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SANTA FE

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

SEPTEMBER 17, 2001

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

SANTA FE COUNTY**1996366****REGULAR MEETING****BOARD OF COUNTY COMMISSIONERS**

September 17, 2001

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:15 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll Call preceded the Pledge of Allegiance and indicated the presence of a quorum as follows:

Members Present:

Commissioner Paul Duran, Chairman
 Commissioner Marcos Trujillo
 Commissioner Javier Gonzales [late arrival]
 Commissioner Paul Campos
 Commissioner Jack Sullivan

Members Absent:

None

IV. INVOCATION

Chairman Duran requested a moment of silence for the victims of the previous week's tragedy. An invocation was given by Ralph Jaramillo from the Assessor's Office.

V. APPROVAL OF THE AGENDA

- A. Amendments
- B. Tabled or withdrawn items

SAMUEL MONTOYA (County Manager): Mr. Chairman, members of the Board, good afternoon. Mr. Chairman, we have several amendments today. I would ask that the Commissioners follow with me through the agenda. We have tried to color-code the amendments, Mr. Chairman. The additions to the agenda are as follows. Item VII. B 1 and 2, Mr. Chairman, which are brought over from our last agenda. Item VIII. B, A resolution requesting surplus fixed asset equipment. Items IX. D. 2 and 3, Mr. Chairman, under the

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County Manager's items, relative to sole community contributions, an additional amendment to that contract, and also a discussion on the federal lobbyists' contract, Mr. Chairman. And the last item is F. 1, which is under the Matters from the Commission, relating to a resolution condemning terrorist acts and supporting our United States president and Congress.

Mr. Chairman, the tablings and/or withdrawals are as follows: Item IX. F under Land Use Department was relating to authorization to publish title and general summary to amend Ordinance No. 1998-16. We're asking that that be withdrawn, Mr. Chairman. I'm sorry, Mr. Chairman, that is item IX. A. 5, that we're asking to be withdrawn. Item X. B. 2, that is CDRC Case 01-5026, that is being withdrawn, Anna Hickey Appeal, and X. B. 3, Mr. Chairman, is AFDRC Case 01-5150, the Padilla Variance, is tabled. Then we're down to X. B. 5, Mr. Chairman, CDRC Case 01-5240, Melvin Varela Variance is tabled. And the last item for tabling is item 7. on the last page, is the J.R. Hale Mine issue, CDRC Case 00-5630. Those are the amendments.

CHAIRMAN DURAN: The CDRC Case, M 00-5630, J.R. Hale Mine, that has been tabled several times. Who is tabling it, who is requesting to table it this time?

ROMAN ABEYTA (Deputy Land Use Administrator): Mr. Chairman, the applicant is requesting tabling, and because it's been tabled several times, we will automatically remove it from the agenda after today's meeting. So the applicant will be required to renovice before he comes back to the Board of County Commissioners. So it won't be automatically carried over to next month's agenda.

CHAIRMAN DURAN: Okay. So it's just a renoticing procedure that he has to go through.

MR. ABEYTA: Yes, Mr. Chairman.

CHAIRMAN DURAN: The submittals that he's made relative to what he's planning to do, those documents still are adequate?

MR. ABEYTA: They are, Mr. Chairman, but there's a question as to what the Board's intent is when the Board adopted the resolution that states after three tablings a case would be withdrawn. There's a question as to whether or not that means withdrawn from your agenda or whether or not the applicant would have to start all over at the CDRC. So I guess I would ask you right now, being that he has requested tabling and according to the resolution he will be withdrawn, does the Board want him to go back to the CDRC or is the Board okay with him just renoticing for the BCC meeting?

CHAIRMAN DURAN: Before we answer that, it looks like there might be a legal issue here.

CHRIS GRAESER (Deputy County Attorney): No, I just wanted to make a brief comment to the Commission that, as you know, we're working on putting together a comprehensive set of rules for the Board and this is one of the questions we need answered, which is if someone continuously requests tabling, do you want to say You have to be heard within next time or you can't be heard for another year or something to that effect. So I just ask the Board to consider that as this comes up.

CHAIRMAN DURAN: So we could just make something up? Is that what

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you're saying?

MR. GRAESER: We can make something up that has prospective application to other applications, other than this one.

CHAIRMAN DURAN: Okay.

MR. ABEYTA: Mr. Chairman, I would ask for direction at this moment, whether or not the Board is satisfied with the case being withdrawn just from the BCC agenda, then when they're ready, they can notice and come back before the BCC. Or whether or not you want it withdrawn completely and the applicant would have to start all over at the CDRC.

COMMISSIONER TRUJILLO: Mr. Chairman, there might be some issues with taking that long, table after table, the project, the scope of the project might change and for that reason I think that we should start all over again at the CDRC level, from the prospective of public input and understanding the scope of the project and all of that, because I would say that the applicant has been given ample opportunity to represent the project at least three times before it's tabled. So I would say that they'd have to go back to CDRC and resurrect the project again to represent the scope of the project clearly.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Question. Mr. Abeyta, has the scope of work changed? The scope of the application? Has it changed?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it's staff's position that it has not changed. But there is a concern that how long does he have to wait until it's required to go back to the CDRC? In his latest letter, they're requesting tabling until December. We've received numerous letters of opposition stating the public would rather just as soon get this over with because nothing has changed.

COMMISSIONER CAMPOS: What's the rationale for the delay?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, the applicant claims that he wants to work with the concerned citizens in that area.

COMMISSIONER CAMPOS: My input would be to just have the Board give notice since there has been no change. I would be satisfied with that unless there is a major change in the scope of the project.

CHAIRMAN DURAN: How about if we gave them three months. We take it off the BCC agenda and give them three months to get here and if they don't do it after we've taken it off, then they go back to CDRC. It gives them a little bit of time to regroup and they know that they have a deadline. But if we just take it off right now, they're not even here to offer any explanation. If we take it back to—the understanding is it would be taken off the BCC agenda, not have to start all over. Is that correct?

MR. ABEYTA: Well, Mr. Chairman, that's what we're requesting direction on, because it's not even clear for staff as to what your intent is, whether or not it's just to remove them from the BCC agenda or make them start over.

CHAIRMAN DURAN: Would three months off the BCC and then back to CDRC be reasonable?

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COMMISSIONER CAMPOS: That doesn't concern me so long as they're off the table I would be satisfied. I think the long term solution is having an ordinance that would read perhaps, if you have an application and it's denied, you cannot reapply for a period of six or twelve months, which is standard in a lot of areas, and if they're withdrawn after three tablings, that they fit the same rule, that they have to wait months before they come back, six to twelve months. That would be my recommendation.

[Commissioner Gonzales joins the proceedings at this point.]

CHAIRMAN DURAN: Well, I disagree with that one.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I recall, I think I was the one that brought this up and it was an informal staff policy initially about how many tablings and I said the purpose was to prevent the problem where the public kept showing up for a particular land use case and the applicant kept tabling it, ostensibly to wear out the public until such time as no one would show up and there wouldn't be any opposition to the case. And I think that's an abuse of the system. So I think after it's been on the agenda for three times, we need to tell the applicant that they've had their opportunity.

Now unless something is changed, it wouldn't seem fair to send them back to the CDRC, but it would seem that some delay period then is in place, unless the tabling comes from us, and here's the one example, the one problem area I see. If something goes through, let's say, CDRC, they deny it, and then for some reason, from the staff's standpoint or something, that there's a mechanism in place that they're going to work out some kind of a compromise, an arrangement, and that may take several months to do. Then it would seem that if the staff said we're tabling in order to try to work this out, that's something that we would want to encourage. And we wouldn't want to penalize the applicant.

And here of course, the applicant says, well, we're going to try to work something out although he's not specific about what that is. But without any more specifics, I think we could say, as Commissioner Campos says, after three times on the agenda then there's an automatic either six or twelve month position that you have to go back in line and then we'll renotice it. But I don't think we should require them to go back to the CDRC, unless they've come back with substantially altered position, which may happen. They may come back with a plan this is considerably different and better. So they may go back to the CDRC and the CDRC may approve it, may recommend approval of it.

And that would be to their benefit, because that would show the Commission that there have been some positive changes. So I guess to sum up I would say that we should enforce the three tablings and then set a time period that's automatic rather than when they request it. Unless that tabling has come as a result of a staff request or a Commission request based on some progress. And whether that be six months or twelve months I'd certainly be open to whatever's reasonable on that.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

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COMMISSIONER GONZALES: I apologize for coming in late and weighing in on this discussion, I think as it relates specifically to J.R. Hale I would hope and encourage the Commission to remove him from the agenda and to send him back to the community to begin this process all over. I am, I do believe what the chairman's talking about or support the Commissioner and say that you wouldn't support the hold on six to twelve months if they've been tabled for three months and we kick them off the agenda that they'd have to wait that long before they came back. I think that there are a number of reasons out there why people would need to table for three months that aren't necessarily done for the reason to try and wear out the community. I think that for lots of different reasons people may, whether they're looking for financing or working to modify plans or trying to solidify things may have to have it tabled for a period of three months, but I think it's unfair to say you've got to wait six to twelve months before you can come back.

I do think that they should move off the Commission agenda and start all over but I think it's unfair to make them wait a six to twelve-month period before they could come back. But my feeling is on this specific issue, there is a lot of concern in the community of Cerrillos that this is a tactic by J.R. Hale Mining to wear out the community so that eventually, when it comes before the Commission that there's not going to be a strong presence by the community in this effort and to the degree that we can, we need to minimize that concern and assure that any applicants who engage in that type of practice are going to have to start all over again and fully notify and go through that process all over again. I don't know how we do it in this particular case though I would really encourage the Commission to send him back all over again.

CHAIRMAN DURAN: From CDRC? All the way to CDRC?

COMMISSIONER GONZALES: Absolutely. Absolutely. Because since then, we've had a community plan that's been adopted by ordinance. We've had a lot of factors. There's concerns over water. We're trying to develop a long term water plan. I think there are a lot of outside issues that will weigh into another review process and it will force them to go back into the community to have this dialogue which I think is really important as well.

CHAIRMAN DURAN: I don't have a problem with that. I think the only concern I have is if we're going to be consistent with other agencies in our community, like the City, a table isn't a denial. And the way it works at the City is if you've been denied, you have to wait, I believe it's six or twelve months before you can resubmit. I think it's six months. Is it twelve? You have to wait twelve months before you can reapply for the same thing. On a table, it hasn't been denied so I would be in favor of your proposal to take it back it to CDRC or have them just reapply all together.

But I don't see any need to make them wait six months to do that.

COMMISSIONER GONZALES: I agree.

COMMISSIONER TRUJILLO: I don't either.

COMMISSIONER GONZALES: And I think in my dialogue with the community up there, there's almost a greater sense of anguish that this thing is being delayed longer. I think that community wants to have its public hearing, to have a public hearing on

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this issue. So I think what we need to do is have them, send them back. Void the application. If they want to come in, have them redo it all over again. Start from square one.

CHAIRMAN DURAN: So then this is going to be our standard procedure from here on out? They've been tabled three times because of their—they requested the table, then they go back and start the process all over again.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Since there has been no change in scope, I think we're just giving staff more work that they don't need to do again. We're wasting time and resources and I think they've made their application; there's no substantial change. Let's take them off the docket. As far as the six or twelve-month rule, that would be in the future, that would concern a future ordinance to deal with problems like denials and perhaps even this problem. I don't think we should waste resources unless there is a substantial change in the application and I don't see why we should have staff review it again if it's the same thing. It doesn't make sense.

COMMISSIONER GONZALES: Mr. Chairman, my only comment on that, Commissioner Campos, is that we have adopted a community plan since their application started, that addresses issues like this. We are starting to deal more aggressively with water out in this area. So I think while the application hasn't changed, the environment and that the County wants to see happen out there has changed. So it's a different type of environment today than what it was a year ago, whenever they submitted their first application, and that's my feeling as to why they should start at the very beginning, because the staff is going to evaluate this under today's rules, as opposed to what the application was evaluated when they originally submitted was last year's rules.

COMMISSIONER CAMPOS: I have a question for Mr. Abeyta. When did the CDRC consider this application?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I think it was in either May or June. Maybe Frank—May or June. And the recommendation was denial.

COMMISSIONER CAMPOS: Was the community plan that Commissioner Gonzales refers to in place in May or June?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I'm not sure if it was or not, but at any rate, this area is outside of that boundary.

COMMISSIONER CAMPOS: This would be outside of the community plan, so that would have no effect on it.

MR. ABEYTA: The planning document may have commented about it in general. We'd have to look at that and then take that, we would include that in our recommendation if it did comment on it, but I'm not familiar enough with the plan to state whether or not it does.

COMMISSIONER CAMPOS: Do you have anyone on staff that could comment on that at this point?

MR. ABEYTA: Not with us right now. Alina with the Planning Division. We

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could go get her.

CHAIRMAN DURAN: I don't think we need to do that.

COMMISSIONER CAMPOS: I just don't see the reason to waste staff's time at this point. I think just have them give notice. Let's hear it whenever they want, I guess.

COMMISSIONER GONZALES: Mr. Chairman, Commissioner Campos, do you feel like they should just have the right to come straight to the Commission or should they at least, since a period of time has elapsed, go through the process of informing the community, posting the notices, letting them know that this is going to happen. Because what's to say that we go the route that you're advocating and they hold off for a period of four, five, six months. Apply to get on the Commission docket. All of a sudden, the community doesn't know that it's up and they're here before. What type of notification requirements would be acceptable?

COMMISSIONER CAMPOS: I would say the notice requirement that was required the first time. What kind of notice, Mr. Abeyta, is required for say, a first BCC meeting?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it would be notice to adjoining property owners within 100 feet, post the property with a public notice sign and take out an advertisement in the legal section of the newspaper. And all of this 21 days before the BCC meeting.

COMMISSIONER GONZALES: Is it unfair if we go the route, Mr. Chairman, that Commissioner Campos is advocating, that we ask that an additional notice be placed within the community planning area, so that people of Cerrillos know when it's coming forward?

CHAIRMAN DURAN: I think that would be okay, but CDRC already recommended denial. I don't think they can do anything worse.

COMMISSIONER GONZALES: Right. And I'm trying to work along where Commissioner Campos is coming from. If we do just say, okay, they don't have to go back and start all over again, that they could apply straight to come to the BCC, my issues of notification requirements are making sure that the community out there is properly notified. One hundred feet of this proposed area, there's probably not a lot of property owners have really gotten involved in this as much as the village has and the planning area of the community has. So I guess my question would be, my direction if we go this route, we ask the staff to, at the point they make the application to come back before the BCC, that you notify the community out there that that application has been put in. That may be the best way to address this issue.

CHAIRMAN DURAN: Don't they have to anyway though? To renotice?

MR. ABEYTA: Mr. Chairman, just within those requirements that I stated. Just a legal notice in the *New Mexican* and a sign and letters.

CHAIRMAN DURAN: Oh, not—

MR. ABEYTA: You don't have to notify adjoining—

CHAIRMAN DURAN: So you're suggesting the letters.

