \$36,500. As of today, that balance is \$20,800. We have done some improvements in addition to some other monies that we received through the legislature to complete some renovations as we took it over. In addition, this Board directed staff at our recommendation to put the Youth Development Facility as a high priority in lobbying for capital outlay dollars during this past session. We were extremely fortunate, although not to the degree that I would like, we were extremely fortunate to receive the appropriations of \$362,000 from this past session. That's 04 legislative money, severance tax money that we'll be bringing forward to the Board at the end of this month for approval of those grant agreements.

As we stand today, we have \$382,784 in capital outlay dollars or capital outlay appropriations that we can utilize for the renovations, the implementation, the equipping of this residential treatment center. We have received some statements of probably costs and some preliminary numbers. We are very close to those numbers with the money that is in hand today. There will not be a request for any general fund infusion for capital outlay renovations of this facility. So I hope that addresses the issue of what we have in hand

today and where the plan is.

If this Board gives direction to continue on this track, we have 120 days from the date of award or notice of award to have the facility ready for occupancy of juveniles or youth from the Bureau of Prisons. So we anticipate, optimistically anticipate that if this goes forward and is approved, we have from basically the first week of October, 120 days out to complete the improvements to the facility. Now we will take the facility, and on that end of the facility basically, as I said turn it into a residential facility. There will be a new portal, new parking areas. We will convert the interior dorm areas into more of a living room, bedroom arrangement. Convert a multipurpose area, as well as convert one of the outdoor recreation yards into their administration component.

This facility, from a facility/plant standpoint acts independent of the secured facility. That's one of the requirements. There will be natural separations that are already in the facility today and additional facility improvements that will allow for that separation of a secured facility and non-secured facility. We will take security fences, cameras, etc., and move those around back and the Bureau of Prisons has preliminarily approved that conceptual plan so we will have a mix of secured and non-secured programs running out of this facility. It can be accomplished within the facility with some renovations. I won't call them minor but there are renovations and we can and are confident that we'll get it completed within the 120 days. I stand for any questions on capital outlay.

CHAIRMAN CAMPOS: Questions?

COMMISSIONER ANAYA: Move for approval.

CHAIRMAN CAMPOS: Hold on.

COMMISSIONER SULLIVAN: Let me just add that it's more of comment than a question. This morning I attended a meeting of the juvenile justice system reform initiatives for our region that was hosted by Representative Jim Trujillo and also by Judge Barbara Vigil who as you know is a First Judicial District Children's Court judge. And after the meeting I discussed this application with her and can report to the Commission that she is extremely supportive of it, that she feels the facility can deal with it. The meeting, was also by the way, attended by Commissioner Montoya and also by Commissioner-elect Virginia Vigil, who is out in the audience. I want to say Hi this morning. Thank you for being here. And the trend, which Santa Fe County is very much on top of is for alternates to incarceration and this is yet another alternative to detention. And a good one for 17 potential juveniles from the Santa Fe and Bernalillo County area to this program.

So I'm certainly not as experienced as Judge Vigil is on these issues but I value her comments and her input on it and so this sounds like a really good plan.

CHAIRMAN CAMPOS: I have questions about the fiscal issues. Ms. Lucero, could you address those? I want to know where we're going to be at the end of the year, one, two and three. What are your projections? This could put a big hole in our budget. Looks like we're going to be getting a lot of money per child. Where are we going to be?



MS. LUCERO: Mr. Chair, members of the Board, the proposal that you see in front of you is still being negotiated. However, the County's stance on the per diem rate is firm. We've looked at what the proposed costs would be given this additional wing. We are contemplating covering those costs at 100 percent. We are not looking at any differential there.

CHAIRMAN CAMPOS: Explain that to me.

MS. LUCERO: In other words we are not going into this based on our cost estimates assuming any shortfall. We are accommodating adjustments to the building itself through a depreciation factor if you will, so that is somewhat of an indirect cost but it allows you to build up a reserve to take on maintenance features and possibly capital improvements down the road after the initial project is actually put in place.

So the majority of the costs are all contributable to the salaries, the direct care. You have 21.5 FTEs in this picture that are rotating a 24-hour shift over seven days a week, etc. I can't disclose and go into the exact make-up of where we are accommodating direct and indirect costs since this is still under negotiation, but as I said this per diem figure that we've quoted to BOP is firm.

CHAIRMAN CAMPOS: So your advice is go forward, that we're going to be on sound fiscal ground.

MS. LUCERO: Yes, sir, it is.

CHAIRMAN CAMPOS: Commissioner Anaya, you have a motion.

COMMISSIONER ANAYA: I move to approve.

COMMISSIONER SULLIVAN: I second that motion and one discussion item, Mr. Chair, was Susan, in the negotiations, the only thing I would be fearful of is the feds coming back at a later date and saying, Oh, by the way, you need this security upgrade and this security upgrade. Will that negotiation also detail the things that Mr. Flores has got to do to accommodate the proposal or do we already know that for certain?

MS. LUCERO: Mr. Chair, Commissioner Sullivan, I believe that the reason for these subsequent visits by BOP was to get to that point.

COMMISSIONER SULLIVAN: And you're comfortable, Mr. Flores?

MR. FLORES: Mr. Chair, Commissioner Sullivan, yes. This is from BOP and also their request for additional information has basically flushed out any potential issues that would remain with that facility if we're awarded the contract as we move forward. So I'm confident that the initial capital outlay to get that facility ready under their conditions and terms as well as meeting ADA requirements and licensure from possibly the state of New Mexico we have that plan now.

The thing that you're questioning is probably future and I would guesstimate that this is a non-secured facility and security components would not be an issue with them as much as it would be on the detention portion of the building.

COMMISSIONER SULLIVAN: I'm just suggesting that if it's a two-year contract with a three-year option that we get something written into the contract that says that they acknowledge that the improvements that you are doing meet their requirements

and we don't have another person coming, arriving in Santa Fe next month saying, Oh, by the way. Here's the handbook and you have to do all of this.

MR. FLORES: Mr. Chair, Commissioner Sullivan, we've actually used this as a learning experience. We've found that the BOP auditors, although very knowledgeable in the area of facilities they are not architects or engineers and there's been a learning curve on both sides to be able to educate them on what is actually there and what is actually required. So we've gone through some exhaustive efforts to make that happen. I understand your concern and we will look at that when they do negotiate the contract.

COMMISSIONER SULLIVAN: Well, my suggestion is being ~ as I understand this proposal, they're essentially saying you've got to deal. It's some final negotiating from what I'm reading in your September 13 memo. My suggestion would be in that final proposal that you make it fairly clear that this proposal is based on the improvements that have been discussed to date. And if they want other improvements, well, we can certainly do that but they need to pay for them.

MR. FLORES: Absolutely. We can definitely take a look at that.

COMMISSIONER SULLIVAN: And that may alleviate some of Commissioner Campos's concerns as well.

CHAIRMAN CAMPOS: What about the medical issues that we're being tormented with at the adult facility? How is medical treatment going to be provided for the children?

MR. PARRISH: This is a Bureau of Prison's contract very similar to the contract that we currently have in place. And that's one of the good things we can do is we can share resources. We already have a medical facility there. All our medical expenses are reimbursed by the Bureau of Prisons on Bureau of Prison juveniles.

CHAIRMAN CAMPOS: 100 percent?

MR. PARRISH: 100 percent.

CHAIRMAN CAMPOS: Okay. Great. There's a motion and a second.

**The motion to approve the BOP proposal passed by unanimous [3-0] voice vote. Commissioners Montoya and Duran were not present for this action.**

**XII. B. Health & Human Services Department**

**1. Approval of Payment of Supplemental Sole Community Provider Match Up to \$1,018,452.34 for St. Vincent Hospital**

CHAIRMAN CAMPOS: Should we discuss this in executive before public or is this appropriate at this point, Mr. Gonzalez?

MR. GONZALEZ: I think it's ripe for discussion at this point.

CHAIRMAN CAMPOS: Because we didn't really get a firm recommendation from the HPPC nor from staff, right?

STEVE SHEPHERD (Health Department Director): Mr. Chair, this memo was written in advance of the Health Policy and Planning Commission meeting on September 9<sup>th</sup>. The Health Policy and Planning Commission voted 9-0 to recommend payment of this match at its full level.

CHAIRMAN CAMPOS: Well, that's easy but what about the money side of it. We can all say we'd love to do it but what about the money side? Where is it coming from? We have negotiations with the unions, we've got some election expenses, we've got expenses coming at us from all angles. Where do we get \$1 million?

MR. SHEPHERD: Mr. Chair, I'm looking at a spreadsheet right here. The cost would be split between the Indigent Fund, the 220 fund and the EMS/Other healthcare fund, the 232 fund, and would be paid from cash balance.

CHAIRMAN CAMPOS: Okay, would there be any prejudice to any other program.

MR. SHEPHERD: No, we don't believe there would be any effect to any other programs.

CHAIRMAN CAMPOS: Any other question or comment?

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I think staff has looked at this very carefully. I think that the Health Policy and Planning Commission has looked at this very carefully. I think this is going to benefit the communities in Santa Fe County so I would move to approve this.

CHAIRMAN CAMPOS: Is there any further discussion to this motion?

COMMISSIONER SULLIVAN: Mr. Chair, I would second the motion with one discussion comment. I think that - I've discussed this with the staff and with the chairman of the Health Policy Planning Commission recently and my concern, and I want to be sure that people understand is that this is a supplemental match that the County provides. Last year the supplemental funding we provided was about \$417,000 in matching funds which generated a total of \$1.6 million to St. Vincent. This year because of apparent unuse of these funds by other entities, we're being asked to provide \$1.018 million which will generate \$4.049 million for St. Vincent.

So that's more than a two-fold increase. Almost a three-fold increase. We've had discussions over the years during my term, with St. Vincent's over issues of reporting, of community input, and just a number of issues that we as the Commission and Indigent Board felt were very important. And I have to say that very often I feel like the Peanuts cartoon with Lucy holding the football and me and this Commission running down the path and having the football yanked out from in front of us at the last minute and landing on our backs. The hospital has not come forward with the changes that they themselves agreed to. Now we have Mr. Estremera-Fitzgerald on board to pay full time attention to this and I just want to condition my second and approval of this funding on some substantive changes which have been agreed upon by St. Vincent and this is the last time I'm going to get the

football pulled out on me. After a while you learn not to do that anymore. I think as Commissioner Anaya said the staff has done some good work in structuring this particular supplemental program and the County and county residents, including city residents will substantially benefit from it. I'm willing to take it on that faith. And I hope it works. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Any other discussion?

**The motion to approve the supplemental payment match passed by unanimous [3-0] voice vote. [Commissioners Montoya and Duran were not present for this action.]**

**XII. 2. Resolution No. 2004-112. A Resolution Requesting an Increase to EMS/Health Care Fund (232) to Budget Prior Fiscal Year 2004 Cash Balance for Expenditure in FY 2005**

MR. SHEPHERD: Mr. Chair, I'd like to pass out the budget adjustment. [Exhibit 1] It was completed late so we are forced to pass it out at the meeting. Mr. Chair, Commissioners, this is the budget adjustment in the form of a resolution that will pay for the match. As you can see the split between the 220 indigent, now called the Healthcare Assistance Program fund is \$450,000. The split for the EMS/Other healthcare fund is \$568,453.

CHAIRMAN CAMPOS: Questions or comments?

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER ANAYA: Second.

**The motion to approve Resolution 2004-112 passed by unanimous [3-0] voice vote. [Commissioners Duran and Montoya were not present for this action.]**

**XII. D. Project & Facilities Management Department  
2. Request Approval of a Memorandum of Agreement between the County of Santa Fe and the City of Santa Fe for the Joint Regional Trails and Open Space Santa Fe River Project/\$222,500 [Exhibit 2]**

PAUL OLAFSON (Open Space and Trails Director): Item 2 and then the following item, number 3 are both related. These are MOAs with the City for mechanical funding processes to allocate the monies and transfer them through the City for completion of joint regional projects. Item 2 is a river corridor from Camino Alire to 599. Staff's been working with the City for several months, about nine months to get these together. I stand for any questions.

CHAIRMAN CAMPOS: Mr. Olafson, this is the regional GRT money?

MR. OLAFSON: Correct.

RPA? CHAIRMAN CAMPOS: And this has been I guess recommended by the

MR. OLAFSON: Correct, and approved by the Board.

CHAIRMAN CAMPOS: The County Commission?

MR. OLAFSON: Correct.

CHAIRMAN CAMPOS: It's already been approved, is that right?

MR. OLAFSON: Yes, sir.

CHAIRMAN CAMPOS: So you just want the MOA now?

MR. OLAFSON: The MOA is the mechanism to make the money start turning.

CHAIRMAN CAMPOS: Okay. It's a coordinated effort with the City?

MR. OLAFSON: Yes, sir. This river project, the City and the County staffs will jointly work on it from Alire to 599.

MR. FLORES: Mr. Chair, as you know, the GRT ordinance requires some type of agreement between the City and the County to discuss all these issues and that's what we're bringing forward now, the accumulation and the finality of that funding process.

CHAIRMAN CAMPOS: Okay. Questions or comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Chair, we didn't have this agreement in the packet and there was an agreement for the next one. In the next one the City is agreeing to operate and maintain the facilities. In this agreement it says the County and City shall develop a joint operations and maintenance agreement. What does that mean?

MR. OLAFSON: Mr. Chair, Commissioner Sullivan, that is also a requirement within the ordinance for the GRT. What that means is that because we're trying to approach this as a regional project, a true regional project where it's incorporating parts of the City's jurisdiction and the County's jurisdiction, but we want to create one unified project so it looks the same and feels the same as you're going between the segments. And what this is referring to is we will work out as the project is developed a joint maintenance and operation to the extent that both parties can get into it.

COMMISSIONER SULLIVAN: Is most of this located in the city or in the county?

MR. OLAFSON: It's approximately half and half.

COMMISSIONER SULLIVAN: About half and half. So will we be having other expenditures, annual maintenance expenditures here, and if so, do they come from the COLTPAC funds or where do they come from?

MR. OLAFSON: Mr. Chair, Commissioner Sullivan, again, that's still to be determined. And part of this money is for planning as well as acquisition and development. And we will work out those numbers as that project is fully developed. Right now we're largely focusing on acquisition of the property to create the physical corridor and I anticipate that that second step then of long-term maintenance. And some initial

discussions have been saying the City has already crews and opportunities and maybe the County can participate more on the capital input and the City can then follow through on the maintenance input over time. But that exact determination has not been made.

The County GRT funds, well, the GRT funds and the bond monies are only for capital improvements so that is not an option.

COMMISSIONER SULLIVAN: Right. So we're providing the City with \$222,500 for professional services, planning, design, acquisition and construction, but we don't have the operations and maintenance component worked out yet. Is that what you're saying?

MR. OLAFSON: That's correct. And to the extent the County is able through the Projects Facilities and Management Department that's how we're currently managing or maintaining our properties And that would continue. Because this project is still in the acquisition phase we don't have a lot of infrastructure for long-term maintenance. And so these initial \$222,500 is shared actually, not given to the City. It's shared between the City and County to develop this physical corridor, the land itself. And I don't anticipate a lot of this funding will go into actual improvements of trails or benches or whatever.

COMMISSIONER SULLIVAN: So this will mostly be design and acquisition. Is that where it goes?

MR. OLAFSON: Correct.

COMMISSIONER SULLIVAN: Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay. Is there a motion?

COMMISSIONER ANAYA: Move for approval of XII. D. 2.

COMMISSIONER SULLIVAN: Second.

**The motion to approve the MOA with the City for the river corridor passed by unanimous [3-0] voice vote. [Commissioners Duran and Montoya were not present for this action.]**

**XII. D. 3. Request Approval of a Memorandum of Agreement between the County of Santa Fe and the City of Santa Fe for Certain Joint Regional Open Space and Trails Projects/\$270,000**

MR. OLAFSON: Mr. Chair, Commissioners, again, this is a follow-up, or the same GRT funding, the same mechanism. These are three projects through that are solely within the city, aside from the foothills trails which is also known as the Dale Ball Trail system, which is partially in the county, partially in the city. But these three projects will be run through the City and this is a mechanism to fund those projects through the agreements and the RPA.

CHAIRMAN CAMPOS: Now, you're saying, Mr. Olafson that they're

strictly in the city but I assume they benefit a regional connection.

MR. OLAFSON: Certainly, and that's how they were chosen is that they were part of the regional open space and trails network.

CHAIRMAN CAMPOS: Okay. Any questions or comments? Commissioner Sullivan.

COMMISSIONER SULLIVAN: This is the one, Mr. Chair, that on page 2, paragraph 1B, in the contract, where it indicates the City shall operate and maintain all facilities following completion of each individual project. And then I wonder why, it goes on to say that the County and the City will develop an operations and maintenance agreement for all facilities. Aren't we saying that the City is going to maintain it? Or is that not yet decided upon?

MR. OLAFSON: Mr. Chair, Commissioner, no. We're saying that the City will operate and maintain these. And as part of their reimbursement process they will present also an operations plan for the completed segment or the project.

COMMISSIONER SULLIVAN: But the reimbursement plan meaning they request money from the County?

MR. OLAFSON: This is all done on reimbursement. The project is built through the City, these projects are built through the City and then they're billed back to the County and we reimburse. And as part of that they will demonstrate how they are going to operate and maintain that facility.

COMMISSIONER SULLIVAN: Okay, I understand that for the capital improvements and acquisition but we don't do reimbursements for the operations and maintenance, do we?

MR. OLAFSON: No, sir. This is solely capital.

COMMISSIONER SULLIVAN: So I was just asking what the operations and maintenance agreement was going to be. Why there was a need to develop an operations and maintenance agreement between the City and the County when we say in that paragraph that the City is going to operate and maintain all facility.

CHAIRMAN CAMPOS: Will it be done pursuant to the plan that the County and the City develop together? They will do it pursuant to the County/City plan. Is that what that second sentence means?

MR. OLAFSON: Yes, I think that's what we're leading to. What we're trying to say is that the City will build it and maintain it and the County will have some sort of say on what the City plans to do for maintenance as part of our signing off on the money. But we will not - this does not indicate that the County will have any responsibility for maintenance.

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

CHAIRMAN CAMPOS: Okay. Is there any further comment or question?  
Is there a motion?

COMMISSIONER SULLIVAN: Move for approval?

CHAIRMAN CAMPOS: Is there a second?

**The motion to approve the MOA with the City for open space projects passed by unanimous [3-0] voice vote. [Commissioners Duran and Montoya were not present for this action.]**

**XII. D. 4. Resolution No. 2004-113. A Resolution Requesting Approval of a Joint Resolution between the County of Santa Fe and the City of Santa Fe for Maintenance and Improvement of the Santa Fe River Corridor**

MR. OLAFSON: Mr. Chair, Commissioners, this was a joint resolution through the City. Councilor David Coss brought it forward through the City and asked us to bring it forward to the Board. There's no fiscal impact on this. It's simply stating that the river corridor from the foothills, from the watershed down to La Cienega is an important amenity for both the County and the City and requesting or directing the City and the County to work jointly together on it. They also identify involving youth in maintenance and improvements on the river corridor and specifically getting together with the local youth corps group called Youthworks as well as other youth groups to work on the river.

CHAIRMAN CAMPOS: And the money will come from where? Apparently they talked about applying for federal or maybe state monies.

MR. OLAFSON: Mr. Chair, they identify applying for the New Mexico Youth Conservation Corps to get funding for getting the youth into the river. But there's no commitment per this agreement. It's just agreeing to start working towards finding that money.

CHAIRMAN CAMPOS: So there's no fiscal impact as you stated.

MR. OLAFSON: Correct.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER ANAYA: Second.

**The motion to approve Resolution 2004-113 passed by unanimous [3-0] voice vote. [Commissioners Montoya and Duran were not present for this action.]**



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

- 1. Executive session**
  - a. Discussion of pending or threatened litigation**
  - b. Limited personnel issues**
  - c. Discussion of possible purchase, acquisition or disposal of real property or water rights**
  - d. Discussion of bargaining strategy preliminary to collective bargaining negotiations**

Commissioner Anaya moved to go into executive session pursuant to NMSA Section 10-15-1-H (2, 5, 7 and 8) to discuss the matters delineated above. Commissioner seconded the motion which passed upon unanimous roll call vote with Commissioners Anaya, Campos, and Sullivan all voting in the affirmative.

[The Commission met in executive session from 2:40 to 5:00.]

Commissioner Sullivan moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Duran seconded. The motion passed by unanimous 3-0 voice vote. [Commissioners Montoya and Anaya were not present for this action but joined the proceedings immediately afterward.]

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

- 1. Consideration of Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees**

MR. GONZALEZ: Mr. Chair, I believe that you have before you a proposal with respect to solidifying the collective bargaining agreement with AFSCME and the recommendation from the Manager's office would be that what is being proposed be the agreement and that agreement be extended to the non-AFSCME County employees as well.

CHAIRMAN CAMPOS: Could you outline that for us very briefly?

MR. GONZALEZ: I'm going to ask our staff to step up and do the outline so that you get all the details. As you know Joseph Gutierrez has been participating on the negotiating team and is privy I think to the details in the way that can respond to any questions that the Commission may have.

JOSEPH GUTIERREZ (Deputy Finance Director): Mr. Chair, members of the Commission, the terms of the AFSCME negotiations in terms of the agreement that AFSCME has voted on, in terms of dollars and percent increases, they have voted on and passed by their membership an agreement that allows a three percent increase for AFSCME members for people who make \$25,000 and over, and a four percent increase for anybody that makes \$25,000 and less. And that is for a two-year agreement starting January 1, 2005. One of the

increases is approved at that point, and then the next increase would happen January 1, 2006. So it's a two-year agreement.

CHAIRMAN CAMPOS: Okay. Any questions or comments? Is there a motion?

COMMISSIONER ANAYA: Move for approval, Mr. Chair, and I'm glad to see that you guys are finally negotiated and worked together in coming out with this agreement.

MR. GUTIERREZ: It was a very successful negotiation. A lot of cooperation.

COMMISSIONER ANAYA: Thank the bargaining team for us.

MR. GUTIERREZ: I will do that.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN CAMPOS: That's a motion to approve per the outline of terms by Mr. Gutierrez. And there's a second. Discussion?

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

MR. GONZALEZ: Mr. Chair, I just want to make sure we understand that the terms would also be extended to the non-AFSCME employees who were not covered by any of the other -

CHAIRMAN CAMPOS: Do you need a motion on that?

MR. GONZALEZ: I believe that would probably be appropriate.

CHAIRMAN CAMPOS: Commissioner Anaya, would you make the motion that these terms also apply to the non-union members.

COMMISSIONER ANAYA: I make a motion that these also apply to the non-union members. The three and the four percent.

COMMISSIONER SULLIVAN: Second.

**The motion to extend the agreement to non-AFSCME members passed by unanimous [5-0] voice vote.**

**IX. Matters from the Commission**

**B. Request to Publish Title and General Summary of an Ordinance Requiring the Use of Ignition Interlock for Certain Persons Convicted of Driving While Intoxicated (Commissioner Duran)**

COMMISSIONER DURAN: Thank you. I met with the County's DWI Council last week and we discussed the pros and cons of developing a County ordinance that would require first time offenders to have this interlock device installed in their car. And there are definitely some pros and cons that need to be discussed and brought out and so I'm asking the Commission to approve this request to publish title and general summary for an ordinance that would allow us some time and give staff direction to work with the DWI Council and other interested parties to develop an ordinance that can be brought

forward for our consideration.

CHAIRMAN CAMPOS: Commissioner, have you checked with legal to see if we have legal authority to impose this type of requirement?

COMMISSIONER DURAN: I'm asking for – that's one of the things that we're going to do in that whole process of discovery and finding out what's appropriate and what's not.

CHAIRMAN CAMPOS: The first question is whether it's legal or not before we even decide to publish title and general summary.

COMMISSIONER DURAN: Well, is legal here? Let's ask him. Did you even talk to legal, Mr. Sims?

DAVID SIMS (DWI Coordinator): Mr. Chair, Commissioners, we have been in dialogue with the Legal Department about this because that is certainly one of the issues that has to be worked out. I met this afternoon briefly with Dr. Dick Roth along with Sophia Collaros to look at some of the legal issues and Mr. Roth has found a similar kind, a comparable law that's in the state of Texas that has withheld challenges in the court and so we're investigating options or ways that an ordinance could be implemented that would be legal.

COMMISSIONER DURAN: Does that answer your question?

CHAIRMAN CAMPOS: Not really. We haven't gotten a legal opinion yet on whether we have authority to do this. Commissioner Montoya.

COMMISSIONER MONTOYA: I think this – I agree totally with the concept. Whatever we can do to deter people from getting behind the wheels of their cars or in their cars and this is certainly something that I think is a good deterrent. And I would move that we at least explore this concept and see what we can do here in Santa Fe County to enforce this.

CHAIRMAN CAMPOS: What is the state law right now as far as interlock devices?

COMMISSIONER MONTOYA: I really don't know.

COMMISSIONER DURAN: Commissioner, I'm not an expert on this. I think that I really didn't want to have major discussion about this because I know very little of it, and I'm sure you have a zillion questions. I'm sure that you would agree with me though that if some lives can be saved by having this device installed in first time offenders that it's at least worth a few minutes of your time and some discussion.

CHAIRMAN CAMPOS: I don't disagree. I think it is premature at this point.

COMMISSIONER DURAN: Well, I'd like to make a motion that we approve the request to publish title and general summary of an ordinance requiring an ignition interlock for certain persons convicted of driving while intoxicated. That's my motion.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Commissioner, are you talking about first time

offenders?

COMMISSIONER DURAN: Commissioner, I'm only talking about publishing title and general summary to discuss it.

CHAIRMAN CAMPOS: Okay, so you're not sure about that. Any discussion or comments?

**The motion to publish title and general summary of an interlock ordinance passed by majority 3-1 voice vote with Commissioner Campos voting against.**

**X. Committee Resignations/Appointments/Reappointments**

**B. Request Appointment to the DWI Council**

COMMISSIONER DURAN: At the last meeting Judge Gallegos resigned from the DWI Council and I had asked if the Commission would consider appointing me to that council and so that's what that's all about. If you don't want to do it that's fine. The DWI Council actually extended an invitation for me to attend at any time that I wanted to. My main focus here is to try and get this interlock device legislation passed and work with our state legislators to do something about it. So my request is to be appointed. I think as a council member I might have a little bit more - I guess I would just have a little bit more not authority but I would be speaking from the council and getting the council behind the effort.

CHAIRMAN CAMPOS: In the past, Commissioner, hasn't it been the practice that the council would make recommendations as to who members should be or not?

COMMISSIONER DURAN: Commissioner, it doesn't matter to me if you want to appoint me or not.

CHAIRMAN CAMPOS: Have they recommended that you -

COMMISSIONER DURAN: I don't know what the process is.

CHAIRMAN CAMPOS: You do not know?

COMMISSIONER DURAN: No.

CHAIRMAN CAMPOS: So you've not asked them to make a recommendation?

COMMISSIONER DURAN: No.

CHAIRMAN CAMPOS: And it's also a citizen advisory committee to advise the Board of County Commissioners on certain issues and you are a Commissioner.

COMMISSIONER DURAN: I was on the DWI Council several years ago as a representative from the Commission.

CHAIRMAN CAMPOS: Who does that now?

COMMISSIONER DURAN: No, because of time constraints I did withdraw from serving on that Board.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Are you afraid that Commissioner Duran might influence the board on things that might come to our Board?

CHAIRMAN CAMPOS: I'm concerned one, we don't have a DWI Council recommendation. Two, this is a citizen advisory committee. We as Commissioners have a lot to do. And we have to pull our weight as Commissioners and it just that would be the best focus.

COMMISSIONER ANAYA: Mr. Chair, I think that if a Commissioner, who is also a citizen, wants to participate in a DWI Council I think he should. So I want to make the motion to appoint Commissioner Duran to the DWI Council.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Discussion.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: I agree as well. I think Commissioner Duran has expressed an interest and I would hope that if any of us had an interest in whatever committee that we might want to participate and serve on and we feel that we have the time that we should hopefully be given consideration in serving on there. I think it's good that whenever you can have – and I know I'm speaking from my community organization perspective – if I can ever have someone of the status of an elected official on a committee I certainly welcome that and I think we should always do that whenever we can and I know we did with Judge Gallegos as an elected official and now with Commissioner Duran. I think it would be good.

COMMISSIONER DURAN: I think that I bring an experience to this whole thing that might be unique to the members that are on the council now and I'd like to take advantage of that experience and turn a bad experience into something that is good. Although I appreciate the Commissioners support on this my intent is only to try and make the law stronger and prevent DWIs from occurring as much as I possibly can.

CHAIRMAN CAMPOS: Okay, there's a motion and a second.

**The motion to appoint Commissioner Duran to the DWI Council passed by majority 4-1 voice vote with Commissioner Campos voting nay.**

### **XIII. Public Hearings**

#### **A. County Manager**

##### **1. Request Approval of the North Central Regional Transit District Intergovernmental Contract**

MR. ABEYTA: Thank you, Mr. Chair. On July 27<sup>th</sup> the BCC adopted Resolution 2004-82 which was a resolution to join the North Central Regional Transit District. In your packet is the intergovernmental contract providing for the creation of the North Central Regional Transit District and Santa Fe County is a member. Pursuant to the

New Mexico Regional Transit District Act, the Board of County Commissioners has to approve the contract at a public hearing so we noticed for this hearing and we are requesting approval. The County Attorney and County Manager's office have reviewed the contract. The contract covers the district's boundaries, membership, duties and authority of the district. Commissioner Montoya has been appointed by the Board of County Commissioners to serve as the County's director and Jack Kolkmeier will serve as the County's official designee member. Thank you, Mr. Chair.

CHAIRMAN CAMPOS: Okay, any questions or comments from the Commission?

COMMISSIONER MONTOYA: Mr. Chair, move for approval.

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Any discussion. Is this a public hearing?

MR. ABEYTA: Mr. Chair, yes, it is a public hearing.

CHAIRMAN CAMPOS: Anybody in the public want to discuss this issue, the approval of the North Central Regional Transit District intergovernmental contract. Okay, no one having come forward, there's a motion and second. Any discussion?

**The motion to approve the contract for the North Central Regional Transit District passed by unanimous [5-0] voice vote.**

**XIII. B. Land Use Department**

**1. Request Authorization to Publish Title and General Summary of an Amendment to the Santa Fe County Water Conservation Ordinance 2002-13 to Extend the Deadline for Compliance with Indoor Water Conservation Measures to July 1, 2005, and to Reduce the Maximum Violation Penalty From \$400 to \$300**

WAYNE DALTON (Special Projects Coordinator): On July 13, 2004, the BCC directed staff to bring forward an amendment to the Santa Fe County Water Conservation Ordinance, 2002-13. Ordinance 2002-13 currently requires that all businesses within Santa Fe County including the Extraterritorial Zone meet outlined indoor water conservation requirements by January 1, 2005. Additionally, Ordinance 2002-13 assigns a penalty fee of \$400 for those that have violated the ordinance requirements on four or more occasions. In order to mitigate financial strain on businesses required to retrofit their facilities to meet Ordinance 2002-13 the deadline will be extended from January 1<sup>st</sup> to July 1, 2005.

According to NMSA 1978 Section 4-37-3.C8, Santa Fe County may not assess a fine exceeding \$300. Therefore the maximum penalty fines listed in Ordinance 2002-13 should be reduced to \$300.

Requested action. Staff requests that the BCC grant authorization to publish title and general summary of the above referenced ordinance amendment. The proposed amendment will

be scheduled to be heard by the CDRC on October 21<sup>st</sup> and by the BCC on November 9<sup>th</sup>.

CHAIRMAN CAMPOS: One hearing for the BCC?

MR. DALTON: Mr. Chair, I believe that is correct.

CHAIRMAN CAMPOS: And the rationale for this time extension is because we concluded that the law applied to the EZA? The Water Conservation? Initially we thought that it didn't and then we changed that it does.

MR. DALTON: Mr. Chair, that is correct.

CHAIRMAN CAMPOS: Okay. Any other questions or comments?

Commissioner Sullivan.

COMMISSIONER SULLIVAN: Wayne, there some provisions in this ordinance that are in bold in our packet. Are those provisions new language? There's some on the second page. There's a strike-out of the dates and then there's some bold language on line 40. There's some at the top of the page. There's also some bold language on the first page on line 17, 18, and 19.

MR. DALTON: Mr. Chair, Commissioner Sullivan, I don't believe that is any additional language.

COMMISSIONER SULLIVAN: The language in the ordinance that you're changing then is only the language on the second page, line 39 and 40, just changing the date. And then on last page, line 11 where the violation for fourth and subsequent violations is reduced from 400 to 300. Is that correct?

MR. DALTON: Mr. Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody in the public, anybody out there want to comment, address the Commission on this issue? Okay, no one having come forward the public hearing is closed. Is there a motion to authorize the publication of title and general summary of an amendment to the Santa Fe County Water Conservation Ordinance 2002-13?

COMMISSIONER DURAN: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

**The motion to authorize publication of title and general summary to amend the Water Conservation Ordinance passed by unanimous [5-0] voice vote.**

**XIII. B. 3. EZ CASE #A 04-4271 – Ernest Montoya Appeal. Ernest Montoya, Appellant, is Appealing the Decision of the Extraterritorial Zoning Commission to Grant Approval of the Montoya Family Trust 14-Lot Family Transfer (Application #04-4270). The Property is Located on Paseo Don Fabian, which is at the End of Paseo Del Coyote Road, within Section 9, Township 17 North, Range 9 East. (Commission District 2) [Exhibit 3]**

CHAIRMAN CAMPOS: This is a case where we received extensive evidence at the last hearing. Mr. Archuleta, are you going to be presenting?

VICENTE ARCHULETA (Review Specialist): At the August 10, 2004 meeting of the Board of County Commissioners of the County of Santa Fe appellants submitted voluminous records that had not been previously provided to staff. Subsequently, the BCC tabled the appeal so as to allow staff the opportunity to thoroughly review the new information and provide the BCC with a new analysis and recommendation. As a result of that analysis, staff recommends that the appellants' appeal be granted in part and denied in part. Specifically, staff recommends that the BCC find that tract B, lot 4 is not eligible for a family transfer because that lot has not been within the family proper for at least five years as required by the EZO.

New lots created by the family transfer division must be transferred to the children of the current legal owner of the existing undivided lots. On August 23, 2004 Land Use staff and the County Attorney's office met with members of the Montoya and Romero families. A history of the ownership of the 27 acres of land that is the subject of this appeal was provided in great detail. A summary of this history is set forth below. In 1931 155 acres of land was purchased by Fabian Montoya, grandfather of the current applicants. Marcella Montoya Romero, Rosina Montoya Romero, Victoria Montoya Romero and Antonio Montoya. There was an ownership dispute between Ursula Montoya Hayter, Fabian's daughter, and the heirs of Julio B. Montoya, Ursula's brother and father, the current applicants and appellant.

That dispute was settled in 1989 pursuant to a settlement agreement whereby Ursula Hayter transferred ownership of 31 acres of the 155 acres that have been owned by Fabian to Gilbert P. Montoya, Antonio Montoya, Rosina Montoya Romero, Marcella Montoya Romero and Ernest Montoya, appellant, as tenants in common. The 27 acres that is the subject of this appeal was included within the 35 acres that Ursula transferred to the individuals named.

Although ownership of the 35 acres continued to be as tenants in common, the ownership interests of individual siblings changed over the years. Specifically, in December 1998 Victoria Montoya Romero acquired the right to approximately five acres from Antonio Montoya, leaving Antonio with the right to two acres. In October 1998 appellant Ernest Montoya brought a lawsuit against his siblings who also owned as tenants in common the 35 acres. Ernest Montoya wanted to have the 35 acres partition, that is he wanted the land to be formally divided into lots with each sibling owning in fee-simple a specific lot. That lawsuit was settled by court arbitration in August 1999 with the arbitrator ordering that the land be



partitioned among the siblings as follows: Ernest Montoya - 8 acres, Marcella Romero - 8 acres, Rosina Romero - 8 acres, Victoria Romero- 5 acres, Gilbert Montoya, 4 acres, and Antonio Montoya - 2 acres.

EZC approval was necessary to effectuate the court-arbitrated partition of land. Initially, the parties proposed that the land be partitioned by giving Ernest Montoya his 8 acres and his siblings the remaining 27 acres. That 27 acres would be divided into 14 lots and transferred to children of the various siblings pursuant to the EZO family transfer division of land provisions. Reflecting this two-part process, the EZC's agenda for April 11, 2002 reflected a request for a court-ordered land division and family transfer.

Ernest Montoya objected to this process, insisting that the land be divided by the EZC in the precise manner contained in the arbitration award. Consequently, the original two-part proposal was withdrawn. Instead a new plan was submitted that calls for 35 acres to be partitioned into six lots pursuant to the arbitration award. The EZC's agenda for August 8, 2002, however, continued to refer to a court-ordered land division and family transfer, despite that fact that there was to be no family transfer.

In short, the EZC approved a court-ordered land division in August 2002, not a family transfer. The lots created by the EZC's August 2002 decision along with their acreage and record owner were as follows: Tract B, Lot 1 = 8 acres, Ernest Montoya. Tract B, Lot 2 = 8.01 acres, Marcella Romero, Tract B, Lot 3 = 8 acres, Rosina Montoya Romero. Tract B, Lot 4 = 4 acres, Gilbert Montoya. Tract B, Lot 5 = Victoria Romero. Tract B, Lot 6 = 2 acres, Antonio Montoya.

In September 2000, Rosina Montoya Romero obtained Gilbert P. Montoya's in the 35 acres. On March 3, 2004, Tract B, Lot 4 was transferred by quitclaim deed to Gilbert Montoya. The plat establishing the current lots and effectuating EZC's 2002 decision was filed on March 10, 2004. Gilbert transferred Tract B, Lot 4 to Rosina Montoya Romero by quitclaim deed. Excuse me, Gilbert transferred Tract B, Lot 4 by quitclaim deed back to Rosina Montoya Romero.

Recommendation" On May 10, 2004, Marcella Montoya Romero, Rosina Montoya Romero, Victoria Montoya Romero and Antonio Montoya were granted approval for three family transfer divisions shown on one plat which created 14 lots. The family transfer plat approved by the EZC includes the adjustment of four of the original 2002 lot lines and combines or delineates all three family transfers on one plat.

Ernest Montoya appeals the EZC's decision. Staff recommends that Ernest Montoya's appeal be granted in part and denied in part. Tract B, Lots 2, 3, 5 and 6 are eligible for family transfer. The current fee-simple owners of those lots have owned the acreage represented by those lots since at least December 1998, albeit as tenants in common. In staff's judgement, however, the form of the ownership does not make a difference for purposes of the EZO family transfer divisions of land provisions.

On the other hand, Tract B, Lot 4 is not eligible for a family transfer and the appeal should be granted as to that lot. To be eligible for a family transfer the land must have been in the lawful possession of the family proper for no less than five years. Family proper is defined

as lineal relations up to and including the third degree, grandparents, parents, child. Here, Rosina Montoya Romero acquired her interest in Tract B, Lot 4 in 2004 from her brother, Gilbert Montoya. Consequently the land has not been in the family proper for at least five years since sibling is not a linear relationship.

Neither the EZC's order nor the applicants' material clearly indicated which family members were to receive which lots. The EZO requires that new lots created pursuant to the family transfer divisions of land provisions be transferred to children of current legal owners of the existing undivided lots. Consequently, staff recommends that as a condition of approval, the applicants must submit supplemental material clearly demarcating which child is to receive which lot and that such materials be submitted prior to recordation of the plat.

We are dealing with three small lot family transfers at this time and the applicants will not be doing any lot line adjustments. Lot 2 will consist of four lots, one lot for Marcella Montoya Romero, one lot to each of her three sons, Isaac, Edward and Phillip. Lot 3, Rosina Montoya Romero's lot, will consist of four lots being transferred to her sons, Patrick, Lawrence, Chuck and Roman. Lot 4, Rosina Montoya Romero's lot will remain four acres. Lot 5, Victoria Montoya Romero's lot will consist of four 1.25-acre lots being transferred to one lot for Victoria and each of her two daughters, Joanne Romero Wildenstein and Amy Romero. Lot 6, Antonio's lot, will remain the same. Thank you.

CHAIRMAN CAMPOS: Any questions of Mr. Archuleta?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Mr. Archuleta, how many of those lots, are they all within the 2.5-acre minimum?

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, the minimum lot size for family transfers is 1.25 acres and they are keeping those. Vicki handed out a plat showing the delineation of the lots. As you can see, Lot #5 will be four lots and that will consist of four 1.25 lots. The rest of the lots that are being proposed are going to be a minimum of two acres.

COMMISSIONER MONTOYA: Okay. Five is going to be four lots?

MR. ARCHULETA: Lot 5, the northern-most property will be four lots. And those lots will be 1.25 acres. They won't be doing any lot line adjustments at this time. What they're going to do is create 14 lots as the EZC approved.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Let me ask one quick question. Do they all meet minimum lot size?

MR. ARCHULETA: For family transfers, yes.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER ANAYA: Mr. Chair, Vicente, so right now this paper that we received, that's what they want to do? Correct?

MR. ARCHULETA: Mr. Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: So then it is different from the last time?

MR. ARCHULETA: Mr. Chair, Commissioner Anaya, the last plat that they

were proposing with the 14 lots was going to require lot lines to be moved as part of the replat. At this point in order to eliminate the lot line adjustments they're going to create lots within the lots that have already been created. That have already been approved.

COMMISSIONER ANAYA: So, for example, Lot 5 is divided into four lots, which is shown there in dark, and then Tract B, Lot 2, 1, 2, 3, 4 lots. Lot 3, 1, 2, 3, 4. And Tract B, Lot 4 is going to remain the same.

MR. ARCHULETA: Mr. Chair, Commissioner Anaya, that's correct.

COMMISSIONER ANAYA: And Tract B, lot 6 is to remain the same.

MR. ARCHULETA: That's correct.

CHAIRMAN CAMPOS: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicente, the only question I had is the EZC originally approve this and the appellant is what we're hearing, right, today?

MR. ARCHULETA: Mr. Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: Now, is this what the EZC approved that we now have in front of us?

MR. ARCHULETA: Mr. Chair, Commissioner Sullivan, the EZC approved a 14-lot family transfer.

COMMISSIONER SULLIVAN: But it contained, as I recall, I don't see it in the packet tonight, but as I recall it contains bits and pieces of lots that were kind of aggregated to make different and new lots. Isn't that right?

MR. ARCHULETA: That's correct, but at this point the applicant is not going to be doing a lot line adjustment so all the lots will be coming out of the original lots that were approved.

COMMISSIONER SULLIVAN: Okay. So if you're not doing a lot line adjustment, then do they not need to go to EZC?

MR. ARCHULETA: Mr. Chair, Commissioner Sullivan, the size is not going below the minimum lot size and the number of lots that they're creating are not increasing so we felt that it didn't need to go back to EZC. They're asking for 14 lots, they're proposing 14 lots. They were approved for 14 lots and now the lot size - four lots are going down to 1.25 but that's still the minimum lot size that's allowable.

COMMISSIONER SULLIVAN: I understand that. The configuration is different. I guess I just need to get a comfort level here from legal if I can, or from Roman. Whomever. That we're okay procedurally here. This is in essence a new submittal. I understand it's cleaner. It doesn't rob from Peter to pay Paul in terms of the lots, but I'm concerned procedurally because there's obviously objections to this. We have a letter that I've just received. I haven't had a chance to digest it from Coppler and Mannick, attorney objecting to the proceedings so obviously, not everyone's in total agreement with this but procedurally are we on sound ground to consider this as the EZC case that it's labeled as?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, you do raise a good point. The number of lots isn't changing. But the same property isn't being used, exactly being used that was used at the EZC. So I think it's up to the BCC. Like I said, it's 14 lots still. The result

is the same but the amount of acreage involved wouldn't be as much as was originally approved by the EZC.

COMMISSIONER SULLIVAN: Well, I'm not uncomfortable with evaluating it as it's presented here personally. I just don't want us to be spinning our wheels on this if it's a new submittal that should be reviewed first by the EZC. Your feeling is it's okay.

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, I don't know if it's okay because you're right. What the EZC approved was a family transfer of 14 lots on a certain amount of acreage. Now that has changed. But it's changed as a result of the appeal. And so the Board could, in granting the appeal, or not granting the appeal, I think has the discretion to limit the number of lots or change the amount of acreage that's approved at this hearing.

COMMISSIONER SULLIVAN: See, that's why I'm confused. I appreciate that we've learned more about the ownership now and also I want to thank staff for the effort they put into unscrambling this, these ownerships. It's a lot clearer. But are we not being asked to either deny the appeal or approve the appeal. And is not the appeal an appeal to the actions of the EZC?

MR. ABEYTA: Mr. Chair, Commissioner Sullivan, I think that's why our recommendation was that some points of the appeal should be upheld and some should be overturned. And as a result of that we're eliminating some of the lots that were originally approved by the EZC, which I think is within your discretion to do as an appeal. You can alter the EZC's approval.

COMMISSIONER SULLIVAN: Okay, so there's a part of that partial approval and partial denial that it would be appropriate to go that one step further and say -

MR. ABEYTA: Say you need to take this acreage out because it was -

COMMISSIONER SULLIVAN: Say that this revised lot plan is within our authority to act on this evening.

MR. ABEYTA: Yes.

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

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: I believe that the last time we met we asked staff to go back and meet with the applicant and try to work things out and that's why we're hearing what we're hearing today. And this seems like it's coming back a little bit cleaner because like you said earlier that we're not crossing lines. So I believe that's what we gave staff to work with and they did come back. I think we could act on this today, unless you're wanting to take it back to the EZC.

COMMISSIONER SULLIVAN: Actually, Commissioner, I'm not, but I'm wanting to get some legal back-up for that personal opinion. And I understand what Roman says and if our County Attorney's comfortable with it then I'm comfortable with it. Are you comfortable, Mr. Ross?

MR. ROSS: Mr. Chair, Commissioner Sullivan, we're getting a copy of the subregs right now and we're going to double check the appeal procedures. I think what your

question is, we lawyers talk about appeals basically in two categories, a record appeal and a de novo appeal. We're just going to see if we can figure out if there's any guidance in the Code.

De novo means on the appeal you can raise any issues or consider anything. A record appeal you'd be restricted to thumbs up or thumbs down on what the EZC did and you might have to send it back. So we're going to check and make sure that you have broad discretion to make decisions like that. And we'll let you know at the conclusion of the discussion.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chair, so we're taking out Tract B, Lot 4 as part of the original approval by the EZC and this request.

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, it's still going to be in the 14-lot family transfer. At this point it's going to remain as a four-acre tract. It's not going to change as far as its going below four acres.

COMMISSIONER MONTOYA: In the original one, did it change? I guess bottom line is are the lots getting smaller now as a result of excluding this tract?

MR. ARCHULETA: Excluding Tract B, Lot 4, the lots that were created in Tract B, Lot 5 are going to be less than two acres. The original proposal was two-acre tracts, two-acre lots throughout the subdivision, throughout the property. At this point eliminating Lot 4 is going to cause Tract B, Lot 5 to – instead of two-acre tracts they're going to have 1.25-acre tracts.

COMMISSIONER MONTOYA: And is there any way to include that tract and have what they had originally been approved for?

MR. ARCHULETA: Lot 4 is the lot in question because that one hasn't been owned by – it was transferred from brother to sister and it has to be held for a period of five years before it can be transferred.

COMMISSIONER MONTOYA: I understand that but then at the same time we're making the lots smaller, creating more density.

MR. ARCHULETA: If they do a family transfer on Lot 4, that's correct. If they subdivide that there'll be a family transfer later, that's going to be two two-acre tracts and then it will be a 15-lot family transfer instead of the 14 lots. But they'll have to come in and reapply for that at that time. This is not part of this. They're not asking to split this property at this time.

COMMISSIONER MONTOYA: Because, why?

MR. ARCHULETA: Because it's not eligible for a family transfer.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN CAMPOS: Mr. Archuleta, you presented us a letter from Coppler and Mannick dated September 14, 2004.

MR. ARCHULETA: Yes.

CHAIRMAN CAMPOS: And there's a request that it be made part of the record.

MR. ARCHULETA: That's correct.

CHAIRMAN CAMPOS: Would you present a copy to our reporting clerk so

that it – it has been, so it is part of the record. [Exhibit 5] I have a question on page 1, the Coppler Mannick talks about the restrictive covenants that lots cannot be – they must be at least 2.5 acres in size. Can you address that a little bit? Are there restrictive covenants that apply to this land?

MR. ARCHULETA: Mr. Chair, Ernest Montoya may have submitted those covenants, but the County doesn't enforce private covenants. That's something between the homeowners association and the landowners in the area. The County doesn't enforce private covenants.

CHAIRMAN CAMPOS: So we simply ignore them?

MR. ARCHULETA: At this point, yes.

CHAIRMAN CAMPOS: Okay.

MR. ARCHULETA: Well, Mr. Chair, Commissioner Montoya, maybe Roman can help me with that.

MR. ABEYTA: Mr. Chair, it is a private covenant and the County doesn't enforce private covenants. The reverse would be true also if they were to say that you could have half-acre lots, that we restrict you to 1.25, you're restricted to 1.25. So it works both ways. The County won't enforce private covenants.

CHAIRMAN CAMPOS: Do we ignore them?

MR. ABEYTA: We do. It's a private matter. If they're violating a private covenant, the remedy would be to take them, to take a civil action against the subdivider.

CHAIRMAN CAMPOS: But there are clearly restrictive covenants on this land, from what you could tell, on the record?

MR. ABEYTA: Mr. Chair, I would have to confirm that with either Vicente or the property owner because again, we weren't a party to those covenants. There may be private covenants on that land.

CHAIRMAN CAMPOS: That's not an issue you really looked at.

MR. ABEYTA: That's not an issue we looked at.

CHAIRMAN CAMPOS: Okay, Commissioner Duran.

COMMISSIONER DURAN: I think in the past we have always disregarded restrictive covenants and I think that it's time that we actually start looking at them and factoring them into our approval process because what we basically do is promote the act of breaking covenants by allowing them to go what they are deed-restricted to. I think in all areas, if everyone has bought into a piece of property knowing that the minimum size lot is five acres or 2.5 acres or whatever, and invested in a piece of property based on that, and then all of a sudden everybody around them goes to family transfers and breaks it down to 1.5 acres, I really think that that's not fair to those individuals that bought with the understanding that there was restrictive covenants. I think that we might require as a condition of approval perhaps a title commitment so we can look at that or at least the restrictive covenants because I really think that it's not fair to promote this kind of activity.

CHAIRMAN CAMPOS: Are you done?

COMMISSIONER DURAN: Yes, I guess I'm done.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, Commissioner Duran, but what if in the covenants they said you could have a guesthouse, what if on the covenant on an acre and a quarter said you could have a guesthouse, you could have a second home, and then we'd be back in the same boat. We'd say, Wait a minute. You can't do that. So you can look at the covenants as being on both sides. If we do that, if we do look at accepting covenants, they're covenants might say they could have a guesthouse and then we'd have to go with it.

COMMISSIONER DURAN: I think the County ordinance, the stricter of the two would be the ones that apply.

CHAIRMAN CAMPOS: That's right. You'd apply the stricter standard and the stricter standard is the restrictive covenant, which is 2.5 acres.

COMMISSIONER ANAYA: Okay.

CHAIRMAN CAMPOS: I think Commissioner Duran's argument is pretty sound.

COMMISSIONER DURAN: Unless of course the area is dotted with lots that are similar in size to what they are requesting. It just gets pretty complicated after that.

COMMISSIONER ANAYA: Mr. Chair, I'd like to hear more.

CHAIRMAN CAMPOS: We could go to public hearing now unless you have any more questions of staff. Okay, applicants' representative. Please state your name and address.

[Duly sworn, Roman Romero testified as follows:]

ROMAN ROMERO: My name is Roman Romero. I live at 1740 Avenida Cristo Rey in Albuquerque, New Mexico, 87104.

CHAIRMAN CAMPOS: Have you had a chance to review the report? You're an attorney, correct?

MR. R. ROMERO: Yes, I am.

CHAIRMAN CAMPOS: Are you appearing here as an attorney?

MR. R. ROMERO: No, I'm not.

CHAIRMAN CAMPOS: Okay. Who do you represent?

MR. R. ROMERO: My name is Roman Romero. I'm a direct lineal descendent of Fabian and Julio Montoya and a potential heir of this property that's being split.

CHAIRMAN CAMPOS: So you're one of the potential beneficiaries?

MR. R. ROMERO: That's true.

CHAIRMAN CAMPOS: But you don't represent everybody in the group.

MR. R. ROMERO: That's true.

CHAIRMAN CAMPOS: Okay. Mr. Romero, do you dispute anything that staff has concluded as far as the denial and allowing family transfers for Lot B, Tracts 2, 3, 5, and 6 and not on Tract 4?

MR. R. ROMERO: Absolutely, Mr. Chair, members of the Commission. Let me give you my reasons, okay? First of all I'd like to take a historical approach to the property at issue before I answer that question.

CHAIRMAN CAMPOS: Let me just say this. We've heard this here before and we've read a lot of this stuff already so we have a pretty good idea. So if you could just –

MR. R. ROMERO: I think I can answer your question as well as Commissioner Duran's input regarding the restrictive covenants, whether or not they should be enforced in one swoop. Okay, first and foremost, being a direct lineal descendent of both Fabian and Julio Montoya, this land has been in our family for many years. As my uncle Ernest Montoya has testified before you and I'm sure would be more than honored to do so again, this family has used that property to grow chile, corn, squash, beans and my uncle Ernest took part in doing this himself, through the rearing of my uncles and aunts on my maternal side. Now, as an unfortunate consequence throughout the span of this property being in our family's name since 1931, there was a flaw in the transfer or property back when my great grandfather Fabian left a life estate to his wife Crucita. The property ended up transferring illegally to my mother's aunt Ursula.

So in other words, this family never lost title to the property that's before you today. We lost color of title and that's it, because Ursula took, when she shouldn't have taken, the reason why she shouldn't have taken is because all of that was left to transfer when this will was sent to probate was a life estate. And you could only transfer a life estate with what you have. If you have a life estate everything else has to go back to the kids once you're deceased. So in turn, what happened is the land had to be reassigned in order for Ursula to sell from her acreage. This happened in 1989 when Ursula was able to quiet title to the property by bequeathing the property to my maternal aunts and uncles.

So again, this property got back into our family. It never really left the family. Now, it's the EZC's position that my mother, Rosina Romero Montoya, lost possession of it for the requisite five years as per the organic act pertaining to family transfers. But Mr. Chair, members of the Commission, if you take a close reading of the organic act, the organic act states that the property needs to be in lawful possession. Okay? Now it doesn't say that the title of the property has to be vested with a particular family proper for five years, it just says it has to be in lawful possession.

What happened, and why this is important for Mr. Chair and members of the Commission to understand is that there was an arbitration agreement in 1989 that took place which forced my parents to issue some of these aunts to my uncle Gilbert Montoya. My uncle Gilbert wasn't the proper taker because he wasn't in a position where he could take property. So in order to satisfy the legal requirements of the arbitration agreement, back on March 10, 2004, my mom was forced to give the property to Gilbert by deed – only by deed, okay? Not by lawful possession, but by deed – and take it back nine days later. And it's the EZC's understanding that my mom lost lawful – okay? Lawful possession, not title, but lawful possession of the property, therefore the lots in question which is Tract B, Lot 4 shouldn't be eligible for the family transfer.

I'd like to point out to the members of the Commission that in the Gould decision it was pointed out that the Commission should be more lenient when they approach family transfers as the purpose of family transfers are to promote cultural heritage, to promote keeping land within



families, to promote smaller pieces of land being able to divided and transferred to potential heirs. And it's only under strict circumstances where the conditions aren't met for a family transfer that they should be denied. For example, in the Gould case, the petitioners were trying to transfer some property in which there was absolutely no water. No water. Simply put, you can't transfer land of that magnitude when there's no water.

The conditions here that are being overlooked are the fact that my mom never lost lawful possession of the property. Title was switched over to my uncle Gilbert's name for a couple of days and switched back over to her. And the only reasons were to fulfill the agreements as per arbitration.

Now earlier Commissioner Duran made a good point. He said, Well, shouldn't we look ahead instead of with hindsight and deal with restrictive covenants prospectively. And this is a very good example, a good case in point why we shouldn't. Because this is the County Commission and we shouldn't afford any difference to restrictive covenants because restrictive covenants are private agreements to be enforced and just record. Restrictive covenants don't apply to this case because this land was out of my family's legal possession due to the color of title strain that was put on it. Therefore, my family had no voice when these restrictive covenants were put into place. Yet, once we received our actual title because it had a flaw in it, once we received legal title or Anglo-American title to this property it becomes an issue because it's been so many years that have passed they weren't allowed to actually vote and participate in the enacting of these restrictive organic acts. With that I'd like to open the floor for questions.

CHAIRMAN CAMPOS: Any questions of Mr. Romero? Sir.

COMMISSIONER MONTOYA: So, Mr. Romero, regarding the correction that I asked on Tract B, Lot 4, it sounded like you're of the opinion that we could look at this within the whole picture. [Exhibit 4]

MR. R. ROMERO: Oh, absolutely. I think the EZC was correct in its original determination that this should be approved through and through. The reason being is it's been in family since 1931. The only thing that's ever been lost is color of title when there was an error as far as the transfer of the life estate belonged to my great grandfather Fabian.

COMMISSIONER MONTOYA: Now, if it's included, does that change the size of the lots that are currently being proposed, which are small.

MR. R. ROMERO: Mr. Chair, Commission, if I understand correctly, it's my understanding it should be approved exactly how the EZC approved it.

COMMISSIONER MONTOYA: Mr. Chair, Mr. Ross, what's your opinion on if we were to include Tract B, Lot 4? Which is about a year away. Is that correct? About a year away from being able to be transferred?

MR. R. ROMERO: If it were taken that the transfer that title of the deed, as opposed to what the statute says, which is lawful possession, two different things, then I don't know exactly how much time we would lack in having to do this. But I would like to point out that this statute is supposed to be read so as to effectuate its purpose. There's a million reason why this family transfer could not fulfill its purpose. What we're before you today asking for you to allow you to fulfill its purpose, which is to keep this land in the family, maintain

traditional values and allow us to go forth with the EZC's recommendation.

MR. ROSS: Mr. Chair, Commissioner Montoya, is the question still on the table?

COMMISSIONER MONTOYA: Yes.

MR. ROSS: If you'll take a look at our – I guess this is a staff report, page 4, we address that issue. We're not convinced that Tract B, Lot 4 can be eligible for a family transfer at this time so I guess you're asking if you grant the family transfer what could happen. I guess it could be appealed and reversed I suppose by the district court given that fact. This is an opinion of staff. It might be wrong but I don't think it is.

COMMISSIONER MONTOYA: So we shouldn't consider it?

MR. ROSS: I would advise that you not consider that particular lot at this point. The time will run and then that lot can be addressed, but at present staff opinion is that it's not eligible for family transfer at this point. It hasn't been held long enough.

COMMISSIONER MONTOYA: So long is required then, Mr. Archuleta before this can be considered? Tract B, Lot 4?

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, it would have to be held for five years.

COMMISSIONER MONTOYA: So as of March 1, 2004, or eleven days after – so essentially it's still five years, four and a half years.

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

MR. ROSS: Mr. Chair, Commissioner Montoya, we explored a few different options but at the worst it will be four and a half years. There may be another way to look at it that we've discussed just privately amongst staff but at the worst it will be four and a half years.

COMMISSIONER MONTOYA: So then why did the EZC approve it?

MR. ABEYTA: Mr. Chair, Commissioner Montoya, I wasn't at EZC but a lot of issues were raised after the EZC that I don't believe that were brought up at EZC. When the appeal was filed a lot of these other points were raised by the appellant and that prompted us to start looking into it more closely as to what exactly did happen and we sat down with the applicant and we went through the entire history from when it first got into when the property first went into, I believe the grandfather or great grandfather's possession. And that's when it was discovered that a portion of this lot hasn't been owned by one of the people during the transfer for five years because there was this exchange between her and her brother. And so we took the position that, well, to meet the exact letter of the law and to be clear you should leave that out because there was that exchange of property.

COMMISSIONER MONTOYA: Okay. So that when you're looking at family proper and lineal relations it's not brother-sister

MR. ABEYTA: Right. It's parent, grandparent to child, grandchild.

COMMISSIONER MONTOYA: Okay.

MR. R. ROMERO: Mr. Chair, members of the Commission –

CHAIRMAN CAMPOS: Hold on. Are you done?

COMMISSIONER MONTOYA: Yes.

CHAIRMAN CAMPOS: I have a question. He asked, Mr. Romero said that the break in title was only nine days and there was no true intent to pass title. Did you take that into consideration, Mr. Ross?

MR. ROSS: Mr. Chair, no. No, we did not.

CHAIRMAN CAMPOS: Do you think that's a significant factor, there was no, perhaps no real intent to transfer title but that it was transferred and transferred right back?

MR. ROSS: With land you can't really take into account intent. It's facts.

CHAIRMAN CAMPOS: But if you take intent into consideration.

MR. ROSS: Well, when there's an ambiguity in a deed, sure, you might look at what the intent of the parties was but in a simple transfer to and from folk, it's a legal transfer. You'd be hard-pressed I think to claim the property in those nine days.

CHAIRMAN CAMPOS: Okay. Commissioner Anaya.

COMMISSIONER ANAYA: Mr. Chair, I guess what the applicant wants to do is go with what the EZC recommended and that was the last plat, which I don't have. And do you have a copy of that so that I can compare? From what I'm seeing is the reason they're dividing it up like this is because you're not crossing lines. And in a year or whenever they come back, and they can come back after they have owned this Tract B, Lot 4 for five years, then they can split that into three pieces from what I'm seeing. So do we want to go with this plat here that has 14, or after five years they own Tract B, Lot 4, we can turn that into 17 pieces. Three more. So what I'm saying is do we want this first one that the EZC approved? Which are bigger lots? Or do we want to go with this 14 plus eventually they could go to three, so 17 lots, 16 lots. And I think what I'm hearing from the applicant is that they want to go with the EZC, correct? Approval, which they are crossing boundaries, but the intent if for the children, it's for the kids and I believe - is that your intention?

MR. R. ROMERO: Absolutely, Mr. Chair and members of the Commission.

COMMISSIONER ANAYA: So I would, to get this thing going again, I just would make a motion - I know I can't make a motion now. We still have public hearing, but to clarify that I think this would be the better approach to take.

CHAIRMAN CAMPOS: That's an argument. Maybe we'll do that at the end. Mr. Shaffer you had a comment?

GREG SHAFFER (Assistant County Attorney): Mr. Chair, members of the Commission, I just wanted to clarify one point which is with respect to the ownership period on Tract B, Lot 4. It's staff's position that even if you disregard the nine-day transfer in March of this year, it's still not eligible for a family transfer because the current record owner, Rosina Montoya Romero has not owned the property for five years. She acquired her interest in that acreage on September 28, 2000. So that's the best case scenario for her. That's less than five years so that's not an issue what you do with that nine-day transfer that we believe needs to be or should be resolved tonight. Because even if you resolve it in her favor, it's still less than five years.

CHAIRMAN CAMPOS: Okay. Now, are all the applicants here today? Not the appellant, the applicants. All the applicants who want this family transfer to go through, if you

could come up to the podium, state your name. Is there any of the applicants not here today?  
I'm going to let them come up to the podium please, state your name.

ROSINA ROMERO: I'm Rosina Romero. I'm the largest shareholder. My acreage is 12 acres. And I also have the most children.

CHAIRMAN CAMPOS: Okay. Do you have a representative here today?

ROSINA ROMERO: My son.

CHAIRMAN CAMPOS: Your son's representing you?

ROSINA ROMERO: Yes.

CHAIRMAN CAMPOS: Okay, the other applicants, will they come up and identify themselves and list who's representing them.

ROSINA ROMERO: May I ask something else first?

CHAIRMAN CAMPOS: Not right now.

PATRICK ROMERO: I'm Patrick, and I'm the one that's been doing -

CHAIRMAN CAMPOS: You're not an applicant, right?

MARCELLA ROMERO: My name is Marcella Romero and I am an heir and an applicant.

CHAIRMAN CAMPOS: And who is your representative?

MARCELLA ROMERO: Roman Romero.

CHAIRMAN CAMPOS: Roman, okay. Who else? Next person.

ANTONIO MONTTOYA: My name is Antonio Montoya. And he's my representative.

CHAIRMAN CAMPOS: Roman Romero is your representative. Okay.

VICTORIA ROMERO: My name is Victoria Romero and I'm being represented by my son-in-law, Kevin Wildenstein, who is also an attorney. He is not here; he could not be here tonight.

CHAIRMAN CAMPOS: Okay, so you're not represented tonight.

VICTORIA ROMERO: He's not here, no.

CHAIRMAN CAMPOS: Okay. She can represent herself. Okay, who else? Is any of the applicants missing?

PATRICK ROMERO: Mr. Chair, these are all the applicants. These are all the heirs. Also, a lot of the sons and I'm present right here as well.

CHAIRMAN CAMPOS: The applicants, they're all here?

PATRICK ROMERO: Yes, sir.

CHAIRMAN CAMPOS: Okay, Mr. Gallegos. Sir?

PATRICK E. ROMERO: My name is Patrick E. Romero and although I'm not an heir I used to own property up there.

CHAIRMAN CAMPOS: Are you an applicant?

PATRICK E. ROMERO: Yes, sir.

CHAIRMAN CAMPOS: For this family transfer?

PATRICK E. ROMERO: Yes, sir.

CHAIRMAN CAMPOS: And who's representing you?

PATRICK E. ROMERO: I guess Roman would be representing but I can also speak for myself.

CHAIRMAN CAMPOS: Okay, Mr. Gallegos. Patrick?

PATRICK ROMERO: I'm Patrick. I'm the one that's been doing most of the work on it.

CHAIRMAN CAMPOS: Who do you represent?

PATRICK ROMERO: Basically, I represent the whole family.

CHAIRMAN CAMPOS: Everybody?

PATRICK ROMERO: Yes.

CHAIRMAN CAMPOS: Do you have something to say, to add that's different?

PATRICK ROMERO: As to the whole project? Yes.

CHAIRMAN CAMPOS: We've heard this case before. We've heard a lot tonight. We've read a lot of stuff so if you could it brief.

[Duly sworn, Patrick Romero testified as follows:]

PATRICK ROMERO: Patrick Romero, 1938 Calle Micaela, Santa Fe, New Mexico. Chairman Campos, Commissioners, my name is Patrick Romero as I said. My grandfather was Julio Montoya and my great grandfather was Fabian Montoya and I basically represent the Montoya family and I've done most of the work on this project. I would like to assure you first of all that I've been totally forthcoming and honorable in how I've planned this family lot transfer. In doing this I met with County staff at least probably 50 times so I know everybody very well. And this has been over a five or six year period. In fact to serve the lots I'm building the roads to above, to County standards. I even have a bond at the bank and I wasn't required to comply with EZO regulation to make it to standard.

I've always told the whole history of this land. There's a lot of documentation on it that the County's had for some time. I did give a very simplified version of what's happened but basically my great grandfather bought this land in 1931.

CHAIRMAN CAMPOS: Okay, we've got the history. Do you want to add something different or new?

PATRICK ROMERO: Well, basically, there was an issue that was brought up as far as the covenants and I'd like to answer that once and for all. The covenants that were signed, in I believe 2002, we don't believe that they're valid and the reason why is they don't have 80 percent of the landowners. The original covenants that were made in I believe 1990 said you can add to these covenants but you can do so only if you have 80 percent of the landowners. Ernest signed, being one of the - they had like 80.6 percent or something, but he was not one of the landowners at that time. He cannot show me a plat or quit claim deed showing he was one of the owners.

In addition, he actually signed the plat in 2004 that has a two-acre lot on it, violating the covenants he created. So I think that's something to just show you. Another thing, we would prefer the 14 lots the way it is but if you guys go with the recommendation of the County Land Use staff want to approve the other thing, that's fine with us.

CHAIRMAN CAMPOS: Okay. Thank you.

PATRICK ROMERO: Thank you, Commissioners, Mr. Chair.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Yes, sir, Commissioner.

COMMISSIONER MONTOYA: Mr. Romero, my understanding is that the intent here is strictly and solely for a family transfer for you, your brothers, sisters, cousins to be able to build and live on this property.

PATRICK ROMERO: Yes, sir. Well, my mom actually made an agreement with us that when she gives us this property that we cannot sell it. So in other words we can only give it to the next family member because she wants to keep it in the family. It's our heritage, it's our land.

COMMISSIONER MONTOYA: Is that legal?

PATRICK ROMERO: Is that legal? My brother tells me so. My mom's that way.

CHAIRMAN CAMPOS: You had a brief point, Mr. Romero.

MR. R. ROMERO: One brief point, Mr. Chair, members of the Commission, is the whole key to understanding the simplicity of this case is in the definition section of the organic statute, which says that it has to be in lawful possession, okay? Not legal title, but lawful possession.

CHAIRMAN CAMPOS: You said that already, right?

MR. R. ROMERO: And that differs from the interpretation that the EZC has made this second time around.

CHAIRMAN CAMPOS: You've made that argument already, lawful possession.

MR. R. ROMERO: And one last closing thing. If you guys are wondering, members of the Commission, why we've divided the land this way, all you really have to do is count the grandkids and that's the purpose of this to be effectuated.

CHAIRMAN CAMPOS: Okay.

MR. R. ROMERO: Thank you.

CHAIRMAN CAMPOS: Mr. Archuleta, do you have anything to add?

MR. ARCHULETA: Mr. Chair, no.

CHAIRMAN CAMPOS: Is this the largest family transfer we've ever seen here in the county?

MR. ARCHULETA: Mr. Chair, it's the largest one I've ever dealt with.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Who wants to testify in this public hearing? Okay, there's one individual. Please come forward. Please state your name and your address.

ERNEST MONTOYA: My name is Ernest Montoya.

CHAIRMAN CAMPOS: You're the appellant here?

MR. MONTOYA: I'm the appellant.

CHAIRMAN CAMPOS: And you testified before us at the last hearing.

MR. MONTOYA: Yes.

CHAIRMAN CAMPOS: Do you have anything new to add?

MR. MONTOYA: Just the letter that we prepared in response. I'd like to get that read into the record.

CHAIRMAN CAMPOS: It's been made part of the record.

MR. MONTOYA: It's made part of the record?

CHAIRMAN CAMPOS: Yes, sir.

MR. MONTOYA: And I have just two or three brief remarks that I would like to bring to your attention. Number one -

[Duly sworn, Ernest Montoya testified as follows:]

MR. MONTOYA: In the letter from Vicente, it indicates that they had a meeting with the Montoyas and the Romeros concerning the history of the land and there is nobody in this family that knows the history of the land better than I did because my grandfather brought me up on that land. My siblings at the time that my dad died in 1955 were siblings. I think the oldest one, Victoria was probably like about 14 and they went on down. My father in his will left \$300 in the bank and the funeral services were \$600. I brought them up -

CHAIRMAN CAMPOS: Please stay to the facts of the case.

MR. MONTOYA: I brought them up from there until I got married. What it says over here is that they gave you the history. I was not present. I was not invited. I was not asked to participate. Therefore my end was not reviewed. True, my grandfather and my grandmother did have a life estate, but it was dissolved in probate. When it came to probate, my aunt, my mother and everybody quitclaimed everything back to my grandmother. My grandmother was then free to sell that property to Ursula.

She sold it. The deed is there. She has full title to it. My aunt in retrospect did not file for quiet title as they say. She filed for partition suit in order to grant to us, and these people have never appreciated what she did for us. She paid taxes on that property for 30 years.

CHAIRMAN CAMPOS: Okay, that is not a point in this. Just keep to the point.

MR. MONTOYA: She paid the taxes for 30 years. She filed a partition suit. They failed to respond within 30 days and yet she still granted them land and they say that they're heirs. They lost their inheritance when they failed to respond to the lawsuit within 30 days.

CHAIRMAN CAMPOS: Okay. Anything else?

MR. MONTOYA: Ursula granted that. She granted to all of us. There's no inheritance involved here and there's no title, no deed from probate, nothing. It was granted. The other thing that was not addressed in Vicente's is the issue that I brought up concerning the roads. I brought it to your attention that those roads were designed for 59 total lots. When you go over the 59, you're going to collector-subcollector type roads. Garrett Quintana has already platted 48 lots on 121 acres that Ursula sold to him. Fourteen more lots are going to give you what? Sixty-two, sixty-three. It goes beyond the easements that are required, the road requirements. And yet you're saying that the roads are okay.

The easements are not there, the roads are not proper. Something has to give and we're

dividing them. Who's going to pay for the change in them? I made the notion that Wilson's Road is going to criss-cross there. North Boundary is going to come through and North Efen is going to cut through. And all we're going to do is generate a lot of traffic going through there. And it's not necessary. That's the reason that I signed the covenants taking it to 2.5.

Now, I did not create the lot that he says at 2.5. That was created by Antonio, my brother, who sold to Victoria without platting, without requesting a plat and that was brought out in the deed that he executed to Victoria was not platted. There was no subdivision recorded. And I asked for a legal review of that one and the deed that Gilbert Montoya. Both of them and the deed that Gilbert Montoya. Both of them are in violation of what the Code says that you cannot sell, advertise for sale, without an approved plat. That plat for those two lots and the five that were sold to Victoria was never platted. There's no approved plat for that. And I asked for a legal opinion on those and I did not get it. It is not addressed in the issues that Vicente gave to the Commission. I stand for questions.

CHAIRMAN CAMPOS: Okay. Any questions of Mr. Montoya?

COMMISSIONER MONTOYA: Mr. Chair, Mr. Montoya, are you living out there?

MR. MONTOYA: No. I am preparing - I've got all my infrastructure in there. I will be probably developing. I've got an architect working on a set of plans now. I will probably go to construction come March or April of next year.

COMMISSIONER MONTOYA: So you're planning on moving out there?

MR. MONTOYA: I'm planning on moving out there. In retrospect I have not considered doing a family transfer because my kids - I've only got one of my kids who lives here. One of them lives in Phoenix. The other one lives in Chicago and another one in Albuquerque. How can I come before you and tell you I'm going to do a family transfer when my kids are not going to live there, similar to what you've got over here. You have people that live in Las Vegas that have an outstanding career. They've got a 17-acre - Charlotte, who is Patrick's daughter, is getting a lot in the original plat, she's got a 17-acre estate over there. She's got a liquor license and a bar within walking distance from Highland. Is she going to move over here, build a house, and commute back? That violates the principle of the family transfer that you're saying.

Now, what are they proposing now? They're proposing to cut 13 lots on 23 acres. Not 27 what was published. Now they're saying take four out but we're going to make 13 lots on 23 acres. That was not advertised to the public. There was no public notice that they were going to do that, yet we're considering to take action on that. That has to go back and get done the right way. The public was never informed that they were going to divide and subdivide and change and replat. They said to the public, 14 lots on 27 acres. They notified me by registered mail and Mr. Coppler that they were taking six lots on 27 acres and making 14 lots. Two different things. Deceit and misrepresentation.

COMMISSIONER MONTOYA: So on your acre lot then you're going to put one -

MR. MONTOYA: One house. I have a trust. My estate is already in a trust.



When I pass away or when my wife passes away, the trust is already going to take care of whatever I've got and how it's going to go. Basically, my trust is a will. At that particular time, yes, the trust will take effect and it's probably going to be broken down just like inheritance. Or if I decide, because it's a living trust, that one of my kids comes back and I want to do a family transfer I've got that option. For now I'm going to keep it at eight acres and I'm going to build my house and see what happens in my family. You never know what's there tomorrow. When the time comes and I need to take care of my family, I will.

But for now, that's what it is. I'm going to live out there. Once I live there then I can feel comfortable and honestly say I can make a family transfer. The parents not living on that land does not constitute a family transfer or the spirit of it.

COMMISSIONER MONTOYA: Thank you.

CHAIRMAN CAMPOS: Thank you, Mr. Montoya. Okay, sir.

MR. ARCHULETA: Sir, may I make one clarification?

CHAIRMAN CAMPOS: Sure.

MR. ARCHULETA: If this family transfer goes through, the EZC imposed conditions that they have to follow. Those were done by the EZC and it's not in this packet but when it gets – as far as the EZC was concerned, they approved it with conditions and the applicants agreed to the conditions so they will have to follow all conditions.

CHAIRMAN CAMPOS: They're not in our packet?

MR. ARCHULETA: No, sir.

CHAIRMAN CAMPOS: Can you get them to us?

MR. ARCHULETA: Did you want them right now?

CHAIRMAN CAMPOS: Well, I think we should have them before the decision is made.

MR. ARCHULETA: Okay.

CHAIRMAN CAMPOS: This is a public hearing. Anybody else want to come forward? Please come forward.

[Duly sworn, Rosina Romero testified as follows:]

ROSINA ROMERO: 2117 Old National Road, Las Vegas, New Mexico. Okay, I too would go to the ranch with my grandfather and take care of his horses and take care of the land. I was not an infant when that occurred. I want you to know what we're going through with [inaudible] She knows everything about my daughter except her income tax papers. I know he told she has acreage, she has a bar, she has this – He has too much time on his hands.

CHAIRMAN CAMPOS: Ma'am. This is about the issues, not about the personal things between the family members.

ROSINA ROMERO: We have gone and cut down the fences to get in,

CHAIRMAN CAMPOS: Not relevant. Please stick to the issues.