COMMISSIONER GONZALES: What I'm suggesting is just—I think we can

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handle it this way. At the point that the staff receives the application request to come before the BCC, our direction would be to staff to notify the Village of Cerrillos that that application has been made and that there is a pending date to be before the Commission and that they're notified when that takes place. I think that if we do that then hopefully we will just be able to continuously keep that community informed as to what the status and the plans are for that application.

COMMISSIONER TRUJILLO: Mr. Chairman, Roman, it seems like we're setting precedents here. This is ostensibly to put a policy in place for now and the long term. Right?

MR. ABEYTA: That's correct, Mr. Chairman.

COMMISSIONER TRUJILLO: So what are we doing? We're looking and discussing this case differently and making a determination here that is different? Essentially what we're doing is we're truncating the public process. When we have land use cases, we mandate two hearings before the public. Here, this applicant is tabled at their request, the application three times. They've been given ample opportunity to come before this Board and represent the full scope of their project. They haven't done that. And there are some idiosyncrasies there that now, we've got a community plan, we've got other issues that influence, directly influence the scope of this project.

So I feel that this project needs to go back to CDRC. Open the community process again and have it come before the Commission when that happens.

CHAIRMAN DURAN: But the community is already opposed to it and CDRC has recommended denial. How much more can you be opposed to it if it goes back there?

COMMISSIONER TRUJILLO: I don't think that it's a matter of being opposed. It's a matter of giving the community the opportunity to represent their position. To understand the project and represent their position regarding the project, whether they oppose it or support it, I don't think has any bearing here. It's just giving the community the opportunity to articulate their positions regarding the project consistent with a community plan that has been implemented.

CHAIRMAN DURAN: I have a question for Legal. This thing isn't even noticed for any decision. It sounds like we don't have much of a consensus up here. What can we do? Can we give direction? We can't vote on this, can we?

STEVE KOPELMAN (County Attorney): Mr. Chairman, you're correct. It's not an action item. This matter is automatically removed from this agenda, and I think really what staff is looking for is some direction from the Commission as to what the next step would be. We can certainly bring it back as an action item and maybe re-examine that provision, that resolution itself for a clearer direction and maybe flesh this out a little more. So we can bring you back something next meeting.

COMMISSIONER CAMPOS: So moved.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: So we gave you five directions to go. So approval of the agenda as amended.

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COMMISSIONER GONZALES: Move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second to approve the agenda as amended. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

VI. APPROVAL OF MINUTES: August 14, 2001

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I have several changes which I don't think are substantive ones and with your okay, I would just give them to the recorder and let her review them.

CHAIRMAN DURAN: That's okay with me. That's fine. So with the changes that Commissioner Sullivan is going to give the recorder, is there a motion to approve those minutes as amended?

COMMISSIONER SULLIVAN: So moved.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Trujillo was not present for this action.]

August 15, 2001 (Special Meeting)

CHAIRMAN DURAN: Any changes?

COMMISSIONER CAMPOS: Move for approval.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: Okay, there's a motion and a second. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioners Trujillo and Gonzales were not present for this action.]

VII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Matters from the County Attorney

1. Executive session

a. Discussion of pending or threatened litigation

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

Commissioner Campos moved to go into executive session pursuant to NMSA

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Section 10-15-1 (1) to discuss the matters delineated above. Commissioner Sullivan seconded the motion which passed upon unanimous roll call vote with Chairman Duran and Commissioners Campos, Trujillo, and Sullivan all voting in the affirmative. [Commissioner Gonzales was not present for this action.]

[The Commission met in executive session from 3:50 to 5:15]

Commissioner Campos moved to come out of executive session having discussed only the matters outlined in the agenda, and Commissioner Trujillo seconded. The motion passed by unanimous voice vote. [Commissioner Gonzales was not present for this action.]

MR. KOPELMAN: Excuse me, Mr. Chairman. Also let the record reflect that no decisions were made with respect to purchase or acquisition of any property or water rights at this point.

CHAIRMAN DURAN: Thank you, Steve.

VII. B. Public Works Department

- 1. Request authorization to publish title and general summary of an ordinance to amend Ordinance No. 1994-2, an ordinance regulating procedures for disturbing and repairing County property and rights-of-way**

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioners, in 1994, the Commission adopted Ordinance No. 1994-2, which is the regulation of procedures for disturbing and repairing County property and rights-of-way, also known as a Utility Cut Ordinance. There are some issues that need to be addressed. Since 1994, the amount of permits being issued has increased significantly. So some of the issues that need to be addressed are the fees, performance bond, a clause that would enable the County to issue and change a penalty for non-compliance, and a traffic control plan submitted with each permit application.

So those are some of the items that Public Works would like to have discussed and addressed. But as of today, we're requesting authorization to publish title and general summary of Ordinance No. 1994-2, an ordinance regulating procedures for disturbing and repairing County property and rights-of-way.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: Any questions? Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: Any other questions? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not

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present for this action.]

VII. B. 2. Update of County road improvements strategic and operating plan for existing and proposed County roads

MR. MARTINEZ: Mr. Chairman, Commissioners, in the past, the Commission has expressed some concerns and interest in possibly improving and accepting non-County roads for maintenance. At a previous BCC meeting, Public Works was given direction to look into possible funding sources and also the possibility of evaluating non-County roads and County roads for improvements.

The Public Works Department has conducted a preliminary evaluation on existing County roads and has made some recommendations for surface improvements. Those are in your packets. The first thing that I want to get to is the road evaluation form. That is something that Public Works developed and this is used to evaluate County roads and could also be used as a scope of work in the event that the Commission would give direction and the budget to hire a consultant to evaluate private roads. Also, Public Works conducted a preliminary evaluation of existing County roads and has made some surface type improvement recommendations that would need to bring these roads up to County standards.

If you look at the summary that I believe is in your packets, summary of improvements, we did a preliminary evaluation like I stated. We need to basecourse 348 miles of County roads, chip-seal 13 miles of road, pave 16 miles of road, repave 22 miles of road, and cold-mill six miles of road, for a total of about \$17 million. Now these are just for existing County roads that would bring these roads up to some minimal County standards. Basically, what we're here today is to ask for further direction from the Commission on how to proceed.

CHAIRMAN DURAN: Any comments from the Commission?

COMMISSIONER TRUJILLO: Mr. Chairman, I think that Public Works has a plate that is overflowing enough on their hands without augmenting that problem on maintaining and upgrading roads. So I think that for now, we need to focus on the existing County road infrastructure, upgrade those roads, and then start thinking about absorbing or dedicating more roads to Santa Fe County.

CHAIRMAN DURAN: I agree. There are roads that I travel out in the county that are in dire need of repair and if we can't even maintain those and we're talking about adopting new roads, I think what we ought to do is take care of what we have and then try to go to the state this coming legislative session and ask for monies to make these improvements.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I agree with that as well. I think we have a tremendous problem that our current funding mechanisms aren't addressing. And I think that's what we need to address. I think that there are some funding possibilities if we want to address those. There's one and two percent gas tax increments that the County is allowed to initiate

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with a public referendum. There's also up to a quarter percent gross receipts tax that the County has again the ability to initiate in one-sixteenth increments if it wants.

What I think we need to look at is the whole County road system and certainly we want to prioritize our arterial roads and County roads and roads that have the greatest amount of traffic. We want to work off of this system, this inventory that Robert has prepared and I think just looking at the maintenance alone tells us that we need some kind of greater annual fund to provide this service to the community. I think we spend a great deal of time working on land use issues. We've spent a great deal of time recently working on water issues, but we've got to remember that the County has some basic services that it need to provide: waste management, roads, things like that that are traditional County functions that we should be providing.

What we're seeing here in just these preliminary figures that Public Works has put together is that we're not doing it. Everyone seems to agree with that. And financially, we can't do it within our existing resources. So what's the answer? What do we do? Do we just have the status quo? Do we get more money? Do we maintain fewer roads? Where do we go from here? And my thought—I know other counties and I believe Rio Arriba is one of them, have done comprehensive road studies where they've taken inventories of all of the roads, both private and public. They've done condition ratings, where we know what the traffic on the road is and the condition of the road, and they've come up with priorities. And I would also suggest we look into how we fund whatever the consultant or the Public Works Department if they have time to do this, comes up with.

So I'm kind of looking towards a long term strategic plan so we don't have to just say, each time a constituent calls, that maybe we can get some money from the legislature to fix that road. And if we don't, you'll just have to wait until next year and we'll try again. I think we as a County have some obligation to put some taxpayer money toward roadwork, and more than just maintenance, which we do under the maintenance budget, and more that \$125,000 worth or gravel, which we do in our graveling program. I think we need to think out of the box and look a little further ahead and say, What are other counties doing? How are other counties approaching this problem? How can we take advantage of some of the expertise that they have? Perhaps some of the computer programs for inventory and assessment that they have.

I'm not pitching any one particular method of getting to the end of this and I certainly agree that the first thing that we're going to focus on are the County roads that we have that need work and that are safety hazards now. But it seems to me that we need to have a planning mechanism here that goes along with our maintenance capabilities to do this. And I don't know, Robert, do you have a—do you feel this is something you can do in house or would you prefer or recommend that this be done by a separate consultant?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, are you talking about the evaluation of the roads itself?

COMMISSIONER SULLIVAN: Not only the evaluation of specifically the roads themselves, but putting together an overall plan, not only for evaluating the roads—is this road so wide? What's the right-of-way? What's its condition assessment? But then saying how

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would you come back to us to recommend to fund this deficiency? Suppose we weren't even talking about non-County roads? Suppose we're just talking about doing \$16million, \$17 million worth of maintenance on County roads, how would we fund that. And then, subsequently, what would be the priority of those roads? How would we address those? Obviously, there's some sensible ways to look at that in terms of traffic and safety and accident history and things of that nature. Is this something that you feel that Public Works can do or is it something that we should be looking at an outside consultant to do?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, as far as the County roads, I'm sure that we can perform the evaluation and some of the improvements. The cost for improvements that we've given you here are based on County forces doing the labor. If we went out to contract, it would be significantly higher. So I'm pretty confident that if you find us \$17 million, we can spend it.

COMMISSIONER SULLIVAN: Okay. Maybe that's one step ahead of where I am. Where I am is I'm saying we have \$17 million worth of roads to do, whether we do it in-house or whether we do it out of house. How do we prioritize those roads and how do we give the public confidence and the County Commission confidence that we have a strategic plan here, that we're looking at all the issues of roads, not only the roads that we'd like to put some asphalt on, but our road acceptance policy, which we have one but it seems to me it could be a little better defined. And our road codes, what we require of developers when they build in the Extraterritorial Zone for example. Are we satisfied that a 24-foot width road with six inches of gravel is all that's needed for these subdivision, most of which are being built that way.

So I'm confident that if we gave the Public Works Department enough money, they could get out there and pave the world. But I'm wanting to step back a little and see if we can develop a strategic plan that would support us going and get that money, because as you rightfully say, \$17 million, you give it to us, we'll get the job done. And I'm saying, okay, I'll accept that challenge. Now how do we get the \$17 million or whatever the final number may be and it may well be more than that, obviously. And if we had some kind of a strategic plan that we could take to the voters, number one, who we may ask to approve some sort of tax increment for this, for this safety related work, or if we can go to the feds or the state, the Highway Department with a comprehensive plan, I think we'll come off looking a lot better than just each year going to the legislature and based on whatever cajoling and wheedling we can do, getting as much money as we can get.

I think it makes a better package and a better presentation.

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, I think what we'd have to do is conduct some traffic studies and prioritize the major arterials. I think given enough time we can in-house evaluate all the roads and come up with a good comprehensive plan with some good numbers that would show the amount of traffic that's generated from the areas that are using that particular road and if it is a school bus route and that type of information that we would be able to include on the evaluation form. Now, some of these roads that don't have sufficient easement or right-of-way width, basically, we try to work within what we've got.

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For example, like the traditional communities. We don't require additional right-of-way or easements to build or improve a road. Basically, we work with what we've got to stay within the easement that's existing. So I feel comfortable that we could come up with some type of comprehensive plan within the department for County roads only. But I'm looking at, for the 600 miles of roads that we've got, it's going to take us some time. I'm estimating probably about a year.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Robert, is this memorandum in our packet, I see where Public Works has gone through my maintenance districts, you've indicated the road and then you're talking about recommended improvements. Are those improvements just to get it up to current County Code or are those taking into account future needs of the road itself?

MR. MARTINEZ: Mr. Chairman, Commissioner Gonzales, that is to bring just the surface improvement up to existing County Code.

COMMISSIONER GONZALES: So it's not to say that some of these may actually warrant some paving, possibly, but they've been listed as basecourse or rebasecourse just to get it up to a drivable, safe surface.

MR. MARTINEZ: Mr. Chairman, Commissioner Gonzales, that is true. And there may be additional structures that may be needed that we haven't been able to go out and evaluate more specifically. This is just an in-house evaluation that was done based on the information we have in the office.

COMMISSIONER GONZALES: It seems to me that what Commissioner Sullivan is asking for, Mr. Chairman, is an important process that I think is valid for the County to undertake for a number of reasons. One, I think he's correct that if we have the strategic plan in place that commits to paper and shows where we want to be and that we're actively planning where we want to be five and ten years out, that gives good guidance not only for funding internally and statewide but also federally and coming up in the next year, Congress is going to be authorizing the new transportation bill. There's going to be huge emphasis that more federal dollars go into rural roads.

And I think the counties that have the first crack at that are going to be the counties that have actually begun and engaged in a process of bringing rural roads up to safer driver conditions. So I think, I'm not sure how we would do it to best position us, but I think to be in a program that shows that the County is working to bring some of these County roads up to safe, drivable conditions is a good place to be when they begin to start doling out that kind of money. I don't know what form or what document.

When I was listening to you talk to Commissioner Sullivan, in my mind it would be nice if District Five, or District Three—I know that the road districts are very different from the Commission districts, but it would be nice if I knew in my district the list of County roads, what their current status was, what it would take to bring it up to County requirements, the cost of doing that, and then some type of analysis of what the future need is for that road and what we're going to need to do some kind of focus into the future so that we actually beginning to

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prepare for the arterial development within each of the Commission districts.

And I think that would be very helpful so that then we can begin to understand further some of the challenges in our own districts. All of us have non-County roads that are public roads in our districts where people want us to go spend some attention and some time on, but I think we need to get through this issue first. I would continue this process to continue. I think it's important that we have a strategic plan in place. I think it's important that it's more than just a plan but it's a working document, that every year as part of our budget process, part of our lobbying process, part of our overall process, we're working to chip away at some of the deficient road networks within this county and bring it up to a standard that's safe for our citizens.

MR. MARTINEZ: Mr. Chairman, Commissioner Gonzales, as a matter of fact, at the Road Advisory Committee meetings, several times it has been suggested by the members that, as you know, the Road Advisory Committee puts forth a packet to submit to the legislature for road improvements. They have made a couple of comments that let's take a step back, let's not make any big improvements this year, but let's concentrate on maintenance. Let's go to the legislature for money for maintenance for a couple years and step back from improvements.

COMMISSIONER GONZALES: So there's a definite need to be looking outward though, to get out of where we're just looking at how we keep up with today, how we handle some of the demands on the road infrastructure in the future.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Commissioner Gonzales, is there, in your work with NACo, is there any funding that you know of, either through the Federal Transportation Act or anything that might help us in putting together a plan like this? Obviously, it has to be done with the staff but I'm a little concerned that it may grow like Topsy once they get into it and I want to make sure that they're out there maintaining what roads they can.