ROSINA ROMERO: We have gone through hoops and hoops and hoops to appease him. We went through, we've gone through litigation, we've gone through everything. We've given him everything he wants. The road is where he wants. The fence is where he wants.

CHAIRMAN CAMPOS: Ma'am, please stick to the issues.

ROSINA ROMERO: Okay. We cannot afford to be paying any more lawyers and wasting more –

CHAIRMAN CAMPOS: Okay. Thank you. Anybody else? Public hearing. Okay, sir. State your name.

[Duly sworn, Patrick E. Romero testified as follows:]

PATRICK E. ROMERO: 2117 Old National Road, Las Vegas, New Mexico. Good evening. Thank you for taking care of this issue and I apologize for all the time that you've spent. And I really have to take my hat off to these guys because they have busted their buns. I can't believe how many hours have been spent on this issue which in terms of family transfers, usually they're very, very easy. And you're right. We could have brought it down to 1.25 acres. We wanted larger plots. And maybe that's what Mr. Montoya would like.

The last meeting that we had here he actually kind of disclaimed the fact that these people were his brothers and sisters.

CHAIRMAN CAMPOS: Let's stay away from the family disputes. The facts of the case, please.

PATRICK E. ROMERO: So anyway, in order to do that I have to bypass a lot of the things that Isaac – but I have spent many hours dealing with Mr. Montoya trying to get this thing settled and it's been totally impossible. When he took us to court to partition, he didn't mention the fact that he also wanted to steal some of the land that the brothers and sisters owned already. Anyway, we figured that by cutting his acreage away from ours we would be able to do what we had to do and I think that Patrick is honest and forthright and he's done everything according to what the people in this court building have required him to do. We have jumped through every hoop you can think of and then some. And I hate to go through all these other things that have already been covered so really about the only thing I have to contribute at this point is I apologize. Mr. Anaya, Mr. Sullivan, Mr. Montoya, Mr. Duran, and Chairman Campos, I appreciate the fact that you take all this time and I realize that you're elected officials and I realize that you go through this quite often and with that I'd like to say that – who was it? Mike, you're very astute and maybe we can come back in a few years and change it into 1.25 acres. The land is wide open. You can't see a house for miles. So maybe there's room for an extra lot in there. But we really don't want to do that. And I think somebody said, Can we do that? Mr. Montoya, you're the boss here. Mr. Duran, you guys are all the bosses here. You can do whatever you want to do. You can tell us to go back and cut them into 1.25 acres if you wish. I stand for any questions that you may have.

CHAIRMAN CAMPOS: Thank you very much. Do you have a question?

COMMISSIONER DURAN: I have one question.

CHAIRMAN CAMPOS: Okay. Shoot.

COMMISSIONER DURAN: Maybe it's best that you're representative answer this because this is a question that I think all of you – well, not need to but obviously need to agree to. Would you be opposed if you were granted approval to put a deed restriction that all the homes that would be built on these properties would be stick-built homes? Not mobile

homes. Stick-built.

PATRICK E. ROMERO: That's economic development for any community, and I don't believe that you would allow us to put trailers up there. I'm sorry.

COMMISSIONER DURAN: Well, I can't require that. Stick-built –

PATRICK ROMERO: Chairman Campos, what do you mean by stick-built? Frame houses? I was planning to build like with those blocks.

COMMISSIONER DURAN: I guess what I meant is that they're not – no modular homes.

PATRICK ROMERO: Since the covenants of 1990, no mobile homes are allowed so there will not be any mobile homes or offsite-built homes are not allowed.

COMMISSIONER DURAN: Thank you.

CHAIRMAN CAMPOS: But the covenants are not effective according to –

PATRICK ROMERO: Chairman Campos, actually those are the ones from 1990 and we agree that they are valid and we will abide by them.

CHAIRMAN CAMPOS: You keep saying that. 2.5. They're valid.

PATRICK ROMERO: Those are the ones that were done by Mr. Montoya in 2002 I believe. They are not valid.

CHAIRMAN CAMPOS: Okay. Any other questions? Sir. We're trying to close this up. Do you have something new to add? State your name and address.

[Duly sworn, Antonio Montoya testified as follows:]

ANTONIO MONTOKYA: Antonio Montoya, 1082 Los Alamos, New Mexico. I just want to explain where the two acres that I have came from. In the very beginning, my little brother and I decided to let Victoria and Ernie in this. He gave his part to Ernie and I gave my part to Victoria but Ernie and talked and decided that the roads would need two acres with the land. So I thought, I'll hold on to two acres and I'll donate that so they can put the road in without hurting anybody's land. That's all I got to say.

CHAIRMAN CAMPOS: Okay. Thank you, sir. Okay, the public hearing is closed. Commissioners, discussion, questions. Commissioner Sullivan.

COMMISSIONER SULLIVAN: One alternative that I just chatted with briefly with Commissioner Anaya, that could be considered by the Commissioners provided we're okay on making these adjustments as I discussed earlier with legal staff from the EZC, what was approved at EZC, is that we really can – I'm concerned about this Lot 4. But we could really go around Lot 4 and approve the lots the way the applicant wants them with the exception of the little piece that they have changed in Lot 11 which is a part of Lot 4. And with the exception of Lot 4. That would give them 13 lots in the configuration they want originally, and originally approved by the EZC. And then they would have to wait the one year or the four and a half years, whichever it is, to make that lot line adjustment and create the final picture that they want, taking that little piece out of the one lot and dividing Lot 4 into half.

And that's really the only difference between what's proposed here and what's proposed originally, this crossing over of lines doesn't seem to be a problem, it's just getting into or abutting into Lot 4 that goes contrary to the staff recommendations. So that would be an

alternative that I throw out for consideration, would be in essence upholding the EZC for lots 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, and 14, and changing Lot 11 to conform to the existing lot line of Lot 4 and not making any changes to Lot 4 at this time. That would then give the applicants 13 lots. The legal issue of Lot 4 would not burden the proceedings, and they would then have, depending on whose opinion they go by either a year or four years to come back and make the final division to give them the 14.

That seems like a compromise that might work if the Commission thinks that's do-able.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Vicente, is that something that staff is comfortable with? And then same question for the applicant?

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, we'd be okay with that.

COMMISSIONER MONTOYA: With the conditions.

MR. ARCHULETA: With conditions, right.

COMMISSIONER MONTOYA: Same question for the applicant.

PATRICK ROMERO: Chairman Campos, Commissioner Montoya, there's a couple ways we can do this. First of all, we can do it the same as you see it here, and you can approve that tonight for the 14 lots. And what we could do is just do a lot line adjustment and not Tract 4 into it and we'll have the same exact results, the 1.92 acre lots.

COMMISSIONER MONTOYA: As Commissioner Sullivan has explained.

PATRICK ROMERO: Commissioner Sullivan knocked it down to 13 lots just now. What I'm saying is if we knock it up to 14 then I have to like make an extra one around the southwest corner. I just move all the lots, do a lot line adjustment and move everything over and I'll get the same exact thing, the 14 lots. And it's going to cost me several thousand dollars to do that and if that's what you guys require that's what we'll do.

COMMISSIONER SULLIVAN: Did you understand that? I didn't understand that.

PATRICK ROMERO: Okay. I'm sorry. Let me clarify.

COMMISSIONER ANAYA: Mr. Chair, do you understand what he's proposing?

PATRICK ROMERO: Yes, he's proposing 13 lots and then I wait either a year or four years to cut off the last lot.

COMMISSIONER ANAYA: What last lot?

PATRICK ROMERO: Lot #4.

COMMISSIONER ANAYA: Right.

COMMISSIONER SULLIVAN: And add back the little corner that you took out.

PATRICK ROMERO: Well, the fact is, yes. And that would work, but the County still hasn't given me an opinion whether or not it was in the family proper, Lot 4 for one year or for four years. So do I wait - or six months or whatever it's been. So do I wait

four more years to do that? Or do I wait ten months or a year to do that? If you approve it tonight, I have one year to file the plat and it will be in my mom's name in five years, is our opinion.

CHAIRMAN CAMPOS: Okay.

PATRICK ROMERO: It has been direct lineage, like if my grandfather, my great grandfather, for like seventy years or whatever it is. Can I yield time to my brother?

MR. R. ROMERO: Mr. Chair, members of the Commission, one last concern that I share with the County Attorney would be –

CHAIRMAN CAMPOS: Hold on a second.

COMMISSIONER SULLIVAN: I'm just explaining to the Commissioners what I tried to explain without the map. So if we want to follow what the applicants wanted and was approved by EZC, these lots could still be approved even though they cross the existing lot line.

COMMISSIONER MONTOYA: Oh, okay.

COMMISSIONER SULLIVAN: See what I'm saying? This existing lot line. What they tried to do in this was stay, not cross the existing lot lines, and they've lost out of them without crossing over the existing lot lines. That's what they did on this new plat.

CHAIRMAN CAMPOS: So Lot 4 is this lot.

COMMISSIONER SULLIVAN: So Lot 4 is made into these – well, Lot 4 is this one in the middle but what they did here was they said, okay, let's not cross, let's not divide or cross the lot lines. Let's make the existing lot lines the new lot lines. See? That's how these three got divided into four. And then they went all the way around created 14 lots leaving Tract 4 for some day in the future. That would give them the 14 lots they want. It would just give them smaller lots over here, which seems to be okay with them. The alternative is to go with Commissioner Montoya's suggestion of can we keep their larger lots in lots 1, 2, and 3, would be yes, we can. We go all the way around here and we simply back off this little corner there in Lot 11, and only allow one lot in Lot 4. And that totals up 13 lots.

Then in the future they can come back and make these lot line adjustments, whatever the time period. We have some time to think about that. So that's an alternative to giving them the area they want. And that's what EZC approved except for what this little corner portion of Lot 11, what they're now calling Lot 11 and what would be the new lots 12 and 13. So that's like a third alternative. Yes. Here's the current, then they come back and say here's what we want in the black lines. And then to accommodate this four lot problem they then said, Okay, let's stay within existing lot lines and let's make these sub-lots within existing lots. And I'm saying probably you don't need to do that. You can cross over lot lines. You just can't cross over Lot 4, that's all.

COMMISSIONER MONTOYA: Right.

COMMISSIONER SULLIVAN: So that would be a third alternative.

MR. ARCHULETA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

MR. ARCHULETA: What staff recommends would be the proposal we gave you tonight. That way there are no lot lines, no lines crossing over different lots. We

recommend that if it's approved to go with this proposal with the 14 lots leaving Lot 4 alone, leaving Lot 6 alone.

CHAIRMAN CAMPOS: Okay. With the conditions set by EZC?

MR. ARCHULETA: That's correct.

CHAIRMAN CAMPOS: Okay.

COMMISSIONER SULLIVAN: Mr. Chair, I had one other question. On page 4, the last sentence, page 4 of staff's memo of September 14, the first item in the packet. They say staff recommends that as a condition of approval the applicant submit supplemental material clearly demarcating which child is to receive which lot and that such materials be submitted prior to recordation of the plat. Now, you don't separate that as a condition, and that's not included in the EZC conditions, is it?

MR. ARCHULETA: Mr. Chair, Commissioner Sullivan, it wasn't, but that's what I did tonight. I clarified which children were going to get - I didn't say which exact lots they were getting but I gave the children's names to -

COMMISSIONER SULLIVAN: In the chart.

MR. ARCHULETA: No. That wasn't it. That was in addition to my report. It wasn't in the actual report. This came - I did this after. Just to clarify who was getting what lot.

COMMISSIONER SULLIVAN: So is that still needed as a condition? You're recommending as a condition that the applicant submit supplemental material.

MR. ARCHULETA: Right. And this evening, before the meeting tonight Patrick Romero and I sat down and we discussed who was getting what lots.

COMMISSIONER SULLIVAN: Okay, so that's taken care of. Okay. Thank you.

CHAIRMAN CAMPOS: Okay. Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chair, I move approval of the upholding of the EZC decision with regard to the family transfer -

CHAIRMAN CAMPOS: Hold on. Do we have to deny the appeal to Tract B, Lots 2, 3, 5 and 6? That's Mr. Montoya's?

COMMISSIONER SULLIVAN: Well, that's back to the issue of also, did we ever get an idea if this is a de novo appeal or if it's a whatever the other one was? Record appeal? I'm getting you with the legal stuff here Mr. Ross. If we go another three hours on this you're going to be out of a job.

CHAIRMAN CAMPOS: We're running out of time, guys.

MR. ROSS: Mr. Chair, Commissioner Sullivan, unfortunately, looking at the subregs it's not as clear a distinction as I had hoped. What it says is that the Board may reverse or affirm wholly or partly or may modify the requirement, decision or determination appealed from. Appealed from EZC. So there's a lot of discretion here.

COMMISSIONER SULLIVAN: Okay. So it sounds like we can tinker with it.

MR. ROSS: You can tinker with it.

COMMISSIONER SULLIVAN: Okay, so my tinkering motion then would be

to deny the Ernest Montoya appeal, to uphold the EZC decision with the conditions attached, the EZC conditions, and to modify the family subdivision proposal as delineated on the exhibit included with the submittal.

CHAIRMAN CAMPOS: Okay, what about Tract B, Lot 4 which staff concluded was not eligible for family transfer?

COMMISSIONER SULLIVAN: Well, this submittal tonight does nothing with Tract B, Lot 4. It remains as is. The applicant can come back some time later and do what they want to with it. They could actually make it into three lots of 1.25-acre each if they wanted to, I presume. It's four acres. But at this point in time –

COMMISSIONER DURAN: I'll second that, Mr. Chair. Commissioner Sullivan, could I add a friendly amendment?

CHAIRMAN CAMPOS: Hold on.

COMMISSIONER DURAN: Would you agree to state for the record state that that's with the understanding that the restrictive covenants of 1990 are in effect?

CHAIRMAN CAMPOS: Do we have a copy of that?

COMMISSIONER DURAN: They stated earlier that –

PATRICK ROMERO: Mr. Chair, Commissioner Duran, I do have a copy of that. I can provide a copy.

COMMISSIONER DURAN: Are those 1990? Is that what you said?

COMMISSIONER SULLIVAN: Mr. Chair, I really feel uncomfortable about including covenants in a motion.

COMMISSIONER DURAN: Okay. That's fine. Then I'll just, when we get to discussion I'll mention something.

COMMISSIONER SULLIVAN: I don't know if you – what was decided or what was the feeling on your stick-built proposal.

COMMISSIONER DURAN: I think that your motion as it's stated is adequate. Thank you.

COMMISSIONER SULLIVAN: Okay.

CHAIRMAN CAMPOS: Let me ask the applicant representative, do you have objections to the motion that has been made?

PATRICK ROMERO: Is that the motion Commissioner Duran was making?

COMMISSIONER DURAN: Not mine.

CHAIRMAN CAMPOS: The motion that Commissioner Sullivan made. Do you have any objections as representative of the applicants?

PATRICK ROMERO: No, I don't have any objections.

CHAIRMAN CAMPOS: Mr. Romero.

PATRICK ROMERO: Chairman Campos, Commissioner Sullivan, we can do it this way if you guys prefer us to do it this way.

CHAIRMAN CAMPOS: Okay, Mr. Romero?

MR. R. ROMERO: No, objections, just a concern and the concern is the one I share with the County Attorney.

CHAIRMAN CAMPOS: The only question is do you have an objection.

MR. R. ROMERO: No.

CHAIRMAN CAMPOS: Okay, now, staff, Mr. Ross or Mr. Shaffer, is a motion adequate to cover Tract B, Lot 4?

MR. ROSS: Mr. Chair, I don't think it covers it necessarily. I think the appeal would be denied.

CHAIRMAN CAMPOS: Should that be part of the motion?

MR. ROSS: The part of the appeal of Mr. Montoya would be actually granted.

CHAIRMAN CAMPOS: So that should be part of the motion?

MR. ROSS: For completeness, probably.

COMMISSIONER SULLIVAN: The appeal granted with regard to Lot 4?

CHAIRMAN CAMPOS: Tract B, Lot 4. Which is not eligible for family transfer.

COMMISSIONER SULLIVAN: Okay. You're right. So staff did say they wanted to separate this out so I would amend my motion to state that the appeal would be granted with respect to Tract B, Lot 4.

CHAIRMAN CAMPOS: Is that okay with the seconder?

COMMISSIONER DURAN: Yes, except that the interpretation, at some point in time they could come back and request family transfer after they meet the other requirements of ownership.

COMMISSIONER SULLIVAN: That's open to them at any time.

COMMISSIONER DURAN: Yes, I agree. That's fine.

CHAIRMAN CAMPOS: Any further discussion?

**The motion to rule on the Ernest Montoya appeal as noted above passed by unanimous [5-0] voice vote.**

[The Commission recessed from 6:50 to 6:55.]

- XIII. B. 5. EZ CASE #DL 04-4350 - Monroe Family Transfer. Harvey Monroe Sr., Applicant, Requests Plat Approval to Divide 2.503 Acres into Two Tracts for the Purpose of a Family Transfer. The Tracts Will be Known as Tract 1-C-1 (1.00 Acre) and Tract 1-C-2 (1.50 Acres). The Subject Property is Located within the Eco Seco Subdivision at 660 Camino Don Emilio within Section 28, Township 17 North, Range 9 East. (Commission District 2) [Exhibit 6]**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chair. Harvey Monroe Sr., applicant, requests plat approval to divide 2.503 acres into two tracts for the purpose of a family transfer. The tracts will be known as Tract 1-C-1 (1.00 Acre) and Tract 1-C-2 (1.50 Acres). The subject property is located within the Eco Seco Subdivision



at 660 Camino Don Emilio within Section 28, Township 17 North, Range 9 East, Two-mile EZ District.

On August 12, 2004, the EZC met and acted on this case. The decision of the EZC was to recommend approval of the request. The property is located within Eco Seco, a subdivision that was approved by the BCC on January 11, 2000, consisting of ten lots on 13.3 acres. The subdivision community water will be utilized and the applicant has submitted a letter of water availability imposing a quarter acre-foot of water per year. The minimum lot size in this area is 2.5 acres with water restrictions or one acre with community water or sewer, and half acre with both community water and sewer.

Currently, there is one residence on the property and which the applicant shares jointly with this son and daughter-in-law. The property has been owned by the applicant since 1999 and will be transferred as follows: Tract 1-C-1, one acre more or less, existing residence, to be retained by the applicant. Tract 1-C-2, one and half acres, more or less, vacant, to be transferred to Harvey Monroe, Jr.

This application was reviewed for the following: access, water supply, liquid waste, solid waste, fire protection, terrain management, archeological review and environmental review. Staff recommends denial of the proposed family transfer within the Eco Seco Subdivision. The subdivision was approved by the BCC with restrictions for not subdividing the original lots and variances for not requiring the community sewer system, and variances regarding width and grade of the road and length of the cul-de-sac. It is the evaluation of staff that the subdivision is in conformance with the minimum standards as it exists but not to increase the number of lots. If the decision of the BCC is to recommend approval, staff recommends the following conditions be imposed. Mr. Chair, may I enter the conditions into the record.

CHAIRMAN CAMPOS: They are so entered.

[The conditions are as follows:]

1. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing 0.25-acre feet per year per lot. Water meters must be installed to each lot at the time of development and meter readings must be submitted to the County Hydrologist annually by November 30<sup>th</sup> of each year. The applicant must submit proof of installation of a water meter for the existing residence prior to recording the plat.
2. Applicant shall comply with Eco Seco Subdivision covenants regarding architectural requirements, fire protection, and water conservation. Plat of survey shall indicate that a sprinkler system is required for residential units.
3. A 10-foot wide utility easement along all property lines must be dedicated and shown on the plat for future potential water lines.
4. As per ESR regulations Section 3.6.4 "Solid Waste" require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$86.01.
5. The applicant must obtain a permit from NMED for the proposed liquid waste disposal system, and address permit for existing septic system.

6. Applicant must contact Rural Addressing for the assignment of addresses for the proposed lot.
7. Compliance with County Fire Marshal review as applicable. Turn around shall be improved as required prior to recording plat.
8. Submit family transfer affidavits and deeds or transferring lots to family members prior to plat recordation.
9. Terrain management improvements in accordance with the Santa Fe County Regulations will be required on Tract 1-C-1 and at the time of development on Tract 1-C-2.
10. Reference recorded subdivision plat and covenants for Eco Seco Subdivision.
11. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Victoria Reyes, Development Review Specialist with the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

SFC Clerk 11/22/2004

CHAIRMAN CAMPOS: Any questions for Ms. Reyes? Basically, you're saying that the subdivision was created, certain lots were approved but a condition was set that no more lots could be subdivided.

MS. REYES: Mr. Chair, that's correct.

CHAIRMAN CAMPOS: Okay, and staff has concluded that if we increase the number of lots that the subdivision will not operate or function properly.

MS. REYES: Mr. Chair, that's correct. It will basically affect the roads, however, I believe the applicants have done some work to the road. They paved they road.

CHAIRMAN CAMPOS: Okay, is the applicant or representative here? Please come forward.

[Duly sworn, Harvey Monroe, Sr. testified as follows:]

HARVEY MONROE, SR.: I'm Harvey Monroe, Sr. and this is Harvey Monroe, Jr. behind me.

CHAIRMAN CAMPOS: Mr. Monroe, do you challenge any of the factual statements made in this report?

HARVEY MONROE, SR.: We're happy with the situation as approved by the zoning -

CHAIRMAN CAMPOS: Do you agree that there is a BCC condition that said there would not be any further subdivisions of any of the lots in this subdivision?

HARVEY MONROE, SR.: Yes, we do. As a matter of fact it would be impossible to do it. The only other lot that would be able to do it is covered by an arroyo and unbuildable.

CHAIRMAN CAMPOS: Okay, so you bought this lot knowing these limitations?

HARVEY MONROE, SR.: When we bought the lot it was before the subdivision was set up. And we agreed to participate in the subdivision with the understanding

that we could do a transfer when it became legally possible.

CHAIRMAN CAMPOS: Okay, anything further you want to add?

HARVEY MONROE, SR.: No, we just hope that you approve it.

[Previously sworn, Harvey Monroe, Jr. testified as follows:]

HARVEY MONROE, JR.: My name is Harvey Monroe, Jr. and I also live at 660 Camino Don Emilio. We had a meeting with all the property owners of Eco Seco, our little community and there was a unanimous, by all the property owners, there was a unanimous decision to support the lot split.

CHAIRMAN CAMPOS: Okay

HARVEY MONROE, JR.: And we have also improved the road over and above what was originally designed and built by the original developer. Yes, we did buy that property before the development occurred and upon signing and being shown the subdivision plat as it was finally approved we were somewhat surprised to see that we were excluded from supposedly doing the lot split. But we were not made aware of that prior to having the subdivision plat giving it to us.

CHAIRMAN CAMPOS: Okay. Thank you, sir. This is a public hearing. Anybody want to speak for or against? Okay, the public hearing is closed, no one having come forward.

COMMISSIONER DURAN: Move for approval, Mr. Chair.

CHAIRMAN CAMPOS: Hold on. Any discussion first? Commissioner

Sullivan.

COMMISSIONER SULLIVAN: What is the -- tell me about is this a community water system that serves the ten lots?

MS. REYES: Commissioner Sullivan, it is a community water system that serves Eco Seco Subdivision.

COMMISSIONER SULLIVAN: So with a community water system lots can go down to one acre in size?

MS. REYES: One acre, yes.

COMMISSIONER SULLIVAN: So each home has a meter? Then, is metered.

MS. REYES: Each home should have a meter and we do have a condition that they will put a meter.

COMMISSIONER SULLIVAN: Let me just check with the applicant. Does each home have a meter?

HARVEY MONROE, SR.: Yes, each house has a meter and there are several undeveloped lots that do not have a meter on them.

COMMISSIONER SULLIVAN: As you say, each home has a meter. The reason that -- we have one well then that's already serving ten homes, one domestic well that serves ten homes under the 72-12-1.

HARVEY MONROE, SR.: I don't think there are ten homes built.

COMMISSIONER SULLIVAN: That would ultimately serve ten homes, serve ten lots.

HARVEY MONROE, SR.: It's serving ten lots; this will make it eleven.

COMMISSIONER SULLIVAN: This would be eleven lots.

HARVEY MONROE, SR.: Right.

COMMISSIONER SULLIVAN: So we'd have ultimately, once all the lots are built out, one well serving eleven lots.

HARVEY MONROE, SR.: We have three acre-feet and that will serve the eleven lots plus the swimming pool which is a substitute for a water tower for fire protection. There's a standpipe on the swimming pool so that the Fire Department can use it. We also upgraded the well by increasing the pump and putting a reserve 1500 gallon tank in there to get the water pressure necessary for all the houses to have sprinkler systems.

COMMISSIONER SULLIVAN: And then let me ask the staff, what was the issue on that, the prior Commission put the condition that there be no other lots? Did it have to do with access? Fire protection?

MS. REYES: Mr. Chair, Commissioner Sullivan, I believe it had to do mostly with the road and fire protection.

COMMISSIONER SULLIVAN: Because clearly we have 12 lots now. We have a community water system but my understanding, and I don't see any Fire Department back-up here is typically on any community water system we require a 30,000 gallon storage tank for fire flow and I understand they have a 1500 gallon tank but is there also a storage tank?

HARVEY MONROE, SR.: The swimming pool is the 30,000 gallon tank.

CHAIRMAN CAMPOS: The question was not addressed to you. You have to sit down. The question is to staff.

MS. REYES: You're asking if there's another storage tank?

COMMISSIONER SULLIVAN: I'm asking what the fire storage is.

MS. REYES: I'm not sure what the fire storage is. Every one of the homes has a requirement to be sprinklered.

COMMISSIONER SULLIVAN: Okay, let me as the applicant then. I understand you have a swimming pool then and how much water does the swimming pool have?

HARVEY MONROE, SR.: I believe it's a minimum of 30,000 gallons with a pipe that would connect the Fire Department. So that was part of the original subdivision.

COMMISSIONER SULLIVAN: Okay. That would be a pretty big swimming pool.

HARVEY MONROE, SR.: Yes.

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

CHAIRMAN CAMPOS: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: The applicant, what's the purpose of the family transfer? It requests a family transfer in your letter but doesn't give the purpose as to why.

HARVEY MONROE, SR.: Well, currently the property is owned jointly by my wife, myself, and our son and his wife and this will take an acre off for him and he has two children. So it's for him to do as he wishes.

COMMISSIONER MONTOYA: Okay.

CHAIRMAN CAMPOS: So the lot is owned jointly. What does that mean?

HARVEY MONROE, SR.: Joint owned with right of survivorship. I'm a retiree attorney. But basically it has to do with succession.

CHAIRMAN CAMPOS: With survivorship.

HARVEY MONROE, SR.: Survivorship. So if I die he gets the whole thing.

CHAIRMAN CAMPOS: And you own it together. Your son is an owner right now. He's one of the joint tenants.

HARVEY MONROE, SR.: Right. Our side of the house that we live in is designed for senior citizens, wider doors, higher toilets.

CHAIRMAN CAMPOS: Okay. Thank you. Any motions?

COMMISSIONER DURAN: Move for approval.

CHAIRMAN CAMPOS: Is that with conditions?

COMMISSIONER DURAN: Yes.

CHAIRMAN CAMPOS: Is there a second? There's no second.

COMMISSIONER ANAYA: Second.

CHAIRMAN CAMPOS: Okay, there's a second.

The motion to approve EZ Case #DL 04-4350 passed by majority 3-2 voice vote with Commissioners Sullivan and Campos voting against.

**XIII. B. 6. CDRC CASE #A/V 04-5100 - Johnny and Tillie Garcia Appeal Variance. Johnny and Tillie Garcia, Applicants, are Appealing the County Development Review Committee's Decision to Deny a Variance to Article III, Section 10 of the County Development Code to Permit a Family Transfer Land Division of 7.18 Acres into Three Parcels. The Property is Located at 901 Old Las Vegas Hwy., within Section 12, Township 15 North, Range 10 East. (Commission District 4)**

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chair. Johnny Garcia is appealing the Land Use Administrator's decision to deny a family transfer land division to divide 7.18 acres into three parcels. On May 20, 2004, the CDRC met and acted on this case. The decision of the CDRC was to recommend denial for a family transfer land division to split 7.18 acres into three parcels. The property is located within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres. Lot sizes may be reduced to 40 acres if

the applicant signs and records water restrictions. The minimum lot size for a small lot family transfer can be reduced to 20 acres. Lot sizes of a minimum of 2.5 acres are allowed based on water availability as approved by the County.

There is currently one home and one septic on the property. The applicant states that he purchased the property with the intent of subdividing the property in order to give a portion of his land to his children. The applicant also states that his children are now of age and would like to start a life of their own.

Recommendation: Staff recommends denial of the appeal based on Article III, Section 10 of the Land Development Code which states the minimum lot size for a small lot family transfer in this area is 20 acres. Staff also recommends the request for a variance be denied. The proposed lot sizes may be allowed based on water availability as approved by the County with a minor variance of the 2.5-acre minimum.

CHAIRMAN CAMPOS: Okay. Any questions? Is the applicant here?

[Duly sworn, Tillie Garcia testified as follows:]

JOHNNY GARCIA: My name is Johnny Garcia and my address is 901 Old Las Vegas Highway, Santa Fe.

CHAIRMAN CAMPOS: Okay.

MR. GARCIA: This property we're talking about has been in the family for over 150 years and I would like to leave it to my children for hopefully another 150. This property is being supplied with water from the Cañoncito Water Association and I have transferred the necessary water rights to cover three meters. The first two meters in 1972 and now I can purchase a third one right away. I'm in this predicament right now because the National Park Service condemned over 100 acres and that's all I have left. So I would appreciate your consideration in this matter. I want to thank you.

CHAIRMAN CAMPOS: Okay, questions? Commissioner Duran.

COMMISSIONER DURAN: So you're bordered by the Old Las Vegas Highway and I-25, correct?

MR. GARCIA: I am in between both.

COMMISSIONER DURAN: So as you're driving east on the frontage road, Old Las Vegas Highway, you're on the right-hand side?

MR. GARCIA: Right.

COMMISSIONER DURAN: Across from the KOA campground?

MR. GARCIA: Well, before you get to the KOA.

COMMISSIONER DURAN: Before you get to it. KOA is just before it drops down.

MR. GARCIA: It's milepost 9 exactly.

COMMISSIONER DURAN: Because I recall that a gentleman by the name of Joe Miller owned a property in there and I think he subdivided in small lots, didn't he?

MR. GARCIA: No. He's on Highway 84/285 across from the Eldorado Subdivision.

COMMISSIONER DURAN: I remember there was something in there.

Okay. Thank you very much.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody want to speak for or against, please come forward now.

[Duly sworn, Virgil J. Vigil testified as follows:]

VIRGIL J. VIGIL: My name is Virgil J. Vigil and I am presently a board member of the Cañoncito Water Association and also the secretary for that association. Mr. Garcia has been a member of the association now for many years, 40-plus years or so. And he came to the board requesting - currently we are providing water to him right now for his dwelling. He came to the board requesting future water needs and the board approved that request.

Since then, just to let you know the Cañoncito Water Association is a growing community and we have just received, recently from the state legislature almost \$180,000 to improve our water system, which we're going to add another holding tank. Right now we have two. We're going to add a third one. And then we're going to put some fire suppression lines in. And we're also adding another well. So the Cañoncito Water Association does have and we are committed to providing the necessary water in the future. Of course he's not going to need it now, but we're talking about the future because he just wants to transfer the land or split the land for his family. I stand for any questions.

CHAIRMAN CAMPOS: This has water lines that serve all, the whole lot.

MR. VIGIL: Yes, sir. There's water meters. We have water meters that serve this land right now. Yes, sir.

CHAIRMAN CAMPOS: And there's one house or more than one house right now, on this lot?

MR. VIGIL: Two houses.

CHAIRMAN CAMPOS: Two houses. Okay. Any other questions? Sir.

COMMISSIONER SULLIVAN: I'm a little confused about the water situation. The staff report says there's one home on the property and a septic tank, and it's served by a well. Is the current property served by the Cañoncito Association, or by the well?

MR. VIGIL: A lot of dwellings, there's a lot of restrictions in our water association. For example, you can't have a swimming pool. That's one restriction. There's some homes that do have their own private wells and also are serviced by the Cañoncito Water Association.

COMMISSIONER SULLIVAN: Does this property connect to the Cañoncito Water Association and pay monthly fees to you?

MR. VIGIL: That's affirmative.

COMMISSIONER SULLIVAN: Okay, so then I'm to assume that the onsite well isn't used. Maybe I should ask the owner. What's the purpose of the well if you're getting water from the association.

MR. GARCIA: What I did was transfer my rights from my well to the community system.

COMMISSIONER SULLIVAN: Your domestic water rights. Okay. So you're not using the well now.

MR. GARCIA: No.

COMMISSIONER SULLIVAN: And just the association water.

MR. GARCIA: Right.

COMMISSIONER SULLIVAN: And the association would provide water for the other lots as well.

MR. GARCIA: Right.

COMMISSIONER SULLIVAN: Okay. Thanks. Then when the CDRC heard the case, the comment was made by Mr. Catanach, who's a staff member - Chairman Gonzales asked if an approval could be contingent upon getting the aforementioned proof. Mr. Catanach said it was hard to make that commitment given that Cañoncito's water system has never demonstrated adequate water availability or rights to support additional residences. Could you comment on that?

MR. VIGIL: Mr. Chair, Commissioner Sullivan, as I indicated earlier, we have just received \$800,000 from the state legislation. We had \$250,000 dedicated for purchasing water rights for the association because we are a growing community and we have gotten the support from our state senators, the legislature to improve our water system. And we are in the process of doing that right now. In fact we're working on the preliminary reports with the engineers. And again, we are going to add another - with the \$800,000, we're adding, we got the land, we're drilling another well, we're adding another holding tank and we're increasing the line capacity so we can also have fire protection and then serve additional members of the community who need water.

COMMISSIONER SULLIVAN: And you're going to use some of that money to purchase additional water rights, you said?

MR. VIGIL: That's affirmative.

COMMISSIONER SULLIVAN: Where will you get the water rights?

MR. VIGIL: Well, that's been a good question. Right now we're advertising. Again, we have \$250,000 for the various places we can get it from. So we're still exploring that area. But I've got to tell you, these \$250,000 are earmarked only for water rights. We can't use that money for anything else other than purchasing water rights.

COMMISSIONER SULLIVAN: Okay. And you're the chairman of the association?

MR. VIGIL: I am a board member of the association and also the secretary of the association.

COMMISSIONER SULLIVAN: Secretary, okay. So anyway, in your judgement, with these improvements that you have, \$800,000 plus the \$250,000 I assume for the water rights, you feel that there is adequate, or there will be adequate water service to service all three of these lots?

MR. VIGIL: Mr. Chair, Commissioner Sullivan, that is affirmative, sir.

CHAIRMAN CAMPOS: Sir, are you authorized by your association to be



here tonight?

MR. VIGIL: Yes, sir, in fact what we did is we had a meeting two weeks ago and we discussed this issue, sir.

CHAIRMAN CAMPOS: And did they authorize you to be here and make the representations you're making?

MR. VIGIL: I am the representative for the association, yes.

CHAIRMAN CAMPOS: Did the association members authorize you to come here tonight. Did they vote and say, you can go talk and say x, y, and z?

MR. VIGIL: We discussed it.

CHAIRMAN CAMPOS: You just discussed it. Okay. Mr. Gonzales, you've heard that they have water from the association. Does that change your opinion in any way?

MR. GONZALES: Mr. Chair, that does not our change our opinion because the minimum lot size in this area is 2.5 acres. They want to split it into three lots. They'd still be shy, I believe it's somewhere around a quarter of an acre or less. So we'd still have the variance for the Article III, Section 10.

CHAIRMAN CAMPOS: Okay. Thank you, sir.

MR. VIGIL: Mr. Chair, I forgot one other thing. As indicated what has happened that he had over a hundred acres that the land was condemned. The reason it was condemned is because that land is a historical site. That land is part of the Glorieta Battlefield. And had it not been condemned, then he would have met the requirements for transfer according to the acreage.

CHAIRMAN CAMPOS: Okay. Any other questions? Commissioner Duran.

COMMISSIONER DURAN: Mr. Garcia, if you are to gain approval for the other two lots, you would deed both of them to your daughter?

MR. GARCIA: That's right. My two boys.

COMMISSIONER DURAN: Your two boys. Excuse me. Would you be opposed to a length of - because I don't see where staff's conditions are. Are there any staff conditions?

COMMISSIONER SULLIVAN: Last page, the CDRC conditions.

COMMISSIONER DURAN: Oh, okay. I see it. Hang on a second. Maybe it's in here. Would you be opposed to a five-year hold period where your sons couldn't sell it? Would that be a problem for you?

MR. GARCIA: No problem whatsoever.

COMMISSIONER DURAN: The intent is for them to have a place to live, correct.

MR. GARCIA: Hopefully they'll keep it forever.

[Previously sworn, Tillie Garcia testified as follows:]

TILLIE GARCIA: Our intention is not to sell it.

COMMISSIONER DURAN: Thank you.

COMMISSIONER MONTROYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Garcias, regarding your letter, the three parts, you'll continue to maintain one of them, and then the other two for your sons.

MR. GARCIA: I have three children, two boys and a girl. Since we can't split it four ways the thing to do now is try for three and I'm going to have to leave one of my kids out. So which one do I leave out? That's pretty hard to do when you have three kids and you can only cut it into three parcels.

COMMISSIONER MONTOYA: Do they all reside here in Santa Fe?

MS. GARCIA: Two of them.

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

CHAIRMAN CAMPOS: Okay, any other questions? Is there a motion?

COMMISSIONER SULLIVAN: Mr. Chair, I move to approve CDRC Case #A/V 04-5100 with CDRC conditions and the condition that there be no resale of the divided lots for a period of five years.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Second. Discussion?

**The motion to approve CDRC Case #A/V 04-5100 with the conditions as noted passed by unanimous [5-0] voice vote.**

- XIII. B. 7. BCC CASE #MIS 04-5091 – Komis Business Park Master Plan Extension. Christopher Graeser, Agent, The Komis Land Company, LLC, (Peter Komis General Partner), Request a 2 Year Time Extension for an Approved Master Plan/Preliminary Development Plan to Permit a Commercial Subdivision on 58.7 Acres. The Property is Located Off the I-25 West Frontage Road/State Road 599, within Section 23, Township 16 North, Range 8 East. (Commission District 5)**

VICTORIA REYES: Thank you, Mr. Chair. On August 10, 2004 the Board of County Commissioners tabled the request for a two-year time extension to allow staff and the applicant to satisfy concerns brought forward involving the water supply for the proposed development. On August 13, 2002 the Utilities Department presented a request for consideration and approval of a standard water service agreement which would allow the applicant to enter into an agreement to transfer 39.35 acre-feet of water rights to any point of diversion requested by the County.

As part of this water service agreement the applicant would be permitted to proceed forward with the preliminary plat and development plan. The decision of the BCC was to grant approval of the request for a standard water service agreement.