COMMISSIONER GONZALES: I believe that there are grants that are available through Agriculture, Interior and Transportation for rural communities to begin to develop plans for what we're talking about today. I think we need to work at finding those grants.

COMMISSIONER SULLIVAN: Are we classified as rural?

COMMISSIONER GONZALES: No. But we have a lot of rural components to our county, but it's 50,000 and under is classified as rural. There is money from the feds to do this but I think more importantly, what's coming up for the next funding cycle for the Congress is to fund the mass transportation bill that they do every ten years. There's going to be a huge component in that to fund rural roads, even as they exist in urban counties and I think that when the feds, if they actually do fund that, when they start looking at granting some of the disbursements that they're going to go to the counties that are already in place to get that underway.

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So I think what you're calling for is really important and timely now, as opposed to waiting until after that appropriation is made.

COMMISSIONER SULLIVAN: Is this something—I know the RPA, we just passed in the last session, last BCC meeting, about making the RPA the regional transportation authority. Is there a potential there for them submitting an application on behalf of the County?

COMMISSIONER GONZALES: I don't know what their purview would be. Does anyone know? Steve?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I don't know if that's a possibility or not but we can talk to the RPA director about that and see if we can do something like that.

COMMISSIONER SULLIVAN: I think Robert has a good start here. I think he's got the basic components of that. I think we need to talk, as I said before, about how we fund those improvements and we need to talk about a steady stream of income so that we can maintain these roads. And I was interested in seeing some of his figures that it costs almost as much to maintain a paved road as it does a gravel road, according to our own calculations in the county. That was surprising to me even as an engineer, dealing as I do with roads. So what that tells us is just paving the road doesn't relieve us from a maintenance responsibility. We still have a substantial per-mile cost to maintain that paved road, almost as much as we do a gravel road.

So we need to look at how we're going to move forward with not only better road construction, but better road maintenance that may well mean that the size of the Public Works Department in Santa Fe County increases substantially. And as long as we can fund that and as long as we see that we're comparable to other counties that have similar milages of roads, I certainly don't have a problem with that, because there's a service that the traveling community can see and appreciate and will feel good about having their tax dollars go there. So I'm just trying to see how we get the process started to work, rather than just leaving it totally all to the Public Works Department.

If we can look at a grant application, some way, perhaps look at some previous studies, look at their scopes. I'd just like to see us be as broad as we can on this overview. At least look at private roads in terms of quantifying them. But clearly the priority is, we need, if nothing else for liability reasons, to make our own County roads safe first.

CHAIRMAN DURAN: Okay. Got it?

COMMISSIONER TRUJILLO: Mr. Chairman, just a comment. Even if we had all the money, \$17 million to pave roads, I think the most that we can pave per year, it's a seasonal activity, is about five miles. So even if we had all the money, it would take us 100 years to pave the 500 miles of road that are dirt in the county. So not to send out a message of altruism to the community, but this is a reality that we're faced with.

MR. MARTINEZ: Mr. Chairman, Commissioner Trujillo, you're correct. But in the past we have paved anywhere from six to ten miles of road. But the bulk of the improvements are basecourse improvements. And I believe, I firmly believe that we could easily basecourse close to 40 miles of road per year in-house. Like I said, the bulk of the

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improvements are basecourse. So that would not be a problem. It may take us seven, eight years to do it, but I'm confident that we could do that.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Thank you, Robert. Commissioner Campos.

COMMISSIONER CAMPOS: Brief comments. One, as far as roads and priority, I think that has to be tied with regional planning and where we want to put the infrastructure. We have a limited resource; we can't just put it everywhere. I think we have to focus it where it has the best effect. And two, the quarter cent GRT that we could impose, or that we could ask the public to impose upon itself, I think the priority should be water and water infrastructure at this point. That would be my concern.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, just one final comment.

Certainly water has got to be a priority. I think if we were to put together a road package, even if we took one-sixteenth of that potential quarter percent, our Finance Director tells me that that would bring in about a million dollars a year to the County. And if we had a steady income of a million dollars a year to put towards maintenance, towards cold milling, towards basecoursing, I think in just one or two short years, the County residents would see a major improvement, not only in safety but in travelability and we would be accomplishing something.

It's not to say we would might not have to include something else with that. We may have to wrap in perhaps a park-and-ride lot, because so many of the residents of the county are in the city and their question is how does this benefit me in the city? If they were to approve that tax. So there may be some rail-trail components or some park-and-ride lots that might have to go into that bond issue, but I think overall, if we could generate a steady income and show a thought-out plan on how we're going to deal, what we're going to use that money for, that would sell that plan to the residents, and we would still have money left over to deal with the water situation, which of course is very important as well. Thank you.

CHAIRMAN DURAN: Thank you. Robert, I thought that there were so many miles of road that we are capable of improving on a yearly basis. And I forget how many miles, based on how are general fund increases on a yearly basis, we had agreed that there were so many miles that we could improve every year. Isn't that correct?

MR. MARTINEZ: Mr. Chairman, we basically have, or was approved, \$125,000 for basecourse improvements from the general fund. The other improvements have come from the legislature or general bond obligation.

CHAIRMAN DURAN: But I thought that some time in the past we had decided that based on the increase in our general fund, that we would be able to adopt x-amount of miles in our maintenance program.

MR. MARTINEZ: Mr. Chairman, I don't recall that because every time we go to budget hearings, they tell us the general fund hasn't increased.

CHAIRMAN DURAN: You don't remember that?

MR. MARTINEZ: I don't recall that.

CHAIRMAN DURAN: Okay, I must have been dreaming. It's a nice dream I

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guess. Well, I guess why don't you go finish your study, get back to us. Give us a comprehensive plan on how you think we can start adopting some of these roads that need maintenance and I understand that water is a high priority but there's other services that we need to pay attention to.

MR. MARTINEZ: So Mr. Chairman, the direction is to evaluate the existing County roads only, not private roads, correct?

CHAIRMAN DURAN: Correct.

MR. MARTINEZ: And explore additional funding sources.

CHAIRMAN DURAN: Right.

MR. MARTINEZ: And we will go ahead and proceed with the evaluation plan. I'm not quite sure how long it will take us but we will do that in-house.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, I would just add one caveat. We only want to focus on County roads because we don't want to spend planning time on private roads. But if we are able to get some funding from whatever source you may locate and through Roman's assistance or Planning Department or whoever can help out there, I certainly would like to see it be comprehensive countywide, both private and public roads and at least show us what we're dealing with out there, and what recommendations that consultant might have. We're not going to adopt all private roads but there are some private roads that serve as arterials and serve more than just the residents for whom the road was originally built. So I certainly agree with the direction insofar as our own resources. We've got to spend those on County roads, but I would hope that if we do find some funding, that could be expanded to all of our road network.

CHAIRMAN DURAN: Could you give us a list of what roads are in each of our districts at the next meeting?

MR. MARTINEZ: Mr. Chairman, we could do that. You don't have any.

CHAIRMAN DURAN: Then never mind. What about Camino Carlos Rael.

COMMISSIONER SULLIVAN: Wait until redistricting.

MR. MARTINEZ: Okay, you have a half a mile out of the 580 miles.

CHAIRMAN DURAN: I might have more after this redistricting. And while you're up there, I would just like to ask you, at the next meeting, could you bring that Henry Lynch Road up for a discussion item so we can take some action on it? I don't want to spend a lot of time today. Basically what it is, it's a stop sign there on Agua Fria Street just past Siler that has turned into a real feeder street because there's a residential area and then Home Depot is up there and early in the morning, if you're stuck trying to get out, or if you're stuck trying to get onto Agua Fria you can't get on because the cars just won't let you go in. So we need some kind of stop sign there.

MR. MARTINEZ: Mr. Chairman, I believe it's too late to get it on the September meeting. Would you like us to put it on the first October meeting? We will put it as an action item, request authorization to install a three-way stop.

CHAIRMAN DURAN: As soon as you can get it on the better. So whatever

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the law allows us to do is okay with me.

MR. MARTINEZ: Okay.

CHAIRMAN DURAN: Then there was one other thing—no, I guess there wasn't anything. Do you want to ask anything of Robert while he's up here from the Public Works Department? Okay, good. Thanks, Robert.

VIII. CONSENT CALENDAR

- A. Resolution No. 2001-136. A resolution requesting an increase to the general fund (101)/Intergovernmental Summit to budget fiscal year 2001 cash balance for expenditure in fiscal year 2002**

KATHERINE MILLER (Finance Director): Mr. Chairman, Commissioners, that budget resolution is just to bring the cash balance forward from last fiscal year into this fiscal year, money that was contributed for the Tribal Summit.

CHAIRMAN DURAN: Okay. When is our next Tribal Summit, Sam?

MR. MONTOYA: Mr. Chairman, we were hoping to have one in the latter part of September. It seems now that it will be the latter part of October. That's what we're working on at this point.

COMMISSIONER GONZALES: Mr. Chairman, just on that point real quick.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: I know you're getting ready to bring some type of organizational restructuring to us. When is that going to be, Sam?

MR. MONTOYA: Mr. Chairman, my intent is to bring that to you September 25th.

COMMISSIONER GONZALES: Okay, can I just ask the chair, can you identify if there'll be an opportunity to actually have a staff designated to continue the relationship with the Native Americans?

MR. MONTOYA: Mr. Chairman, we do have under the Intergovernmental Office, under the County Manager.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Also, Katherine, a question I had on this was this \$26,914, that was the amount that we expended for the two Tribal Summits, Intergovernmental Summits to date? Is that what that is?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, that's the remaining amount. We received \$30,000 from the McCune Foundation in a donation and what is remaining is what is left to bring forward into fiscal year 2002.

COMMISSIONER SULLIVAN: Okay. So we've only spent \$3,000 on these summits so far.

MS. MILLER: I believe that's correct. There was also another donation, I

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believe of about \$2500 and I don't know whether that has been expended because it's in a separate cost center, and I can't remember off the top of my head whether that was expended last year or is already budgeted for this year. But this is out of the \$30,000 that was donated from the McCune Foundation for the Tribal Summit, and that's what's remaining.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: We originally had \$32,500, right?

MS. MILLER: In total, yes.

MR. MONTOYA: Mr. Chairman, we've also expended, I want to point out, we've expended much more than that, however, we have had other underwriters. The lab paid for a substantial amount and also BLM picked up some of the expenses as well. So there are still some straggling bills coming in. I think we have another one for \$400, but more than anything, \$26,000 is the balance coming over to this fiscal year.

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

CHAIRMAN DURAN: Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

VIII. B. Resolution No. 2001-137. A resolution to surplus fixed asset equipment

MS. MILLER: Mr. Chairman, Commissioners, the resolution that's in your packet, we had to change that. The Assessors wanted to donate that vehicle to the New Mexico School Boards Association and when we originally did the resolution we were checking into their status as a governmental entity; they are a private, non-profit entity and we cannot donate a vehicle to them. So the resolution that I passed out is just to surplus the vehicle and put it into the place where we can actually either put it in the auction that comes up at the end of September through the Highway Department or sell it through one of our mechanisms of being able to donate it to a governmental entity or sell it.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a question. When we approved this before, I was under the assumption, Katherine, that these would all go to the state auction, but apparently we have the flexibility to do other things with these vehicles and those were donating them to other governmental entities. Who makes—does the County Manager or you make that decision? Or how do we decide to do that?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, typically when there's an auction, the vehicles that have been surplusd and that have not been—we send first off

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around to all the departments within the County a list of anything that another department is wanting to surplus to see if they can use it first. So we do that first. Then we also send out to other governmental entities a notice saying we have these items that we're surplusing and if there's anything that they're interested in they can come in and either do a negotiated sale of that item or bid on it. And then we also put things in the auction.

A lot of times it's based upon is there an auction coming up. We put as much as we can into the auctions because that has been our best return. In July, the auction that the Highway Department had we got about \$66,000 back in through vehicles. So it just depends on the time of the year. They only do those twice a year, so throughout the year when we're surplusing items we do try to hit the auctions or offer them to other governmental entities.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any other questions of Katherine? What's the pleasure of the Board? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

MS. MILLER: Thank you.

CHAIRMAN DURAN: Are you leaving now? I just wanted to ask you a question about the Lodgers' Tax Committee meeting.

MS. MILLER: The Lodgers' Tax Committee meetings are the third Thursday of the month. We should have one and I did ask the person who advertises to put you on and to contact Karen when a meeting is coming up.

CHAIRMAN DURAN: There's no more Karen so just have them call me.

MS. MILLER: Okay. I'll have Viva call you.

VIII. C. Request adoption of findings of fact and conclusions of law for the following land use cases:

1. LCDRC Case #Z 01-5010 - Santa Fe Downs (Approved)
2. LCDRC Case #MIS 01-5011 - Downs Liquor License (Approved)
3. TCRC Case # V 01-5210 - Simon Stretzer (Approved)
4. CDRC Case #V 01-5101 - Donald Kennedy (Approved)
5. CDRC Case #V 01-5180 - Rosendo Lujan (Approved)
6. CDRC Case #Z 01-5250 - Genuity (Approved)
7. EZ Case #S 00-4560 - Tesoro Enclaves (Approved)

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman, for the findings of fact.

COMMISSIONER GONZALES: Second.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to discuss item 3 separately.

COMMISSIONER SULLIVAN: Mr. Chairman.

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CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd like to add one or two words to item

1.

COMMISSIONER CAMPOS: I'd like to talk about that one too.

CHAIRMAN DURAN: Why don't we—does the person making the motion agree to approve 2, 4,5,6, and 7?

COMMISSIONER TRUJILLO: Yes.

CHAIRMAN DURAN: Second's okay with that?

COMMISSIONER GONZALES: Yes.

CHAIRMAN DURAN: Those in favor of the motion as amended, signify by saying "aye." [Unanimous] Motion carries.

VIII. C. 1. LCDRC Case #Z 01-5010 - Santa Fe Downs (Approved)

COMMISSIONER SULLIVAN: The two areas, three areas I wanted to put in some very brief clarifications are on page 3, paragraph 6, first line. In the recitation there where it says the Downs of Santa Fe has been used for racing and recreational purposes, I would like to insert the word "horse" and likewise in the next paragraph down, paragraph 7, where it says "applicant states that the historical uses of the Downs include racing," I'd like to insert the word "horse." And then the third clarification is on page 11, in paragraph 4, the fourth line up that begins with the words "BCC" where it says, "if the applicant shows reasonable cause to extend the time frame," I'd like to insert the word "two-year" so that would read, "if the applicant shows reasonable cause to extend the two-year time frame."

Those are the changes that I would suggest.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: I have a couple of comments. Page 9, items 25 and 26. And this is for Legal, for Mr. Kopelman, 25 says the site is suitable to accommodate the proposed development. That's for purposes of granting the master plan, but as I understand it there's going to be major issues when they bring in the specifics as far as noise and traffic issues. Now, do we give up our ability to look at noise and traffic issues by adopting the language proposed in paragraph 25, first sentence?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I don't think so. I think that this is a preliminary finding only and we can certainly clarify that. That might not be a bad idea so that there's no question.