Recommendation: It is the review of staff that the previously approved master plan

for commercial subdivision is consistent with the adopted Highway Corridor Plan for a commercial gateway subdistrict as it relates to the required setbacks. Staff recommends approval of the request to extend the master plan approval and the preliminary plat/development plan approval until October 2006, subject to the following conditions. May I enter the conditions, Mr. Chair?

CHAIRMAN CAMPOS: They're so entered.

[The conditions are as follows:]

1. Compliance with conditions previously imposed for the master plan and preliminary/plat development plan.
2. Compliance with objectives and guidelines for the Highway Corridor Plan regarding architectural and design standards.

MR. ABEYTA: Mr. Chair.

CHAIRMAN CAMPOS: Mr. Abeyta.

MR. ABEYTA: If I may also add, at last month's BCC the case was tabled specifically or a specific concern was raised by Commissioner Sullivan regarding a previous condition of approval that required a water service agreement prior to the preliminary plat being approved. I went back into our records and I have notes of a meeting that took place with Steve Kopelman who at the time was the County Attorney. It was determined that the County would allow the applicant to proceed with preliminary plat approval regardless of what the condition of the master plan said because the condition wasn't in accordance with the County Code requirements. And so what happened was they did come before the -- so we allowed them to proceed forward on August 8<sup>th</sup> to the EZC. We did let the EZC know they were on an agenda in front of the BCC considering a water service agreement and subsequent to that on the 13<sup>th</sup> the Utilities Department presented a request for the water service agreement.

But again, the reason we allowed this to go forward in the first place was because the County Attorney gave us an opinion that the conditions imposed were not, did not conform to the County Code requirements, therefore he felt they could go forward with preliminary plat.

CHAIRMAN CAMPOS: Okay, applicant.

[Duly sworn, Scott Hoeft testified as follows:]

SCOTT HOEFT: Scott Hoeft, Santa Fe Planning Group, 109 N. St. Francis.

CHAIRMAN CAMPOS: Sir, did you review the staff report?

MR. HOEFT: Yes, I did.

CHAIRMAN CAMPOS: Do you have any objections to the recommendation or conditions?

MR. HOEFT: We would actually request a five-year extension as opposed to a two-year extension.

CHAIRMAN CAMPOS: Okay. Did you every ask for five years before today?

MR. HOEFT: No, we have not.

CHAIRMAN CAMPOS: Okay. Thank you. This is a public hearing. Anyone want to speak for or against it? Okay, the public hearing is closed. Question for the applicant.

Commissioner Sullivan.

COMMISSIONER SULLIVAN: One of the concerns you've indicated, Mr. Hoeft, in your submittal is that a requirement that you connect to the County water system or get water from the County water system has prevented you from proceeding further. And this is the reason for the request for extension. Is that correct?

MR. HOEFT: It is one of two reasons, yes, Commissioner.

COMMISSIONER SULLIVAN: And the other was -

MR. HOEFT: Highway. We had two conditions coming out of that preliminary development plan and plat submittal. First of course is the water, which we know all about. The second was we had to agree to the condition from Access Control, which is the State Highway Department. We took a better part of the year 2003 to go through Access Control in subsequent hearings to get some sort of recommendation out of them. They flip-flopped on several occasions. Should the road be private? Should it be County? Should it be highway and we have letters to that effect saying they did indeed flip-flop. We finally got a conclusion from them in the year 2003 in December. So it literally took a year and a half to get a decision out of Access Control. That was one of the biggest stumbling blocks that Mr. Komis had to go through.

The second of course has been the water of which we still don't have a clear direction from the attorney on.

COMMISSIONER SULLIVAN: Okay. So until January 2004 you wouldn't have been able to go any further because of the highway access problem.

MR. HOEFT: We got highway solved enough to be able to proceed but we still didn't have any conclusion on water.

COMMISSIONER SULLIVAN: I understand. I was just focusing on the highway.

MR. HOEFT: Highway has been one of the biggest ones. Like I said, it took the better part of 2003 to solve.

COMMISSIONER SULLIVAN: Okay. So that was resolved in December of 2003. Then on the water issue, you had a prior approval from the County Commission I believe in 1997. Is that correct? Of your master plan?

MR. HOEFT: That's correct.

COMMISSIONER SULLIVAN: And there was a condition as I understand it in that master plan that required that you hook into the County water system. And that you transfer water rights to the County prior to receiving preliminary development plan approval. Is that correct?

MR. HOEFT: That is correct.

COMMISSIONER SULLIVAN: So then from what Mr. Abeyta says, apparently on the recommendation of the prior County Attorney it was determined that since that wasn't a Code requirement and that must have meant that you didn't agree to it, so you must not have agreed to it somewhere in the proceedings, that it would be okay to let you proceed to preliminary plat. So at any point then did you make any attempts to transfer water

rights to the County?

MR. HOEFT: I'm going to defer that question to Rosanna Vazquez, the attorney for the water, if I may.

COMMISSIONER SULLIVAN: Ms. Vazquez, was there any attempt made at any point in time from 1977 until today to transfer water rights to the County?

ROSANNA VAZQUEZ: Mr. Chair, Commissioner, no there was not for the simple reason that the line extension policy that you have instituted require that before there's a direct transfer of water rights directly to the County there needs to be a change of ownership and a change of location for the use of those water rights. We were unable to do those two things so we were not able to go ahead and attempt to transfer those rights to the County.

COMMISSIONER SULLIVAN: And why weren't you able to change the location?

MS. VAZQUEZ: Because the water service agreement that was approved by the Commission in 2002 specifically requires that these water rights be transferred to the Buckman wellfield. We attempted to get City approval on that. We attempted to work with the City to see what their position was. As you all know, the City was protesting every transfer to the Buckman wellfield. We were not able to go forward with the transfer. We had specifically requested in that water service agreement that Mr. Komis' water rights, being that they are Santa Fe Basin rights, be transferred to the Valle Vista wellfield and that was amended.

COMMISSIONER SULLIVAN: Okay, so then in July of 2002, Mr. Graeser wrote a letter and – correction. Mr. Gary Roybal, the director of the Utilities Department wrote a letter to Mr. Graeser saying that upon BCC approval of the standard water service agreement the Utilities Department will within five days provide you with the approved standard water service agreement for your review and consideration. And he went on to say that that agreement would be presented to the BCC at its August 13<sup>th</sup> meeting.

And then we have in our packets an agreement to provide water service. Did the applicant sign that agreement?

MS. VAZQUEZ: MR. CHAIR, Commissioners, the applicant never signed that agreement. It was approved by the Board of County Commissioners and was not signed because if you read the water service agreement, upon signature and execution begin the time frame for transfer of water. Because we were not able to get City agreement on the transfer to the Buckman wellfield we could not execute the contract because we would be in breach of contract because we would not be able to meet those time frames set out in those contracts.

COMMISSIONER SULLIVAN: So on August 13<sup>th</sup> or within five days of August 13, 2002, you knew at that time that you couldn't get City approval?

MS. VAZQUEZ: On August 13, 2002 is when you approved the water service agreement. We attempted after that to begin talking to the City with regards to getting an answer on whether they were going to protest the transfer to the Buckman wellfield.

COMMISSIONER SULLIVAN: And that was all done within the five-day period.

MS. VAZQUEZ: I cannot tell you, Mr. Chair, Commissioners, whether we

received that contract within five days after August 13<sup>th</sup>.

COMMISSIONER SULLIVAN: So you received a contract, a water service agreement but it was never executed. Now, obviously had it been executed and had you been unable to fulfill the conditions you would have come back to the Commission and asked for an extension as you're doing now. My question is I'm having a little difficulty understanding why the agreement was never executed. You wouldn't have known, would you? Or did you, at the time that preliminary and plat approval was granted that you couldn't get approval from the City because that directive from the City didn't come out until I think late 2003.

MS. VAZQUEZ: Mr. Chair, Commissioners, in August there was an approval of a water service agreement. When we went forward to the Board of County Commissioners with that agreement it was the intention that those water rights, being that they are Santa Fe Basin rights, be transferred to the Valle Vista wellfield, not the Buckman wellfield. We were not in agreement with that change that was made, I believe specifically by you, Commissioner Sullivan, on that water service agreement. It was not until after that approval by the County Commission that we began working with the City to make a determination as to whether or not we would be able to transfer those water rights.

You are correct that the City did not officially make a statement with regards to transfers to the wellfield until after that. I can tell you that we began dealing with them on that issue immediately. We never received an answer. And then there was the policy that was stated that they would protest any transfer to the Buckman wellfield. One last point -

COMMISSIONER SULLIVAN: Let me continue with my questions and then I'm sure the chairman will allow you to make any other points you want to make. So the water service agreement, the provision that you objected to was the provision that required that the water rights be transferred to the Buckman wellfield. Is that correct?

MS. VAZQUEZ: Mr. Chair, that is correct.

COMMISSIONER SULLIVAN: And is that in the water service agreement?

MS. VAZQUEZ: Mr. Chair, Commissioners, it is. There was a specific amendment made by you at that hearing.

COMMISSIONER SULLIVAN: Okay, and could you point out in the water service agreement to me where that requirement is?

MS. VAZQUEZ: Mr. Chair, Commissioner, I'm not sure that the water service agreement that was put into this packet is the actual, is the final water service agreement? I believe that the agreement that was added in the packet was the one that was originally - it was a draft form agreement that the Utility Department was - it's not the final agreement.

COMMISSIONER ANAYA: Mr. Chair, point of order. Are we talking about a water service agreement or a two-year time extension?

COMMISSIONER SULLIVAN: Well, I think we're talking about a two-year time extension and the reason for which the time extension is requested is an apparent condition dealing with water and that's precluding the applicant from proceeding. And what I'm trying to determine is that it appears that the applicant never entered into a water service agreement. Whether this is the final one or not, apparently, according to staff, this is the one that was

approved by the Commission, but the applicant never chose to execute the agreement and I'm having difficulty understanding if they never chose to execute the agreement, why that's a condition or a contract that wasn't fulfilled here on the part of the County.

We have a draft that was proposed. It was approved by the County. No action was taken by the applicant to execute the agreement and two years has passed and now an extension is needed. I personally don't have a problem with the extension but I have a problem with the reason for the extension. Things happen, certainly dealing with the Department of Transportation, I can understand. Other issues, Commissioner Anaya, may regard marketing or other issues may come up. I just am having difficulty getting my arms around why one of the two reasons for the extension is water when the applicant and the County never entered into any water agreement. So the County, which is me, has no -

COMMISSIONER DURAN: Mr. Chair, do you think someone else could have the floor for a little bit?

CHAIRMAN CAMPOS: Hold on. He's got the floor.

COMMISSIONER DURAN: I know he does and you tell him talk for 15 minutes and you don't let anyone else talk. I would appreciate it if you would allow some of us to participate in a discussion of this because if Commissioner Sullivan has a problem with this water service agreement issue, bring it up at another time. We're talking about an extension, not the water service agreement.

COMMISSIONER SULLIVAN: Well, I think we're also talking about other issues that the applicant has with the County.

COMMISSIONER DURAN: We've been unable, Commissioner Sullivan, to provide this applicant with water because we don't have a place to transfer water rights.

COMMISSIONER SULLIVAN: I don't know that we ever had any commitment or to provide the applicant with water because we never executed a water service agreement, Commissioner Duran.

COMMISSIONER DURAN: We approved the project contingent upon them getting water from the County water system.

COMMISSIONER SULLIVAN: I think my point is made and that is that in my judgement, Santa Fe County never had any obligation to provide water to the applicant because the applicant never entered into an agreement with Santa Fe County. Now, aside from that issue, and I think that's an important issue that you need to consider and perhaps discuss a little further with our attorney, beside that, there are other reasons why they are requesting an extension having to do with the Department of Transportation and I have no problem with that.

COMMISSIONER DURAN: Would you move this along, Mr. Chair?

CHAIRMAN CAMPOS: I'll try. Ms. Reyes, as far as your concerned, the application was always for a two-year extension?

MS. REYES: Mr. Chair, that's correct.

CHAIRMAN CAMPOS: And today was the first time you heard it would be for five years.

MS. REYES: That's correct.

CHAIRMAN CAMPOS: Any questions?

COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner.

COMMISSIONER DURAN: Mr. Ross, if this Commission decided to extend this, give an extension for five years rather than two, do we have the prerogative to do that?

MR. ROSS: Mr. Chair, Commissioner Duran, I'm not sure. 5.2.7 of the Code does specify that renewals are going to be limited to two years, but I know Mr. Graeser had a theory and I'm not conversant with his theory that it could be more. The language in the Code specifies that they can be extended for a two-year period.

COMMISSIONER DURAN: Because what's going to happen is that we're not going to have our system in place in two years. It's going to take five years and I think that if we grant them two years now they're going to be back here again and who knows what's going to happen then.

CHAIRMAN CAMPOS: Okay. So the ordinance says we can extend for two years.

MR. ROSS: An additional two-year period.

CHAIRMAN CAMPOS: An additional two-year period. Okay. Is there a motion?

COMMISSIONER DURAN: But we can't go to five? Is that what you said? We cannot?

CHAIRMAN CAMPOS: The ordinance is explicit.

MR. ROSS: Mr. Chair, Commissioner Duran, the initial approval is for five years.

COMMISSIONER DURAN: But this isn't the initial approval.

MR. ROSS: Correct. That's correct. So the language of the Code is that approvals can be renewed and extended for additional two-year periods.

COMMISSIONER SULLIVAN: Mr. Chair, I would move that the approval be made for an additional two years.

MS. VAZQUEZ: Mr. Chair, I believe Commissioner Sullivan said I would be able to speak, if that's okay with you.

COMMISSIONER SULLIVAN: I would move that the extension be granted for a two-year period with the conditions proposed by staff and agreed to by the applicant.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: I would second that if you would increase it to five years.

COMMISSIONER SULLIVAN: No, I think two years is what the legal –

CHAIRMAN CAMPOS: The ordinance says.

COMMISSIONER DURAN: No, the ordinance says the initial approval. This is not the initial approval.

CHAIRMAN CAMPOS: This is an extension.

COMMISSIONER DURAN: It's an extension, not an initial approval.



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CHAIRMAN CAMPOS: I'll second the motion. Any discussion?

The motion to grant a two-year extension to BCC Case #MIS 04-5091 with conditions passed by majority 3-2 voice vote with Commissioners Duran and Anaya voting against.

XIII. B. 8. CDRC CASE #V 04-5155 – Gilbert Duran Variance. Gilbert Duran, Applicant, is Requesting a Variance of Article III, Sections 4.1 and 4.2 (Types and Location of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of an Eligible Commercial District on 1.13 Acres. The Property is Located at 7 Camino Bajo, Off of Hwy. 14, within Section 25, Township 16 North, Range 8 East. (Commission District 3)

MR. GONZALES: Thank you, Mr. Chair. Gilbert Duran requests a variance of Article III, Section 4.1 and 4.2, types and locations of commercial districts of the Land Development Code to allow property that is not located at a qualifying commercial district to be eligible for commercial zoning on 1.13 acres.

On July 1, 2004 the CCDRC met and acted on this case. The decision of the CCDRC was to recommend denial of a variance of Article III, Sections 4.1 and 4.2 of the Land Development Code to allow property that is not located at a qualifying commercial district to be eligible for commercial zoning on 1.13 acres. The property is currently being used for the sale of rock and landscape material. The subject property is located at the intersection of State Road 14 and Camino Bajo. The properties in the surrounding area are of mixed use. Allsups Convenience Store is to the north of the property, an auto body business is to the east and outside storage is to the south, with residential houses surrounding these uses.

Recommendation: Staff's position is that this application is not in accordance with Article III, Section 4.1 of the Land Development Code and the Community College Ordinance. In granting this variance the purpose of the Code to avoid strip commercial development along collector and local roads and to protect existing residential development from encroachment of non-residential uses would be violated. Staff recommends denial of the requested variance.

CHAIRMAN CAMPOS: Questions of Mr. Gonzales?

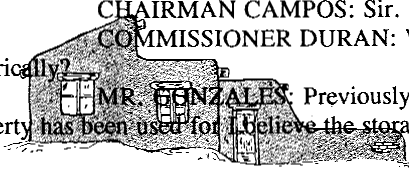
COMMISSIONER DURAN: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER DURAN: What has the property been used for

historically?

MR. GONZALES: Previously, Mr. Chair, Commissioner Duran, the property has been used for I believe the storage of Mr. Duran's vehicles, commercial



vehicles and whatnot. This landscaping business, I believe was on the property I believe, as of August of last year. I'm not too sure. But prior to that it was just storage of his commercial vehicles.

COMMISSIONER DURAN: And the landscaping business, was it licensed? Did it have a business license?

MR. GONZALES: Mr. Chair, no. That's why Code Enforcement went out there and issued the notice of violation and that's why we're here today.

COMMISSIONER DURAN: But prior to that, would you say that the use was somewhat light industrial use, because it was storage of his - what kind of zoning allows for the storage of trucks and construction equipment and stuff like that?

MR. GONZALES: Mr. Chair, Commissioner Duran, I believe this use would be a little bit more intense with the sale and people coming on to the property and purchasing the landscaping materials, rather than just him storing his vehicles on the property.

COMMISSIONER DURAN: Have we received many notices of opposition from neighbors?

MR. GONZALES: Mr. Chair, I haven't received any letters of opposition.

COMMISSIONER DURAN: None at all?

MR. GONZALES: None at all.

COMMISSIONER DURAN: And the property, this case was properly posted?

MR. GONZALES: Mr. Chair, Commissioner Duran, I believe so. I do have the affidavit and the letters going to the surrounding neighbors.

COMMISSIONER DURAN: Surrounding neighbors were notified?

MR. GONZALES: Mr. Chair, that's correct.

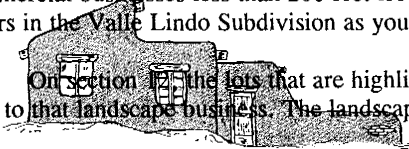
COMMISSIONER DURAN: Okay. Thank you.

CHAIRMAN CAMPOS: Are there any other questions? This is a public hearing. Well, first of all, where's the applicant? Please.

[Duly sworn, Gilbert Duran testified as follows:]

GILBERT DURAN: My name is Gilbert Duran, 7 Camino Bajo. I am the owner of the property that we're requesting a variance with my wife. We have presented you with a folder of some of the businesses that are around the area. We have owned the property for over 30 years. We are also the sole owner of Plastering and Contractors, Inc. a company that employs up to 150 construction personnel and office and office staff. All employees are from northern New Mexico. We have been parking some construction equipment on the property since I've owned the property. Presently there are seven commercial businesses less than 200 feet from the proposed variance property and four others in the Valle Lindo Subdivision as you can see by the photos that I have provided to you.

On section 12 the lots that are highlighted are commercial businesses operating next to that landscape business. The landscape contractor that is renting this property used



to sell his material on the side of the Old Las Vegas Highway. This property has been a much safer environment for him and the traffic is minimal. Therefore, Mr. Chair, members of the Commission, I'm requesting a variance to be in compliance with the Santa Fe County rules and regulations.

CHAIRMAN CAMPOS: Okay. Any questions of Mr. Duran?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER MONTOYA: Mr. Duran, where did the request come from for you to go through this variance?

MR. DURAN: We got a citation that we were not in compliance with the rules of Santa Fe County.

COMMISSIONER MONTOYA: From County staff?

MR. DURAN: From a County officer I believe.

COMMISSIONER MONTOYA: Staff, how did we find out or how do we know or how did this come to your attention?

MR. GONZALES: Mr. Chair, Commissioner Montoya, I'm not too sure whether it was a Code Enforcement complaint or Code Enforcement drove by and questioned our business, questioned whether they had a business registration or not. I'm not too familiar with that.

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

CHAIRMAN CAMPOS: Any other questions? Mr. Gonzales, a question for you. You're saying that this is outside of a commercial district, right?

MR. GONZALES: Mr. Chair, that's correct.

CHAIRMAN CAMPOS: Now, how close is the closest commercial district?

MR. GONZALES: Mr. Chair, I believe the closest is going to be at the 599/I-25 intersection.

CHAIRMAN CAMPOS: How far is that?

MR. GONZALES: I'd say maybe anywhere from 300 to 500 feet.

CHAIRMAN CAMPOS: 300 to 500 feet to the closest. So how big of a commercial area is that? How big of a node is that?

MR. ABEYTA: Mr. Chair, I believe it's a major center district. I believe it's like a 500-foot radius from the intersection and this probably is actually in the Community College District, on the edge of it in an area zoned for existing neighborhood. And that's why they don't qualify for being within that district.

CHAIRMAN CAMPOS: The node concept doesn't apply in the Community College District, correct?

MR. ABEYTA: Right. Right.

CHAIRMAN CAMPOS: Okay. Thank you very much. This is a public hearing. Anybody who would like to come forward and speak can do so now, for or against. Okay, no one having come forward the hearing is closed. Commissioners.

PAULINE DURAN: Mister Commissioner members, we have been

approached by several other businesses, for instance the body shop.

[Duly sworn, Pauline Duran testified as follows:]

MS. DURAN: Anyway, we've been approached by people who want to rent it from us, a body shop, a car lot, those that you put on the side of the road, you know. Oh, a bail bondsman came by. And we have not done anything with it until now to give this gentleman an opportunity.

CHAIRMAN CAMPOS: You're selling it to somebody?

MS. DURAN: Selling it? No, sir.

CHAIRMAN CAMPOS: Leasing? Renting?

MS. DURAN: We're leasing it to him.

CHAIRMAN CAMPOS: Okay. Anything else?

MS. DURAN: That's it.

CHAIRMAN CAMPOS: Thank you very much. Okay, Commissioners, any questions, comments, motions?

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER MONTOYA: Second.

COMMISSIONER DURAN: With staff recommendations or conditions.

CHAIRMAN CAMPOS: Okay, are there any conditions, Mr. Gonzales?

MR. GONZALES: Mr. Chair, there's no conditions. The applicant must come forward with a master plan to the CCDRC and the Board. Must submit master plan and development plan to the Board.

CHAIRMAN CAMPOS: Does the movant wish to address the variance Code requirements?

COMMISSIONER DURAN: My motion is with the variance, all conditions, with the application meeting all variance requirements.

CHAIRMAN CAMPOS: That's a conclusion. Do you want to be more specific and factual?

COMMISSIONER DURAN: No.

CHAIRMAN CAMPOS: Okay. I think the motion is defective. Is there a second to it?

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Commissioner Sullivan.

COMMISSIONER DURAN: Point of order, Mr. Chair.

CHAIRMAN CAMPOS: Hold on. Do you have a question?

COMMISSIONER DURAN: I have a question for Steve Ross. Mr. Ross, is there anything I should add to my motion to make it perfect? Staff recommendation and saying that the ten variance criteria have been met, in my opinion.

MR. ROSS: Sounds good to me. Staff conditions, maybe.

COMMISSIONER DURAN: My motion stands. Thank you.

**The motion to approve CCDRC Case #V 04-5155 passed by unanimous [4-0] voice**

vote. [Commissioner Campos did not vote.]

**XIII. B. 9. EZ CASE #S 04-4380 – The Village Center at Rancho Viejo. Rancho Viejo de Santa Fe Inc. (Isaac Pino), Applicant, Requests a Development Plan Amendment with Preliminary and Final Plat Approval for a Residential Subdivision Consisting of 34 Lots on 4.76 Acres. The Property is Located within the Community College District, Off of Rancho Viejo Boulevard, within Sections 28 and 29, Township 16 North, Range 9 East. (Commission District 5)**

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VICKI LUCERO (Development Review Division Supervisor): Thank you, Mr. Chair. Rancho Viejo de Santa Fe, Inc. Ike Pino, vice president, applicant, requests a final plat/ development plan approval for an amendment of the previously approved mixed-use subdivision, the Village at Rancho Viejo, Unit I, to permit 34 residential lots on 4.76 acres in place of the live-work units. The property is located within the Community College District, Off of Rancho Viejo Boulevard, within Sections 28 and 29, Township 16 North, Range 9 East, Five-mile EZ District.

On August 12, 2004 the EZC met and acted on this case. The decision of the EZC was to recommend approval of this request. On July 10, 1997, the EZC granted preliminary plat/development plan approval for a mixed-use subdivision phase consisting of 334 residential lots on approximately 317 acres to be developed in two units.

On January 13, 1998 the BCC granted final approval for Unit I consisting of 150 residential lots/units. This included tracts for live-work units. 133 residential lots were developed.

On November 10, 1998 the BCC granted final approval for Unit II consisting of 184 residential units. This also included tracts for live-work units. 144 residential lots were developed.

In June/July of 2000 the EZC/BCC granted master plat approval to permit 27 residential lots in place of a portion of the live-work units. To this date a total of 300 lots have been platted in units I and II. This would allow for a remainder of 34 lots/units to be developed as the Village Center. The previously approved development plan designated these tracts for live-work units. The Village Center was previously approved as a mixed-use development. A number of factors since the first development plan was approved have led Rancho Viejo towards a proposal that would develop their approved density of 334 units as residential lots with no live-work units. Those factors were explained by the applicant as follows: The Village at Rancho Viejo has successfully completed development of Unit I, Unit II, and Tract G. When combined, they have 300 residential lots which are all sold. The Community College District master plan and ordinance is now in place. Rancho Viejo de Santa Fe has final development plan approval for the first commercial building in the Village, which will be located on Tract B, and I believe that is currently under

construction. Several other tracts remain for commercial community uses within the Rancho Viejo Village. Rancho Viejo de Santa Fe, Inc. has entered into an affordable housing agreement with the County of Santa Fe that requires additional affordable housing to be built within the Village boundaries.

Through a planning process which involves the Village residents a consensus was reached as to how the Village Center should be developed. Market conditions, County policies and regulation and engineering requirements for development and construction were taken into account as part of the process. The end result was a proposal from Rancho Viejo for 34 residential lots consisting of 18 townhouse lots and 16 single family residential lots. Thirteen of the lots will be for affordable housing.

The applicant is now requesting plat/development plan approval for an amendment for the previous approval to permit the remaining density to be residential lots instead of live-work units. This proposal is in conformance with the overall density of 334 lots as originally approved.

There are four remaining tracts in the Village that are not being developed as part of this proposal. Those tracts will be reserved for commercial and mixed use, which includes live-work units as well as community facility uses. Four acre-feet of water was reserved for development of these tracts including non-residential uses within Windmill Ridge I and II.

Recommendation: The proposed plat/development plan is in accordance with the density approved for the Village at Rancho Viejo. Three tracts have been reserved at the intersection of Rancho Viejo Boulevard and Avenida del Sur for future mixed-use development. A tract has also been reserved for community facilities. This application is in conformance with the County Land Development Code, Extraterritorial Subdivision Regulations and the Community College District Ordinance. Staff recommends approval of the preliminary and final plat for a residential subdivision consisting of 34 lots on 4.76 acres subject to the conditions listed in the staff report. Mr. Chair, may I enter those conditions in to the record?

CHAIRMAN CAMPOS: So entered.

[The conditions are as follows:]

1. Compliance with the applicable review comments from the following:
  - a) Santa Fe County Water Utility
  - b) State Environment Department
  - c) Santa Fe County Public Works
  - d) Soil & Water District
  - e) Santa Fe County Technical Review
  - f) Santa Fe County Fire Department
  - g) Santa Fe Public Schools District
  - h) State Highway Department
  - i) State Engineer's Office
  - j) State Historic Preservation Division

- k) Santa Fe County Hydrologist
2. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not be limited to the following:
  - a) Water restriction of 0.20 acre feet per lot and conservation measures
  - b) Solid Waste disposal
  - c) Maintenance plan for roads and drainage facilities
  - d) Exterior lights shall be shielded
  - e) Archeological sites within protective easements
  - f) Prohibit fencing of private open space.
  - g) Address water storage from roof drainage
3. Specify landscaping types for trees and shrubs and specify drip/sprinkler irrigation for common area landscaping.
4. The applicant will only be allowed to plat the 16 lots that currently have water, until such time that there is performance on the second service contract.
5. Final Plat shall include but not be limited to the following:
  - a) Compliance with the plat checklist
  - b) Permits for building construction will not be issued until improvements for roads, drainage and fire protection are complete as required by Land Use & Fire Department staff.
  - c) Street names and rural addressing
6. Submit development agreement to establish terms and conditions as applicable for affordable housing.
7. Submit solid waste fees.
8. The developer shall pay a fire review fee in the amount of \$850 in accordance with Santa Fe County Resolution No. 2001-114, prior to the recordation of the final plat/development plan.
9. Conditional dedication of primary roads to County for future ownership and maintenance, in accordance with Community College District Ordinance.
10. Submit cost-estimate and financial surety for completion of required improvements as approved by staff.

CHAIRMAN CAMPOS: Question. What's the rationale for the change?

MS. LUCERO: Mr. Chair, the applicants have conducted market studies and done some research with states that more commercial development or live-work units wouldn't be viable at this point. So they're requesting at this point that those 34 units that were live-work that they now be able to develop those as residential.

CHAIRMAN CAMPOS: Do you think this hurts the village concept, the village center concept? Wasn't that the justification? We're going to have live-work right on the Village Center to make this a viable commercial area?

MS. LUCERO: Mr. Chair, based on the information that they submitted, I

don't know that it would be viable to have commercial. They are currently developing a commercial building at the intersection and they do have lots reserved there for future commercial development.

CHAIRMAN CAMPOS: The question is these village centers were designed originally to be viable commercial centers, right? And one of the ideas was to have live-work right near by so that it would be a viable commercial center. Wasn't that the rationale?

MS. LUCERO: Mr. Chair, I believe that's correct, and as I understand it I do believe they still have part of those lots that are reserved will contain the live-work units. So they will still be part of the proposal, just not at this point in time.

CHAIRMAN CAMPOS: It seems to be detracting from the original rationale, to make these real village centers. Maybe the applicant can address it. Are there any questions for Ms. Lucero? Okay, the applicant please.

[Duly sworn, Ike Pino testified as follows:]

IKE PINO: My name is Ike Pino and I am 1590 Pacheco in Santa Fe. Mr. Chair, I'd like to start out by addressing your question and then I have a couple of other comments and then I'll stand for questions. The Village at Rancho Viejo was the very first subdivision that was approved in the first master plan. And it was done prior to the Community College District. At the time there was no positive knowledge that the Community College District would ever be approved, so the Village was designed as if it might be the only subdivision at Rancho Viejo. And so the commercial uses were designed around the plaza as shown on the drawing down below.

Subsequently the College District Plan was adopted and called for commercial nodes and uses around the entire College District and within Rancho Viejo. It became clear to us at that point that the commercial center for the village did not need to be in that exact location. It was too close to the residential. And since we had the ability now in the College District Plan to have our nodes more centrally located, our plan is to move that node out to Avenida del Sur and Rancho Viejo Boulevard, which is just a couple of hundred feet to the west of the plaza. So there's no intent on Rancho Viejo's part to eliminate the commercial development, simply to move it and to move it in what would be contained in the master plan for what we're calling Rancho Viejo West Village.

I would add that certainly there is no master plan approval as yet and so one could argue that well, if you don't have approval how do we know that center will get built? I would submit, Mr. Chair, that if that master plan doesn't get approved, if there isn't the additional homes, if there isn't a larger market area, commercial couldn't survive there in any event anyway. But it is our intent to move that commercial space.

Now, what we have done is retained the commercial tracts up against Avenida del Sur and Rancho Viejo Boulevard and are converting the interior ones from commercial mixed-use to residential. Now, it was critical, and I think that we need to make a real clear point, it was critical that we get the input of the neighborhood on this because we had 300 existing residences. And you might recall several, about three or four years ago we attempted to convert



two of the tracts into residential lots and caused quite a furor in the area. So what we did this time was we invited all the entire neighborhood to come, be a part of what we called the homework group and we asked them to design the area involved. So we essentially relinquished our power to them and said You guys tell us what we think will work here, what you can live with, assuming that we go ahead and move the commercial out to a more centrally located area.

And what they came up with was that they could agree and would like to see the central area for the commercial at the intersection, rather than back in the plaza, and that the lots be converted to residential. They also understood that it was essential for us to provide 13 units of affordable housing per the affordable housing agreement that we have with the County. We still owed the County 13 affordable units in the Village. And these tracts offered us an opportunity to build those units. And so they also agreed that they would integrate, they would not have an objection to integrating the affordable units into those residential lots. And that was critical because we wanted to make sure that they understood that there would be zero to sixty units and seven sixty to eighty units in there. So they would have neighbors that were living in affordable homes, which is not a big deal in Rancho Viejo, fortunately.

But they participated in this and signed off on it. So that's the plan that is before us today. Why we wanted to come forward with this is because we want to complete our obligation on the affordable units from the affordable agreement from two years ago. In Rancho Viejo, with these 13 units we will have then created 124 affordable houses within the entitlement that we have today. And these 13 would be the last of those 124 and of course there would be more going forward.

The other part of this that has come up is the issue about water. The recommendation is that 16 of the units be approved because there is water for 16 units based on the water conservation savings agreement from last January. The other 18 units would have fallen under the second water service agreement which was executed in December 2002 and is still in force. Unfortunately, within that water service agreement and it's necessary to put this on the record there were a number of presumptions made at the time. It was presumed that we would have an extension of a wheeling agreement with the City. I think that nobody could foresee that we would reach this stage and still not have that wheeling agreement. At the time there was no amendment to the Community College District Ordinance that prohibited private wells or community systems so that was not even addressed in this particular water service agreement. And we were required to move 120 acre-feet of water rights into the Buckman wellfield and we proceeded immediately upon execution of this water service agreement to make application for, actually go through the entire process of and get 106 of those acre-feet approved by the State Engineer's office to transfer only to have the City object at the 11.9999 hour and say we should have been a co-applicant.

So that water right transfer is still an application sitting on a desk of the State Engineer. Essentially, they're waiting to see if there's going to be any conclusion to the wheeling agreement and hopefully, some sort of administrative agreement that would allow that to go through. So when we made the application we were in hopes that something would give in the water area and we would be able to get all 34 units. I'm up here to tell you now that if we were

willing to accept the condition of just going forward with 16 of those, but we would like to come forward and have the Commission consider the proposal that I submitted to the County in July, on July 13<sup>th</sup> actually, asking for amendments to the water service agreement to make it more contemporary with what the conditions are regarding water today as opposed to two years ago.

So with that, Mr. Chair, I would stand for any questions that you would have.

CHAIRMAN CAMPOS: Questions? Commissioner Sullivan.

COMMISSIONER SULLIVAN: A couple of questions. The conditions on the water service agreement, correct me if I'm wrong, but as I recall, and I don't have the agreement in front of me were that water rights had to be transferred, either to the Buckman well or to the Buckman area or diversion. Does that ring a bell?

MR. PINO: Mr. Chair, what it called for was a transfer to the Buckman wellfield or a surface diversion if it was available.

COMMISSIONER SULLIVAN: Right. So obviously we're working on the surface diversion. We can't always get the environmental issues done as quickly as we would like to do but I just wanted to make a point that in that agreement as I remembered it there was another alternative other than the Buckman wells for diversion, although it's not available to you immediately, obviously.

MR. PINO: That's correct.

COMMISSIONER SULLIVAN: Okay. How do you calculate – well, let me ask you another question first. The Gardner Subdivision, which was recently approved by the Commission, satisfied its commercial requirements by live-work units. And I believe your staff and theirs had some interaction with regard to water rights and other issues in that application. If they feel there's a market for live-work units, why don't you?

MR. PINO: Mr. Chair, Commissioner Sullivan, it's not necessarily that we don't think there's a market for it, it goes back to an interpretation and unfortunately Mr. Catanach's not here this evening. We've had this discussion. If you look at the recorded plat and the recorded development plan the tracts were for commercial mixed use. And we've never been able to find a record that said they all had to be live-work units. So we never contemplated that. However, I'm not going to argue that point because I wasn't here when that particular master plan and subdivision was put in. We have left the tract closer to Avenida del Sur and Rancho Viejo Boulevard for live-work units and would intend to include more additional live-work units that the market would support within the overall commercial center of the Village West were that master plan approved.

COMMISSIONER SULLIVAN: I had a last question on the open space. When looking at – one of the conditions on the plat for the Village is that it says Possible residential units on Tract G are not included in the total number of residential units, 150. And that's the approval that staff indicates that the Commission made on January 13, 1998 of 150 residential lots and units. Any residential development of these lots shall result in a reduction of residential units of Unit II of the Village or in a development plan amendment. So apparently it was contemplated that Tract G might have some residential lots on it and if so there would be a

reduction of lots in the Unit II. Was there a reduction in Unit II?

MR. PINO: Mr. Chair and Commissioner Sullivan, the total lot count would have called for 334 units and the plat for Unit II could have gone up to 150 lots but did not go to 150 lots.

COMMISSIONER SULLIVAN: Well, the reason I was asking is when you just look at these plats and you just form a visual standpoint, I have trouble seeing 50 percent open space on them. And I looked at the plat for Unit II and so my question was how do you calculate open space. Maybe you can help me with that because the plat says subdivision area 155 acres and it says platted open space 23.32 acres. So that wouldn't be 50 percent. Can you explain to me how we compute these 50 percent open spaces?

MR. PINO: That's a good question Commissioner and Mr. Chair. The plat, the exhibit that you just held up -

COMMISSIONER SULLIVAN: That's Unit II, right. Immediately south of this is the reason I'm -

MR. PINO: That's correct. That exhibit was drawn that way just to show the lots, primarily. The overall plat for the Rancho Viejo area has the open space tracts that are not shown on the drawings that you have, the comprehensive map. Because there are several hundred acres of open space. In the interests of trying to get all the drawing on a sheet like that it doesn't show - there are several - there's about eight sheets to the plat. And on those eight sheets you would see the other open space tracts that constitute the 50 percent or greater.

COMMISSIONER SULLIVAN: The platted 23 acres only refers to this sheet?

MR. PINO: That's correct. I think you have the development plan in front of you.

COMMISSIONER SULLIVAN: Yes. The development plan.

MR. PINO: And the comprehensive plan would have all the rest of the tracts on it.

COMMISSIONER SULLIVAN: It says project data, subdivision area 155 acres and some change, and platted open space, 23 and some change. So you're saying that there's other open space that is not platted or is not a part of this plat?

MR. PINO: Mr. Chair, Commissioner Sullivan, it's a part of the plat itself it's the 23 acres is within the boundary that you see in front of you. But you've been out to Rancho Viejo and all the open area between the Village Unit II and IAIA for instance, all of that is platted open space that's part of the village.

COMMISSIONER SULLIVAN: What constitutes - do roads constitute open space?

MR. PINO: No.

COMMISSIONER SULLIVAN: Parking lots?

MR. PINO: No. Our open space is the arroyos -

COMMISSIONER SULLIVAN: Native.

MR. PINO: Native areas and in the very first units of Rancho Viejo, parts of the estate lots on which there would be no development were also considered part of the open

space. That's no longer the case though, for the newer subdivisions.

COMMISSIONER SULLIVAN: So none of this area that you're proposing for residential units now was included in a prior calculation of open space.

MR. PINO: It was included because it was going to be developed area but it was going to be developed commercial/mixed use.

COMMISSIONER SULLIVAN: So we have some open space credits coming in as it were?

MR. PINO: No, no. The way we calculated the open space was to say that whether it houses residential units or commercial mixed use it's developed property so we have to designate a like amount of open space. So whether it remains as commercial mixed use or goes to residential development the required open space is already intact. It would not change.

COMMISSIONER SULLIVAN: Okay, then on the staff report on Unit II it said when Unit II was approved, it was approved for 184 units. This included tracts for live-work. 140 lots were developed. And that's where you're kind of making up your 34 now, right?

MR. PINO: That's correct.

COMMISSIONER SULLIVAN: It's a combination of Units II and I. This is why I'm talking about II and I together.

MR. PINO: That's correct.

COMMISSIONER SULLIVAN: Were any live-work units sold or built in II?

MR. PINO: Mr. Chair, Commissioner Sullivan, there are not live-work units in Rancho Viejo at this time.

COMMISSIONER SULLIVAN: I guess that was my concern, as Commissioner Campos said was that I felt we were looking at the best in oriented development that could be accessed with bicycles and limiting the use of the car and so forth and we seem to be constantly moving. There's always other tracts that are available. I understand that but we continually seem to be moving - it's a moving target as to where this commercial is going to be. It seems to me that we're really getting away from the concept of that integrated community.

MR. PINO: Mr. Chair, Commissioner Sullivan, I understand your view of that based on the application in front of you, and certainly it's speculative to talk about it being moved a couple hundred feet to the west because the master plan does not exist. However, one of the most compelling reasons for proceeding with this was to try to integrate as much residential at the request of the neighborhood but also to get the affordable housing that was required to be part of the Village within the Village. With all the land we had it would have been easy enough to go find something satellite to the Village and take the affordable housing there but we wanted to integrate it as we felt was the intent of the affordable housing agreement.

That kind of gave way to the whole discussion of just making that whole area around the plaza residential.

COMMISSIONER SULLIVAN: This is final plat approval, right?

MR. PINO: It's preliminary and final. That's correct.

COMMISSIONER SULLIVAN: And where on the plat are the affordable housing.

MR. PINO: Let me show you on this display that we have here. For those of you who haven't been to Rancho Viejo too often or not at all, Rancho Viejo Boulevard comes in from the west into the plaza area. The affordable homes are individual, single detached family residences along the south side of the plaza, and then the north side of the plaza is where the townhomes go. We have found that for the zero to sixty and the sixty to eighty product that it works better to have single family detached residences. And so the compromise – well, not really a compromise but the recommendation on the part of the neighborhood in the design was to go ahead and have the affordable units here as single family detached which looks more like their neighborhood and to move the townhomes over on this side, on the north side of the plaza, which seemed to make more sense for the topography and the elevations on the other homes. So they're all right here on the west side.

COMMISSIONER SULLIVAN: So 13 units are –

MR. PINO: Thirteen of the 16 are here and that's six in the zero to sixty category, and seven in the sixty to eighty percent of median income category.

COMMISSIONER SULLIVAN: And where are the remainder?

MR. PINO: They're integrated in with the 16 here. We haven't actually designated the specific lots but 13 of these would be affordable and three would be market rate homes.

COMMISSIONER SULLIVAN: In those two blocks? Are you pointing at one block?

MR. PINO: In all three of the blocks.

COMMISSIONER SULLIVAN: In all three blocks.

MR. PINO: Yes.

COMMISSIONER SULLIVAN: And how many are the total in those three blocks?

MR. PINO: Sixteen.

COMMISSIONER SULLIVAN: Sixteen. And in those three blocks only three would be non-affordable housing.

MR. PINO: That's correct. But we should point out that they back right up to all market rate homes.

COMMISSIONER SULLIVAN: The road right behind there, that road, right there where your finger is – what happens right there?

MR. PINO: The design recommendation here was to tie this into an existing road. This is a road that currently dead-ends right here. This would be an alley that would essentially serve these units. So traffic would be able to access that road in this direction and this direction.

COMMISSIONER SULLIVAN: Okay, because I had a meeting Monday evening with some members of the Community College District Committee, Mr. Garcia and Ms. Petchesky and so forth, and they indicated that the residents' recommendation was that that

be barricaded off and there not be an access at that point, and that that alleyway be the access for the homes but it not be a through street because it's basically only an alley as I understand it.

MR. PINO: Actually, Mr. Chair, Commissioner Sullivan, nobody on the CCDRC, unfortunately were not part of the homeowners group but this was the barricade they wanted right here. They didn't want the street to be going into the commercial area and have anyone doing business in the commercial area have the ability to get back into the residential. And certainly, down the road if we proceed with this, putting a barricade here I can tell you would not be a problem. But it would be an issue that we would just make sure and notify the homework group about because this is where they intended the barricade, not right here.

COMMISSIONER SULLIVAN: I wasn't there at the meeting so I don't know but it was just described to me as in fact being both areas, a barricade there and no access, you're right, to that commercial was also proposed. And you do have one of the Community College District members as a homeowner.

MR. PINO: Yes, he lives just right over on the other side.

COMMISSIONER SULLIVAN: Right there. So he had more than a casual interest in the process. I believe he was at the meeting. So that's not a problem then for you to put a barricade there.

MR. PINO: That's not a problem.

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

CHAIRMAN CAMPOS: Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Mr. Pino, regarding the water service agreement that you mentioned that you brought before us July 13<sup>th</sup>. Can you refresh my memory as to what it is that you suggested or recommended in terms of revisiting that?

MR. PINO: Mr. Chair and Commissioner Montoya, on July 13<sup>th</sup> I submitted a letter to the County Manager with a draft of an amended, first amended water service agreement to amend the water service agreement that had been executed in December 2002. That proposal essentially contained three major parts, one of them was to allow us to transfer water rights to the surface diversion in the name of the County, with supplemental use in the Rancho Viejo well, until the diversion was opened, and that particular proposal also was requesting that Rancho Viejo be able to leverage use of water that is currently unused.

My understanding is that there's been some discussion among staff about that. I certainly have met with staff on a couple of occasions. But aside from a few meetings with staff, that particular proposal has never come to you as an official application. And what we'd like to do is see if we can't get that in front of you in its current form or some negotiated form just so that we can move forward with water development at Rancho Viejo. That's what was in that July 13<sup>th</sup> letter and amended agreement.

COMMISSIONER MONTOYA: So the two points then. Transfer to surface diversion and then leveraging some other water through maybe another diversion point?

MR. PINO: No, Mr. Chair, Commissioner Montoya, our thought had been that

the County has the 500 acre-feet of water and all of it is spoken for, via water service agreements or reserved by the County for its own use for affordable housing, for economic development. And our hope was to find some room within the water that is not currently being used. We understand it's allocated, and to be able to then leverage use temporarily until the well is permitted or the diversion opens of that water. And to go ahead and make the water rights transfer to the diversion in the name of the County so those become County water rights at the diversion. And if we ever need to use, in that leverage equation, our thought was that we probably would never have to pump the well, but if we did, part of the proposal was to have a supplemental use in the well so that if we ever had to pump that well then we would do it.

If we never had to pump it and the diversion opened then the well would sit there as a resource but would not be pumped. It gets kind of complicated but it's never seen really the light of day with the Commission and we'd like to bring that forward so we can see if there's any opportunities.

COMMISSIONER MONTOYA: Okay. So then it doesn't necessarily have to be a surface diversion, in terms of the transfer of the water rights. Because right now the surface diversion is to Buckman, right?

MR. PINO: The surface diversion - actually, we have a number of proposals we've been talking about with staff. One of them is the one I described. Another one hopefully is that there could be some resolution to the wheeling agreement and that that would provide the additional water necessary until the diversion is open.

COMMISSIONER MONTOYA: We're all hoping for that.

MR. PINO: And another one would be that absent any ability to do any of that or find a diversion point of County water that the condition for community systems, or not the condition but the amendment to the ordinance be lifted to allow for that sort of water development. Unless we get a proposal in front of you officially though we really can't engage that discussion and see if there is some opportunity to move in some direction. And we would really like to move that forward. Because if we can reach some sort of resolution that actually creates a diversion point or provides for the delivery of water, then the other 18 units that I wanted to build in this subdivision would free up under the water service agreement. Currently we wouldn't be able to do that.

COMMISSIONER MONTOYA: Thank you, Mr. Pino.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: Ike, of the live-work units, are they also going to be affordable? Are the affordable units going to be live-work units?

MR. PINO: Mr. Chair, Commissioner Duran, we hadn't really investigated whether that would be a possibility. I imagine that when we start to develop that product we'll take a real hard look at whether it would meet the affordable requirements for the County, and if it does we would include it as part of the affordable mix.

COMMISSIONER DURAN: Which ones are the live-work units that you're talking about?

MR. PINO: Mr. Chair, Commissioner Duran, there are no live-work units

proposed in this subdivision at this time.

COMMISSIONER DURAN: Because I thought that's what you were coming forward with.

MR. PINO: Mr. Chair, Commissioner Duran, no. The smaller units that you see on the drawings are townhomes.

COMMISSIONER DURAN: Oh, this included tracts for live-work units. It says here on January 13<sup>th</sup> the Board of County Commissioners approved final approval for Unit I consisting of 150 residential lots/units which included tracts for live-work units. So what you're asking for approval for tonight is a tract of land that had live-work units but will not have live-work units. You're not going to build any live-work units.

MR. PINO: Mr. Chair, Commissioner Duran, that's correct. And in this particular subdivision there would be no live-work units.

COMMISSIONER DURAN: Where do you propose to put the live-work units if not around - I kind of liked the idea that they're around the plaza. Where do you propose to do live-work units, because the thing about the live-work units is that you have - they do have a small commercial - I think it is a really good stepping stone.

MR. PINO: Mr. Chair, Commissioner Duran, on this drawing, all of these rust-colored tracts would all remain as commercial mixed use and could have live-work units on them. And then the center, under our proposal for the Village West master plan, the center of the commercial area would then become Avenida del Sur and Rancho Viejo Boulevard. So there'd be opportunities there on the other side of the major center here for live-work units as well. So all of these tracts, with the exception of the one we're building our building on at this point, would still have the type of zoning and use available for live-work units because it made sense to put them there.

COMMISSIONER DURAN: So your opinion is that the three blocks that you're talking about tonight and those are pretty much - they're conducive to single family living? More so than a live-work situation?

MR. PINO: Mr. Chair, Commissioner Duran, I would say that the market studies that we've done would indicate that and more importantly that was the preference of the homeowner group in the design of the Village Center.

COMMISSIONER DURAN: That's right. You had a homework group. I used to hate homework. Okay. I'm just really in favor of live-work units and I think that you'll find that there's a real demand for it out there in the market place. So I'd be excited to know when you're going to do those. Thank you.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: Now you guys have really got me confused. What are you asking for? Just real simple. Show me the picture. Hold it up and tell me what you guys are asking for.

MR. PINO: Mr. Chair, Commissioner Anaya, the original application was to get a 34-lot subdivision which includes 16 lots for single family here, single family detached,



and 18 lots for townhomes. Because the water that's available will only support 16 of the units, staff recommended that this be approved with only 16 units going forward. And I've already said that I would agree to that condition and that I would pursue the 18 when there's water available. And the whole discussion about the water service agreements and all that was just our expressing our desire to keep discussions about water service agreements come forward as soon as possible. So tonight, if the Commission so desires they would approve the subdivision with staff recommendations to allow the 16 to go in now and the 18 to be revisited at such time that there would actually be water that could be delivered to support those units.

COMMISSIONER ANAYA: And those ones at the top would be live-work or not?

MR. PINO: No, these would be townhomes.

COMMISSIONER DURAN: The brown ones are live-work.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN CAMPOS: Okay, public hearing. Anybody here who would like to address the Commission on this application, please come forward now. Okay, public hearing is closed, no one having come forward. Discussion, comments from the Commission.

COMMISSIONER DURAN: Move for approval, Mr. Chair.

COMMISSIONER MONTOYA: Second.

CHAIRMAN CAMPOS: Okay, a motion to approve with the conditions. Is that right?

COMMISSIONER DURAN: Yes, and with one other. With instructions to staff to bring forward to the Commission the discussions that the applicant has requested we pursue relative to being able to provide water to the project out there. So that would not be a condition but direction to staff.

COMMISSIONER MONTOYA: Commissioner, and if I could add that we maybe within a month get that recommendation and that direction. Because I think it ties into everything that we're trying to work towards in terms of the County utility, the water utility. And part of that has to do with what other points of diversion do we have, what other options are there. So I'd like to get that going, Mr. Chair.

CHAIRMAN CAMPOS: So that's simply direction that we'd like to have this discussion go forward. I understand - what my understanding was that it was going forward and then communication broke down somewhere. But that you had been approached, Mr. Pine. Okay, there's a motion. There's a second. Conditions. Further discussion?

COMMISSIONER ANAYA: Discussion, Mr. Chair.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER ANAYA: I'd like to make a comment on this case and on the other cases. And this comment will go to the Commissioners. I think that we are really turning some of these cases into discussions that are taking really long. And I think that we need to get to the point and not turn these things into a 30 minute, 45 minute, we had a discussion for an hour and 50 minutes on a previous case and I think that we can do better. We can do better for the public. I know we have our questions but we can shorten them up. We

don't have to go into a long, detailed summary or long, detailed discussions on some of these items. I just think that we're taking too long and sometimes the people - I can see the people in the audience get frustrated. I know the people at home are probably getting frustrated and I'm getting frustrated. And I think that we should - I know that we have questions but we can get to the point on them. That's my comment, Mr. Chair. Thank you.

CHAIRMAN CAMPOS: I agree. I think we need to be more focused on the issue of the particular case as opposed to general issues. Yes, sir.

COMMISSIONER DURAN: Mr. Chair, to that. I'd like to comment. How about if we put together a rule that each Commissioner has no more than five minutes to discuss any particular issue.

CHAIRMAN CAMPOS: Let's bring it up at the next meeting if you want to -

COMMISSIONER DURAN: Well, we're talking about it right now. I'd like to get some consensus that we all agree that we need to limit our discussion and the only way we're going to do that is by limiting the time we have to speak to the issue.

CHAIRMAN CAMPOS: I would be against that. Five minutes is restrictive. Every case is different so we need to be flexible.

COMMISSIONER DURAN: So you are opposed to limiting the minutes that we can talk?

CHAIRMAN CAMPOS: To five minutes, yes.

COMMISSIONER DURAN: So you're not in favor of making the meetings shorter?

CHAIRMAN CAMPOS: No, I am in favor of making the meetings shorter.

COMMISSIONER DURAN: So you're in favor of allowing Commissioner Sullivan to gerrymander - not gerrymander -

CHAIRMAN CAMPOS: Most of the -

COMMISSIONER DURAN: You're out of order.

CHAIRMAN CAMPOS: Your commentary, Commissioner Duran. Okay, there's a motion and a second.

**The motion to approve CDRC Case #S 04-4380 passed by majority 4-1 voice vote, with Commissioner Sullivan voting against.**

**XIII. B. 10. EZ CASE #Z 04-4420 – Jacques Constant Residential Subdivision. James W. Siebert and Associates, Agent for Jacques Constant, Applicant, Requests Master Plan Approval for a 19 Lot Residential Subdivision of 47.50 Acres to be Developed in Multiple Phases. The Property is Located East of Los Suenos Trail and South of La Serena Trail, within Section 19, Township 17 North, Range 9 East. (Commission District 2)**

MR. ARCHULETA: Mr. Chair, James Siebert and Associations, agent, Jacques Constant, applicant, request master plan approval for a 19-lot residential subdivision of 47.5 acres to be developed in multiple phases.

CHAIRMAN CAMPOS: Mr. Archuleta, would you not read the whole thing, just summarize it. We've got to get moving. We've got maybe an hour left of good time here.

MR. ARCHULETA: On August 12, 2004 the EZC recommended master plan zoning approval for a 19-lot residential subdivision on 47.5 acres. The average density of the subdivision will be one dwelling unit per 2.5 acres of land and the lots will be served by a shared well system. The subdivision will be constructed in three phases with phase I consisting of six lots, phase II will consist of four lots and phase III will consist of nine lots. Shared wells will be constructed by the developer to serve each phase of the development with no more than six lots served by a shared well.

The application was reviewed for the following: existing conditions, access, water, fire protection, liquid and solid waste, terrain management, stormwater retention, archeology, open space, signage and lighting, phasing and homeowners association. The proposed master plan is in accordance with the procedures and submittals for master plan set forth in sections 3.5 and 3.6 of the EZO. May I enter the conditions into the record.

CHAIRMAN CAMPOS: They are so entered.

[The conditions are as follows:]

1. Length of cul-de-sac shall not exceed 1000 feet.
2. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Department
  - c) State Department of Transportation
  - d) County Hydrologist
  - e) Development Review Director
  - f) County Fire Marshal
  - g) County Public Works
  - h) County Technical Review
  - i) Soil and Water District

3. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
  - a) Water Restrictions shall be .25 acre-feet per lot
  - b) Water conservation measures shall include water storage from roof drainage.
  - c) Maintenance of roads and drainage facilities
  - d) Maintenance of septic systems
4. The applicant shall contract with a licensed solid waste disposal service for trash pick-up.
5. Submit solid waste fee in accordance with subdivision regulations and submit fire review/inspection fees in accordance with Resolution No. 2003-47.
6. All redline comments shall be addressed.
7. Submit a cost estimate and financial surety for completion of required improvements as approved by staff.
8. Applicant shall address the following issues from the Santa Fe County Hydrologist:
  - a) All water be supplied by shared wells, each supplying at least three lots.
  - b) Submit a copy of the Water Quality Analysis from NMED to fulfill the water quality requirement.
9. A liquid waste permit must be obtained from the Environment Department for the proposed septic system prior to issuance of building permit.
10. The applicant must record water restrictive covenants simultaneously imposing .25-acre ft. per year per lot. Water meters for each subject parcel must be installed to monitor water use. Water consumption reports must be submitted to the County Hydrologist by August 31<sup>st</sup> of each year and submitted to the Office of the State Engineer on a quarterly basis. The applicant shall add this responsibility to the Director's duties listed in the well sharing agreement.
11. Lots are subject to a 30% open space requirement. Trails shall be developed within open space
12. The applicant must address all minor redline comments by the County Subdivision Engineer as shown on the plat of survey and terrain management plan. These plans may be picked up from Vicente Archuleta, Development Review Specialist within the Land Use Dept. These plans must be resubmitted with the Mylar prior to recordation.

CHAIRMAN CAMPOS: Any questions of Mr. Archuleta. Okay, applicant, Mr. Siebert.

[Duly sworn, Jim Siebert testified as follows:]

JAMES SIEBERT: My name's Jim Siebert. My address is 915 Mercer, Santa Fe.

CHAIRMAN CAMPOS: Mr. Siebert, do you agree with the conditions and the recommendation?

MR. SIEBERT: Yes, I do.

CHAIRMAN CAMPOS: Do you have anything to add to that?

MR. SIEBERT: No.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody here that wants to talk for or against? The public hearing is closed. Any questions from the Commission?

COMMISSIONER MONTOYA: Mr. Chair, move for approval with staff conditions.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER DURAN: Second.

CHAIRMAN CAMPOS: Is there discussion?

The motion to approve EZ Case #Z 04-4420 passed by unanimous [5-0] voice vote.

- XIII. B. 11. **EZ CASE #MIS 04-5220 - Nai's Roadhouse Restaurant License.**  
**Nai's Roadhouse (Nai Smith, Owner), is Requesting Approval of a Restaurant Liquor License to Permit the Sale of Beer and Wine with Meals in Accordance with the Master Plan Zoning, Preliminary and Final Development Plan Approval for the Creation of Community Center District that Allows for a Restaurant with Beer and Wine Sales. The Property is Located at 3810 State Road 14, within Section 35, Township 15 North, Range 8 East. (Commission District 3)**

MS. REYES: On September 23, 2003 an election was voted on and was passed regarding the opportunity for restaurants in the unincorporated areas of Santa Fe County to serve beer and wine with meals. On September 14, 1993 the BCC granted approval for master plan zoning with preliminary and final development plan for the creation of a community center district establishment of intensities of a use list that includes a restaurant with beer and wine sales. The applicant is requesting approval of a restaurant liquor license to allow the sale of beer and wine with meals. The State Alcohol and Gaming Division has granted preliminary approval of this request. The request is in accordance with the approved master plan and preliminary and final development plan and the applicant has complied with the minimum notice requirements. Staff recommends approval subject to the following conditions. May I enter the conditions?

CHAIRMAN CAMPOS: Yes, they're so entered.

[The conditions are as follows:]

1. Portable signs and poster signs that advertise beer and wine beverages and are located on the exterior of the building are prohibited.
2. Compliance with County Clerk fee of \$250.00.

CHAIRMAN CAMPOS: Okay is the applicant here? Applicant please come forward.

[Duly sworn, Nai Smith testified as follows:]

NAI SMITH: My name is Nai Smith. I'm the applicant.

CHAIRMAN CAMPOS: Ma'am, do you agree with the recommendation and the conditions set forth by staff?

MS. SMITH: Yes, I do.

CHAIRMAN CAMPOS: Okay. Thank you very much. This is a public hearing. Anybody out there want to speak for or against this? Okay, please come forward.

[Duly sworn, Hugh Nazor testified as follows:]

HUGH NAZOR: Hugh Nazor, 263 Don Jose Loop on behalf of the San Marcos Association and for the San Marcos planning district in which Nai's establishment is approximately in the center, I want to speak very positively on behalf of the applicant and on behalf of the intent of this new law and the positive effect I think it will have on this central business district of the San Marcos District.

CHAIRMAN CAMPOS: Thank you, Mr. Nazor. Anybody else out there? Okay, the public hearing is closed. Is there a motion.

COMMISSIONER MONTROYA: Move for approval, Mr. Chair, with conditions.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER ANAYA: Second.

The motion to approve EZ Case #04-5220 passed by unanimous [4-0] voice vote.  
[Commissioner Duran was not present for this action.]

**XIII. B. 12. CDRC CASE #MIS/DP 04-5200 – Agora Addition. John Gary Boyle, Applicant, Requests Final Development Plan Approval for a 11,075 Square Foot Addition to the Existing Agora Shopping Center Supermarket on 9.56 Acres. The Property is Located at #7 Avenida Vista Grande in Eldorado, within Section 9, Township 15 North, Range 10 East. (Commission District 5)**

MR. DALTON: Thank you, Mr. Chair. On August 10, 2004 the BCC granted a master plan amendment, preliminary development plan approval for an 11,075 square foot addition to the existing Agora Shopping Center Supermarket on 9.56 acres. The BCC also determined that final development plan shall be reviewed and approved by the Board in order for the applicant to address architecture, onsite water collection and fencing. The applicant has addressed the following three issues. Dos Griegos fence, water harvesting and 285 agricultural guidelines.

Staff's position is that this application is in accordance with Article III, Section 4.4 of the County Land Development Code. Staff recommends final development plan approval for an 11,075 square foot addition to the existing Agora Shopping Center Supermarket on 9.56 acres subject to the following conditions. Mr. Chair, may I enter those into the record.

CHAIRMAN CAMPOS: They are so entered.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - (a) State Engineer
  - (b) State Environment Department
  - (c) State Department of Transportation
  - (d) County Hydrologist
  - (e) Development Review Director
  - (f) County Fire Marshal (Development Plan and Building Plans)
  - (g) County Public Works (access permit)
  - (h) County Technical Review Division
2. The master plan/development plan will be recorded with the County Clerk's office.
3. All Staff redlines will be addressed, original redlines will be returned with final plans.
4. All outside lighting on the property shall be shielded.
5. The applicant shall submit a cost estimate and financial guarantee for completion of the required improvements as approved by staff, or other method acceptable to staff.
6. The applicant shall comply with the water harvesting requirements of Ordinance #2003-6. A water-harvesting plan shall be submitted prior to recordation of the development plan to ensure water use does not exceed 4.4 acre-feet.
7. Water use shall not exceed 4.4 acre feet per year. Annual water readings shall be submitted to the County Hydrologist by June 30<sup>th</sup> of each year.
8. This application is subject to final inspection by the County Fire Marshal. The applicant shall comply with all Fire Marshal requirements.
9. The applicant shall pay a fire review fee in the amount determined by the Fire Marshal in accordance with Santa Fe County Resolution N. 2001-114, prior to recordation of the Final Development Plan.
10. Landscape Plan shall include, but not be limited to the following:
  - a. The applicant shall submit a landscape plan consisting of trees and shrubs within all areas of new development.
  - b. Provide interior landscaping within the parking area consisting of (1) deciduous shade tree and (3) shrubs for every (10) parking spaces.
  - c. All landscaping shall be of drought tolerant varieties and shall utilize a drip irrigation system.
11. The total building area established with the original master plan shall be maintained in the amended master plan.

12. The applicant shall comply with the US 285 South Highway Corridor Architectural Design Standards and Guidelines as currently delineated on pages 121 through 127, except that the parking standards shall not apply.
13. The applicant shall submit evidences of a written agreement between the applicant and the Dos Griegos Homeowners Association and homeowners bordering the supermarket regarding control of debris from the property. Possible provisions in agreed upon method for control of debris.
14. The applicant shall submit, upon compliance with the conditions, the final development plan to the Board for approval.

CHAIRMAN CAMPOS: Okay, is the applicant here? Sir, please come forward.  
[Duly sworn, Gary Boyle testified as follows:]

GARY BOYLE: Gary Boyle, 830 Acequia Madre.

CHAIRMAN CAMPOS: Do you agree with the recommendation and the conditions?

MR. BOYLE: Yes, I do.

CHAIRMAN CAMPOS: Do you have anything additional?

MR. BOYLE: No.

CHAIRMAN CAMPOS: This is a public hearing. Anybody out there want to speak for or against? Okay, no one coming forward, the public hearing is closed. Questions?

COMMISSIONER DURAN: I have a question of the applicant.

CHAIRMAN CAMPOS: Commissioner Duran.

COMMISSIONER DURAN: Mr. Boyle, I was approached by one of your – one of the members who live out there and they asked me to ask you a couple questions. It might be in staff's recommendations. I don't think so. They told me that you had agreed to several shrubs and that a center stripe between the two buildings. Can I just show you real quick? It doesn't make sense to me; maybe it will make sense to you. Now, there's a building here, a building here, the new building, a road in between the two. This is the parking lot. I'm sorry. And as you come out of the parking lot he was afraid that the traffic going this – there's not a line delineating the two lanes.

MR. BOYLE: What I intend to do is put stripes here as crosswalk.

COMMISSIONER DURAN: Right. And then a crosswalk over here if necessary?

MR. BOYLE: Exactly, yes. And also a stop sign here so the traffic going this way would have a stop.

COMMISSIONER DURAN: And a line in the middle. He says he's afraid that when they come out of the parking lot that it's possible that they would go down the street thinking it's a one-way.

MR. BOYLE: Oh, yes.

COMMISSIONER DURAN: So with a stripe in the middle, delineating two lanes would avoid any confusion.



MR. BOYLE: We certainly can do that. Absolutely.  
COMMISSIONER DURAN: Okay. Thank you. I told them I would them I would bring that up for your consideration. Okay. Thank you.  
CHAIRMAN CAMPOS: Okay, is there a motion?  
COMMISSIONER DURAN: Move for approval, Mr. Chair.  
COMMISSIONER SULLIVAN: Second.  
CHAIRMAN CAMPOS: With conditions?  
COMMISSIONER DURAN: With staff conditions and the agreement that Mr. Boyle will put in two crosswalks by the parking lot and have a center stripe delineating the two lanes.  
CHAIRMAN CAMPOS: Do you agree to that, Mr. Boyle?  
MR. BOYLE: Yes, I do.  
CHAIRMAN CAMPOS: Okay, is the seconder fine with that?  
COMMISSIONER SULLIVAN: Fine.

The motion to approve CDRC Case #MIS 04-5200 passed by unanimous [5-0] voice vote.

**XIII. B. 13. CDRC CASE #Z/P 04-5360 – Bauman/Chapman Bed & Breakfast. Tim Bauman and Emily Chapman, Applicants, Request Master Plan Zoning, Preliminary and Final Development Plan Approval for a 5 to 9 Bedroom Bed and Breakfast within an Existing 4,400 Square Foot Residence on 4.32 Acres. The Property is Located at 27 County Road 84D in Jaconita, within Section 11, Township 19 North, Range 8 East. (Commission District 1)**

MR. GONZALES: Thank you, Mr. Chair. Tim and Emily Chapman, applicants, request master plan zoning, preliminary and final development plan approval for a five to nine bedroom bed and breakfast as a large-scale residential use within an existing 4,400 square foot residence on 4.32 acres.

On August 19, 2004 the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of master plan zoning, preliminary and final development plan.

Staff's position is this application is in accordance with Article V, Section 5 and Article III, Section 4.4, development plan procedures of Santa Fe County Land Development Code. Staff recommends master plan zoning with preliminary development plan approval for a five to nine bedroom bed and breakfast within an existing 4,400 square foot residence on 4.32 acres subject to the following conditions, with a correction to condition number 2, Mr. Chair. It should read .6 acre-feet per year instead of .5. May I enter these conditions into the record?

CHAIRMAN CAMPOS: They are so entered as corrected.

[The conditions are as follows:]

0. The master plan/development plan will be recorded with the County Clerk's office.
  1. All Staff redlines will be addressed. Original redlines will be returned with final plans.
  2. Record water restriction for ~~.50~~ .6 acre-feet per year. A water meter shall be installed on the well. Annual water meter readings shall be submitted to the County Hydrologist by August 31<sup>st</sup> of each year.
  3. The applicant shall comply with all Fire Marshal requirements.
  4. All outside lighting on the property shall be shielded.
  5. All improvements, including parking area and fire protection, shall be in place prior to issuing Business Registration.
  6. Address existing or creation property as a legal lot.
  7. Compliance with applicable review comments from the following:
    - a. State Engineer's Office
    - b. Technical Review
    - c. Public Works Department
    - d. County Hydrologist
    - e. State Environmental Department
    - f. State Department of Transportation
    - g. County Fire Department
    - h. Soil and Water Conservation District [Added in discussion]
  8. Compliance with sign standards. Sign area shall not exceed 20 square feet.
  9. Submit financial surety for completion of required improvement or approved by staff.
  10. Business registration must be obtained prior to opening of business.
  11. The applicant shall submit a fire review fee, to be determined by the County Fire Department, in accordance with Santa Fe County Resolution 2001-114 prior to the recordation on the final development plan.

CHAIRMAN CAMPOS: Let me ask you a question. Do you think this is going to have any detrimental impact on the neighborhood, adding additional traffic and use? Are there homes nearby?

MR. GONZALES: Mr. Chair, there are homes nearby. There's also art galleries in the vicinity so it's kind of mixed use.

CHAIRMAN CAMPOS: Mixed use already?

MR. GONZALES: Exactly, Mr. Chair.

CHAIRMAN CAMPOS: Okay, is the applicant here?

[Duly sworn, Emily Chapman testified as follows:]

EMILY CHAPMAN: I'm Emily Chapman. I live at 27 County Road 84-D

in Jaconita, New Mexico.

CHAIRMAN CAMPOS: Ms. Chapman, have you read the report?

MS. CHAPMAN: I have.

CHAIRMAN CAMPOS: And do you agree with the recommendation and conditions?

MS. CHAPMAN: Yes.

CHAIRMAN CAMPOS: Do you have anything further to add?

MS. CHAPMAN: No.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anybody out there want to talk for or against it? No one having come forward, the public hearing is closed. Is there discussion?

COMMISSIONER SULLIVAN: Sir.

CHAIRMAN CAMPOS: Sir.

COMMISSIONER SULLIVAN: There was a comment from the Pojoaque-Santa Fe Soil and Water Conservation District that there was no erosion and drainage plan, and the submittal didn't meet the terrain management plan requirements. Has that been met, because I don't see that as a condition?

MR. GONZALES: Mr. Chair, I believe that condition number 7, compliance with applicable review comments from the following agencies.

COMMISSIONER SULLIVAN: But I don't see the Soil and Water Conservation District.

MR. GONZALES: They should be one of those since we did receive a letter from them. And also terrain - the technical review from County staff also.

COMMISSIONER SULLIVAN: So we should probably add in 7.h) Soil and Water Conservation District?

MR. GONZALES: Mr. Chair, Commissioner Sullivan, that would be a good idea.

CHAIRMAN CAMPOS: And what is that?

COMMISSIONER SULLIVAN: That would be the Soil and Water Conservation District. Pojoaque.

CHAIRMAN CAMPOS: Okay. Anything else? Any other comments or questions? Is there a motion to approve this project with conditions as amended?

COMMISSIONER SULLIVAN: So moved.

CHAIRMAN CAMPOS: Is there a second?

COMMISSIONER MONTOYA: Second.

**The motion to approve CDRC Case #Z/P 04-5360 passed by unanimous [5-0] voice vote.**

**XIII. B. 16. CDRC CASE #DP 04-5330 – PNM Project Power Development Plan. PNM, (Laurie Moya), Applicant, Requests Development Plan Approval to Allow the Replacement of Electric Line Poles within an Existing Overhead Electric Line that Serves the Santa Fe Area, This Request Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to Allow Electric Line Poles to Exceed 24 Feet. The Property is Located 2 Miles Southwest of Las Campanas Along County Road 62, within Sections 22 and 26, Township 17 North, Range 8 East, (Commission District 2) and within the Traditional Community of Agua Fria within Sections 5 and 32, Township 16 and 17 North, Range 9 East. (Commission District 2 and 5)**

MR. DALTON: Mr. Chair, the applicant is requesting development plan approval to allow the replacement of existing overhead electric lines and poles to serve the Santa Fe area. This request includes a variance of Article III, Section 2.3.6b of the Land Development Code to allow electric line poles to exceed 24 feet. The total length of Project Power is 13.1 miles with approximately 1.5 miles within the EZ-5 County jurisdiction and approximately .8 miles within the traditional historic community of Agua Fria. The need for Project Power is to improve reliability of the transmission system serving Santa Fe by providing a third 115kV circuit to supply electricity in case of an outage on an existing line or other critical piece of equipment and provide for load growth for the area. Current peak loads now exceed the normal rating limits of existing lines. These conditions will only worsen as demand continues to grow, jeopardizing reliability of the system. The system improvements are needed as soon as possible.

Recommendation: Staff recommends approval of the proposed development plan and variance as submitted by the applicant subject to the following conditions. Mr. Chair, may I enter those into the record?

CHAIRMAN CAMPOS: Are those 1 and 2 on page 4?

MR. DALTON: That's correct.

CHAIRMAN CAMPOS: They're so entered.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a. State Department of Transportation
  - b. Development Review Director
  - c. County Fire Marshal (development plan and building plans)
  - d. County Public Works (access permit)
  - e. County Technical Review Division
2. The applicant shall not construct a switching station with the traditional community of Agua Fria.

CHAIRMAN CAMPOS: Any questions of Mr. Dalton? Okay, applicant.

[Duly sworn, Laurie Moye testified as follows:]

LAURIE MOYE : My name is Laurie Moye and I work with PNM, and I understand I get five minutes, and you all could probably come down and give this presentation.

CHAIRMAN CAMPOS: Just keep it brief. The Duran rule is not in effect.

COMMISSIONER DURAN: You can be there as long as you want. We might go home before you're through though.

MS. MOYE: Project Power is a 13-mile electric transmission project that would double circuit an existing transmission line in Santa Fe County. This existing corridor has been in use since 1958. PNM is requesting development plan approval for Project Power including a height variance and permission to construct overhead. Project Power is urgently needed to ensure PNM's ability to safely and reliably serve Santa Fe. Approval of all requests is necessary to implement the project.

There are five miles of this project in the county and about half of that is in the EZ. PNM has worked with the Agua Fria community on the station siting issue and do you have that commitment in your packet? Wayne, do they have the commitment for Agua Fria in their packet? Okay. I have extra copies if you don't have it.

We have held over 100 meetings. We have mailed to over 1000 homes on this project. The project will reduce the number of poles in the ground from 43 to 20. The height increase is five feet, and then there are visual simulations in the handout that you've just been given. [Exhibit 7] The environmental analysis, the BLM environmental analysis identified this route as having the least environmental impact. It uses as I said an existing transmission line corridor. There is no change in land use and no additional easements are required.

Undergrounding could create greater impacts such as soil loss and loss of native vegetation. The overhead lines' impact is only the area surrounding the base of the poles. Overhead technology is time-tested and cost-effective. It offers better reliability and costs substantially less to install and repair. Existing overhead facilities would remain in place if undergrounding is required. If Santa Fe County requires undergrounding the County government or PNM rate payers only within the unincorporated part of the county must pay the cost differential between overhead and underground construction, and that is per the New Mexico Public Regulation tariff ruling first revised rate number 22, underground systems special services.

CHAIRMAN CAMPOS: Ms. Moye, isn't there an exception to that?

MS. MOYE: Mr. Chair, Commissioners, no there isn't.

CHAIRMAN CAMPOS: Public welfare and safety?

MS. MOYE: The government entity needs to show proof to the Commission that it is in fact public health, safety and welfare.

CHAIRMAN CAMPOS: But if they do that it's an exception to the ruling.

MS. MOYE: That's correct.

CHAIRMAN CAMPOS: Okay. Please continue.

MS. MOYE: The need for Project Power is to improve the reliability of the transmission system in Santa Fe, serving Santa Fe. To increase the capacity of the area's 115 kV transmission system by installing a third circuit and provide system improvements as soon as possible. Without these improvements electric load in Santa Fe will soon exceed PNM's ability to serve safely and reliably. This is not about not having enough power. This is about being able to move more power into Santa Fe. There's plenty of power. It's to safely move power into Santa Fe.

Approval of all requests is necessary to implement the project. That's the development plan, the height variance, and approval for the BCC to construct overhead. Project Power makes use of an existing transmission line corridor and station instead of new construction. The intensity of the use is improved by reducing the number of poles in the ground by more than half, from 43 to 20. Visual improvements are gained by using a single pole structure with a narrower profile. In your handout, the first page talks about how electricity gets from us to you. The internal pages talk about our public input process, the need, how electricity gets to Santa Fe and you'll notice there are two lines that serve the Santa Fe area. One carries 70 percent and one carries 30 percent. Today, we have a difficult time taking one of those lines out for any kind of maintenance or work on it because the other line cannot carry the load.

When PNM began this project, Santa Fe was a winter-peaking system. Santa Fe is no longer a winter - it continues to be a winter-peaking system and it is now a summer-peaking system. So it is unique in PNM's system statewide that it peaks in both the winter and the summer, which makes it very difficult again to do any type of work. You also have a map of the proposed line route in the existing corridor. And then on the side you have photo simulations of what it looks like now and what it will look like with single pole structures.