COMMISSIONER CAMPOS: I would like clarification so that it specifically goes to noise, traffic. I'm not even sure about the air quality issue. I know we've talked about it a little bit, but I'm not even sure that we even talked about that formally in the meeting where we decided this case. And number 26 is the same, the use

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and intensity are suitable. Well that depends on the preliminary plan and I'd like to make it clearer that we're not giving up our jurisdiction to come back to those two issues when we do come to preliminary.

CHAIRMAN DURAN: Steve, could we just add a last sentence, subject to master plan approval?

COMMISSIONER CAMPOS: They have master plan approval.

MR. KOPELMAN: Mr. Chairman, yes. We can modify that language. I think we can certainly put in a provision that would say a preliminary review indicates the site is suitable. However, further data would be presented at preliminary hearing to make a definitive determination. We can work on and add language to that effect.

COMMISSIONER CAMPOS: I would suggest that for 25 and 26.

CHAIRMAN DURAN: Okay. Any other questions on item 1? The chair will entertain a motion to approve or disapprove?

COMMISSIONER TRUJILLO: Approve, Mr. Chairman. So moved.

COMMISSIONER CAMPOS: With the amendments?

COMMISSIONER TRUJILLO: Yes. With the amendments.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

VIII. C. 3. TCRC Case # V 01-5210 – Simon Stretzer (Approved)

CHAIRMAN DURAN: Commissioner Campos, you had a question about that one?

COMMISSIONER CAMPOS: My concern is basically a jurisdictional one for Legal. It seems to me that we approved a variance with no evidence to support it and we've disregarded some of the Code language that defines when we can grant a variance. I don't think I can vote for these cases. There was no specific evidence and a disregard of the Code.

COMMISSIONER TRUJILLO: I think you voted against it.

COMMISSIONER CAMPOS: I did.

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

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: There's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Commissioners Trujillo, Gonzales, Sullivan and Duran voted in favor] Opposed? [Commissioner Campos voted against.] Motion carries.

IX. STAFF AND ELECTED OFFICIALS' ITEMS

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A. Land Use Department

**1. Discussion and clarification of the decision to approve CDRC
Case #Z 01-5130, the Village at Eldorado**

FRANK WHITE (Review Specialist): Thank you, Mr. Chairman, Commissioners. The BCC shall approve clarification on the number of seats, square feet of the three theaters based on the discussions within the attached minutes. Thank you.

CHAIRMAN DURAN: Frank, what was the outcome of the last month's meeting. I wasn't here. I know that's why it's here again.

MR. WHITE: Okay, the outcome was whether staff's conditions applied and whether the preliminary and final development plan returned back to the Board. Both of those were approved unanimously.

CHAIRMAN DURAN: But then why is it back here today?

MR. WHITE: Now we need clarification on the number of seats within the theater or the square feet.

CHAIRMAN DURAN: And how did the vote go last month?

MR. WHITE: It was a tie on the number of seats.

CHAIRMAN DURAN: And what was the number of seats that were approved on one side?

MR. WHITE: Well, the applicant was proposing 800.

CHAIRMAN DURAN: And two Commissioners voted for 800?

MR. WHITE: I don't think so.

COMMISSIONER SULLIVAN: 400 was the number.

MR. WHITE: Right.

CHAIRMAN DURAN: 400 was the motion?

MR. WHITE: That's correct.

CHAIRMAN DURAN: So 400 was the motion and two voted for and two voted against?

MR. WHITE: That's correct, Mr. Chairman.

CHAIRMAN DURAN: And that's what we're here to discuss tonight is the number of seats?

MR. WHITE: That's correct. Only the number of seats.

CHAIRMAN DURAN: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, it was my understanding at the first meeting, there were eight theaters proposed and it was your motion to say we should have half. They were proposing 800 seats so I think the understanding, or at least my understanding was that meant to reduce the impact by half, you would need to reduce the number of seats by half to 400. So that is the question.

MR. WHITE: That was six theaters that were proposed.

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COMMISSIONER CAMPOS: Six? And it's reduced to three?

MR. WHITE: It was approved at three, yes.

COMMISSIONER TRUJILLO: But the seating is the question now.

CHAIRMAN DURAN: So it was—

MR. WHITE: That's what we need clarification on. We have three theaters. The applicant needs clarification on the number of seats as well as staff. It's my understanding that if it's approved at 400, the applicant is not willing to work with that.

CHAIRMAN DURAN: Is the applicant going to get a chance to discuss , to bring it up? Or no?

MR. KOPELMAN: Mr. Chairman, that's within your discretion to allow them to comment. That would be permissible but it's your discretion.

CHAIRMAN DURAN: Okay, how about 600?

COMMISSIONER CAMPOS: That's what the applicant is proposing, Mr. Chairman, 625.

CHAIRMAN DURAN: So I have to decide here?

MR. WHITE: The Board needs to decide.

COMMISSIONER SULLIVAN: It's your vote, Mr. Chairman, and we could revote it but during the hearing the applicant said they were in agreement with that. They later came back in the meeting that you were absent and said that they needed 650 to make it economical. Some people have questioned that. Theaters such as the Jean Cocteau downtown has 150 seats and it seems to be economical to operate, but the real issue was based on traffic impact and so forth. The intent of reducing from six to three theaters would seem to be obviated if there was no change in the number of seats proposed.

CHAIRMAN DURAN: Well, I guess I'd like to hear from the applicant.

COMMISSIONER GONZALES: I would encourage you to hear from the applicant.

CHAIRMAN DURAN: I don't want to make a decision here without hearing. A lot of people have contacted me and I've actually reviewed all the arguments for and against less and more, but I'd like to hear from the applicant and anyone else out there in the audience that would like to add something to this.

[Duly sworn, Stacy Crossingham testified as follows:]

STACY CROSSINGHAM: Stacy Crossingham, 8 Isidro Road. Thank you. Mr. Chairman, Commissioners, thank you. I have rounded up over 100 and I think it was 25 letters in the short period of time that we were able to pull them together, to inform you that we feel that this is a decision that should not be made by the Commission, but it should be made at preliminary and final development review. We have yet to do our traffic study and our detailed water budget to see what this will support, and we urge all of you to allow that process to continue, then to make a decision here when I don't thing either one of you have had the experience of building a theater and the economics involved.

We would like 650 seats if we're going to put a maximum on it, but I don't feel

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that that should be something that we decide here. It should be decided with the studies that need to be done anyway.

CHAIRMAN DURAN: Well, I'm in favor of that.

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER GONZALES: Ms. Crossingham, I appreciate you telling the Commission what you feel our jurisdiction should be and at what point it should be on this issue but I guess what I'm looking for from you, considering the fact that the Commission supported your proposal—what I'm looking at from you is to see if you've listened to the community's concerns, the concerns of the community. I understand your need and your feeling to try and rustle up support and it appears through your 125 letters that you've sent in or whatever we've received that you have, but what I'm not necessarily seeing, and I'm asking you now is have you listened to the concerns and how are you going to address those concerns that exist out there? Clearly there's a lot of fear in the community of Eldorado as to what a 600-seat theater, 650-seat theater, or if you ask the Commission to do as you're saying, it could be whatever out there.

It could be, if you provide the best arterial support, the most imported water, that you could, potentially, with what you're asking, open up a Century 24, if there isn't some type of constraint. It's highly unlikely that would happen, but without some type of boundary or some type of limits, it could be construed in some people's minds that that could happen, if you were to build out the proper arterials and proper infrastructure.

Tell me throughout this whole process what you've heard from the community and how you've responded to that because it just seems that what's happened, Ms. Crossingham is that this has become so divisive an issue in your community and it's unfortunate that it's gone to this point, but it would seem that you and your family would want to, being that you're going to be living and working in this community, find some type of balance that would exist. Something that could be acceptable by everybody.

And one final thing, I think it's the Commission's purview at any point during this process to impose conditions that reflect the balance of community's needs. So I take exception from the start of you saying that this shouldn't be done here at the master plan level but rather the preliminary. I understand what you're asking, but I think it's our duty and our obligation to the community as a whole to reflect all the values of a community as opposed to just one set. Thank you.

MS. CROSSINGHAM: My turn? Mr. Chairman, Commissioner Gonzales, I respect your comments. I don't know if you remember, Alan and I, my husband and I are members of the community. We have been there for eight years. We have an existing business there. We're in contact with people through our business daily. And like I said at the last hearing, there has been no comment to us since the July 10th hearing approval about negativities to our face. When we get customers that come in, their question is when is this going to start? We are so excited.

I had a customer that came into my office today who was originally opposed to the

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project and then he thought, after the decision was made, he said to me today, he said, no, I think it was the right decision and I'm looking forward to it. I am working closely with the Highway 285 Coalition. I'm working closely with the community. I talk to people on a daily basis. My husband talks to people on a daily basis in the community. I'm also working with corridor planning. As a matter of fact we just had a long charette on Saturday with Jack Kolkmeyer and we have evolved our plans from what we originally were doing to what the community has wanted and we're very involved in listening and acting upon those things.

You're always going to have opposition and the people have a right to be fearful of the unknown because they're not willing to come to me and ask me and see my plans. These people who are fearful continue to live in fear and I can't change that. Alls I can say is there's far more support for this project than you probably imagine. And if you could come and spend a day at the video store and listen to the positives and the compliments and the excitement that this community finally feels that they're going to have something that's useful to the community, you would have a different sense of opinion.

COMMISSIONER GONZALES: But you're arguing the point as if we're taking away the right for you to put up some theaters, and I think what I'm asking for is understanding that the Commission has granted that right, or given the zoning for theaters.

MS. CROSSINGHAM: Right. I understand that.

COMMISSIONER GONZALES: My point is what have you heard from the community in terms of the theater and its impact on the community. I understand what you're saying; there is community support about that, but the people who are opposed to it obviously aren't directing it to you, they're directing it to representatives of this Board and which we have to take into account. We're not arguing the point of whether the theater should exist or not.

MS. CROSSINGHAM: I understand that.

COMMISSIONER GONZALES: The point is what should the size of that theater be or those three theaters, and how can that size meet the needs of the community, all the needs, both from those that oppose it and those who want it. And what I heard you tell us today is that should be disregarded and at the point that preliminary comes in, based on whatever our traffic can support, will be what you should support. And I don't think that that's finding a balance or trying to identify some of the needs or the balance of the community.

MS. CROSSINGHAM: Well, let me tell you what we've done up to date and then let me also make one more statement. We, in our revision, based on it being cut down to three. First of all, one of the theaters is going to be 300 seats. We're putting in a live performance stage in this theater. So if you have 300 seats and you limit it to 400 seats, that leaves 50 seats for two other theaters. That doesn't make very much sense. So to put 300 seats in one theater and then 50 and 50, it's not feasible.

Number two, we have taken an originally proposed 21,000 square foot building and reduced it to 12,000 based on the decision of the Board of County Commissioners. So we

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have reduced it significantly on our new revised plan.

COMMISSIONER GONZALES: A 12,000 square foot building for the theater?

MS. CROSSINGHAM: For the theaters, for the three theaters, and we're going to have a multipurpose room in there as well for dance and karate and different things. It's going to be a community room, basically. But that has no seats in it and it has no screen so that's irrelevant on this subject. But it went down to 12,000 square feet. We have made a lot of changes and the community is really excited about it. And I think a lot of you, hopefully, I've been told they e-mailed you. I don't know if you've read your e-mails or not, but there's been quite a few people who are real excited about the changes and they're looking forward to this occurring.

As far as the impact on the community, everyone is—I don't know what to tell you. I don't know what the impact is going to be traffic-wise until I do research anyway. And again that occurs at preliminary and final.

COMMISSIONER GONZALES: Do you think it's unfair to ask you to limit the amount of seats that your three theaters will have to reflect community concerns?

MS. CROSSINGHAM: Okay, we have submitted a plan with 800 seats. That is a limit, is it not?

COMMISSIONER GONZALES: No. That's your limit.

MS. CROSSINGHAM: Well, what I'm asking for you then today is that with 300 seats to make it feasible, 650 seats is what I'd like to see it capped off at, if you want a direct answer.

CHAIRMAN DURAN: I think when we approved this project we recognized the need for this type of development out in that community, and to approve a use that is needed out there and that we recognized when we approved it, and then limit it to a number of seats, limit it in such a way that it's not going to be economically viable, I mean it's in total conflict with what we acted on when we approved it. But I don't see a problem why we can't let the traffic study occur and let that dictate the number of seats. If it's definitely a question as to traffic flow and safety, and you only get 300 seats, well, then you're going to be stuck with just doing either two or one with 300 seats.

MS. CROSSINGHAM: That's okay.

CHAIRMAN DURAN: And you run that risk. I think that it's fair that if you're able to deal with the traffic flow and the health and safety issues that are going to come up in the preliminary development plan, that you might be able to have more. But I think to try and make a decision here just based on our perception, whether or not the community is behind it or not isn't the right thing to do because it's fractured. Some people want it and some people don't. It all depends on who you're talking to. I would say that it's probably 50-50. So I think it's fair that we let the traffic study take place and let the health and safety issues dictate how many seats you have there.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: One of the issues that I brought up last time is that the traffic study is not going to answer that for us. The traffic study is only going to tell us what level of service is existing, what the level of service will be with the new development, and what type of road improvements may or may not be needed to accommodate that. The traffic study, although it sounds like the be-all and end-all, doesn't tell us what the impact on the residents is from noise, from dust, from possible increases in crime, from any of the adverse effects from the residences that are immediately adjacent to the property. It just simply tells you from an engineering standpoint how do we get these cars in and out all at one time when these theaters discharge.

So I don't think the traffic study is the answer. And also when we were considering this development, we had the County Hydrologist there and she pointed out by going through some very quick calculations that even at 600 seats, based on the numbers required by the County Hydrologist per seat, which were not the numbers used in the water budget that the applicant proposed, that the development would be over three acre-feet, which is the maximum allowed. So I think we have a very good justification to limit the number of seats based on that alone.

The applicants say well, we'll argue that in the preliminary or final phase, but you go back to the minutes and you will see that the amount of—the guidelines for the amount of water per theater seat, multiplied by 600 seats took you over three acre-feet. So if we had a 600-seat theater, that's essentially all that site could sustain. So I think we have a very good reason to say we don't want just a 600-seat theater on that site. If there's going to be commercial on that site, we want it to be a mixture of things, of office, which is was originally, and of other things. So I think we have very adequate justification of putting some upper level of 400 which even that may not be achievable.

CHAIRMAN DURAN: Stacy, is that 300-seat theater, is it one of those—

MS. CROSSINGHAM: Stadium style.

CHAIRMAN DURAN: Stadium styles. So what would be wrong—what if we—trying to find some compromise here. If you did a 300-seat stadium style, and we increased that four by fifty so you could have 150, which would be similar to some of the smaller theaters here, and that would also be your community theater.

MS. CROSSINGHAM: The 300-seat theater is our community theater. Then you have two other screens. Now, let me expand, if I may, on Commissioner Sullivan's comment. Commissioner Sullivan, we are very well aware that three acre-feet may or may not suffice for what we want to do. We plan on probably phasing this project. We are also looking into, because water rights are so difficult to obtain in that area. You have to pull it out of that particular basin, that we are considering and are actually very active in looking at recycling systems, because of that very instance.