And then on the back of your handout you have some descriptions of underground construction. With that, Mr. Chair, Commissioners, I stand for any questions.

CHAIRMAN CAMPOS: Ms. Moye, would you justify, establish in the record, why you need the additional five feet of pole height?

MS. MOYE: Because we are going to be double circuiting it. The National Electric Safety Code, which has been adopted by the state of New Mexico and the Public Regulation Commission, requires us to have certain clearances from the ground, and from the other conductors, the wires in the air and the conductors above. And that is what necessitates the extra five feet. We are going from a flat - if you look in your simulations you'll see that the lines run flat, 1, 2, 3. And what we're going to be doing is rolling the lines up so we have three lines here, three lines here and three lines here. And we need the five feet for the additional clearance.

CHAIRMAN CAMPOS: What is the status with the City? Do you have an application with the City of Santa Fe?

MS. MOYE: The City Planning Commission unanimously approved our request.

CHAIRMAN CAMPOS: When will it go to the City Council?

MS. MOYE: The City Council will review it on October 13<sup>th</sup>.

CHAIRMAN CAMPOS: Okay. Commissioner Duran.

COMMISSIONER DURAN: Since this – I have some interest in this because it goes through the tradition community of Agua Fria which is in my district. And I'm looking at the location of it. Am I correct in assuming that from this point to the Zia station, that they're all going to be monopoles like is shown here?

MS. MOYE: That's correct. Mr. Chair, Commissioner Duran, that's correct.

COMMISSIONER DURAN: That's a great improvement.

MS. MOYE: Yes, sir, it is.

COMMISSIONER DURAN: Thank you.

MS. MOYE: Mr. Chair, Commissioners, did you receive the e-mail from Tamara Lichtenstein? Is that in their packets? [Exhibit 8]

CHAIRMAN CAMPOS: What is that about?

MS. MOYE: It's a letter of support.

CHAIRMAN CAMPOS: Okay, anything else, Ms. Moye? Commissioner Sullivan, question.

COMMISSIONER SULLIVAN: Do you have – I saw a photo simulation showing what it would look like on Richards Avenue but I don't see that in your handout here. Do you have that?

MS. MOYE: Mr. Chair, Commissioner Sullivan, I do. Zia station was not in your packet because that is heard by the EZC but I can provide that for you right now if you'd like.

COMMISSIONER SULLIVAN: Yes. It's part of the line and Richards Avenue is in my district. I guess one of the other Commissioners wants to see it as well. Okay, that's the switching station. Where's the one showing Richards Avenue?

MS. MOYE: Mr. Chair, Commissioner Sullivan, that is on Richards Avenue. The line comes in and it crosses Richards Avenue –

COMMISSIONER SULLIVAN: I understand that. I saw one that was showing a shot north on Richards Avenue that showed what the poles look like on Richards. Do you have one like that? While they're looking, let me make a clarification then. My understanding is the current poles average around 65 feet in height.

MS. MOYE: That's correct.

COMMISSIONER SULLIVAN: And you'll be on the average then increasing them to about 70 feet. Is that correct?

MS. MOYE: Mr. Chair, Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: The current Code, the County Code is 24 feet.

MS. MOYE: I believe that's correct, yes.

COMMISSIONER SULLIVAN: This section of line that we're approving is the section that goes through Agua Fria or not?

MS. MOYE: It is. The section that goes –

COMMISSIONER SULLIVAN: It's about five miles?

MS. MOYE: It's five miles. That's correct.

COMMISSIONER SULLIVAN: And which five miles is the section that the County Commission is approving or being requested to approve? Is it the section that goes through the Agua Fria traditional community?

MS. MOYE: Yes, Mr. Chair, Commissioner Sullivan. It goes through Agua Fria traditional community, yes, and north of Agua Fria.

COMMISSIONER SULLIVAN: In the north of Agua Fria.

MS. MOYE: And you'll see the purple that is the state.

COMMISSIONER SULLIVAN: Through the highway corridor? Up to the two-mile line? Is that where we're approving?

MS. MOYE: Up to the BLM, the gray BLM.

COMMISSIONER SULLIVAN: Up to the gray BLM. And why does it stop there?

MS. MOYE: The BLM has already issued us a permit. That's federal land and they have already issued us a permit to proceed.

COMMISSIONER SULLIVAN: Okay, so everything from the BLM, which is at the far left of the drawing, is that what you're talking about?

MS. MOYE: Yes, sir. And down across the state land, which you don't -

COMMISSIONER SULLIVAN: Which we're not involved in.

MS. MOYE: Right. And then across -

COMMISSIONER SULLIVAN: Across the highway corridor?

MS. MOYE: Across the highway corridor. Down to Agua Fria, and then it stops.

COMMISSIONER SULLIVAN: Stops at the south end of the Agua Fria historic community?

MS. MOYE: That's correct.

COMMISSIONER SULLIVAN: And there it stops.

MS. MOYE: And then a little piece, you see the city?

COMMISSIONER SULLIVAN: Right.

MS. MOYE: Then a little piece going - and that's actually the EZ.

COMMISSIONER SULLIVAN: Back through the EZ, and the EZ over to the Zia substation.

MS. MOYE: That's correct.

COMMISSIONER SULLIVAN: Okay. So we stop then where it says "E". Is that correct?

MS. MOYE: Yes. Mr. Chair, Commissioner Sullivan, I have the photo simulation.

COMMISSIONER SULLIVAN: And the rest of it has to be approved by the City and the EZ. Yes, that's the one I wanted to see. I just want everyone to see this. I do want to compliment the Public Service Company on the efforts that they undertook, particularly dealing with the concerns of the people in the Agua Fria area. There were a lot of meetings that



took place there. I attended some of the early ones and they were pretty rowdy at the outset but folks calmed down after they had a change to have some input into the process.

MS. MOYE: Mr. Chair, Commissioner Sullivan, thank you very much.

COMMISSIONER SULLIVAN: That's the only questions I had, Mr. Chair.

CHAIRMAN CAMPOS: Okay, this is a public hearing. Anyone want to come forward and talk about this case to the Commission. Judge Ellington, come forward.

[Duly sworn, Glenn Ellington testified as follows:]

GLENN ELLINGTON: Glenn Ellington. I live at 4120 Monte Carlo, which is immediately east and a little south of the Zia substation. I've been involved in this process since early last summer through the BLM process and into this point in time. I've spoken before the EZC. A couple preliminary things and I'll try and be very, very brief. I believe there is a real need for this project so in that sense I'm in favor of it. I have not been in favor of this particular solution because I firmly believe the way the county is growing and the way the surrounding area is growing, this power doesn't just serve Santa Fe and Santa Fe County, this power goes all the way across the mountains east to Las Vegas. And it all comes through here. With the kind of growth that we have, I believe there is a need for a second switching station somewhere, probably south of town, given that that's the larger area of growth and there is another switching station out in the Norton switching station on the north side of town.

My concerns have been about a number things. We have a requirement that transmission lines in the County be underground. I believe that that's economically unfeasible at this time. The cost is very, very expensive and the rate payers within the county would bear the burden of that expense. The people at PNM have been very good to this point about dealing with the concerns not only of Agua Fria but a number of other of us have had concerns. Mine primarily are about what's happening at the Zia substation, and although I know that's for the EZC and in fact we're before them tomorrow evening, I'd just like to mention them because Commissioner Sullivan brought up what is going to happen across Richards Avenue.

Immediately to the east of Richards Avenue there will be a 90-foot pole that will go in to cross lines as they come in over the road. There will be several other structures built within the Zia substation. PNM has been very good so far about taking care of the concerns about cleaning up that site at Zia substation, about fencing and access and some other problems we've had. Those of you that go out to the Community College or Santa Maria de la Paz probably see a lot of graffiti along the fence that's there and we think we've figured out a solution to do that and I think PNM is amenable to that solution.

The only remaining area of contention I guess is to see if there's a solution to the height of the facilities that will be built at Zia. There will be two 90-foot poles and then one other large structure that's about 45 feet tall and a new control building. We'll take those up in more detail with the EZC tomorrow evening. In terms of what you're being asked to speak to I have no objection to and am in favor of what PNM is proposing before you. The other issues will be concerned in front of EZC tomorrow night. Thank you.

CHAIRMAN CAMPOS: Thank you, sir. Anybody else? Come on up.

[Duly sworn, Ben Luce testified as follows:]

BEN LUCE: My name is Ben Luce. My address is 801 Tiffany Court, Los Alamos, New Mexico. I was a member of the community working group. I was nominated to that group by Santa Fe City Councilman Cris Moore at the time that the project started. I'm a physicist. I have a technical background. I also, besides the community working group I was also invited I think by someone in the County to work with the Agua Fria community to validate some of the claims that PNM was making about the EMF measurements. Basically what I did was I went out with the community and made measurements on the powerlines, on the electromagnetic radiation coming off the powerlines and created a computer model and compared it with the results that PNM predicted.

I wanted to come down tonight and just state that I verified PNM's claims. There are some advantages to the proposed upgrade, the option that the group came up with. Basically, it will lower the EMF in Agua Fria and the other areas by about a factor of ten. The reason this occurs is because the new powerline that's being proposed moves the conductors closer together and these are three phase systems and if you were to move the lines completely together you'd have no radiation at all because you'd have no net current at all. So the better technology of these lines does have some potential health benefits.

I was also personally happy with the option because some of the other options that PNM had proposed would have involved projects that would have cost many tens of millions of dollars more on rate payers and new lines in areas where there are no existing lines presently. So I was happy with the fact that the community working group was able to come up and agree with PNM that the best option was probably an upgrade in double conductors on existing lines. I think the BLM environmental analysis validated that conclusion. That's all I had to say.

CHAIRMAN CAMPOS: Great. Thank you, Mr. Luce. Appreciate it very much. Okay, anyone else out there? Okay, that closes the public hearing. Commissioner Montoya

COMMISSIONER MONTROYA: Mr. Chair, question for the applicant regarding the overhead and underground installation. And I ask this out of curiosity. What would the replacement cost be - okay, we're going to go through a replacement cost and then if something, God forbid, were to happen like what's happening now with all these hurricanes. Who pays for that cost? I know that the government pays for a portion of it but then eventually Florida Electric, or who pays for the replacement cost of those electric lines. Because I notice in the pictures they show it's all overhead. It shows those lines flying all over the place. And it would seem like if they were underground they sure wouldn't be flying. So I don't know. My question - I don't know - acts of God. If something were to happen, is the rate payer going to pay for that cost to replace it at some point?

MS. MOYE: If I could repeat your question so I understand it. If there is a catastrophic event like a hurricane, who pays for the repairs? The utility pays for the repairs. And then if the Public Regulation Commission or whatever commission oversees the utility feel that that is appropriate to be passed back to the rate payers then it is. If they don't, then the utility and its shareholders absorb the cost.

COMMISSIONER MONTROYA: Oh, okay. So then regarding by other

question, regarding the replacement cost and the re-placement cost, can you answer that question? We're going to replace the lines now, right? We're going to put in new lines? And then if something like that were to happen you'd have to replace them again. Is that going to be as expensive or it's still going to be cheaper than running them underground?

MS. MOYE: Mr. Chair, Commissioner Montoya, the cost differential to do the lines overhead versus the lines underground is approximately \$5 million. So it's considerably -

COMMISSIONER MONTOYA: There's a difference of \$5 million?

MS. MOYE: That's correct. It's considerably cost-effective to replace and work and repair a line overhead than it is to repair lines underground.

COMMISSIONER MONTOYA: I was just curious. Thank you.

CHAIRMAN CAMPOS: Okay. Thank you very much. Discussion, questions, comments.

COMMISSIONER ANAYA: Mr. Chair.

CHAIRMAN CAMPOS: Commissioner Anaya.

COMMISSIONER ANAYA: I want to thank PNM for holding the meetings and working with the public and I want to thank the public for giving us the input that they did so that we can move forward and get this thing done. I think it's a necessity here in Santa Fe and Las Vegas and I'm an electrical contractor and if we don't have electricity I'm out of a job.

CHAIRMAN CAMPOS: Okay, is there a motion to do something?

COMMISSIONER DURAN: Move to approve.

CHAIRMAN CAMPOS: Okay, are there any conditions? Two conditions. With conditions, correct?

COMMISSIONER DURAN: Correct.

COMMISSIONER MONTOYA: Second.

The motion to approve CDRC Case #DP 04-5330 passed by unanimous [5-0] voice vote.

- XIII. B. 17. **EZ CASE #S 04-4390 – Aldea L.L.C. Phase 3B Preliminary and Final Plat. C.R. Walbridge and Associates, Agent for Aldea L.L.C. (Arthur Fields) Requests Preliminary and Final Plat Approval for a Residential Subdivision of 52 Lots on 26.59 Acres in accordance with the Approved Master Plan. The Property is Located Off Avenida Frijoles and Off Calle de Montanas, in the Aldea de Santa Fe Subdivision, within Section 20, Township 17 North, Range 9 East. (Commission District 2)**

MR. ARCHULETA: On August 12, 2004 the EZC recommended preliminary

and final plat approval for 52 lots on 26.59 acres subject to staff conditions. At this time the applicant is requesting preliminary and final plat and development plan approval of phase 2-B which is a residential development in accordance with the previously approved master plan. This phase of the development will consist of a total of 52 lots. Lot sizes will range from 2000 to 13,600 square feet.

This application was reviewed for existing conditions, roads, access, water, wastewater, fire protection, solid waste, open space, traffic.

Recommendation: The proposed subdivision phase is in conformance with the approved master plan and the Extraterritorial Subdivision Regulations. Staff recommends approval of the request for preliminary and final plat and development plan approval subject to the following conditions. May I enter those conditions into the record?

CHAIRMAN CAMPOS: They are so entered.

[The conditions are as follows:]

1. Compliance with applicable review comments from the following:
  - a) State Engineer
  - b) State Environment Dept.
  - c) State Highway Dept.
  - d) County Hydrologist
  - e) County Fire Marshal
  - f) County Public Works
  - g) Sangre De Cristo Water Co.
  - h) City Wastewater Division
  - i) County Technical Review
  - j) Soil and Water Division
  - k) State Historic Division
2. Final plat to include but not be limited to the following:
  - a) Delineate archeological preservation easements.
  - b) Grant roads and trails for public use
  - c) These lots are subject to a fire impact fee at the time of application for a building permit.
  - d) Permits for building construction will not be issued until roads, fire protection and drainage improvements are completed as required by staff.
  - e) These lots are subject to applicable terrain management regulations at the time of application for a building permit.
  - f) Base flood elevations for limits of 100 year flood plain.
  - g) Approval of street names/rural addressing.
  - h) Proposal for zero lot line requires a maintenance easement for adjoining lots.
  - i) Compliance with plat checklist.

3. Final homeowner documents (covenants, by-laws, articles of incorporation, disclosure statement) subject to approval by staff and shall include but not limited to the following:
  - a) Water conservation measures, including prohibiting swimming pools.
  - b) Maintenance plan to protect quality roads/drainage facilities.
  - c) A minimum of two on-site parking spaces shall be provided at all times.
  - d) Water restrictions limiting water use to .25 acre-feet per year per lot.
4. Development plan submittals shall include the following:
  - a) Address streetlights at appropriate locations in conformance with minimum standards, including the installation of meters.
  - b) Address size, type and height of project signs.
  - c) Delineate clear sight triangles.
  - d) Traffic sign plan.
  - e) Cul-de-sac typical.
  - f) Address recreational facilities within park areas.
  - g) On-street parking shall be limited to one side of the street in areas required by County Fire Department.
  - h) Minimum width of road surface shall be 12 feet for all one-way roads.
  - i) Specify lots that require on-lot drainage ponds.
5. Submit engineers cost estimate and acceptable financial surety to guarantee completion of required improvements (including street and traffic signs, street lights, recreational facilities, common area landscaping, and erosion control). Upon completion, submit a certification from a registered engineer that the improvements have been completed in accordance with the approved development plan submittals.
6. Applicant shall submit solid waste fees in accordance with the ESR.
7. Applicant shall pay an Inspection fee of \$45.00.
8. Applicant shall submit fire review/inspection fees in accordance with Resolution No. 2003-47.
9. Address pedestrian/equestrian trail alignments in accordance with approved master plan as it relates to proposed subdivision phase and areas designated as future phases.
10. Address southwest road connection as it relates to proposed subdivision phase and areas designated as future phases represented in approved master plan.
11. Address proposed commercial lot.
12. Address reservation of a site for a grocery store with Phase II in accordance with development agreement.

CHAIRMAN CAMPOS: Okay, applicant.

[Duly sworn, Clif Walbridge testified as follows:]

CLIF WALBRIDGE: Clif Walbridge, 1421 Luisa Street in Santa Fe.

CHAIRMAN CAMPOS: Mr. Walbridge, you've reviewed the report?

MR. WALBRIDGE: Yes we have and we're in agreement –

CHAIRMAN CAMPOS: You're in agreement with the recommendation and the conditions?

MR. WALBRIDGE: Yes, we are.

CHAIRMAN CAMPOS: Anything else you'd like to add?

MR. WALBRIDGE: No, we're here for questions.

CHAIRMAN CAMPOS: This is a public hearing. Anyone want to speak for or against. Okay, no one having come forward, the public hearing is closed. Commissioner Sullivan, you had a question.

COMMISSIONER SULLIVAN: I have two questions for the applicant. Clif, is there a Sangre de Cristo Water Company water availability letter?

MR. WALBRIDGE: Yes, there's an agreement with the water company to provide water.

COMMISSIONER SULLIVAN: I didn't see that in the packet but has the County staff reviewed that?

MR. ARCHULETA: Mr. Chair, Commissioner Sullivan, we have.

COMMISSIONER SULLIVAN: Okay, so that – because the State Engineer issued a negative opinion and I assume that that, from reading it was based on their concern that the City's out of water and the San Juan/Chama is somewhat unpredictable if they ever do get around to diverting it. But are we comfortable with the State Engineer's negative opinion?

MR. ARCHULETA: Mr. Chair, Commissioner Sullivan, Mr. Fields is going to pass out a new letter from the State Engineer's office addressing those concerns. [Exhibit 9]

CHAIRMAN CAMPOS: Could you summarize the letter, Mr. Archuleta?

MR. ARCHULETA: Mr. Chair, I just got the letter myself and I haven't had a chance to read it.

CHAIRMAN CAMPOS: Okay. Why wasn't this in the packet? We got it today, but why did we get it today?

MR. ARCHULETA: Mr. Chair, I just received this about half an hour ago also.

CHAIRMAN CAMPOS: Dated September 10<sup>th</sup>. Okay.

COMMISSIONER MONTOYA: Mr. Chair, Mr. Archuleta, Vicente, is this one of the conditions?

MR. ARCHULETA: Mr. Chair, Commissioner Montoya, it will be a condition based on our conditions. We say that they have to comply with applicable review agency comments. So this will be a condition.

COMMISSIONER MONTOYA: Okay.

COMMISSIONER SULLIVAN: Mr. Chair, how does that work? The State Engineer is saying that they are concerned "The droughts that occurred in the late 90s and 2000 demonstrated the City of Santa Fe's vulnerability to water shortages – we all know that – that compromise its ability to satisfy the full water demand for additional customers. For this reason

the Office of the State Engineer is issuing a negative opinion on the proposed subdivision." I wouldn't think that they'd be changing that opinion any time soon. How do you deal with that?

MR. WALBRIDGE: Mr. Chair, Commissioner Sullivan, the State Engineer has a policy regarding the San Juan/Chama water rights. Since they are not permanent yet, scheduled to be permanent in 2016 and on that basis they're saying the City water system doesn't have a 100-year supply. The County Hydrologist had indicated that he was comfortable with it at the Planning Commission meeting and Joe Catanach also said that the recommendation of the state agencies are not binding on projects, they're recommendations. I think that's how we can comply with that condition. It's just not a binding condition. That we create a 100-year water supply.

CHAIRMAN CAMPOS: Now, I'm concerned that this thing was provided so late, and not only today but so late in the meeting and only after Commissioner Sullivan asked a question. Would you suggest a tabling? Is there a motion.

COMMISSIONER MONTOYA: So moved.

CHAIRMAN CAMPOS: Is there a second to the motion to table?


COMMISSIONER SULLIVAN: Second.


**The motion to table EZ Case #S 04-4390 passed by majority 4-1 voice vote with Commissioner Duran voting against.**

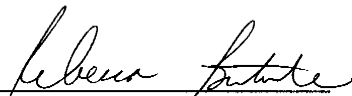
**ADJOURNMENT**

Chairman Campos declared this meeting adjourned at approximately 9:15 p.m.

Approved by:

  
\_\_\_\_\_  
Board of County Commissioners  
Paul Campos, Chairman

Respectfully submitted:  
  
Karen Farrell, Commission Reporter

ATTEST TO:  
  
\_\_\_\_\_  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK



SFC Clerk 11/22/2004



SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING  
(Public Hearing)  
September 14, 2004 - 1:00 pm

*Amended Agenda*

SFC Clerk 11/22/2004

- I. Call to Order
  - II. Roll Call
  - III. Pledge of Allegiance
  - IV. Invocation
  - V. Approval of Agenda
    - A. Amendments
    - B. Tabled or Withdrawn Items
  - VI. Approval of Minutes
    - A. July 28, 2004
    - B. August 10, 2004
  - VII. Consent Calendar Withdrawals
  - VIII. Matters of Public Concern –NON-ACTION ITEMS
  - IX. Matters from the Commission
    - A. Proclamation Declaring September 27, 2004 as Family Day (Commissioner Duran)
    - B. Request to Publish Title and General Summary of an Ordinance Requiring the Use of Ignition Interlock for Certain Persons Convicted of Driving While Intoxicated (Commissioner Duran)
  - X. Committee Resignations/Appointments/Reappointments
    - A. Request Appointment to the Santa Fe City/County Energy Task Force
    - B. Request Appointment to the DWI Council
  - XI. Consent Calendar
    - A. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
      - 1. CDRC CASE #S 04-5050 – Rosa Linda Subdivision (Approved)
      - 2. CDRC CASE #A/V 04-5071 – John Montano Appeal Variance (Approved)
      - 3. CDRC CASE #Z/DP 04-5130 – Stanley Union Church (Approved)
      - 4. CDRC CASE #APP 04-5151 – Joe Miller Appeal (Denied)
    - B. Request Authorization to Enter into Grant Agreement with the State of New Mexico Children, Youth and Families Department (Corrections Department)
    - C. Resolution No. 2004 – A Resolution Requesting an Increase to the Corrections Enterprise Fund, Electronic Monitoring Program to Budget a Grant Awarded through the State of New Mexico Children, Youth and Families Department for Expenditure in Fiscal Year 2005/\$18,500 (Corrections Department)
- WITHDRAWN

**D. Resolution No. 2004 – A Resolution Adjusting the Boundaries of Precincts 2 and 3 in the Chimayo Area (County Attorney) LATE ITEM**

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

**A. Corrections Department**

1. Update on Release Procedure and Transportation Issue, Santa Fe County Adult Detention Facility
2. Request Authorization to Establish a 1.00 FTE Term Position for Court Liaison Position at the Santa Fe County Adult Detention Facility
3. Request Approval of Final Proposal to Provide Non-Secure Residential Treatment Center for the Bureau of Prisons LATE ITEM

**B. Health & Human Services Department**

1. Approval of Payment of Supplemental Sole Community Provider Match Up to \$1,018,452.34 for St. Vincent Hospital
2. Resolution No. 2004 – A Resolution Requesting an Increase to EMS/Health Care Fund (232) and Indigent Fund (220) to Budget Prior Fiscal Year 2004 Cash Balance for Expenditure in FY 2005

**C. Land Use Department**

1. LCDRC CASE #V 04-5031 – John Cordova Variance. John Cordova, Applicant, is Requesting a Variance of Ordinance 2002-9 Traditional and Contemporary Areas of La Cienega/La Cieneguilla, Article XIV, Section 6.10.1 (Areas for Commercial Development and Requirements) of the Land Development Code to Allow Commercial Use on 3.00 Acres. The Property is Located at 27451B West Frontage Road, within Section 27, Township 16 North, Range 8 East. (Commission District 3) Dominic Gonzales DELIBERATION ONLY TABLED
2. CDRC CASE #V 04-5170 – Julian Romero Variance. Julian Romero, Applicant, is Requesting a Variance of Article III, Section 4.1 and 4.2 (Types and Location of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of an Eligible Commercial District on .43 Acres. The Property is Located at Lot Three of the Carlson Subdivision, Off of Emily Road, within Section 34, Township 16 North, Range 8 East. (Commercial District 3) Dominic Gonzales DELIBERATION ONLY TABLED

**D. Project & Facilities Management Department**

1. Request Approval of Land Purchase Agreement between Santa Fe County and The Trust for Public Land for Approximately 23 Acres of Land in the Chimayo Area for Inclusion in the Santa Fe County Open Space and Trails Program/\$488,700 TABLED
2. Request Approval of a Memorandum of Agreement between the County of Santa Fe and the City of Santa Fe for the Joint Regional Trails and Open Space Santa Fe River Project/\$222,500
3. Request Approval of a Memorandum of Agreement between the County of Santa Fe and the City of Santa Fe for Certain Joint Regional Open Space and Trails Projects/\$270,000
4. Resolution No. 2004 – A Resolution Requesting Approval of a Joint Resolution between the County of Santa Fe and the City of Santa Fe for Maintenance and Improvement of the Santa Fe River Corridor

SFC Clerk 11/22/2004

- E. Sheriff's Department
  - 1. Request Authorization to Approve the Sole Source or Emergency Procurement of a Breath Alcohol Testing Vehicle for the Santa Fe County Sheriff's Office with Sirchie Finger Print Laboratories/\$51,590  
WITHDRAWN
- F. Matters from the County Manager
  - 1. Consideration of Collective Bargaining Agreement with the American Federation of State, County and Municipal Employees
- G. Matters from the County Attorney
  - 1. Executive Session
    - a. Discussion of Pending or Threatened Litigation
    - b. Limited Personnel Issues
    - c. Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights
    - d. Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations

XIII. Public Hearings

- A. County Manager
  - 1. Request Approval of the North Central Regional Transit District Intergovernmental Contract
- B. Land Use Department
  - 1. Request Authorization to Publish Title and General Summary of an Amendment to the Santa Fe County Water Conservation Ordinance 2002-13 to Extend the Deadline for Compliance with Indoor Water Conservation Measures to July 1, 2005, and to Reduce the Maximum Violation Penalty From \$400 to \$300 (Liza Vitale)
  - 2. Resolution No. 2004 – A Resolution Requesting Creation of the Santa Fe County Water Conservation Fund (Liza Vitale)
  - 3. EZ CASE #A 04-4271 – Ernest Montoya Appeal. Ernest Montoya, Appellant, is Appealing the Decision of the Extraterritorial Zoning Commission to Grant Approval of the Montoya Family Trust 14 Lot Family Transfer (Application #04-4270). The Property is Located on Paseo Don Fabian, which is at the End of Paseo Del Coyote Road, within Section 9, Township 17 North, Range 9 East. (Commission District 2) Vicente Archuleta
  - 4. CDRC CASE #S 03-5920 – Las Animas Subdivision. Phyllis Kingsmill, Applicant, Orallynn Guerreortiz, Agent, Request Preliminary and Final Development Plan and Plat Approval for a 19 Lot Residential Subdivision on 51.55 Acres. The Property is Located Off State Road 50 in Glorieta, within Sections 1 and 2, Township 15 North, Range 11 East. (Commission District 4) Wayne Dalton
  - 5. EZ CASE #DL 04-4350 – Monroe Family Transfer. Harvey Monroe Sr., Applicant, Requests Plat Approval to Divide 2.503 Acres into Two Tracts for the Purpose of a Family Transfer. The Tracts Will be Known as Tract 1-C-1 (1.00 Acre) and Tract 1-C-2 (1.50 Acres). The Subject Property is Located within the Eco Seco Subdivision at 660 Camino Don Emilio within Section 28, Township 17 North, Range 9 East. (Commission District 2) Victoria Reyes

6. **CDRC CASE #A/V 04-5100** – Johnny and Tillie Garcia Appeal Variance. Johnny and Tillie Garcia, Applicants, are Appealing the County Development Review Committee's Decision to Deny a Variance to Article III, Section 10 of the County Development Code to Permit a Family Transfer Land Division of 7.18 Acres into Three Parcels. The Property is Located at 901 Old Las Vegas Hwy., within Section 12, Township 15 North, Range 10 East. (Commission District 4) Dominic Gonzales
7. **BCC CASE #MIS 04-5091** – Komis Business Park Master Plan Extension. Christopher Graeser, Agent, The Komis Land Company, LLC, (Peter Komis General Partner), Request a 2 Year Time Extension for an Approved Master Plan/Preliminary Development Plan to Permit a Commercial Subdivision on 58.7 Acres. The Property is Located Off the I-25 West Frontage Road/State Road 599, within Section 23, Township 16 North, Range 8 East. (Commission District 5) Victoria Reyes
8. **CDRC CASE #V 04-5155** – Gilbert Duran Variance. Gilbert Duran, Applicant, is Requesting a Variance of Article III, Sections 4.1 and 4.2 (Types and Location of Commercial Districts) of the Land Development Code to Allow Commercial Zoning Outside of an Eligible Commercial District on 1.13 Acres. The Property is Located at 7 Camino Bajo, Off of Hwy. 14, within Section 25, Township 16 North, Range 8 East. (Commission District 3) Dominic Gonzales
9. **EZ CASE #S 04-4380** – The Village Center at Rancho Viejo. Rancho Viejo de Santa Fe Inc. (Isaac Pino), Applicant, Requests a Development Plan Amendment with Preliminary and Final Plat Approval for a Residential Subdivision Consisting of 34 Lots on 4.76 Acres. The Property is Located within the Community College District, Off of Rancho Viejo Boulevard, within Sections 28 and 29, Township 16 North, Range 9 East. (Commission District 5) Vicki Lucero
10. **EZ CASE #Z 04-4420** – Jacques Constant Residential Subdivision. James W. Siebert and Associates, Agent for Jacques Constant, Applicant, Requests Master Plan Approval for a 19 Lot Residential Subdivision of 47.50 Acres to be Developed in Multiple Phases. The Property is Located East of Los Suenos Trail and South of La Serena Trail, within Section 19, Township 17 North, Range 9 East. (Commission District 2) Vicente Archuleta
11. **EZ CASE #MIS 04-5220** – Nai's Roadhouse Restaurant License. Nai's Roadhouse (Nai Smith, Owner), is Requesting Approval of a Restaurant Liquor License to Permit the Sale of Beer and Wine with Meals in Accordance with the Master Plan Zoning, Preliminary and Final Development Plan Approval for the Creation of Community Center District that Allows for a Restaurant with Beer and Wine Sales. The Property is Located at 3810 State Road 14, within Section 35, Township 15 North, Range 8 East. (Commission District 3) Victoria Reyes
12. **CDRC CASE #MIS/DP 04-5200** – Agora Addition. John Gary Boyle, Applicant, Requests Final Development Plan Approval for a 11,075 Square Foot Addition to the Existing Agora Shopping Center Supermarket on 9.56 Acres. The Property is Located at #7 Avenida Vista Grande in Eldorado, within Section 9, Township 15 North, Range 10 East. (Commission District 5) Wayne Dalton

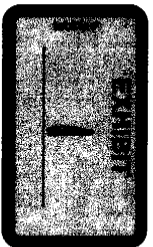
13. **CDRC CASE #Z/P 04-5360 – Bauman/Chapman Bed & Breakfast.** Tim Bauman and Emily Chapman, Applicants, Request Master Plan Zoning, Preliminary and Final Development Plan Approval for a 5 to 9 Bedroom Bed and Breakfast within an Existing 4,400 Square Foot Residence on 4.32 Acres. The Property is Located at 27 County Road 84D in Jacanita, within Section 11, Township 19 North, Range 8 East. (Commission District 1) Dominic Gonzales
14. **CDRC CASE #V 04-5240 – David Burns Variance.** David Burns, Applicant, Requests a Variance of Article III, Sections 4.1 and 4.2 (Types and Locations of Commercial Districts) of the Land Development Code to Allow the Expansion of a Legal Non-Conforming Business; Located Outside of an Eligible Commercial District on 2.5 Acres. The Property is Located at 14 Camino Charro in the Ramuda Ridge Subdivision, within Section 24, Township 16 North, Range 8 East. (Commission District 5) Wayne Dalton
15. **CDRC CASE #V 04-5410 – John Gary Boyle Variance.** John Gary Boyle, Applicant, Requests a Variance of Article VII, Section 7.14 (Sign Area Size: Commercial or Industrial Non-Residential Districts) of the Land Development Code to Allow Two Wall Mounted Signs Totaling 48 Square Feet Located within the Agora Shopping Center on 9.56 Acres. The Property is Located at #7 Avenida Vista Grande in Eldorado, within Section 9, Township 15 North, Range 10 East. (Commission District 5) Wayne Dalton WITHDRAWN
16. **CDRC CASE #DP 04-5330 – PNM Project Power Development Plan.** PNM, (Laurie Moye), Applicant, Requests Development Plan Approval to Allow the Replacement of Electric Line Poles within an Existing Overhead Electric Line that Serves the Santa Fe Area, This Request Includes a Variance of Article III, Section 2.3.6b (Height Restrictions for Dwelling or Residential Accessory Structures) of the Land Development Code to Allow Electric Line Poles to Exceed 24 Feet. The Property is Located 2 Miles Southwest of Las Campanas Along County Road 62, within Sections 22 and 26, Township 17 North, Range 8 East, (Commission District 2) and within the Traditional Community of Agua Fria within Sections 5 and 32, Township 16 and 17 North, Range 9 East. (Commission District 2 and 5). Wayne Dalton
17. **EZ CASE #S 04-4390 – Aldea L.L.C. Phase 3B Preliminary and Final Plat.** C.R. Walbridge and Associates, Agent for Aldea L.L.C. (Arthur Fields) Requests Preliminary and Final Plat Approval for a Residential Subdivision of 52 Lots on 26.59 Acres in accordance with the Approved Master Plan. The Property is Located Off Avenida Frijoles and Off Calle de Montanas, in the Aldea de Santa Fe Subdivision, within Section 20, Township 17 North, Range 9 East. (Commission District 2) Vicente Archuleta

#### **XIV. Adjournment**

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

SFC Clerk 11/22/2004

Santa Fe County  
 Cash Balance Historical Comparison  
 of Indigent Fund (220) and  
 EMS/Health Care Fund (232)  
 FY 2003 thru FY 2004



	Indigent Fund		EMS/Health Care Fund	
	30-Jun-03	30-Jun-04	30-Jun-03	30-Jun-04
<b>Unadjusted Ending Cash Balance @ 6/30/xx :</b>	\$ 939,044	\$ 988,471	\$ 2,521,125	\$ 2,496,643

<b>Adjustments -</b>	Plus:	a) Miscellaneous Receivables	-	430,000	-	-
		b) City of Santa Fe - RECC Rent	-	-	50,000	-
		c) Ambulance Services Receivables	-	-	630,298	897,877
	Less:	Uncollectible Portion	-	-	(315,149)	(448,939)
		Subtotal	\$ -	\$ 430,000	\$ 365,149	\$ 448,939
	Less:	a) Encumbrance Balances	\$ 226,219	\$ 274,335	\$ 309,263	\$ 534,930
		b) Payroll Deduction Liability	8,127	6,386	113,798	88,175
		c) Accounts Payable	62,044	68,942	21,685	61,576
		Subtotal	\$ 296,389	\$ 349,664	\$ 444,745	\$ 684,681
<b>Adjusted Ending Cash Balance @ 6/30/xx :</b>			\$ 642,655	\$ 1,068,808	\$ 2,441,529	\$ 2,260,900

Net Change in Cash Balance from FY 03 - FY 04

\$ 426,153

\$ (180,629)

Actual/Proposed Appropriation of Cash Balance During Fiscal Year:

Use of Cash:

	FY 04	FY 05	FY 04	FY 05
<b>Sole Community Provider Supplemental</b>	\$ 417,389	\$ 450,000		\$ 568,453
City of Santa Fe - JPA (Sr. Services and Paratransit)		43,278	344,200	
Santa Fe County Operations	\$ 417,389	\$ 493,278	\$ 988,986	\$ 1,094,281
			644,786	525,828

Cash Reserve

\$ 225,266 \$ 575,530 \$ 1,452,543 \$ 1,166,619

(Use) or Increase to Reserve from FY 03 - FY 04

\$ 350,264

\$ (285,924)

**SANTA FE COUNTY**

**RESOLUTION 2004 - \_\_\_\_\_**

**A RESOLUTION REQUESTING AUTHORIZATION TO MAKE THE BUDGET ADJUSTMENT DETAILED ON THIS FORM**

**Whereas, the Board of County Commissioners meeting in regular session on September 14, 2004, did request the following budget adjustment:**

Department / Division: Health & Human Services Dept./Healthcare Assistance

Fund Name: Healthcare Assistance\EMS; Other Healthcare

Budget Adjustment Type: Budget Increase

Fiscal Year: 2005 (July 1, 2004 - June 30, 2005)

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
220	0000	385	02-00	Budgeted Cash/State Funds	450,000	
232	0000	385	02-00	Budgeted Cash/State Funds	568,453	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>1,018,453</b>	

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/DIVISION XXXX	ACTIVITY BASIC/SUB XXX	ELEMENT/OBJECT XXXX	CATEGORY/LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
220	0420	461	70-17	Other Operating Costs: Sole Community Provider	450,000	
232	0421	461	70-17	Other Operating Costs: Sole Community Provider	568,453	
<b>TOTAL (if SUBTOTAL, check here )</b>					<b>1,018,453</b>	

Requesting Department Approval: Stephen D. Shepherd

Title: Director

Date: 09/13/04

Finance Department Approval: [Signature] Date: 9.14.04

Entered by: \_\_\_\_\_ Date: \_\_\_\_\_

County Manager Approval: \_\_\_\_\_ Date: \_\_\_\_\_

*[Handwritten Signature]*

**SANTA FE COUNTY  
RESOLUTION 2001 - \_\_\_\_\_**

**BUDGET ADJUSTMENT CONTINUATION SHEET**

BUDGETED REVENUES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASICSUB XXX	ELEMENT/ OBJECT XXXX	REVENUE NAME	INCREASE AMOUNT	DECREASE AMOUNT
TOTAL (if SUBTOTAL, check here )						

BUDGETED EXPENDITURES: (use continuation sheet, if necessary)

FUND CODE XXX	DEPARTMENT/ DIVISION XXXX	ACTIVITY BASICSUB XXX	ELEMENT/ OBJECT XXXX	CATEGORY /LINE ITEM NAME	INCREASE AMOUNT	DECREASE AMOUNT
TOTAL (if SUBTOTAL, check here )						



# SANTA FE COUNTY

## RESOLUTION 2004 - \_\_\_\_\_

ATTACH ADDITIONAL SHEETS IF NECESSARY.

**DEPARTMENT CONTACT:**

Name: Stephen D. Shepherd Dept/Div: Health & Human Services Department/Healthcare Assistance Program/EMS: Other Healthcare Phone #: 992-9840

**DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):**

- 1) Please summarize the request and its purpose.

This request budgets the amount of the County Match (\$ 1,018,452.34) that is due to the State of New Mexico for the FY-2005 Sole Community Provider (SCP) supplemental payment available to St. Vincent Hospital. This funding for this request is split between the Healthcare Assistance Fund (Old Indigent Fund) (220) in the amount of \$ 450,000, and the EMS\Other Healthcare Fund (232) in the amount of \$ 568,453.

- 2) Why was this request not included in the Fiscal Year 2005 Operating Budget?

Supplemental SCP funding did not become available until September of 2004, well after the FY-2005 budget cycle was complete.

- 3) Is the transfer recurring or non-recurring and what are the future funding impacts of this request?

This budget increase and the resulting expenditures are recurring if the Board of County Commissioners approves this amount for the next fiscal year. This funding may be added to the annual base SCP funding that the County matches, requiring a larger base match for FY-2006.

- 4) Does this request impact a revenue source? If so, please identify (i.e. General Fund, state funds, federal funds, etc.), and address the following:

- a) If this is a state special appropriation, cite statute and attach a copy.

This request is not a state special appropriation.

- b) If this is a state or federal grant, cite grant name, number, award date and amount.

This grant does not include state funding

# SANTA FE COUNTY

## RESOLUTION 2004 - \_\_\_\_\_

*ATTACH ADDITIONAL SHEETS IF NECESSARY.*

**DEPARTMENT CONTACT:**

Name: Stephen D. Shepherd Dept/Div: Health & Human Services Department/Healthcare Assistance Program/EMS: Other Healthcare Phone #: 992-9840

**DETAILED JUSTIFICATION FOR REQUESTING BUDGET ADJUSTMENT (If applicable, cite the following authority: State Statute, grant name and award date, other laws, regulations, etc.):**

• 4) (Continued):

- c) If this request is a result of Commission action, please cite and attach a copy of supporting documentation.

This action is a result of Commission action. The Commission approves the use of County funding to match the SCP supplemental funding available for FY-2005.

- d) Please identify other funding sources that can be used to match this request.

There are no other funds available to match this request

- 5) If this request impacts the Capital Purchases category, please detail items to be purchased and what they will be used for.

This request does not impact the Capital Purchases category.

- 6) Does this request have an FTE impact for the department/division? If request increases FTE, include number of positions, position type (term, permanent, etc.), and the future funding impact and revenue source.

This request has no FTE impact, and there is no future funding impact.

**SANTA FE COUNTY  
RESOLUTION 2004 - \_\_\_\_\_**

**NOW, THEREFORE, BE IT RESOLVED** by the Board of County Commissioners of Santa Fe County that the Local Government Division of the Department of Finance and Administration is hereby requested to grant authority to adjust budgets as detailed above.

**Approved, Adopted, and Passed This 14<sup>th</sup> Day of September, 2004.**

**Santa Fe Board of County Commissioners**

\_\_\_\_\_  
Paul Campos, Chairperson

**ATTEST:**

\_\_\_\_\_  
Rebecca Bustamante, County Clerk

**Approved As To Form.**

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

**Memorandum**

**To** : Santa Fe Board of County Commissioner's  
**From** : Robert A. Anaya  
Health & Human Services Department  
**Date** : September 7, 2004  
**Subject** : Sole Community Provider Supplemental Funding for FY-2005.

**Issue:**

The State Human Services Department's (HSD) Medical Assistance Division notified Santa Fe County that there is a total of \$ 4,049,512.30 of supplemental Sole Community Hospital Provider (SCP) funding available for St. Vincent Hospital for County FY-2005. Santa Fe County's contribution, if it chooses to participate, is \$ 1,018,452.34.

**Background:**

SCP funding is available on an annual basis from HSD. Generally, HSD matches each County dollar with three federal dollars, and makes quarterly payments to SCP Hospitals. Once a year, usually in December, Santa Fe County commits to the amount of match for each SCP Hospital. This is called base SCP funding. In some years HSD has extra dollars that it must commit, or send back to the federal government by September 30 of each year. When these funds are available they used by HSD to supplement the SCP Program. Santa Fe County is assigned St. Vincent Hospital for the supplemental funding.

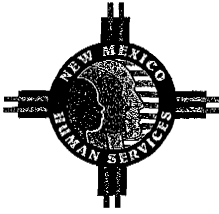
I have attached the following information for your review:

- 1) A copy of the notification letter from HSD.
- 2) A copy of a letter from St. Vincent Hospital requesting the County submit the match.
- 3) Spreadsheets detailing Santa Fe County SCP distributions from FY-2001 to FY-2005.

**Recommendation:**

The Health Policy and Planning Commission will make a recommendation to the BCC on September 9, 2004 regarding this issue. Staff will carry the HPPC recommendation, as well as it's own, at the September 14, 2004 BCC meeting.

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**NEW MEXICO HUMAN SERVICES DEPARTMENT**

P.O. Box 2348 Santa Fe, NM 87504-2348

**MEDICAL ASSISTANCE DIVISION  
PROGRAM ADMINISTRATION BUREAU**

August 23, 2004

Santa Fe County  
Attn: Rebecca Beardsley, Indigent Care Administrator  
P.O. Box 276  
Santa Fe, NM 87504-0276

Dear Indigent Care Administrator:

The sole community hospital supplemental payment amounts have been calculated and approved. The approved amount for St. Vincent Hospital located in your county is \$4,049,512.30. The state share that is due from your county is \$1,018,452.34. **This amount is due no later than September 22, 2004** as the supplemental payment amount must be paid out by the end of the federal fiscal year (September 30, 2004).

Should you have any questions regarding the amount due, please call me at (505) 827-3127.

Sincerely,

A handwritten signature in cursive script that reads "Anna L. Bransford".

Anna L. Bransford, Financial Manager  
Program Administration Bureau

cc: Sole Community Provider Fund File

SFC Clerk 11/22/2004

*Recognized for Leadership and Excellence*



August 26, 2004

Paul Campos, Chairman  
Santa Fe Board of County Commissioners  
P.O. Box 276  
Santa Fe, NM 87504

Dear Mr. Campos,

St. Vincent Hospital, a qualified sole community hospital under Medicaid regulations, respectfully requests funding of a sole community hospital supplemental payment in the amount of \$4,049,512.30. To receive the full supplemental payment, Santa Fe County must match \$1,018,452.34. St. Vincent Hospital requests that this match be provided to the New Mexico Human Services Department no later than September 22, 2004, per the attached letter from the Medical Assistance Division. Please let us know if you have any questions or concerns regarding this request.

Sincerely,

Alex Valdez  
CEO/President

cc: Gerald Gonzalez, Santa Fe County Manager

SFC Clerk 11/22/2004

<b>Santa Fe County</b>			<b>09/03/04</b>
<b>Sole Community Hospital Base &amp; Potential Supplemental Funding</b>			
<b>FY-2005 Base</b>			
<b>Hospital Name</b>	<b>25.563% SF County Match</b>	<b>74.437% NM HSD Contribution</b>	<b>Total Base Funding</b>
Espanola Hospital	99,703.00	290,332.00	390,035.00
Holy Cross Hospital	5,291.00	15,409.00	20,700.00
Los Alamos Hospital	11,163.00	32,507.00	43,670.00
St. Vincent's Hospital	4,222,398.00	12,295,539.00	16,517,937.00
<b>Totals</b>	<b>4,338,555.00</b>	<b>12,633,787.00</b>	<b>16,972,342.00</b>

SFC Clerk 11/22/2004

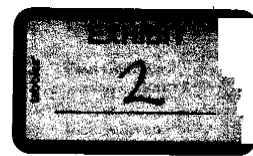
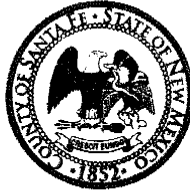
<b>FY-2005 Supplemental</b>			
<b>Hospital Name</b>	<b>25.150% SF County Match</b>	<b>74.850% NM HSD Contribution</b>	<b>Total Additional Funding</b>
Espanola Hospital	0.00	0.00	0.00
Holy Cross Hospital	0.00	0.00	0.00
Los Alamos Hospital	0.00	0.00	0.00
St. Vincent's Hospital	1,018,452.34	3,031,059.96	4,049,512.30
<b>Totals</b>	<b>1,018,452.34</b>	<b>3,031,059.96</b>	<b>4,049,512.30</b>

<b>FY-2005 Total SCP Funding</b>			
<b>Hospital Name</b>	<b>SF County Match</b>	<b>NM HSD Contribution</b>	<b>Grand Total</b>
Espanola Hospital	99,703.00	290,332.00	390,035.00
Holy Cross Hospital	5,291.00	15,409.00	20,700.00
Los Alamos Hospital	11,163.00	32,507.00	43,670.00
St. Vincent's Hospital	5,240,850.34	15,326,598.96	20,567,449.30
<b>Totals</b>	<b>5,357,007.34</b>	<b>15,664,846.96</b>	<b>21,021,854.30</b>

Harry B. Montoya  
Commissioner, District 1

Paul Duran  
Commissioner, District 2

Michael D. Anaya  
Commissioner, District 3



Gerald T.E. González  
County Manager

**MEMORANDUM**

**Date:** 14 September 2004

**To:** Santa Fe County Board of County Commissioners  
Harry Montoya, District 1  
Paul Duran, District 2  
Mike Anaya, District 3

Paul Campos, District 4 (Chairman)  
Jack Sullivan, District 5

**From:** Paul Olafson, Director, Open Space and Trails Division *P.O.*

**CC:** Tony Flores, Director, Project and Facilities Management Department

**Re:** Request Approval of a Memorandum of Agreement Between The County of Santa Fe and The City of Santa Fe For The Joint Regional Trails And Open Space Santa Fe River Trail Project (\$222,500) (Projects and Facilities Management Department)

SFC Clerk 11/22/2004

**Background:**

Santa Fe County Ordinance No. 2002-05 specifies that designated funding for acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities that the County undertakes jointly with the City are to be reviewed and approved by the Regional Planning Authority (hereinafter "the RPA"). On June 19, 2003, the RPA approved its Resolution No. 2003-07 "A Resolution for the Consideration and Adoption of the Regional GRT Capital Improvements Program for Funding Year 2004 as it Relates to the County Capital Outlay Gross Receipts Tax for Joint Regional Projects," including \$222,500 for the Santa Fe River Trail Project. On July 29, 2003 the County adopted Resolution No. 2003-101, "A Resolution Authorizing and Supporting an Infrastructure Capital Improvements Plan for Santa Fe County," which authorized funding for Fiscal Year 2004 in the amounts listed above.

Staff from the County and the City have worked together to develop the attached Memorandum of Agreement in order to facilitate the oversight and expenditure of these funds as per the requirements of the GRT ordinance. The County Open Space and Trails Division and the City will jointly implement the project. The project identified in this agreement is consistent with the requirements for eligible funding as outlined in the GRT ordinance. The City Council approved the Memorandum of Agreement on August 11<sup>th</sup>, 2004.

**Action Requested:**

Staff recommends approval of the Memorandum of Agreement between Santa Fe County and the City of Santa Fe County for the Joint Regional Trails and Open Space Santa Fe River Trail Project. The County's financial commitment in this agreement is \$222,500.00 to be paid with funds from the County Capital Outlay Gross Receipts Tax for Joint Regional Projects enacted via Santa Fe County Ordinance No. 2002-05.



**MEMORANDUM OF AGREEMENT  
BETWEEN THE COUNTY OF SANTA FE AND THE CITY OF SANTA FE FOR THE  
JOINT REGIONAL TRAILS AND OPEN SPACE SANTA FE RIVER TRAIL PROJECT**

This Memorandum of Agreement is entered into on this \_\_\_\_\_ day of \_\_\_\_\_, 2004, by and between the **County of Santa Fe**, hereinafter referred to as ("the County") and the **City of Santa Fe**, hereinafter referred to as ("the City").

**WHEREAS**, in the spirit of cooperation, mutual respect and service to the residents of Santa Fe County, this Memorandum of Agreement confirms the parties' commitment and mutual cooperation which recognizes that partnering activities between governmental entities of similar purposes may produce community and constituency benefits beyond what might be produced independently;

**WHEREAS**, County Ordinance No. 2002-05 specifies that designated funding for acquisition of land for open space, public parks or public recreational facilities and the design, acquisition, construction, improvement or equipping of parks and recreational facilities that the County undertakes jointly with the City are to be reviewed and approved by the Regional Planning Authority (hereinafter " the RPA");

**WHEREAS**, the RPA approved, on June 19, 2003, its Resolution No. 2003-07 "A Resolution for the Consideration and Adoption of the Regional GRT Capital Improvements Program for Funding Year 2004 as it Relates to the County Capital Outlay Gross Receipts Tax for Joint Regional Projects," which authorized funding in the amount of \$222,500 for the Santa Fe River Trail Project from Camino Alire to State Highway 599 ("the Project"). (Exhibit 1, hereto, and by reference made a part of this Agreement);

**WHEREAS**, the County adopted, on July 29, 2003, its Resolution No. 2003-101, "A Resolution Authorizing and Supporting an Infrastructure Capital Improvements Plan for Santa Fe County," which authorized funding for Fiscal Year 2004 in the amount of \$222,500 for the Project;

**WHEREAS**, the County Open Land and Trails Planning and Advisory Committee (hereinafter referred to as "COLTPAC"), on February 5, 2004, reviewed and recommended approval of the aforementioned expenditures for the Project; and

**WHEREAS**, the Santa Fe River Trail Corridor Project from Camino Alire to State Highway 599 is viewed as a joint County and City project. Due to the unique nature and geographic linking of both County and City jurisdictions along the Project length, the Santa Fe River Trail Project will be developed in coordination and consultation between the County and City in order to ensure that a continuous facility is created with uniform design and functionality that serves both County and City residents.

**NOW, THEREFORE**, it is agreed by the County and City as follows:

**1. SCOPE OF AGREEMENT**

A. The City shall perform the following services:

1. Perform all necessary procurement, project management, contract administration and oversight for the planning, design, land acquisition and construction of the Santa Fe River Trail, within the established amounts as set forth in the RPA and County Resolutions referenced herein.

SFC Clerk 11/22/2004

2. Consult with the County and jointly plan all Project activities that connect with and/or impact existing or planned County open space, trails, park or other facilities.
  3. Provide the County a Project report upon completion of the Project but prior to any final payment on the Project.
  4. Recognize the role of the County in providing funding through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the City shall include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.
- B. The County shall serve as a co-director and work in conjunction with the City on all aspects of Project development, activities, implementation and expenditures for the Santa Fe River Trail from Camino Alire to State Highway 599.
  - C. The County and City shall develop a joint operations and maintenance agreement for all facilities prior to completion of the Project and/or individual segments of the Project.
  - D. The City's obligation to the County shall not end until all closeout requirements are completed. Activities during this closeout period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances and accounts receivable to the County), and determining the custodianship of records.

**2. METHOD OF FUNDING**

- A. The County shall compensate the City in the total amount of \$222,500 for professional services related to the planning, design, acquisition and construction of the Santa Fe River Trail from Camino Alire to State Highway 599, and the total compensation to be paid under this Memorandum of Agreement shall not exceed \$222,500.
- B. If the above-designated compensation is not sufficient to fully fund the Project, the City and the County shall determine each entity's proportionate share necessary for completion. (See Ordinance 2002-5, Section 5(D)).
- C. All payments under this Agreement shall be on a cost reimbursement basis. Prior to cost reimbursement, the City shall submit to the County a fund requisition with documentation in support of each budgetary category. Such documentation shall include the original or certified copy of invoices, vouchers, statements, etc. All costs chargeable to the County must be in accordance with budgetary and other restrictions of expenses established by this Agreement. Funds for reimbursement can be disbursed on any Friday of each month during the Agreement period. In order for the County to meet this deadline, the City is required to submit its request for reimbursement by Tuesday 5:00 p.m., in order to receive payment by the following Friday.

SFC Clerk 11/22/2004

**3. EFFECTIVE DATE AND TERM**

This Memorandum of Agreement shall become effective on the last date of signatory and shall terminate on June 30, 2005, unless terminated pursuant to Article 4. This Agreement may be extended in writing by mutual agreement of both parties.

**4. TERMINATION**

Termination of Agreement for Cause. If the parties fail to fulfill in a timely and proper manner their obligations under this Agreement, or if the parties violate any of the covenants, agreements, or stipulations of this Agreement, the parties shall thereupon have the right to suspend or terminate this Agreement by giving written notice to the other party of such termination and specifying the effective date thereof. Notwithstanding the above, the parties shall not be relieved of liability to the other party for damages sustained because of any breach of the Agreement.

**5. THIRD PARTY BENEFICIARIES**

By entering into this Agreement, the parties do not intend to create any right, title or interest in or for the benefit of any person other than the County and City. No person shall claim any right, title or interest under this Agreement or seek to enforce this Agreement as a third party beneficiary of this Agreement.

**6. ASSIGNMENT**

Neither the City of the County shall assign or transfer any interest in this Agreement or assign any claims for money due or to become due under this Agreement without the prior written approval of the other party.

**7. APPROPRIATIONS**

The terms of this Agreement are contingent upon sufficient appropriations and authorization being made by the parties for the performance of this Agreement. If sufficient appropriations and authorizations are not granted, this Agreement shall terminate upon written notice. The decision as to whether sufficient appropriations and authorizations are available shall be accepted by the parties and shall be final.

**8. AMENDMENT**

This Memorandum of Agreement shall not be altered, changed or amended except by instrument in writing executed by the parties hereto.

**9. RESPONSIBILITY**

Neither party shall be responsible for liability incurred as a result of the other party's acts or omissions in connection with this Agreement. The Agreement is subject to the immunities and liabilities of the New Mexico Tort Claims Act.

SFC Clerk 11/22/2004

**10. CONFLICT OF INTEREST**

- A. Interest of Members of the City: No officer, employee or agent of the City who exercises any functions or responsibilities in connection with the planning and carrying out any of the provisions of this Agreement, or any other person who exercises any functions or responsibilities in connection with any of the provisions of this Agreement, shall have any personal financial interest, direct or indirect, in this Agreement.
- B. Interest of County and Employees: The County shall not allow any person who presently exercises any functions or responsibilities in connection with the provisions of this Agreement, to have personal financial interests, direct or indirect in this Agreement. The County further shall not allow in the performance of this Agreement any person having any conflicting interest to be employed by the County. Any interest on the part of the County or its employees must be disclosed to the City. Provided, however that this Article shall be interpreted in such a manner so as not to unreasonably impede the requirement that maximum opportunity for employment of area residents and resident participation shall be of primary concern to the County.

**11. DISPUTE RESOLUTION**

In the event of any dispute between the parties regarding the enforcement, effect, or interpretation of this Agreement, the parties shall first resort to mediation before a neutral mediator, mutually agreed to by the parties.

**12. PROHIBITED ACTIVITY**

The City is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, or political patronage.

**13. SCOPE OF AGREEMENT**

This Memorandum of Agreement incorporates all the agreements, covenants, and understandings between the parties hereto concerning the subject matter hereof, and all such covenants, agreements and understandings have been merged into this written Agreement. No prior agreement of understanding, verbal or otherwise, of the parties or their agents shall be valid or enforceable unless embodied in this Agreement.

**14. APPLICABLE LAW**

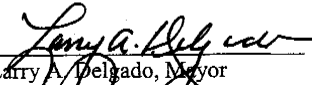
This Memorandum of Agreement shall be governed by the laws of the State of New Mexico.

IN WITNESS WHEREOF, the parties have executed this Memorandum of Agreement as of the first date written above.

SANTA FE COUNTY:

CITY OF SANTA FE:

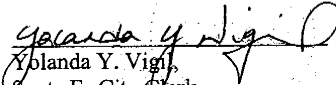
\_\_\_\_\_  
Paul D. Campos, Chairman  
Board of County Commissioners

  
\_\_\_\_\_  
Larry A. Delgado, Mayor

ATTEST:


ATTEST:

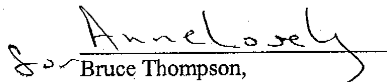
\_\_\_\_\_  
Rebecca Bustamante,  
Santa Fe County Clerk

  
\_\_\_\_\_  
Yolanda Y. Vigil,  
Santa Fe City Clerk  
COUNTY. 8/25/04

APPROVED AS TO FORM:

APPROVED AS TO FORM:

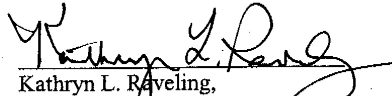
  
\_\_\_\_\_  
Stephen C. Ross,  
Santa Fe County Attorney

  
\_\_\_\_\_  
Bruce Thompson,  
Santa Fe City Attorney

FINANCE DEPARTMENT:

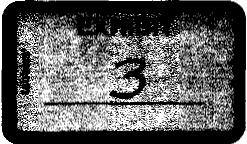
FINANCE DEPARTMENT:

\_\_\_\_\_  
Susan Lucero,  
Santa Fe County Finance Director

  
\_\_\_\_\_  
Kathryn L. Raveling,  
Santa Fe City Finance Director

SFC Clerk 11/22/2004





EZC  
Montoya Family Trust  
June 10, 2004  
Page three

**STAFF RECOMMENDATION:**

This proposed subdivision meets all requirements of the Extraterritorial Subdivision Regulations. Staff recommends approval subject to the following conditions:

1. The portion of road that extends through the platted area must be granted for public use.
2. A minimum of 50' feet of access and utility easement with a 50' foot radius Cul-de Sac shall be provided meeting Santa Fe County Standards. Cul de Sac shall not exceed 1000 feet in length. Submit financial surety for completion of required improvements, or complete improvements prior to recording plat.
3. The applicant must record water restrictive covenants simultaneously with the plat of survey imposing .25-acre ft. per year per tract. Water meters for each subject parcel must be installed to monitor water use. Annual water consumption reports must be submitted to the County Hydrologist by August 31<sup>st</sup> each year.
4. EZO regulations require a solid waste fee be assessed for all newly created parcels. The fee for this subdivision is \$197.37.
5. Easements for all natural drainage ways must be provided.
6. The applicant is required to contact Rural Addressing for assignment of addresses.
7. Compliance with review from County Fire Department.
8. The applicant must obtain approval from NMED for the proposed liquid waste disposal plan.
9. The applicant must submit Family Transfer Affidavits and Deeds of Transfer to be recorded simultaneously with the plat of survey.
10. The redline comments of the plat of survey and slope analysis by the Santa Fe County Subdivision Engineer and the Plat Checklist issues will need to be addressed prior to recording the plat. The plans and checklist may be picked up from Vicente Archuleta, Development Review Specialist with Santa Fe County and resubmitted with the Mylar. The redlines **must** be returned with the final Mylar.

SFC Clerk 11/22/2004

11. The following notes shall be placed on the plat:

- A) Water supply on these lots is governed by the Extraterritorial Zoning Ordinance, Section 10.1.A:
- a) Drilling of any new domestic well is prohibited if regional water is available within 200 feet of these lots.
  - b) if regional water becomes available, domestic well use shall cease within 90 days and these lots shall connect to the regional water system.
  - c) All wells drilled on these lots post January 1, 2000 must be constructed per EZO standards listed in Section 10.1.A.3. Proof of proper construction must be submitted at the time of development permit request or upon demand by the County Land Use Administrator.
- B) A shared well agreement must be approved by the county and executed prior to plat recordation. The plat must indicate shared well easements.
- C) A ten-foot (10') wide utility easement along all property lines must be dedicated and shown on the plat for future potential water distribution lines.

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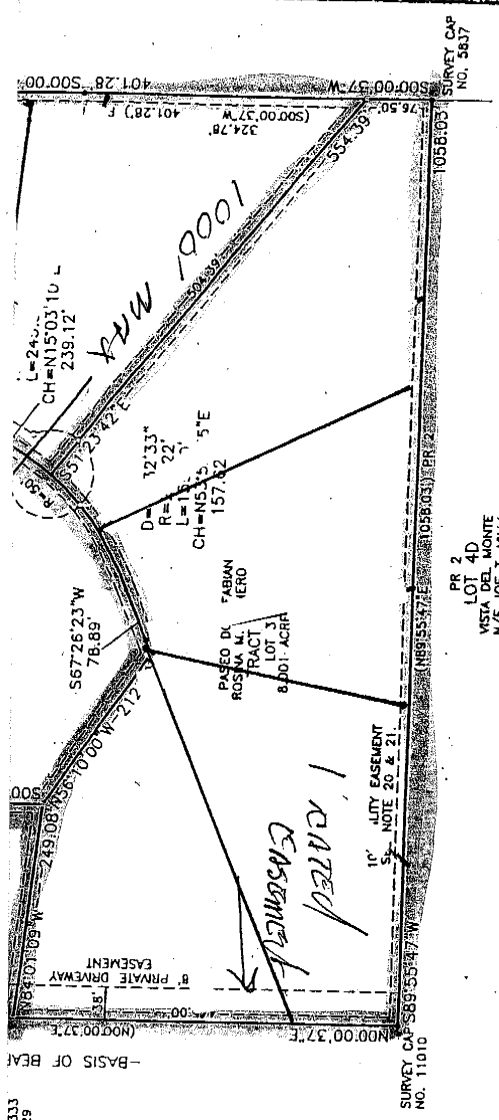
**EXHIBITS:**

- Exhibit "A" - Letter of Intent**  
**Exhibit "B" - Vicinity Map**  
**Exhibit "C" - Proposed Plat**





BOOK 1423, PAGE 333  
 PLAT BOOK 360, 029



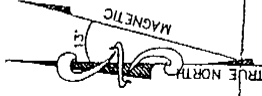
PR 2  
 LOT 4D  
 VISTA DEL MONTE  
 N/F JOE T. VILLA  
 BOOK 1423, PAGE 333  
 PLAT BOOK 360, 029

Road Csh

EXISTING LOT LINES  
 THIRTEEN OLD SITE  
 WELL, RG 81602

71.07
185.29
150.37
175.92
95.71
120.00
239.12
50.00
1087.48

Close



SFC Clerk 11/22/2004

**COPPLER & MANNICK, P.C.**  
A PROFESSIONAL CORPORATION

FRANK R. COPPLER  
PAUL D. MANNICK  
GERALD A. COPPLER\*  
NANCY E. NICKERSON†  
JOHN L. APPEL

ATTORNEYS AND COUNSELORS AT LAW  
645 DON GASPAR AVENUE  
SANTA FE, NEW MEXICO 87505



(505) 988-5656

TELECOPIER  
(505) 988-5704

September 14, 2004

\* also licensed in Texas  
† also licensed in California

Hand Delivered

Board of County Commissioners  
Santa Fe County  
102 Grant Avenue  
Santa Fe, NM 87501

Re: EZ CASE # A 04-4271; Ernest Montoya Appeal of the Montoya Family Transfer

Dear Board of Commissioners:

This responds to the Memorandum from Vicente Archuleta to the Board of Commissioners dated September 14, 2004 in the referenced case (the "Memorandum"), a copy of which is attached hereto.

**This will serve as Ernest Montoya's and Frank Coppler's response to the Memorandum and we request that this letter be entered into the record of the meeting of the Public in this matter scheduled to be heard today (I cannot attend the hearing personally because I am in trial in the First Judicial District Court all week). I understand that Ernest will appear at the hearing to address this matter.**

1. To the extent that any approval herein by the Board of Commissioners grants approval of a transfer that permits lots below 2.5 acres in size, we object based upon the restrictive covenants that cover the property that limit individual lots to a minimum of 2.5 acres in size. The County is not being asked to enforce these covenants, but merely to recognize them and not permit a family transfer that violates said covenants. The main purpose of the covenants is to limit the number of residences in the area (to which the covenants apply) in order to mitigate the effects on the aquifer that supplies water to each residence there. The County should be concerned with the number of wells it is permitting in Santa Fe County through its repeated approval of lot splits.

2. The Memorandum does not address the plain violation of the publication requirements for this proceeding pointed out to the Board of Commissioners at the prior hearing on this matter. The applicants not only seek a family transfer of the lots, but the owners of the individual lots seek to combine all of their lots together, adjust the lot lines, and then split them up. In fact, a review of the minutes shows that the applicant testified that, "we're basically replatting it [all the lots] so we have the 27-acre plat we're dividing into 14 lots...", and "we're replatting it completely...", and "... it's like a resubdivision instead of cutting up new lines or anything." (See minutes of the prior BCC meeting). There has never been a public notice posted at the property to put the public on notice that this is what the applicants are seeking to do. If this is what the applicants seek to do, they must properly publish notice in accordance with Santa Fe County standards and New Mexico law.

SFC Clerk 11/22/2004

3. If the Board of Commissioners ignores the first two problems raised above, then we get to the issue of the actual family transfer.

(a) Tract B, Lot 2: Only if the Board of Commissioners ignores the restrictive covenants and the failure to properly publish could it approve the family transfer on this lot. This lot's East and South lot lines will be adjusted to add land to it from Lot 3 and subtract land from Lot 2 to add to Lot 5. No such notice to the public has ever been given for this request.

(b) Tract B, Lot 3: Only if the Board of Commissioners ignores the restrictive covenants and the failure to properly publish could it approve the family transfer on this lot. This lot's North lot line will be adjusted to add land to it and to add land to Lot 4. No such notice to the public has ever been given for this request.

(c) Tract B, Lot 4: We agree with County staff that Lot 4 is not eligible for a family transfer. Both for the reasons above and because of the ownership problem noted in the Memorandum. In addition, the applicants impermissibly attempt to subtract land from Lot 4. This can't be done because there is no public notice for this. Moreover, this affects the proposed division with respect to Lot 3.

(d) Tract B, Lot 5: Only if the Board of Commissioners ignores the restrictive covenants and the failure to properly publish could it approve the family transfer on this lot. This lot's East lot line will be adjusted to gain land from Lot 2. No such notice to the public has ever been given for this request.

(e) Tract B, Lot 6: Only if the Board of Commissioners ignores the restrictive covenants and the failure to properly publish could it approve the family transfer on this lot. Moreover, this is not a family transfer at all. In fact, this lot's area is being reduced in size by .082 acres to be added to other adjacent lots. This can't be done because there is no public notice for this.

4. It is not enough for the County to simply require the applicants to submit "material clearly demarcating which child is to receive which lot" prior to recordation of the plat. The only way property can be conveyed in New Mexico is by recorded deed. The family transfer provisions require that the property must be transferred/conveyed from a parent to a child. The County should require that the proposed deeds from parent to child be submitted with the plat for review and approval along with satisfactory evidence of the parent child relationship.

5. Finally, we reiterate the other reasons that were brought to your attention at the last BCC hearing in this matter in support of our request for denial of the applicants' request for a family transfer, lot line adjustment, lot combination, and resubdivision.

Letter to Board of Commissioners  
September 14, 2004  
EZ CASE # A-04-4271  
Page 3 of 3

Sincerely yours,

COPPLER & MANNICK, PC

  
for Frank R. Coppler

CC: Ernest Montoya  
Steve Ross – County Attorney  
T:\GAC\LETTER\3656F.DOC(GAC05/03)

SFC CLERK 11/22/2004

MEMORANDUM

DATE: September 14, 2004  
TO: Board of County Commissioners  
FROM: Vicente Archuleta, Development Review Specialist II  
VIA: Roman Abeyta, Land Use Director  
Joe Catanach, Development Review Division Director  
FILE REF.: EZ CASE # A 04-4271: Ernest Montoya Appeal of the Montoya Family Transfer

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ISSUE:

Ernest Montoya, appellant, is appealing the decision of the Extraterritorial Zoning Commission ("EZC") to grant approval of the Montoya Family Transfer, consisting of 14 lots on 27 acres. The property is located on Paseo don Fabian, which is at the end of Paseo del Coyote Road, off of Fin Del Sendero, within Section 9, Township 17 North, Range 9 East NMPM, Santa Fe County.

SUMMARY:

At the August 10, 2004 meeting of the Board of County Commissioners of the County of Santa Fe ("BCC"), appellant submitted voluminous records that had not been previously provided to staff. (In this memorandum, the records Ernest Montoya submitted at the August 10, 2004 meeting is cited to as "Ernest Montoya Packet, Section \_\_, Item \_\_".) Consequently, the BCC tabled the appeal, so as to allow staff the opportunity to thoroughly review the new information and provide the BCC with a new analysis and recommendation. As a result of that analysis, staff recommends that Appellant's appeal be granted in part and denied in part. Specifically, staff recommends that the BCC find that:

- Tract B, Lot 4 is not eligible for a Family Transfer because that lot has not been within the family proper for at least 5 years, as required by Extraterritorial Zoning Ordinance ("EZO") § 5.2.C(3)(b)(2).
- New lots created by the Family Transfer divisions must be transferred to children of the current legal owner of the existing undivided lots.

SFC Clerk 11/22/2004

**FACTUAL BACKGROUND:**

On August 23, 2004, Land Use Staff and the County Attorney's office met with members of the Montoya and Romero families. A history of the ownership of the 27 acres of land that is the subject of this appeal was provided in great detail. A summary of this history is set forth below.

In 1931, 155 acres of land was purchased by Fabian Montoya, grandfather of the current applicants, Marcella Montoya Romero, Rosina Montoya Romero, Victoria Montoya Romero, and Antonio Montoya. There was an ownership dispute between Ursula Montoya-Hayter, Fabian's daughter, and the heirs of Julio B. Montoya, Ursula's brother and father of the current applicants and appellant. That dispute was settled in 1989 pursuant to a settlement agreement, whereby Ursula Hayter transferred ownership to 35 of the 155 acres that had been owned by Fabian to Gilbert P. Montoya, Antonio Montoya, Rosina Montoya Romero, Marcella Montoya Romero, and Ernest Montoya (appellant) as tenants in common. (Quitclaim Deed from Sidney and Ursula Hayter can be found in Ernest Montoya Packet, Section 1, Item 1.) The 27 acres that is the subject of this appeal was included within the 35 acres that Ursula transferred to the individuals named.

Although ownership of the 35 acres continued to be as tenants in common, the ownership interest of individual siblings changed over the years. Specifically, in December 1998, Victoria Montoya Romero acquired the right to approximately 5 acres from Antonio Montoya, leaving Antonio with the right to 2 acres. (Quitclaim Deed from Antonio Montoya to Victoria Romero can be found in Ernest Montoya Packet, Section 1, Item 4.)

In October 1989, appellant Ernest Montoya brought a lawsuit against his siblings who also owned, as tenants in common, the 35 acres. Ernest Montoya wanted to have the 35 acres partitioned; that is, he wanted the land to be formally divided into lots, with each sibling owning, in fee simple, a specific lot. (Complaint for Division and Partition of Lands can be found in Ernest Montoya Packet, Section 1, Item 3.) That lawsuit was settled by court arbitration in August 1999, with the arbitrator ordering that the land be partitioned amongst the siblings as follows:

SIBLING	NUMBER OF ACRES AWARDED AS PART OF COURT ARBITRATED PARTITION OF LAND
Ernest Montoya	8 acres
Marcella M. Romero	8 acres
Rosina M. Romero	8 acres
Victoria M. Romero	5 acres
Gilbert P. Montoya	4 acres
Antonio Montoya	2 acres

SFC Clerk 11/22/2004

EZC approval was necessary to effectuate the court-arbitrated partition of land. Initially, the parties proposed that the land be partitioned by giving Ernest Montoya his 8 acres and his siblings the remaining 27 acres. That 27 acres would be divided into 14 lots and transferred to children of the various siblings, pursuant to the EZO Family Transfer Divisions of Land provisions. Reflecting this two-part process (i.e., court-arbitrated partition and Family Transfer), the EZC's agenda for April 11, 2002 reflected a request for a "Court Ordered Land Division and Family Transfer". (A copy of the EZC's April 11, 2002 agenda can be found in the Ernest Montoya Packet, Section 2, Item 1.) Ernest Montoya objected to this process, insisting that the land be divided by the EZC in the precise manner contained in the arbitration award. Consequently, the original two-part proposal was withdrawn. Instead, a new plan was submitted that called for the 35 acres to be partitioned into six lots, pursuant to the arbitration award. The EZC's Agenda for August 8, 2002, however, continued to refer to a request for a "Court Ordered Land Division, and Family Transfer", despite the fact that there was to be no Family Transfer. (A copy of the EZC's August 8, 2003 agenda can be found in the Ernest Montoya Packet, Section 2, Item 3.)

In short, the EZC approved a court ordered land division in August 2002, not a family transfer(s). The lots created by the EZC's August 2002 decision, along with their acreage and record owner, were as follows:

Lot Number	Acreage	Ownership
Tract B, Lot 1	8.0 acres	Ernest Montoya
Tract B, Lot 2	8.01 acres	Marcela M. Romero
Tract B, Lot 3	8.0 acres	Rosina Montoya Romero
Tract B, Lot 4	4.0 acres	Gilbert P. Montoya
Tract B, Lot 5	5.0 acres	Victoria Montoya Romero
Tract B, Lot 6	2.0 acres	Antonio Montoya

In September 2000, Rosina Montoya Romero obtained Gilbert P. Montoya's interest in the 35 acres. Prior to the EZC's August 2002 meeting, however, Rosina transferred the interest back to Gilbert. The plat establishing the current lots and effectuating the EZC's August 2002 decision was filed on March 10, 2004. Gilbert subsequently transferred Tract B, Lot 4 to Rosina.

**RECOMMENDATION:**

On May 10, 2004, Marcella Montoya Romero, Rosina Montoya Romero, Victoria Montoya Romero, and Antonio Montoya were granted approval for three family transfer divisions shown on one plat, which created 14 lots. The Family Transfer plat approved by the EZC includes the adjustment of four of the original 2002 lot lines and combines or



delineates all three family transfers on one plat. Ernest Montoya appeals from the EZC's decision. Staff recommends that Ernest Montoya's appeal be granted in part and denied in part.

Tract B, Lots 2, 3, 5, and 6 are eligible for a Family Transfer. The current fee simple owners of those lots have owned the acreage represented by those lots since at least December 1998, albeit as tenants in common. In staff's judgment, however, the form of the ownership does not make a difference for purposes of the EZO Family Transfer Divisions of Land provisions.

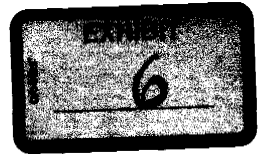
On the other hand, Tract B, Lot 4 is not eligible for a family transfer, and the appeal should be granted as to that lot. To be eligible for a Family Transfer, the land must have "been in the lawful possession of the family proper for no less than five (5) years . . ." EZO § 5.2.C(3)(b)(2). "Family proper" is defined as "lineal relations up to and including the third degree; i.e., Grandparent, Parent, Child." EZO § 5.2.C(2)(c). Here, Rosina Montoya Romero acquired her interest in Tract B, Lot 4 in 2004 from her brother Gilbert P. Montoya. Consequently, the land has not been in the "family proper" for at least 5 years, since sibling is not a lineal relationship.