So it's not unlikely that we're not going to be able to provide using three acre-feet as our maximum. With the concept of recycling, we have expanded our availability of water. Plus we have two other properties that are going in that are on EDU water that are going into our wastewater treatment center over and above. So there is more water than

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three acre-feet and you need to know all the details. It's not just stuck on three acre-feet.

COMMISSIONER SULLIVAN: Well, I think you are applying for phase one and you're talking about some other phases here. I think we have to stick with what you provided in your application to us. I recall there was water-saving devices that you discussed with the Board. Rainwater catchment.

MS. CROSSINGHAM: Right. That's in addition.

COMMISSIONER SULLIVAN: And all of those issues. I feel that the Board was extremely generous in granting you a commercial use of a residential well permit up to three acre-feet and I think that sets not a good precedent. I've said that before, but the Board felt that that was all right. Nonetheless, I think what you may or may not come up with later on over three acre-feet, if you want to amend your application, you can certainly do that. But I think we need to act on what you have presented, based on the water that you presented and the issues that were brought forward to us were two-fold. One was the change of the zoning from business offices to these other uses. Look at the staff notes. The other was the use of a residential well up to three acre-feet for commercial purposes.

Those were the two changes in the basic approval of that site prior to that, and that's what we have to limit our ruling to, not what you might come up with in the future.

MS. CROSSINGHAM: Mr. Chairman, Commissioner Sullivan, I have to correct you. The existing plat that was pre-approved as Sierra Plaza had office and retail already approved on it. We are continuing with office and retail. We did not change the zoning. We amended a master plan to use a domestic well that the state of New Mexico considers for commercial use up to three acre-feet.

COMMISSIONER SULLIVAN: You also amended that plan to include theaters which are not a permitted use originally.

MS. CROSSINGHAM: The theaters was an additional use to be added but no zoning change had occurred, unless you're using words that—

COMMISSIONER SULLIVAN: It was a change in the master plan. I will correct the terminology if you like. But nonetheless, we're dealing with three acre-feet and I think that certainly gives the Commission every indication that this project, even as proposed with three theaters and all of the other uses, is well beyond the amount of water that has been applied for in the application and needs to be reduced even further.

MS. CROSSINGHAM: We are allowed—we are actually required, once we have 2,000 gallons per day effluent water, we are required to install a wastewater system. This wastewater system in addition to the recycling system, which will eventually create a water-neutral situation, costs hundreds of thousands of dollars and we're willing to put that in and the contributions from the other properties—one that we do own, actually two that we own, and one that's owned by First State Bank, those all are required to hook into our system, contributing additional water sources.

And I've had a talk with the County Hydrologist and she and I agreed that that is additional water to the project. It does not require an amendment to it.

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CHAIRMAN DURAN: I think we're not going to discuss this any further. These are items that we'll discuss at preliminary. Commissioner.

COMMISSIONER GONZALES: Can I propose maybe a compromise or maybe throw this out. This was onto the issue that we had last meeting, that we would allow for 400 seats in the zoning, and allow through a market study for the increase to go up to Ms. Crossingham's desired 650 if they can prove at preliminary through a market study and traffic, water and the studies show the Commission at that time, then we can take it into consideration whether we would allow for a zoning change to allow for that.

CHAIRMAN DURAN: Is that a motion?

COMMISSIONER GONZALES: That's in the form of a motion.

CHAIRMAN DURAN: Is there a second?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: For discussion.

MS. CROSSINGHAM: Am I allowed to make any more comments?

COMMISSIONER GONZALES: We're in the middle of a motion.

COMMISSIONER SULLIVAN: I just want to hear what other Commissioners have to say about that suggestion.

COMMISSIONER TRUJILLO: My position remains that I think we can look at all the demographics during preliminary and final plan approval. I think that by dictating market studies and those other things is not going to do any good to the overall scope of the project. The decisions that are to be made regarding traffic and regarding water will be addressed at preliminary and final and to be premature about dictating how the applicant should proceed is not what I support.

CHAIRMAN DURAN: This motion actually takes care of both of those. It gives them 400 now and if they can prove through the market study, or the study, traffic study, whatever study it is, that the site allows for additional seating, then they can come forward and we can make a decision, a more intelligent decision.

COMMISSIONER GONZALES: Mr. Chairman, and just in response to Commissioner Trujillo as the maker of the motion, I support the Crossinghams in their effort of what they're trying to do out there. But I think we also need to understand and recognize that this has been a divisive issue, regardless of the fact of how many people you bring forward, there are people equally in opposition to this. Nevertheless, we supported this because I think it's something that the community does want. However, we need to understand that there are concerns as to the size of this theater and I don't think there's anything wrong or unreasonable to send a message out to the community that 400 is the amount that the Commission is allowing. If Ms. Crossingham, through a market study that you could submit shows that that community can in fact support a 650-seat theater, why would you not want to have that or have that considered at this point.

It shows the community that there is a demonstrated need, that if you build a 650-seat theater that it is going to be used and it's not going to end up empty, and that this would be done more so out of need than out of speculation. And I think that that's what

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I've heard continuously over and over again and I think we should answer those needs. Find a balance and allow the Crossingham's to go forward and begin to get this project underway so that they can meet some of the needs that the people out there say they want.

COMMISSIONER TRUJILLO: But I think the community needs to make that decision based on quantitative, objective demographics and information.

COMMISSIONER GONZALES: Correct.

COMMISSIONER TRUJILLO: The community will have that opportunity when it's open to the public during preliminary and final plan approval. That's when we'll have the information in front of us that will be made available to the community and they can at that time, based on that quantitative, objective information articulate their positions.

So I'm saying that this is premature by limiting seating capacities and limiting the sizes and limiting all those things. To me it's premature.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Just two comments. I don't think it's premature. Certainly zoning, it involves what the community wants in a certain place. There's been a significant number of persons who have protested this and protested it in a very serious way as affecting the quality of their life. Furthermore, I believe staff did not recommend the theaters initially and people who have spoken have said that there is really no good road solution, no good access solution to this piece of property.

The CDRC has dealt with it and I believe denied the theaters. This has been looked at very carefully and the guidelines for this district are that no theaters should be in this district. They are guidelines but they're part of the ordinance that theaters are not appropriate in this size of a node district. And of course it's not mandatory but certainly it's a guideline that we've never really dealt with very directly. But I think there's a lot of reasons for saying 400, no more than 400, and I would recommend that the motion be amended to say no more than 400 unless the studies involving traffic, noise, other issues affecting the community prove that one, it's viable, two, it would not be detrimental to the community, three, there is a traffic solution, which most people are now saying there is no traffic solution for this piece of property.

CHAIRMAN DURAN: Okay, we have a motion on the table and I forgot to ask if there's anyone out there that would like to speak to this issue. Is there anyone out there that would like to say a few words.

COMMISSIONER GONZALES: Mr. Chairman, as the maker of the motion I would yield your prerogative to allow a couple minutes to Ms. Crossingham to address the issue.

CHAIRMAN DURAN: Okay. I was going to do that next. So, Stacy, there's no one else out there. Before we vote you can—

MS. CROSSINGHAM: You know, Commissioner Trujillo said it. This is too premature. We have to come back to CDRC and BCC with all our preliminary and development plans. Currently the way we have it, we don't really know what the traffic

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study is, Commissioner Campos. We're working on that and we need to let the process work and let us do our studies and let's find out if these road works support it. We have to pave Caliente Road. That is one of the requirements under staff conditions. We are inquiring and Public Works has said that they would consider a right-hand turn only out onto Vista Grande. All these things are part of our preliminary and development plan. We need to have time to do those studies. It will come back before you and at that time you have the discretion to accept it or deny it again.

You need to allow us that time to do our studies and make that decision at that point. If it's a cap that you're looking for, I'm willing to accept a cap at 650 but putting it at 400, it seems like it's an intent to kill the whole project.

COMMISSIONER GONZALES: Ms. Crossingham, that's an unfair statement to make.

MS. CROSSINGHAM: I'm just telling you from our point of view.

COMMISSIONER GONZALES: But I made the motion and I think it's highly unfair for you to see that as my intent to kill your project, because that's not the case. If I wanted to, I would have voted in the negative on that. But my motion was focused, Ms. Crossingham, on trying to find a balance that needs to be out there in the community of Eldorado. 400 seats, if through a market study you support that you can put in 650, why in the world would you oppose it. You're going to be spending hundreds of thousands of dollars on a lot of other things more critical to support this. Why—

CHAIRMAN DURAN: Ms. Crossingham, we're not going to have any more debate here. We're in a motion and if you don't mind, Commissioner, I'd like to go ahead and call for the question here. So all those in favor of the motion, and that motion is that you get 400 seats and the right to 650 or more, depending on what your market study dictates, and to be quite honest with you I think you're lucky. So with that—

COMMISSIONER CAMPOS: Mr. Chairman, point of clarification. What if there are adverse consequences to the neighbors—noise, crime? I mean, how do you condition that?

COMMISSIONER GONZALES: I think in every preliminary, when they come back with their preliminary and final development plan they're going to have a set of uses and we're going to make the decision that what those impacts are going to be to the surrounding community. I think that—so the issue of the pub, the issue of office and retail, the issue of the theaters still have to come back. We had asked the question to our legal counsel that even if the Crossinghams come back with the market study that support the theaters and the 650 and the Commission determines at the time that we don't want to support that use on that property at this time, they're not vested in the right to go forward with that. There can still be a denial on that based on other circumstances that exist in that area which would include the issues that you brought about.

COMMISSIONER CAMPOS: What if the data shows that there shouldn't even be 400? By saying 400 to 650, are you saying that's the bottom to it?

COMMISSIONER GONZALES: I'm saying 400 theaters. [sic] With a

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market study, they're allowed to go up to 650.

COMMISSIONER CAMPOS: So you're saying they're going to be granted 400 seats, even though even though the studies might say they can only have 200 or 300?

COMMISSIONER GONZALES: That's correct. That's what I'm saying.

COMMISSIONER CAMPOS: So you're going to disregard all future data collected even if it's adverse to the 400 number?

COMMISSIONER GONZALES: No. What I'm saying is that that property will be zoned at a minimum for 400 theaters seats—

COMMISSIONER CAMPOS: Regardless of the data generated by the preliminary—

COMMISSIONER GONZALES: Well, if the data shows that they don't have the water or the traffic to support it, obviously you can't support that use. What I'm looking for is the data that says that economically and from a community standpoint they can support the 650 seats.

COMMISSIONER CAMPOS: Or even the 400. I think that has to be clarified.

COMMISSIONER GONZALES: Well, no. My motion is not to ask for a market study for the 400 seats. The market study won't come into play unless the Crossinghams are asking for 650 seats. So if you came in in your preliminary and had the infrastructure to support a 400-seat theater, then the Commission could consider that. But according to Legal, we don't have to approve it if there are a lot of other factors around there that we feel would adversely impact the community.

If the Crossinghams want 650, accompanying it needs to be a market study that the Commission could evaluate that would show its economic viability.

COMMISSIONER CAMPOS: The question I'm still asking, Commissioner, is if the preliminary study shows that it doesn't even support 400 because you can't use the roads—

COMMISSIONER GONZALES: Which studies though are you talking about?

COMMISSIONER CAMPOS: The traffic study, any of these traffic studies done to preliminary.

COMMISSIONER GONZALES: That's cause for denial. Absolutely.

COMMISSIONER CAMPOS: That would grounds of denial—

COMMISSIONER GONZALES: In my mind, if they don't have the water or the traffic to support it.

COMMISSIONER CAMPOS: If they don't have enough access or adequate—

COMMISSIONER GONZALES: I think that's inclusive in just the rules of how we do business.

CHAIRMAN DURAN: Right. That's in the approval of the plan.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: So Commissioner Gonzales, then, really what I think you're saying is the 400 is not a minimum, as you said, but is a maximum at this point in time. If the applicant wants to go greater than 400, the applicant has to provide an additional market study, in addition to the traffic and water studies that will already be required, and on which we could base a subsequent denial of all theaters, if those prove to be inadequate in our judgement.

COMMISSIONER GONZALES: That's correct.

COMMISSIONER SULLIVAN: So I just wanted to clarify that really the 400, at this juncture is a maximum, not a minimum, but could be supplemented in your motion up to a maximum of 650 if the applicant provided adequate market data that this Commission was comfortable with.

CHAIRMAN DURAN: Rosanna, I'm not sure I'm going to let you speak. We're in the middle of a motion. I'll give you a little bit of time to make a point but then we're voting.

[Duly sworn, Rosanna Vazquez testified as follows:]

ROSANNA VAZQUEZ: I just have a question. Could you rephrase the motion so I can understand it, based on Commissioner Sullivan's discussion.

COMMISSIONER GONZALES: The motion is that the property would be zoned for 400 seats, a maximum of 400 seats, and that with a market study presented at preliminary that supported, that would be in favor of increasing that, that we would consider going up to 650.

CHAIRMAN DURAN: Those in favor of the motion signify by saying "aye."

COMMISSIONER CAMPOS: It's not clear.

CHAIRMAN DURAN: The motion is very clear. What is it you don't understand about the motion?

COMMISSIONER CAMPOS: What about all the other factors concerning—

CHAIRMAN DURAN: That's all in the preliminary.

COMMISSIONER CAMPOS: The way it's made it could be deemed—you could argue later that it's their fixed right.

CHAIRMAN DURAN: So what was the vote?

COMMISSIONER GONZALES: Just for clarification. I think that Commissioner Campos has a good point because one of the issues at the last meeting is that we weren't really clear as to what was going to be allowed to go forward. Between now and preliminary and final there needs to be studies provided to the County that support any further continuation regardless of what activity occurs there, whether it's office activity, retail, the pub, or the theater. Those studies need to positively reflect traffic, water, terrain management and every other aspect of our Code that requires them to be or to meet prior to coming before this Board. So to specifically answer your question is what happens when their studies show that they can't support the 400 seats, there's going to be a denial from the staff all the way on up. Because you can't grant the automatic use of something without assuring that there's a proper

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infrastructure in place. So that's where I'm coming from is that I know that they still have to go through a long process before it comes back for preliminary.

CHAIRMAN DURAN: We don't have to cite every ordinance in a motion. That's all pretty much standard procedure in preliminary approval. So what was the vote on that? Those in favor signify by saying "aye." [Chairman Duran and Commissioner Gonzales voted with the motion] Opposed? [Commissioner Trujillo voted no.]

Did you guys vote?

COMMISSIONER SULLIVAN: We haven't voted yet.

CHAIRMAN DURAN: Do a roll call.

[Upon roll call vote Commissioners Gonzales, Duran, Campos, and Sullivan voted with the motion and Commissioner Trujillo voted against.]

IX. A. 2. Request adoption of findings of fact and conclusions of law for land use case CDRC Case #Z 01-5130 - The Village at Eldorado

MR. ABEYTA: Mr. Chairman, staff would request that this next items, findings of fact for this case be tabled, so we can go back and prepare the findings of fact.

COMMISSIONER TRUJILLO: So moved, Mr. Chairman.

COMMISSIONER GONZALES: Second.