Neither the EZC's order nor the applicants' material clearly indicated which family members were to receive which lots. The EZO requires that new lots created pursuant to the Family Transfer Division of Lands provisions be transferred to children of the current legal owner of the existing undivided lots. Consequently, staff recommends that, as a condition of approval, the applicants submit supplemental material clearly demarcating which child is to receive which lot and that such materials be submitted prior to recordation of the plat.

**ATTACHMENTS:**

- Exhibit "A"- Application Letter
- Exhibit "B"- June 10, 2004 EZC Meeting Minutes
- Exhibit "C"- Ernest Montoya Correspondences
- Exhibit "D"- Letter of Opposition of EZC's Decision
- Exhibit "E"- Montoya Family/La Tierra History by Patrick Romero
- Exhibit "F"- Proposed Plat
- Exhibit "G"- Vicinity Map
- Exhibit "H"- August 10, 2004 BCC Staff Report

SFC Clerk 11/22/2004



## Eco Seco Home Owners Association

557 Camino Don Emilio  
Santa Fe, N.M. 87507

Sept. 13, 2004

I am a Director of the Eco Seco Home Owners' Association, and I am writing this letter on behalf of the entire Association. At a recent meeting, at which there was 100% attendance, we voted unanimously to support the Monroes' application for a family lot split. Before reaching this decision, we considered the potential impact of the split.

We are a community dedicated to conservation and ecological principles, and we are certain that we can add another user and still remain well within our allocated 3 acre feet per year.

There will be implications for fire safety, and the Fire Marshall's oversight and protection of our community. We are already in the process of upgrading the well so that our homes, all of which were required to have sprinkler systems, meet current pressure and flow standards. In designing this system, we have already allowed for an 11th home to be supported by the system's capacity.

There will be implications for the road, and access to our subdivision. We feel that these concerns have already been met by our paving of the road from its steepest point to its connection with West Alameda. The community spent almost \$20,000 on this project, because we wanted to safest possible access. We do not feel that the addition of one more household will diminish our safety.

Unanimously, we agree that the benefits to Eco Seco of adding a lot far outweigh any drawbacks. We are a small community of 10 households. We feel that the Monroes have been a strong part of the backbone of our community, doing far more than their share of the HOA work. They have been fine neighbors and friends to all of us. We want to express our support and gratitude to them. We ask you to approve their application for a family lot split.

Michele Hermann  
Director  
Eco Seco Home Owners Association  
557 Camino Don Emilio  
Santa Fe, NM 87507  
(505) 955-0750

SFC Clerk 11/22/2004

# Project Power September 2004 Santa Fe Board of County Commissioners Brief

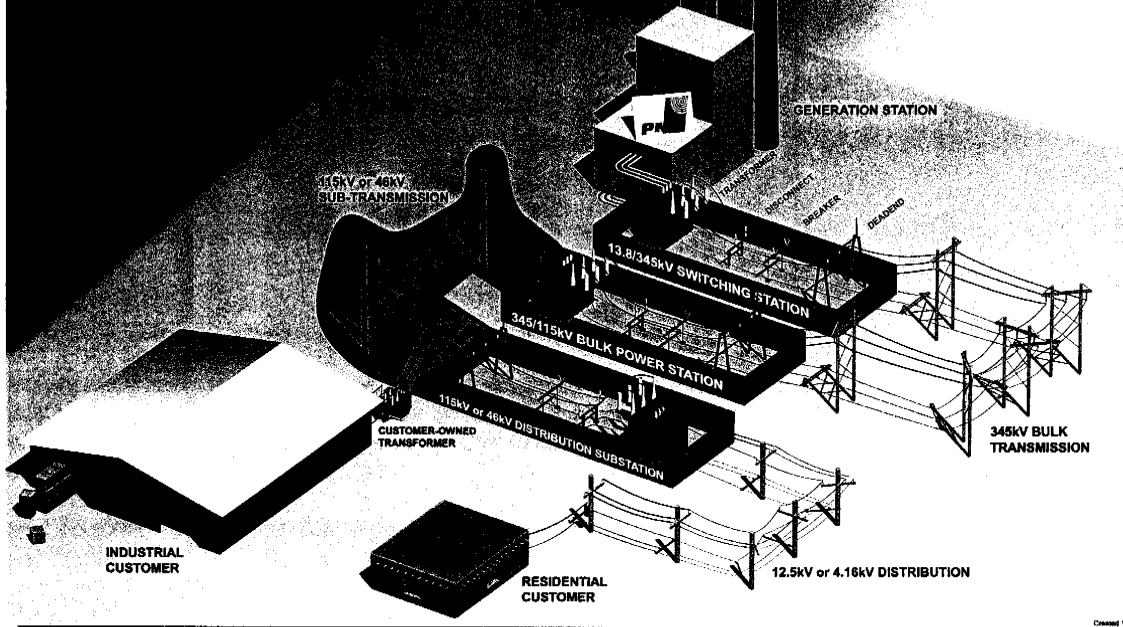
- How Electricity Gets from Us to You
- Project History and Public Participation
- Need for *Project Power*
- Underground Construction



A personal commitment to New Mexico

SEP 01 2004

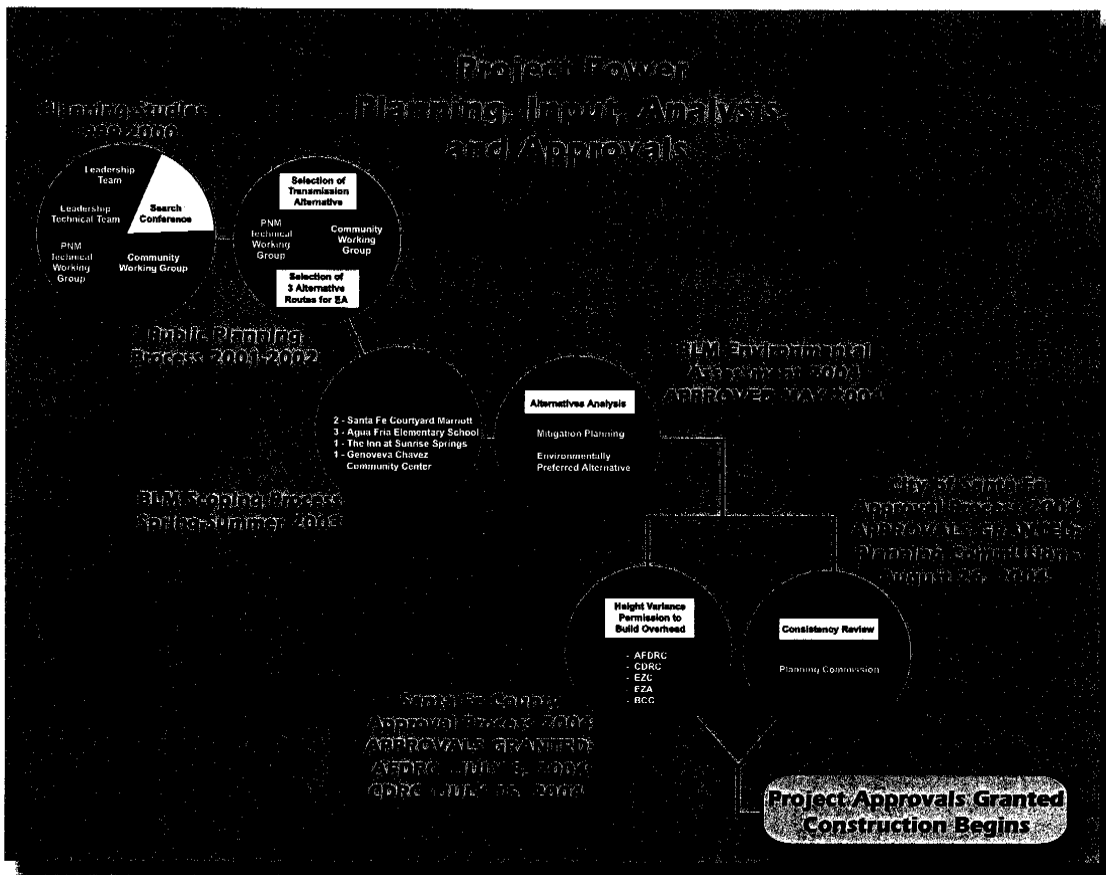
## How Electricity Gets From Us To You



Power comes to Santa Fe from multiple generation sources including the Generating Station in Farmington, Reeves gas-fired Generating station, and the New Mexico Wind Energy Center in the eastern part of the state. Higher voltage lines that are progressively stepped down to lower voltages as they pass through a series of stations before it reaches the customer.

Project Power is not about having enough power – it's about having enough power to customers safely and reliably.

The shaded area in the illustration above indicates the part of the power grid that Project Power will reinforce.



SFC Clerk 11/22/2004

Many meetings were held with the Project Power Community Working Group between 2001 and 2003. The CWG was comprised of citizen volunteers. A new transmission line was seen as the way to best meet the need to improve electric reliability and capacity. Eleven transmission route alternatives were identified and evaluated by the community volunteers. Four route alternatives were then analyzed by the BLM/Taos Field Office in the Environmental Assessment (EA). The EA was approved in May 2004. The alternative presented for approval is the route which has the least environmental impact. The project was approved by the Agua Fria Development Review Committee (AFDR) on July 8, 2004, by the County Development Review Committee (CDRC) on July 15, 2004, and by the City of Santa Fe Planning Commission on August 26, 2004.

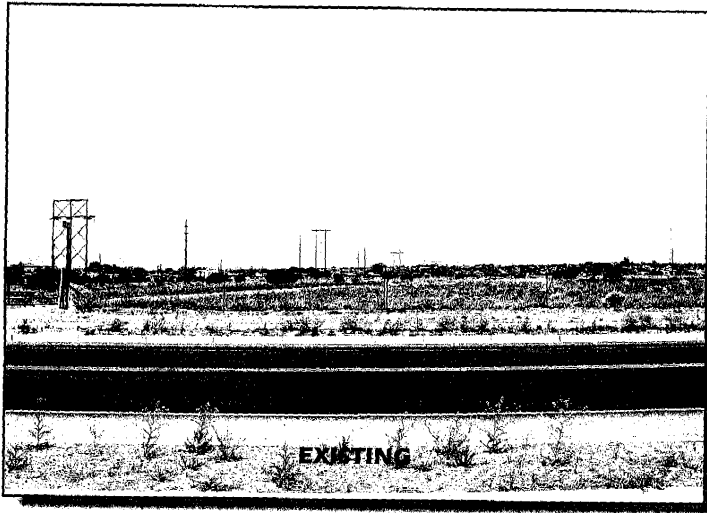


**Recent newsletters and notices** have gone out to over 1,000 mailboxes in Santa Fe.

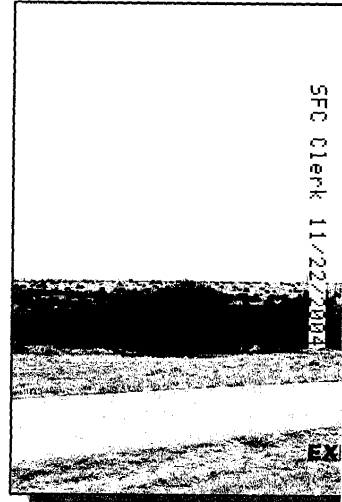
PNM has sent notices to landowners within twice the required distance.

Notices were sent to the owners of 109 parcels of property in the County and to all affected neighborhoods (5).

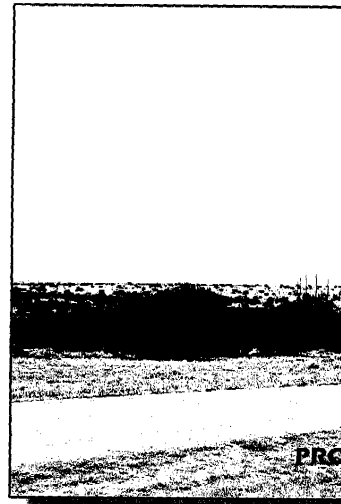
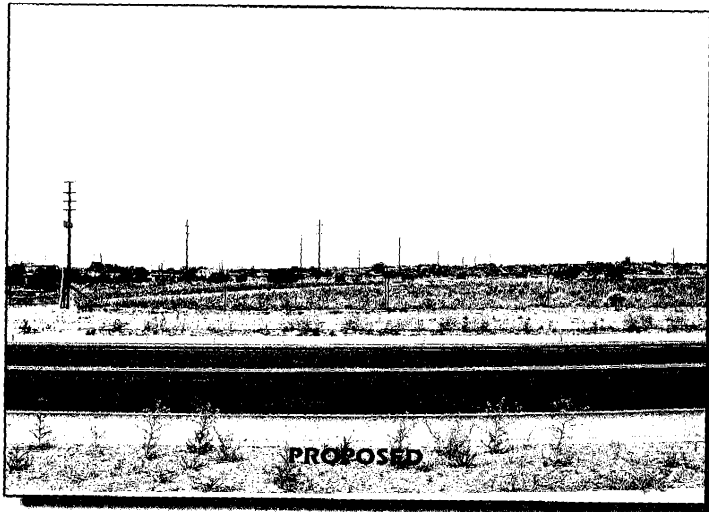
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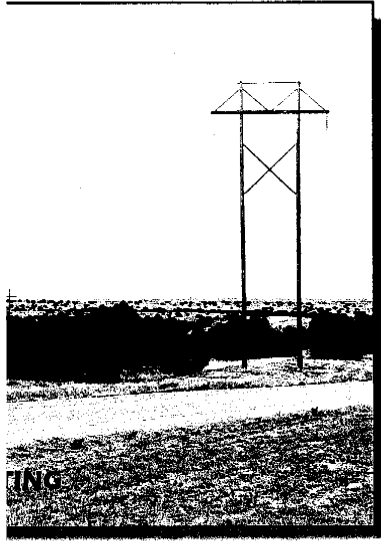
View from Rufina Road facing northwest



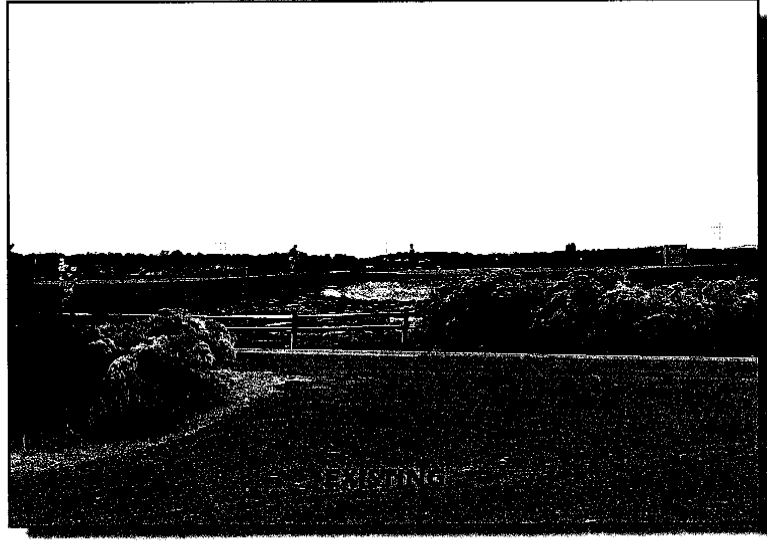
View from Caja del Rio Road facing south



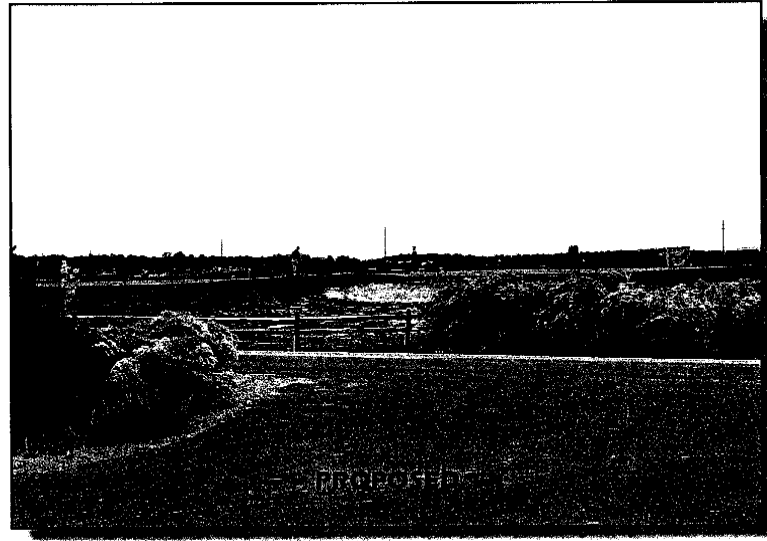
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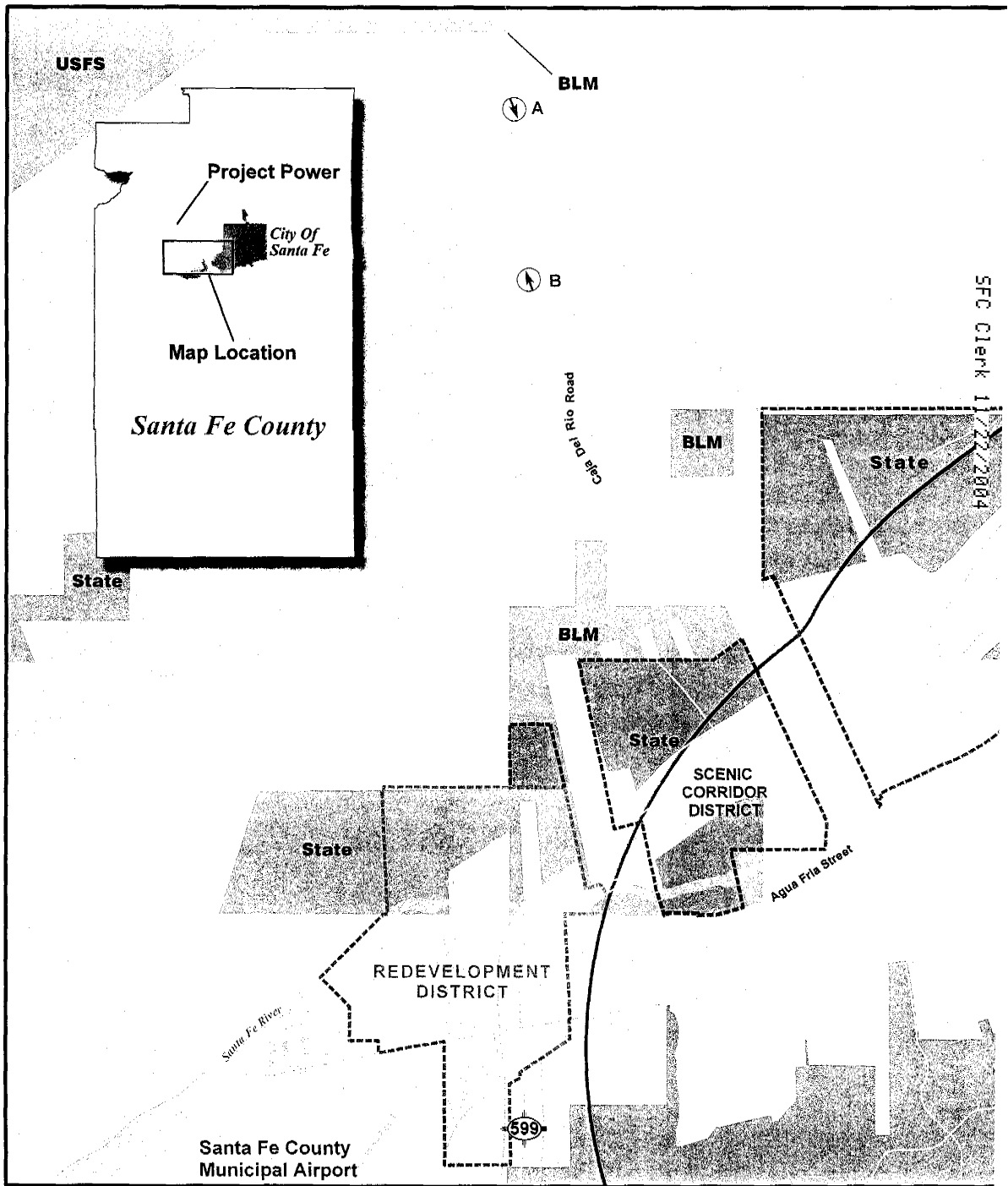


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View from Marty Sanchez Golf Complex facing northwest






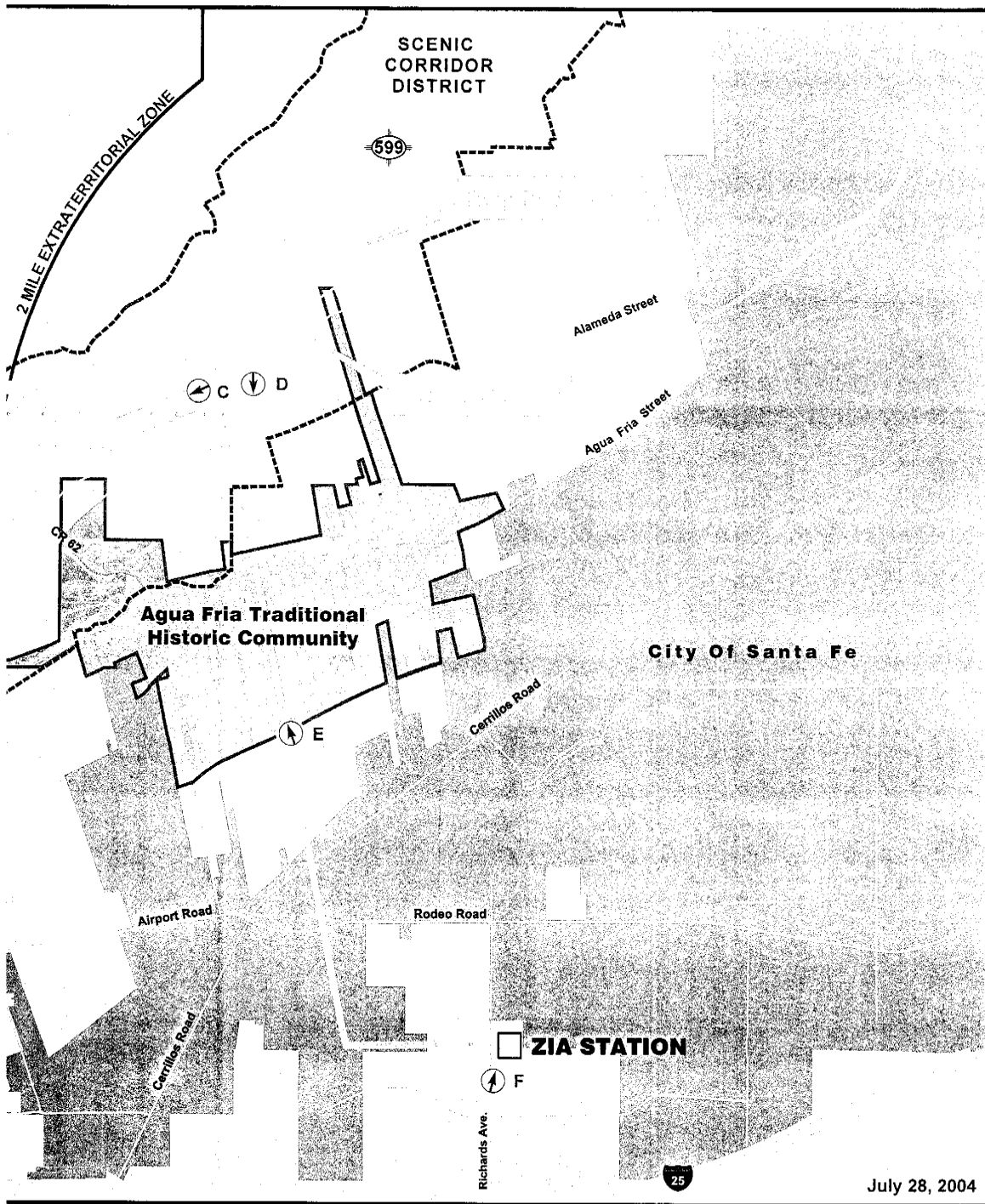


SFC Clerk 1/22/2004

Figure 1

**PROJECT POWER  
Transmission and Station Location**

-  Photo Simulation Camera Location
-  Zia Station
-  Corridor with Approximate Pol

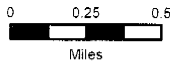


SFC Clerk 11/22/2004

July 28, 2004

id View Direction

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A personal commitment to New Mexico



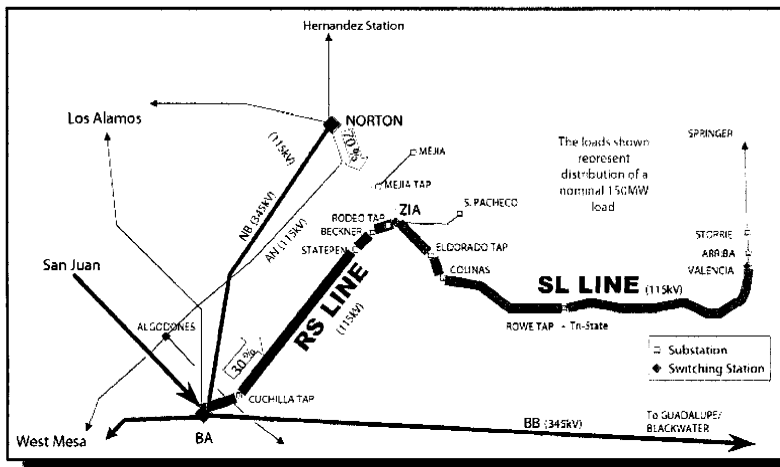
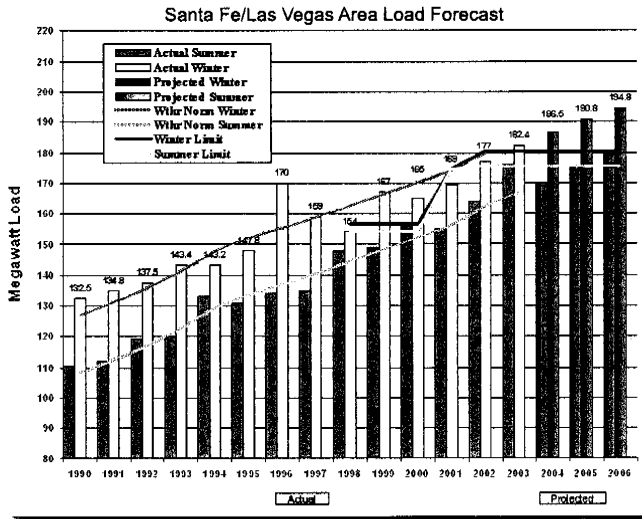
**Project Power is urgently needed to:**

- improve reliability of the transmission system serving Santa Fe,
- increase the capacity of the areas 115kV transmission system by installing a third circuit in an existing corridor, and
- provide the proposed system improvements as soon as possible.

Without these improvements, electrical load in Santa Fe will soon exceed PNM's ability to serve safely and reliably.

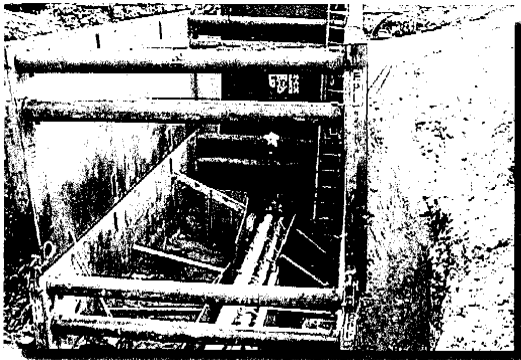
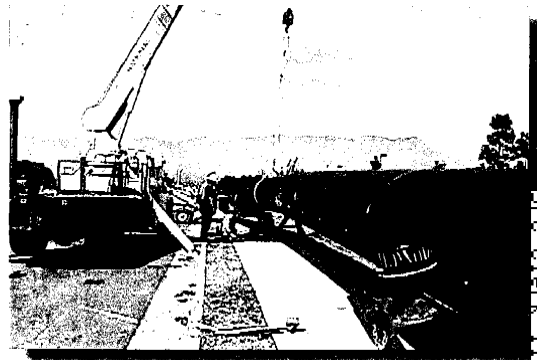
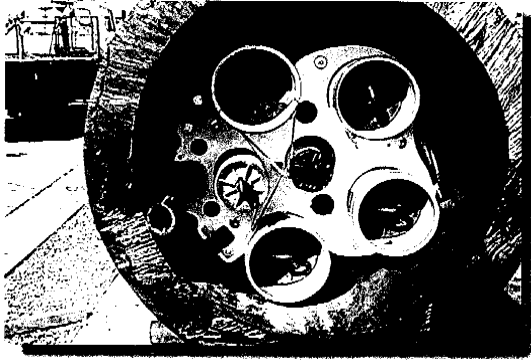
SFC Clerk 11/22/2004

The diagonal lines in the load forecast chart to the right indicate normal weather conditions during winter and summer. The Santa Fe area has experienced both colder and warmer than normal seasons. The black line shows the safe winter operating limit of the system; the orange line shows the summer limit. Projections show that exceeding these limits is expected to occur.



There are 2 electric sources that serve the Santa Fe area - the RS line carries 30% of the load and the NZ line carries 70%. The demand has grown to the point that a third source is needed.

# Underground Construction



SEC. Clerk 11/22/2004

**If a government entity requires undergrounding, the government entity or PNM rate-payers only within the boundaries of that entity must pay the cost differential between overhead and underground construction.**

**The magnitude of cost differentials between overhead and underground construction is generally 3 to 10 times.**

**Magnetic fields are higher at the surface directly above an underground line than at ground level directly beneath an overhead line.**

**Overhead technology is time-tested and cost effective. It offers better reliability and costs substantially less to install and repair.**

**Underground failures could result in the line being out of service for a much longer period than an overhead line.**





**Precek, Richard**

**From:** Michael Bergt [michael@mbergt.com]  
**Sent:** Tuesday, September 14, 2004 12:38 PM  
**To:** pcampos@co.santa-fe.nm.us; pdduran@ix.netcom.com; jsullivan@co.santa-fe.nm.us; manaya@co.santa-fe.nm.us; hmontoya@co.santa-fe.nm.us  
**Cc:** michael@mbergt.com; hromero@mnm.state.nm.us; IDEASMee@aol.com; rgriego@co.santa-fe.nm.us; Precek, Richard; vvigil@cybermesa.com; gineta@cybermesa.com; thoroughbarb@aol.com; robassoc@swcp.com  
**Subject:** PNM hearing tonight

Dear Board of County Commissioners,

The PNM Project Power hearing is tonight and I am unable to attend. I participated as a citizen volunteer in a lengthy and thorough community input process resulting in support for the proposal PNM is bringing forward tonight. Our process included education by professionals unaffiliated with PNM, site field trips and numerous meetings among ourselves and with PNM staff. We put forth alternative proposals which were studied by PNM and played a role in the selection of the option for which PNM is requesting approval tonight.

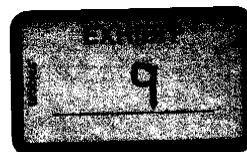
This process included dozens of Agua Fria residents who reached consensus. Please honor this significant community effort by giving a green light to PNM's proposal. If you have any questions about my participation in the Project Power community input process, please call me at 473-9654.

Thanks so much,

Tamara Lichtenstein

P.S. Robert, if you get this email in time, can you get it to the County Manager's office for BCC members in case they don't have time to open email today? Thank you so much, and thank you for meeting with me this morning about a different County matter; as ever, I appreciate your help and patience!

SFC Clerk 11/22/2004



STATE OF NEW MEXICO  
OFFICE OF THE STATE ENGINEER

SANTA FE

John R. D'Antonio, Jr. P.E.  
State Engineer

September 10, 2004

BATAAN MEMORIAL BUILDING, ROOM 101  
POST OFFICE BOX 25102  
SANTA FE, NEW MEXICO 87504-5102  
(505) 827-6175  
FAX: (505) 827-6198

Mr. Vicente Archuleta  
Development Review Specialist II  
Santa Fe County  
102 Grant Avenue - P.O. Box 276  
Santa Fe, NM 87504-0276

**CERTIFIED MAIL**  
**RETURN RECEIPT**  
**REQUESTED**

SFC Clerk 11/22/2004

**Re: EZC CASE # S-04-4390 Aldea de Santa Fe Subdivision, Phase 2B**

Dear Mr. Archuleta:

On August 16, 2004, the Office of the State Engineer (OSE) received the documentation regarding the referenced subdivision that had been missing in the previous submittal (water budget for the proposed subdivision, water conservation measures, and letter of intent by the water supplier).

The developer has now provided copy of the Water Restrictive Covenants. Under Item # A the developer states that water use is restricted to 0.25 acre-feet per year per parcel. Further, the water conservation measures described in Items # B through # K should assure that the water use is restricted to the specified amount. The listed measures satisfy the requirements of Article VII, Sections 6.6.1 and 6.6.2 of the County Code, with the exception of Item # J, which states that lawns of non-native grasses shall not exceed 900 square feet. The developer should change this figure to 800 square feet (see Article VII, Section 6.6.2 (e) of the County Code).

The developer has also included in the package a letter of intent by the water supplier stating that they are ready, willing, and able to provide the maximum annual water requirement to the subdivision. However, the City of Santa Fe does not own sufficient perpetual water rights to provide a sustainable water supply that can satisfy its current commitments and future plans. At the present time the City of Santa Fe is very much dependent upon the lease of San Juan Chama diversion rights, which are due to expire on December 31, 2016. The OSE is also concerned that droughts that occurred in the late 1990s and early 2000s demonstrated the City of Santa Fe's hydrologic vulnerability to water shortages that compromise its ability to satisfy the full water demand for existing customers. For this reason, the OSE is issuing a negative opinion on the proposed subdivision.

If you have any questions, please call me at 505-827-4273.

Sincerely,

Mara Smith  
Senior Water Resource Specialist

cc: John W. Longworth, OSE Water Use and Conservation Bureau Chief  
OSE Water Rights Division, Santa Fe Office

6.6.1 General Requirements

A water conservation report shall be submitted with a subdivision preliminary plat application or at the time of initial application for other types of development. The report shall contain a water budget for the proposed development, indicating the type and amount of water withdrawals and consumption projected at full development; and it shall contain a list of any water conservation measures which are adopted by covenant or other similar means which are intended to restrict water use to specified levels. Only water conservation measures which have been adopted in a form which, in the opinion of the County Attorney, is legally binding upon any person using water on the parcel shall be deemed to meet the requirements of the Code.

6.6.2 Water Budgets and Conservation Covenants

The maximum allowable annual water use for both indoor and outdoor purposes for each parcel in a residential subdivision shall be 1.0 acre foot per year. For developments with lot sizes less than those listed in Article III, Section 10.2.1, maximum allowable water use for both indoor and outdoor purposes shall be reduced per requirements presented in Article III, Section 10.2. Non-residential development must provide a detailed demand analysis. In all cases where the subject of water use is part of an application for development, the applicant shall submit a water budget, which shall be a listing of all activities within the development which will utilize water, and the amount of water so used. The Code Administrator shall maintain a file of representative water budgets. The applicant shall be required to adopt covenants or to take other measures necessary to ensure, with reasonable prospects of success, that the estimated water budget will be achieved. The Board may deny an application if, after review of the budgets or covenants proposed, the Board determines that the budgets and covenants will not reduce usage of water to the extent proposed. At a minimum, the following water conservation measures shall apply to all developments:

6.6.2a Water saving fixtures shall be installed in all new construction. Water saving fixtures shall include, but not be limited to, low flush toilets, low flow fixtures, and insulation of hot water pipes. Toilets shall use no more than 1.6 gallons per flush; shower head flows shall not exceed 2.5 gallons per minute; and faucet flow shall not exceed 2.5 gallons per minute.

6.6.2b Evaporative coolers must circulate bleed-off water.

6.6.2c Dishwashers shall use no more than 13 gallons in a regular cycle and shall have a cycle adjustment which allows reduced water to be used for reduced loads.

6.6.2d Washing machines shall use no more than 43 gallons in the regular cycle and shall have cycle or water level adjustments which permit reduced amounts of water to be used for reduced loads.

6.6.2e Low water use landscaping techniques applying the principles of xeriscaping shall be utilized. Drip irrigation is encouraged whenever possible. Low water use grasses, shrubs and trees may be watered as needed during the first and second years of their growth to become established. Thereafter, such vegetation shall receive only minimal water as needed by each species. Lawns of non-native grasses shall not exceed 800 square feet per parcel and shall only be watered with rain water collected by means confined to the property or with recycled household gray water. Gray water systems shall meet the requirements of the New Mexico Construction Industries Division and the Uniform Plumbing Code.

6.6.2f All community water system service connections and all wells shall be metered with a Santa Fe County approved meter. Meter readings shall be recorded by the property owner

from excessive water use and waste. Each Residential Unit shall be limited in its use of water from the community water system. Such usage limit is currently set at one-quarter (¼) acre-feet (81,457 gallons) of water per year. Covenants regarding residential water conservation are attached to the Neighborhood Declaration as Exhibit D.

6.3 XERISCAPING.

All landscaped areas within Aldea de Santa Fe are required to be xeriscaped, using drought-resistant native plants as specified in the Design Code. The amount of area that may be irrigated from the water system shall be limited to nine hundred (900) square feet per Residential Unit. The Design Code may require certain irrigation and planting techniques.

6.4 STORMWATER CONVEYANCE SYSTEMS.

Certain Lots will be served by a county-approved stormwater conveyance system installed by the Founder. Lots 62 through 66, 68 through 83 and 92 through 114 must install conveyance systems that drain into adjacent storm drains. For all other Lots, the Owner must install one of the following stormwater conveyance systems as approved by the Architectural Review Committee and any licensed civil engineer employed by the Architectural Review Committee to review designs for stormwater conveyance systems on its behalf:

a. Permanent on-site ponding, in which case the detained water will be harvested by the Owner for landscape irrigation. On-site ponding must be designed by a licensed civil engineer and approved by Santa Fe County in accordance with its guidelines.

b. A conveyance device as detailed on the Drainage Plan. If so designed by a licensed civil engineer and approved by Santa Fe County and the applicable Association, more than one Owner may tie into a common conveyance device, part of which shall be located within Commons open space designated by the Architectural Review Committee. The Owners using such approved conveyance device are hereby granted an easement for use of the designated portion of the Commons for installation, use and maintenance of such device.

6.5 PERFORMANCE OF WORK.

a. Temporary Silt Control. On each Lot, construction activities shall be confined to an area of disturbance approved by the Architectural Review Committee in accordance with the Landscape Regulations. The entire area of disturbance shall be provided with silt fencing or sediment barriers as called for on the Drainage Plan.

b. Grading. To ensure that grading activities are executed in a manner that causes acceptable impact on adjacent Lots, open space and developer-installed improvements, all grading on Lots shall be performed by