CHAIRMAN DURAN: Those in favor signify by saying "aye."

[Unanimous] Opposed? Motion carries.

IX. A. 3. CDRC Case #V 01-5200. Copar Pumice Company Variance. Copar Pumice Co. (Kelly Armstrong, president) requests a variance of Article III, Section 10 (lot size requirements) of the Land Development Code to allow a Summary Review Subdivision of 2.01 acres into two lots; 1-acre and 1.01-acres in size, which would result in The property is located east of US 285, 2 miles south of Cuyamungue, within Sections 27 and 28, Township 19 North, Range 9 East

CHAIRMAN DURAN: This is for deliberation only. Are you familiar with the case?

COMMISSIONER TRUJILLO: Based on what's existing in that community and the de facto minimum lot size being one acre, I support this lot split.

CHAIRMAN DURAN: So the vote now is 3-2?

COMMISSIONER CAMPOS: Should we vote?

MR. KOPELMAN: Mr. Chairman, I would suggest that you revote it to make sure that everybody is still in agreement with the way they voted last time.

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CHAIRMAN DURAN: So, those in favor of the motion—

COMMISSIONER SULLIVAN: Mr. Chairman, I think we need a motion and then discussion if we're going to—

COMMISSIONER GONZALES: Mr. Chairman, move for approval of CDRC Case 01-5200, Copar Pumice Company variance.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER CAMPOS: Mr. Chairman, I'd like to object to the motion because we have no jurisdiction. There is no basis, no factual evidence to support a variance, and it goes against the Code itself. I think there's just no way that we have jurisdiction to consider this and we should vote against it. It goes against the essence of the Code and the justification that because there are other one-acre lots in the area we should grant a variance, I don't think stands. I would object to the motion for lack of jurisdiction.

CHAIRMAN DURAN: And I would be in favor of the motion because that's what a variance is all about. You vary the Code.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I don't feel in the eight items that we are supposed to consider in a variance, which primarily revolve around hardship, that the fact that there are other lots that don't meet the Code that were there prior to the Code being developed and the Code is developed of course to improve the area, not to continue past practices which have not improved the area.

I think at some point we need to take a stand and say where we don't have a hardship, where we don't have someone who has to provide for a relative or a family person, this is simply, these are unoccupied lots. They have no hardship related to them. It's simply an economic improvement issue of getting more money out of dividing a two-acre lot into two one-acre lots. I don't feel it meets any of the requirements for a variance. So I speak in opposition to this particular case.

CHAIRMAN DURAN: I think it does allow for more housing opportunities in the area and I can't imagine that these lots are going to go for \$200,000. I think they're probably going to be bought by people that have some affordability issues and I think that it addresses the lack of affordable lots in that area.

COMMISSIONER TRUJILLO: Mr. Chairman, and I see, this used to be a mining situation. The intensity with two houses, two residential lots, is a lot less than a mining situation as far as intensity is concerned. They used to have trucks coming in and out of that pumice mine eight hours a day. So like Commissioner Duran says, this will afford the community, which is in dire need of affordable housing, right next to a traditional community where the minimum lot size is $\frac{3}{4}$ of an acre an opportunity to house somebody's dwelling.

And that's what a variance is. A variance is to vary the Code. Otherwise we wouldn't be looking at this as a variance. We can verbatim interpret the policy and the

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Code and it might or it might not have a disparate impact on communities, but this is a variance and that's what we're looking at, it as a variance.

CHAIRMAN DURAN: Any other discussion?

COMMISSIONER GONZALES: Call for the question.

CHAIRMAN DURAN: Those in favor signify by saying "aye."

[Commissioners Gonzales, Trujillo and Duran vote aye.] Opposed? [Commissioners Sullivan and Campos voted nay.] Motion carries.

- IX. A. 4. **CDRC Case #V 00-5861. Barbara Zavada Variance. Barbara Zavada, 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 commercial zoning outside of a potential commercial district on 0.90 acres. The property is located at 24 Meyers Road in the traditional community of Arroyo Seco, within Section 30, Township 20 North, Range 9 East**

CHAIRMAN DURAN: Wayne Dalton. This is for deliberation only. So this is another one that ended in a split vote.

COMMISSIONER GONZALES: Mr. Chairman, I was the individual that was absent and asked for time from the cc to review the materials and I'm prepared to take a vote at this time.

CHAIRMAN DURAN: Do you want to make a motion?

COMMISSIONER GONZALES: I don't know if it's proper for me to make the motion since I wasn't originally part of this but I'll be happy to.

CHAIRMAN DURAN: Well, I moved for approval. Then I'll make a motion to approve CDRC Case 00-5861. I think that this is a hardship situation. The property lies right in the corridor that will in the next several years will be converted into a major thoroughfare. The state will probably take it and the applicant is basically asking for us to approve a small gallery so that she could show her wares and she's going to live in the little house. We disapproved it once because the applicant was going to have the gallery attached to her house and now she's come before us with a different idea that would allow her to I think have less of an impact on that property because the traffic would then come off the highway and not off Meyers Road which was the original objection by the neighbors because they felt that there was the added traffic, would destroy the fabric of their neighborhood. And now that it's on the highway, I don't see it as having that large of an impact on the area. So I would make a motion to approve the variance. And my motion dies for lack of a second.

COMMISSIONER SULLIVAN: Oh, Mr. Chairman, I'm sorry. I believe that I voted in favor of this initially and I would second your motion.

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CHAIRMAN DURAN: Okay. So there's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Commissioners Duran and Sullivan voted with the motion.] Opposed? [Commissioners Gonzales, Trujillo and Campos voted against.] The motion dies.

So you did not get your variance, Ms. Zavada. If you need a clarification, please get with Wayne Dalton.

IX. B. Fire Department

1. Resolution No. 2001-138. A resolution declaring a state of emergency in ditches within Santa Fe County

JAMES LEACH: Chairman Duran and Commissioners, James Leach, from the Office of Emergency Management. Mr. Benito Valdez, who is the president of the Acequia Larga Ditch Association was in touch with me in August. One of the ditches, due to the heavy rains that they had in the middle in of August washed away. At least two sections of their pipe. There are ten families now without irrigation water. The state requires a declaration from the County Commission so they can implement FEMA's disaster assistance plan, which is a 75-25 percent share with the ditch association.

There's no money from the County involved in this.

COMMISSIONER CAMPOS: Move to approve.

CHAIRMAN DURAN: Any questions?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Leach, thank you for your patience in coming here today. I know you were here at 3:00 and I'm sorry that it's close to 7:00 and I appreciate that. Let me ask a question about the emergency preparedness funding for this. During, in January we had a major snowstorm down in the Edgewood area and the County put 13 pieces of equipment down there for close to two weeks. When I last heard, we were denied the reimbursement, the emergency reimbursement because the County had gross receipts, or per capita income or something, in excess of a certain specified level.

Is that true, and does this apply to this resolution also?

MR. LEACH: Mr. Chairman, Commissioner Sullivan, it is true that it was denied because the County had sufficient funds, but this does not apply in this situation because the emergency declaration will be from the Commission but it will involve the state disaster assistance plan and the ditch associations only. It won't take into consideration how much money the County has or anything else. Only what the ditch associations have, and they have a very meager amount.

COMMISSIONER SULLIVAN: So there is no other alternate way to address this funding that the County was not able to get from the snowstorm disaster.

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MR. LEACH: Commissioner Sullivan, when we submitted a request to have that reimbursement, the budget from the County was presented to the state's Finance. And they reviewed the budget and they made the determination that the County had sufficient funds. We weren't involved in that in any way, only up to the point where we submitted the budget. I don't know what their criteria is for that. If they find undesignated funds they'll require they be expended along with all of the Public Works funding for the road plowing and clean-up and so forth. But other than that, I don't know what criteria they use. They send back a decision to the Emergency Management Office whether they'll approve or disapprove.

MR. MONTOYA: Mr. Chairman, I would like to shed a little bit more information on the decision to deny. Mr. Chairman, we're required to have a cash reserve, not only in the general fund, but also in the road fund. And we did have the appropriate amount of reserve on both accounts. And because of the fact that we have done what we're supposed to do budgetarily and fiduciarily, we were rejected. So it does beg the question, what's the fund for.

COMMISSIONER SULLIVAN: So it's a Catch-22, Sam, is that what you're saying?

MR. MONTOYA: Absolutely. Because we did our job right, we were rejected for acts of God.

COMMISSIONER TRUJILLO: Steve.

MR. KOPELMAN: Mr. Chairman, I just had a quick question on this. James, you indicated one ditch in particular, but the resolution talks about ditches within Santa Fe County. I just wanted you to clarify that.

MR. LEACH: We have tried to contact all of the ditch associations through my office, the state office and Mr. Valdez has also contacted some, to see if they had damages. We weren't able to contact all of them yet, and so we wanted to cover all the ditches in Santa Fe County in case somebody came up with a problem at a later time.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER TRUJILLO: Commissioner Campos.

COMMISSIONER CAMPOS: Quick question. How many dollars of repair are required? Do you have a ballpark on this?

MR. LEACH: I think Mr. Valdez said it was going to cost about \$2,000 to do the work. They do have a contractor who is willing to start the work on approval of a declaration, knowing that the state is going to kick in 75 percent.

COMMISSIONER CAMPOS: So even for \$2,000, the state would consider that an emergency?

MR. LEACH: Because there are ten families without irrigation water, yes.

COMMISSIONER CAMPOS: Okay.

COMMISSIONER TRUJILLO: Any other questions?

COMMISSIONER CAMPOS: Move for approval.

COMMISSIONER TRUJILLO: Got a motion to approve.

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COMMISSIONER SULLIVAN: Second.

COMMISSIONER TRUJILLO: Second. Those in favor signify by saying "aye." [Unanimous] Opposed? The ayes have it. [Commissioner Gonzales and Chairman Duran were not present for this action.]

This is Resolution No. 2001-138.

IX. C. Matters from the County Attorney

1. Resolution No. 2001-139. A resolution authorizing the appointment of alternate members of boards, committees, and authorities on which members of the Board of County Commissioners serve

MR. KOPELMAN: Thank you, Mr. Chairman, members of the Commission. Several months ago Chairman Duran had asked staff to look into putting together a resolution that would allow the Board of County Commissioners to appoint alternate members to specified boards or committees. That is, at this point, the EZA, the RPA, and Solid Waste Management Agency. As you know, these boards now have either three or four members of the County Commission and there are instances when members can't attend meetings. The idea here is to allow the Commission to appoint alternate members to attend if a County member is unable to make a meeting.

We found nothing in the general statutes or the specific statutes dealing with any of these particular commissions or committees to prohibit this particular practice. So we're bringing for the Commission's consideration this resolution that would allow at future meetings for the Commission to appoint alternates for these boards. I'm happy to stand for any questions.

COMMISSIONER TRUJILLO: Any questions of Steve?

COMMISSIONER CAMPOS: Mr. Chairman, a question.

COMMISSIONER TRUJILLO: Commissioner Campos.

COMMISSIONER CAMPOS: Page 2, paragraph number 2, right in the middle of the page, you say each alternate member shall be assigned a priority. He shall serve in order of priority. What does that mean?

MR. KOPELMAN: Mr. Chairman, Commissioner, I think what that refers to is, for example, the EZA, there are three members and this way the Commission could appoint two alternates. But for example, if let's say neither Commissioner Gonzales nor Commissioner Trujillo were on the EZA, the Board of County Commissioners then could appoint Commissioner Trujillo as first alternate, Commissioner Gonzales would be second alternate.

COMMISSIONER CAMPOS: So the first alternate would always serve. If the first alternate could not serve, alternate two would serve.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, that's the

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intention of this language. That's correct.

COMMISSIONER CAMPOS: What about alternating if there's more than one person?

MR. KOPELMAN: Mr. Chairman, Commissioner, I think that's within the Commission's discretion if you'd like to change that. I think staff just thought this would be easier because there'd be some certainty as to what the priorities would be and who would be—at least the order of priority as to who would serve.

COMMISSIONER CAMPOS: Do we need to amend the EZ ordinance or the JPA relative to the EZA or the RPA?

MR. KOPELMAN: Mr. Chairman, Commissioner, I had Chris Graeser from our office look into it. It does not appear that that's the case. We didn't find anything expressly in those documents or the ordinances or the statutes. That's not to say the City Council may not raise the issue and we may need to visit it on the board level, that is the EZA, SWMA or the RPA, but at this point, this appears to be the first step in this process.

COMMISSIONER TRUJILLO: Any other questions of Steve?
Commissioner Gonzales.

COMMISSIONER GONZALES: Mr. Chairman, I just rise in support of the resolution that the chair's bringing forward. I think that this does allow for greater participation amongst the full Commission. It allows for individuals who may not be able to make one meeting to have a replacement so that the full voice of the Commission is heard. And so I'd move for approval of Resolution 2001-139 as presented.

COMMISSIONER CAMPOS: Second.

COMMISSIONER TRUJILLO: We've got a motion, seconded. All those in favor? [Unanimous] Opposed? The ayes have it. [Chairman Duran was not present for this action.]

COMMISSIONER GONZALES: I'd just ask, give direction, with concurrence from the Commission to ask the staff to come back with rules for the alternates so that that can be adopted and further clarified.

COMMISSIONER CAMPOS: And appointments.

COMMISSIONER GONZALES: And the appointments. Right.

COMMISSIONER SULLIVAN: Mr. Chairman, what are rules for what alternates? I was unclear what Commissioner Gonzales had in mind. The rules for the alternates. Do we have rules for the members?

CHAIRMAN DURAN: I don't think so.

COMMISSIONER SULLIVAN: He just gave direction to the staff to come back with rules for the alternates.

CHAIRMAN DURAN: There are no rules.

COMMISSIONER SULLIVAN: I was just unclear as to what rules we have.

COMMISSIONER TRUJILLO: I think Commissioner Campos brought up

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a point that Commissioner Gonzales was trying to address the order, I guess of the alternate and the--

CHAIRMAN DURAN: I think whoever wants, whoever can take the position take the spot.

MR. KOPELMAN: Mr. Chairman, Commissioners, I think what we would be doing, my understanding is bringing forward the vote at a future meeting for you to vote on who the alternates would be. And I think within the context of that vote you can discuss how you'd want to do that. I think the resolution itself if probably legally sufficient to lay the framework to do it.

CHAIRMAN DURAN: I thought the resolution was to have been that any Commissioner who serves on any of the boards could request another Commissioner to take his place if it was determined that that Commissioner couldn't make the meeting for whatever reason, whether he was out of town, was sick, and that--

MR. KOPELMAN: Mr. Chairman, I believe that's what the resolution does and I think that the only thing left now is at a future meeting is for you to formally vote on who the alternates would be. For example, if there are two alternates on the EZA, you'd vote on who would be the first alternate and who would be the second alternate.

CHAIRMAN DURAN: Why would we want to do that?

MR. KOPELMAN: That's what the resolution says. We have just discussed that as a means of determining—for example, if you're on the EZA and Commissioner Trujillo and Commissioner Gonzales aren't, and you say you're not able to make it, if Commissioner Trujillo is voted first alternate, he would be the one you'd call to come and show up. If he can't make it then it would go to Commissioner Gonzales. It's just a way of dealing with the alternates.

CHAIRMAN DURAN: I don't understand. It sounds like a lot of phone calls for nothing. Why couldn't I just say, call up Commissioner Gonzales and say, I can't make it. Can you take my seat? And he says, Yes.

MR. KOPELMAN: Mr. Chairman, that's certainly within your purview to do it that way.

CHAIRMAN DURAN: I was just trying to make it easy. What if I call Commissioner Trujillo and I can't get a hold of him. And then I call up Commissioner Gonzales and he says yes and then Commissioner Trujillo--

MR. KOPELMAN: Mr. Chairman, that's what you do. I would think that's how it would work.

MR. MONTOYA: Mr. Chairman, I also want to point out that we're doing this because you instructed us to do it, Mr. Chairman.

CHAIRMAN DURAN: Well, I know, but I thought it was going to be easy. So now, we have to wait another month before the alternate thing kicks in because we haven't selected who'd first and second alternate. Why didn't we do this in the first place?

MR. KOPELMAN: Mr. Chairman, it can be done at the next meeting.

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CHAIRMAN DURAN: Okay. Sorry I wasn't here to talk about it. Okay. No problem. We've gone this long without it.

IX. D. Matters from the County Manager

- 1. Request authorization to enter into an operation, management and maintenance agreement with Cornell Corrections of Texas for the Santa Fe County juvenile detention facility and operation of the electronic monitoring program**

MR. MONTROYA: Mr. Chairman, members of the Board, at your direction, the detention facility's negotiating team, which is comprised of Mr. Kopelman, Ms. Miller, Mr. Flores, myself and the Sheriff began the process of negotiating with Cornell Corrections, who was the company that was ranked and rated first by the committee during our RFP review. And we bring to you today, Mr. Chairman, consideration of the contract that would engage this company to operate the juvenile facility and also to provide services under the electronic monitoring program, which they have also been providing over the past several years.

Mr. Chairman, in a nutshell, the contract provides for the following: It allows the County to continue its public/private partnership for services under a nationally recognized youth program which Cornell has been recognized by the Bureau of Prisons under the Department of Justice. Also, Mr. Chairman, the contract will provide for a four-year agreement in one-year increments, with the first year beginning October 1, 2001, through September 30, 2002. And it further defines the role of the County and Cornell in the event that the contract would be separated for whatever reason.

Mr. Chairman, it also provides for a very detailed and comprehensive scope of services for both components and requires compliance with the ACA standards which are the nationally recognized standards for service in both adult and juvenile areas. Mr. Chairman, it sets forth and annual rent payment of \$600,000 to Santa Fe County, payable to the County for the operations of the juvenile facility. I want to remind the Board of County Commissioners that the juvenile facility is owned by Santa Fe County.

Mr. Chairman, it also sets the rate at \$100 per juvenile that would be brought to the facility under the County of Santa Fe's billing. Also, Mr. Chairman, it provides a standardized per diem rate for the electronic monitoring program at \$14.99 per day. I want to point out to you, Mr. Chairman, that the existing fee that will end at the end of this contract is \$18.54. I also want to point out that the rental fee that was being paid by Cornell to the County in the existing contract that would terminate at the end of this month was \$300,000, Mr. Chairman.

We're requiring a \$250,000 performance bond and we are asking Cornell Corrections to develop and implement a quality control program to ensure that all contractual elements of this contract are met. We will also be engaging shortly, Mr.

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Chairman, a corrections services manager, which equates to a monitor for not only the jail but the juvenile services as well, who will work hand in hand with all of the representatives from Cornell that will manage that facility.

Mr. Chairman, we are also looking forward to retaining our nationally recognized standard in terms of providing services to youth from around the country. We're also very fortunate, Mr. Chairman, to have a relationship with the Bureau of Prisons and that contract is also up for negotiation in the early part, first quarter of next year and we will work diligently with Cornell to retain that contract and that status. Mr. Chairman, these are the fundamental components of the contract. We have some representatives here from Cornell, the facilities manager, who was one of our own, Melissa Padilla, and also Mr. Gary Miller, who is the regional director of this program, and also have the specific project manager for the electronic monitoring program that is also here with us.

Mr. Chairman, I want to point out that there is one additional caveat to this contract that is very important and that is that the Bureau of Prisons—I'm sorry the Department of Justice through the Community Corrections Office visits our facility, monitors it for compliance of all different types of guidelines. They did submit to the County a listing of items, issues, that must be addressed expeditiously. They relate directly to fencing, placement of cameras and the exterior sections of the facility, some foundation work that they found to be faulty relative to fencing and a few other minor issues that need to be addressed expeditiously.

We have asked some local vendors to give us an idea of the amount of money that it would require to address these issues and the ballpark figure that we have, Mr. Chairman, again, in a very preliminary form is that it would cost approximately \$75,000 to complete all of these renovations and to complete the requirement that the Department of Justice would like us to complete before or in tandem with your action on the new operations contract.

So Mr. Chairman, we have also asked our Resource Development Department to go out and look at these improvements to see which if any they could do in-house and which are required to be bid out to the private sector. And we will be able to do some of the work, Mr. Chairman, but it is somewhat minute in terms of the larger picture. We're able to do maybe between \$3500 and \$5000 worth of that work. The rest will probably need to be bid out.

So Mr. Chairman, I am also asking for your consideration to add a clause of additional language that I've asked Mr. Kopelman to draft that will allow the County of Santa Fe to ask Cornell Corrections to make these improvements on our behalf up to a limit not to exceed \$75,000, Mr. Chairman. And those funds will come from the County contingency fund that is under the County Manager's Office.

Mr. Chairman, we would also like to make certain that Cornell agrees with this additional requirement, but I do believe and do believe that Cornell will agree, that it is the most expeditious way to resolve the issue. Also, Mr. Chairman, it would give us an opportunity to communicate with the Department of Justice that yes, we are going to take

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care of the physical deficiencies and yes, we have a new contractor on board. Mr. Chairman, I would stand for any questions and also would encourage you to ask any questions of Mr. Kopelman, Ms. Miller, if there are any. Thank you.

CHAIRMAN DURAN: Sam, I have a question. How does this agreement tie into the community's desire to have a community oversight committee? Will we be able to, when we develop that committee for the main facility, are we going to have any input into the operation out there at the juvenile?

MR. MONTOYA: Mr. Chairman, I want to focus on the fact that the advisory committee that the Commission has appointed and has discussed so thoroughly, has mostly been focused on the adult facility, but Mr. Chairman, I do not feel there is any impediment to us including the juvenile services. They, I'm sure would be open to any suggestions that the committee might have. But I do want to point out Mr. Chairman, that this program does again benefit from its nationally recognized positioning with the Department of Justice. But as always, there is always room for improvement and I would say that Cornell would not be opposed to that, but I'd like to hear that directly from them, Mr. Chairman, and I appreciate the question on that particular comment.

CHAIRMAN DURAN: And the Commission actually still is going to have the obligation to inspect it on a yearly basis, is that correct?

MR. MONTOYA: That is correct, Mr. Chairman, and as I stated earlier, the correction service manager that we will hire at the manager's level will have a direct relationship with the management at the juvenile and the adult on a daily, daily basis. So that will be a good contact.

CHAIRMAN DURAN: I don't have a problem with that. But the other question I have is how about city residents? How are they going to be—is there any difference between a city juvenile and a county juvenile?

MR. MONTOYA: Mr. Chairman, the only difference is who pays the bill. The issue that we need to resolve with the City relates to their desire to have a better inmate rate per day at the adult facility. I'm not sure that they have discussed directly with me the juvenile facility, but we will have to execute some contracts with the City relative to service provision.

CHAIRMAN DURAN: So that will be outside this agreement then?

MR. MONTOYA: Yes. Those are separate agreements, Mr. Chairman.

MS. MILLER: Any of the juveniles that are sentenced to the facility once they're put into the system are the County's responsibility and they're all \$100 a day per this agreement. There aren't any actual juveniles that are under the City's jurisdiction.

CHAIRMAN DURAN: So then we just, we make that determination when we bill the City. Do we bill the City for their juveniles or no?

MS. MILLER: The City has no juveniles. Once they're put into the juvenile system, they are our responsibility, so they're all County juvenile inmates.

CHAIRMAN DURAN: Oh good. I like that.

MS. MILLER: Also—we don't have that issue on the juvenile. And to add

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to your question earlier, one of the ACA requirements when we got accreditation on the facility was to have a community advisory group, so there already is one up and running with Cornell. Cornell has citizens from the community on a group that gives them input.

CHAIRMAN DURAN: Okay. You don't have to spend a lot of time convincing me that you're going to do the right thing there with the juveniles and the fact that we still have the ability to offer some input through our yearly evaluation or inspection is adequate for me. Commissioner.

COMMISSIONER TRUJILLO: Yes, there is a distinction though between city-county residents and federal residents, right? Or am I wrong? There is a distinction.

MS. MILLER: Mr. Chairman, Commissioner Trujillo, yes there are. We have an IGA for the federal juveniles and we work in tandem with Cornell to establish a rate for those. All the data that establishes that daily per diem is based upon Cornell's costs but we work with them and are in the process of working with them to submit all the costs for providing those services for the BOP and we will submit all of that to the BOP and the Department of Justice for a new rate starting in March.

The agreement is with the County but it's basically based upon the costs of Cornell and they receive that per diem directly.

CHAIRMAN DURAN: Okay, are there any questions of Katherine of or Cornell, or the County Manager?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On getting back to this issue of capital improvements. I couldn't find it in the contract. What does it say, what kind of delineation is there about what is a maintenance function and what is a capital improvement? Painting? Replacing—I don't know—windows or interior equipment, fire extinguishers? How is that handled in this agreement?

MS. MILLER: Mr. Chairman, Commissioner Sullivan, those have actually been handled on a case by case basis. Most of the issues that we have had have been the smaller—well, all maintenance has been done by the facility, by Cornell, but when we've had an actual replacement of something or a capital improvement, the County has usually paid for those because it is our facility. And we get a very good per diem on our juveniles out of that. But we have negotiated them on an individual basis depending on what they are. Cornell has quite often done improvements that are smaller dollar nature but when we've had large ones like this fencing issue, it becomes a part of the facility and if they were to leave in one year it would remain our property. So that's how we've addressed them on a case-by case basis, depending on what the value of them are.

COMMISSIONER SULLIVAN: So maintenance, those things that the inmates themselves don't do, whatever they may be. I know they do their own cooking and so forth, or whatever maintenance Cornell picks up, but we don't have any guidelines as to, for example, painting. This is a four-year contract ultimately, in one-year extensions and there might be some issue as to whether that is an improvement that stays with the

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facility and contributes, more or less in the IRS code sense. You do an improvement to your residence as opposed to cutting the lawn or painting it or maintaining it. Is there any guidance whatsoever in here for that?

MS. MILLER: We've used, Mr. Chairman, Commissioner Sullivan, just kind of a standard of what is considered from an accounting standpoint a capital improvement when we've actually negotiated them but most of them have been done by Cornell, but there's not a specific item-by-item. I think there's a general clause on what that is in there.

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, if you look on the bottom of page 9 and top of page 10, it does provide that Cornell is responsible for maintaining, preserving, keeping the physical structure and all fixtures, furnitures and equipment. The County is responsible for the building systems themselves. As Katherine indicated, I don't believe we've had any issue in terms of whose responsibility maintenance has been over the years that we've had a contract with Cornell for the juvenile facility.

COMMISSIONER SULLIVAN: So there's no dollar guideline on this or anything of that sort?

MR. KOPELMAN: No. Mr. Chairman, Commissioner Sullivan, that's correct. It's really more a question of the function rather than the amount.

CHAIRMAN DURAN: Okay, if there's no other questions—

COMMISSIONER CAMPOS: I have a couple of questions, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Mr. Manager, Mr. Montoya, the contract monitor, how's that coming along? When do you expect to have somebody on board?

MR. MONTOYA: Mr. Chairman, we put out a general notice that ran for about three weeks in general circulation newspapers. We had eleven applicants file before the due day. Last week I appointed a screening committee to look at those eleven. Now we're down to three and those interviews are going to probably be set up the latter part of this week, early part of next, and we should have someone hired on within the next two weeks.

CHAIRMAN DURAN: Who are those three?

MR. MONTOYA: Mr. Chairman, I don't really remember the names specifically. Maybe—do you remember the names, Katherine or Steve?

MS. MILLER: It was Gregory Parrish, Dooby Harachek and another gentleman.

MR. KOPELMAN: Leroy Thompson.

CHAIRMAN DURAN: What happened to Manuel Montoya?

MS. MILLER: I don't think it's Montoya.

CHAIRMAN DURAN: Manuel Romero.

MS. MILLER: He actually said he could only work about 50 hours a month.

CHAIRMAN DURAN: Fifty hours a month?

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MS. MILLER: He was not interested in a full time position.

MR. MONTOYA: He has a very active practice and had some very limited time so that's not something that would bode well for us.

CHAIRMAN DURAN: Oh. He never told me that.

MS. MILLER: He did say he would be available for facility assessments and things on a contractual basis if we need that.

CHAIRMAN DURAN: Okay. I just met with him. I just was curious. Might as well ask you out here.

COMMISSIONER CAMPOS: Mr. Chairman, question for Ms. Miller. This contract is for five years?

MS. MILLER: It's for one year at a time with renewal for one-year options. Yes.

COMMISSIONER CAMPOS: One year plus four?

MS. MILLER: Yes.

COMMISSIONER CAMPOS: The initial rental rate I guess you'd call it, is \$600?

MS. MILLER: Yes.

COMMISSIONER CAMPOS: How about for the ensuing years?

MS. MILLER: It was still at \$600,000 plus our rate stays the same for our juveniles as well.

COMMISSIONER CAMPOS: So there's no increase per year?

MS. MILLER: Right. There's no escalation on either side. And Mr. Chairman, Commissioner Campos, partly that's based upon what is established in the contracts with the BPO and that also stay in place for, at this point, we have till March to go on the contract we have and then three years on that contract as well.

CHAIRMAN DURAN: Okay, any other questions of Katherine or Cornell or the County Manager? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

CHAIRMAN DURAN: There's a motion to approve. Is there a second?

COMMISSIONER CAMPOS: Second.

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

MR. KOPELMAN: Excuse me, Mr. Chairman.

MS. BUSTAMANTE: Can we have a point of clarification? The County Manager had indicated earlier that he wanted to add something to it. Does that need to be in the motion?

MR. MONTOYA: Mr. Chairman, I believe it does.

CHAIRMAN DURAN: There was an amendment?

MR. MONTOYA: Yes. One amendment to allow for the improvements to the facility, Mr. Chairman.

COMMISSIONER TRUJILLO: Do you need—I think he mentioned

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\$75,000 or something.

MR. MONTROYA: Not to exceed \$75,000.

COMMISSIONER TRUJILLO: Not to exceed \$75,000.

CHAIRMAN DURAN: Thank you, Becky.

COMMISSIONER TRUJILLO: So yes, that's part of the motion.

COMMISSIONER CAMPOS: I'll accept that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I believe the County Manager indicated that they needed to get Cornell's concurrence with that addition, so perhaps it would be good to hear just for a moment from Cornell's representative.

GARY MILLER: Mr. Chairman, Commissioners, we're in agreement with that. We think that would work well. It would send a good message to the Department of Justice and serve the youth of Santa Fe and the operation out there well. So we are in concurrence with it.

COMMISSIONER SULLIVAN: Is there anything you'd like to add regarding your operation out there or anything you would like to see the County do, and any comments in general since we have you here?

MR. MILLER: I think just in general Cornell is very happy that we're being recommended to continue this relationship with Santa Fe County. We have a number of fine employees out there and I think the youth of this area are served very well by the project and the support that we've received from the County. So we're just very pleased to be here this evening and we hope to continue that excellent work. And just to build upon what Ms. Miller said, we do have a very active community advisory board. We did go forward with that on our own to exceed that ACA standard. We think it's very important to be very active in the community and we plan on continuing that.

COMMISSIONER SULLIVAN: Could you introduce the people, including yourself who are here from Cornell?

MR. MILLER: Yes. My name is Gary Miller. I live here in Santa Fe and I'm the regional director. I oversee the electronic monitoring program, which Matthew Land operates, and Melissa Padilla is our director of the juvenile facility.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Thank you very much, and we look forward to working with you. If we vote on this in the affirmative. Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

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IX. D. 2. Request authorization to increase Santa Fe County's sole community contribution by \$103,233 and to negotiate amendment number two to the memorandum of agreement with St. Vincent Hospital to utilize supplemental sole community funds [Exhibit 1]

MR. MONTOYA: Mr. Chairman, members of the Board, the State of New Mexico advised the County not very long ago that there were some additional funds for the sole community program and indicated to us that if the County was able to come up with \$103,300 that we could generate that into or match that to equate to \$394,019 that could be put into the sole community program. So Mr. Chairman, we talked to the staff and looked to see if there was an availability of that \$103,300. We do have an Indigent Fund contingency reserve, Mr. Chairman, that has approximately \$194,000 in that fund.

So Mr. Chairman, I'm here before you today to recommend to you that we take \$103,300 out of that Indigent Fund contingency reserve, which again, has \$194,000 set aside in it, to enter into the sole community provider program that has additional funds available. Now, the partner in this program is St. Vincent Hospital so we have been discussing with them the possibility of coming before the Board and executing this additional amendment, and as we have been very pro-active in pursuing additional programs out of sole community provider, we did submit to them a list of some potential projects that we believe would complement the community, in return for coming to the Board and asking that you provide these additional funds to the community.

So Mr. Chairman, we have asked St. Vincent Hospital to consider providing the following programs should the Board of County Commissioners allow the expenditure or the investment of this \$103,300 to make that into a larger sum of \$394,000 for sole community programs. And our request went directly to these programs that is on the face memorandum that has been handed to you. The Pojoaque Wellness Center, Mr. Chairman, is a beautiful facility that has been developed by Pojoaque Pueblo and provides some very important services: diabetic screening and provides lots of programs to the elderly, provides transportation to bring people from northern Santa Fe County to that facility and also provides some excellent services go directly towards screening for nutrition and physical therapy. Also lots of workshops on osteoporosis, nutrition, diabetes education and just the general use of the facility which has swimming pools and a gymnasium, a weight room.

What we are asking here, Mr. Chairman, is that we provide a \$50,000 allocation to support the services of this Pojoaque Wellness Center and they will in turn allow access for all of the residents from northern Santa Fe County that are interested in participating.

Mr. Chairman, the second program that we requested be considered is a mammogram program. Most recently, I was listening to a program where there was some serious problems with women being able to access mamogramming, testing because of the

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fact that they were expensive and lots of people are on limited incomes and they could not afford to pay for these tests. So Mr. Chairman, I ask that St. Vincent set aside \$60,000 to provide this program to any woman who is in need of such a test and does not have the ability to pay for that kind of testing.

The third request that was made, Mr. Chairman, was that they set aside an additional \$50,000 for a dialysis center support or treatment. There are also very many people in this community and Santa Fe County that are under dialysis and under limited incomes as well, do not have the capacity to pay for these dialysis services because many of them do not have insurance. Others are on limited income. So Mr. Chairman, we requested a \$50,000 program in the dialysis area.

The last program we requested funds for was a smoking cessation program. Mr. Chairman, we also intend to put together a grant that we would like to deliver to the state legislature. I understand that they have some funding for smoking related programs and we would like to embellish this program by drafting a grant and seeking additional funding.

Mr. Chairman, as you can see here, there is \$180,000 worth of programs that St. Vincent is very much willing to work with the County on should the Board approve this additional sum to go into the sole community provider program. The other element that I think is very important to mention is that the \$103,000 that we will be investing comes right back to the Indigent Fund, Mr. Chairman, so we are really not losing anything here. We're just simply helping to leverage some federal Medicaid money to the tune of \$290,786. I stand for any questions. I also encourage you to ask any questions of Mr. Shepherd or Mr. Anaya who have been helping me structure this agreement. Mr. Chairman, this is clearly a win-win situation for our community and I would encourage you and recommend to you that you adopt this agreement.

COMMISSIONER TRUJILLO: I was just looking at the memo here. There's another bullet to increase the clinic health care support category and outreach coordination. That's not being funded?

STEVE SHEPHERD (Indigent Fund Director): Mr. Chairman, Commissioner Trujillo, yes it is being funded in the amount of \$104,140. That's the balance of the money.

COMMISSIONER TRUJILLO: That's the balance. Okay.

CHAIRMAN DURAN: Sam, I don't really have a problem with this but I do have some concern that St. Vincent is not providing the services that they had agreed to under the memorandum of understanding. That is, I know someone who personally had a— their child had some problem with substance abuse and if you recall, St. Vincent's, when Piñon Hills pulled out of the community, St. Vincent's agreed to provide adolescent mental health care to children in our community and when they went to St. Vincent's there was no offer at all, and they ended up having to go to Albuquerque and that's where they are right now.

I don't know how this fell through the cracks because I visited the hospital several times and have been shown a space that had like 15 beds that was designated for adolescent mental

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health care. I would just—I know it has nothing to do with this particular issue but if you could do me a favor and report to me how that fell through the cracks and what are they doing to help our adolescents here when they have substance abuse problems and are in need of mental health care.

MR. SHEPHERD: Mr. Chairman, I'd be happy to check into that and I will report back to you.

CHAIRMAN DURAN: Can you let me know tomorrow?

MR. SHEPHERD: I can.

CHAIRMAN DURAN: Or the next—as soon as you can. I'd like to know right away.

MR. SHEPHERD: Yes, I'd like to go talk to them about it right away because Su Vida and adolescent health is one thing they've worked hard on.

CHAIRMAN DURAN: Well, there was eight to ten beds right in the hospital that were set aside. Dr. Gonzales showed them to me. Anyway, any questions?

COMMISSIONER CAMPOS: Question.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Shepherd, who operated the Pojoaque Wellness Center?

MR. SHEPHERD: Mr. Chairman, Commissioner Campos, the Pojoaque Pueblo does.

COMMISSIONER CAMPOS: And it's open to all residents of the county?

MR. SHEPHERD: That is my understanding.

COMMISSIONER CAMPOS: Now, as far as the fiscal status of the Indigent Fund, we've talked about the fact that we may be having problems in the near future. Does this expenditure affect our situation, our financial situation?

MR. SHEPHERD: Mr. Chairman, Commissioner Campos, I don't believe it will. On a monthly basis we will be reimbursed these funds. The only limitation it does place on us is it will, we will only be reimbursed a month at a time or one-twelfth at a time.

COMMISSIONER CAMPOS: Okay. Thank you very much.

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On that same question, Steve, so this \$103,300 is coming back to us, but these are new programs and my understanding before was that money coming back from St. Vincent's was—like EMTs and so forth was under programs that we already had which we then got their funding participation in. But these are new programs. Now, I'm not understanding how this can be a no-impact.

MR. SHEPHERD: Mr. Chairman, Commissioner Sullivan, the four programs that the County Manager described are new programs. The \$103,000 will come back to us as a service contract to provide primary care, which we already do to the community. It's similar to the EMS, the Maternal Child Health Care, the money that does come back on a monthly basis

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to the County.

COMMISSIONER SULLIVAN: So it comes back not specifically to these programs but it comes back as a general line item. Is that correct?

MR. SHEPHERD: It will be deposited directly. The monthly check that comes back from the hospital is split between those work items and it deposited within those cost centers. So it will come back. The money for the four programs—actually five programs, one's actually a supplement, stays with the hospital and those are work items on their side of the ledger to complete through the MOA.

COMMISSIONER SULLIVAN: But the \$103,000 comes back through the existing budget categories?

MR. SHEPHERD: That would be correct. It would come back to the 220 fund and be deposited as a charge for service.

COMMISSIONER SULLIVAN: Okay. So this is again a situation where we're fronting the \$103,300 in a lump sum and receiving it back in 12 monthly increments.

MR. SHEPHERD: That's correct.

COMMISSIONER SULLIVAN: But in the end, it's revenue-neutral, it's cost-neutral.

MR. SHEPHERD: In the end there probably is some interest income lost but it's a pretty good investment for the community, we feel.

COMMISSIONER SULLIVAN: Other than the interest we're not out the capital \$103,300.

MR. SHEPHERD: We're not out. That's correct.

MR. MONTROYA: Mr. Chairman, in response to Commissioner Trujillo's question about not having directly mentioned the health care clinics and the \$104,000, \$103,000 that will go directly to them, Mr. Chairman, the reason I didn't mention that is they're already in the MOU. Their sum will simply be embellished and grow. But that is another service because they will be able to provide more service to more people because there are waiting lists in all of those clinics.

CHAIRMAN DURAN: Thank you, Sam. Thank you, Steve. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: There's a motion and a second to approve. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

- IX. D. 3. Request authorization to terminate a professional services agreement with O'Connor and Hannan, LLP, for political representation**

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

COMMISSIONER SULLIVAN: Can we hear from the County Manager?

MR. MONTROYA: Mr. Chairman, I'm passing out the most recent report that was submitted by O'Connor and Hannan, who is our federal lobbyist. It's a law firm, Mr. Chairman, located in Washington, DC. The contract between Santa Fe County and O'Connor-Hannan was executed by this Board on the 27th day of February and runs through December of this year. Mr. Chairman, the intent was to give these folks at least a ten-month run and to then make a determination if we were going to reauthorize the contract into the next fiscal year.

So we have basically, Mr. Chairman, set aside a \$120,000 allocation, although we did pay this existing contract, half of it from last fiscal year and have paid at the end of this month, will have paid \$30,000 out of this fiscal year. Mr. Chairman, I have consulted with O'Connor and Hannan and have also looked at their reports and have had staff work with them more specifically on finding out exactly how our projects are doing.

If you'll recall, Mr. Chairman, we came before the Board, cleared with you a number of projects, including regional water planning. We were trying to get funds to improve a lot of mutual domestics that are in northern Santa Fe County that are having some very tough times. We were looking for management money for COLTPAC because as you know, now that we've acquired all these new properties, we need to manage them, and we do not have access per se to any management money as we speak. So we were looking for federal dollars to do that. We were also looking for funding for Public Works transfers stations, to the tune of about \$2 million and we're looking to fund some community schools after school programs that would help our children between the time that school ends and the time folks get home from work to have some meaningful programs for these children.

Mr. Chairman, I know that the funding cycle ends basically in September into October. If our programs are not written into any one specific bill and the Congress has worked on, I would say, six of the eight major bills already and they're not their way either to conference committee or to the president for signature and consideration. Mr. Chairman, many of our programs did not make those cuts and we have some other initiatives that I believe our own staff and our own Commission could work quite more decisively and I believe we could be as effective if not more effective by taking our own leaders directly to the congressional delegation and to the federal agencies that we need to affect directly.

Also, Mr. Chairman, we'll be proposing to you at the meeting of the 25th a staff reorganization that would also benefit from some of the savings that we would hold onto, should we terminate this contract. The contract as it is written allows for a ten-day written notice and would allow us to sever this relationship. Mr. Chairman, I would like, with your authority, to sever this relationship by the end of this month, giving them notice if you approve this by tomorrow, and closing our relationship with O'Connor and Hannan by the end of September.

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Mr. Chairman, they did try and they did work very hard. However, in anticipation of the budget dollars that are left in this calendar year and in the fiscal year that goes through June 30 of next year, I would like to hold on to those resources and redivert them to other projects that I believe would bring you some definite product. Mr. Chairman, I would stand for any questions and any detail you might have relative to the contract.

CHAIRMAN DURAN: Any questions of the County Manager?

COMMISSIONER GONZALES: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Gonzales.

COMMISSIONER GONZALES: Just as being an individual who's advocated for the use of external help, I think what the manager is presenting is appropriate at this time, considering the fact that I think the Congress is going to be focused on a lot of other things over the next several months and I wouldn't want the County to be expending resources towards efforts that aren't necessarily going to be acknowledged, per se, through some of our external lobbyists. But the only thing that I would say, Sam, in support of that, I'd be concerned about the Commission supporting a reallocation of those dollars at this point to fund the reorganization.

The County is in an MOU right now with the City that I think that if we do cancel this, it would basically violate that MOU that says basically the County will contribute for lobbying efforts on federal issues regionally and the City would contribute an individual who can help do that. So the only thing I would ask at this point, Mr. Chairman, is that the Commission keep the money allocated for what is intended until we can actually work our way through this MOU. I would hate to pull the money back and then the MOU go away and further divide the City and the County over commitments that were made and then pull back on them. So that's the only thing that I would ask is that it doesn't—either doesn't go into that or whatever we do with the reorganization continues to support whatever our commitments were for that MOU.

MR. MONTROYA: Mr. Chairman, I appreciate the comments of Commissioner Gonzales. I was very keenly aware of the commitment we made to the City through the RPA. I in fact discussed that thoroughly with Commissioner Sullivan today during a meeting that he and I had about the possibility of severing this contract and I acknowledge the concern that Commissioner Gonzales has. In fact, Commissioner, I was going to recommend, once action was taken either way by the Board to create a lobby fund that would protect a sum of money that would allow us to meet the letter of the agreement that we have with the City in respect to lobbying.

So, Mr. Chairman, I am very cognizant of that and I was going to make sure that we covered that base.

COMMISSIONER GONZALES: Great. Just so we stay committed to that. I think that's fine.

CHAIRMAN DURAN: Any other questions of Sam?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: Just to follow up on that, my understanding then Sam is that (a) there is no intent here to award the contract to the second ranked firm at this point. It's to terminate the outside services.

MR. MONTOYA: That's correct, Commissioner Sullivan.

COMMISSIONER SULLIVAN: And then (b), from some of our discussions regarding your thoughts on proposed staff realignments, that you would be having several staff involved at various points in the kind of like a lobbying hit squad to focus in on specific issues that may not be necessarily one person but there may be several persons on the staff, depending on their expertise. So that you would then allocate or budget their time and travel if necessary and so forth from this pot of money. Is that your thinking?

MR. MONTOYA: Mr. Chairman, Commissioner Sullivan, that's absolutely right. I wanted to construct a cadre of individuals that could offer some specific expertise in whatever legislative area we needed, and at the appropriate time if need be, we would also be able to contract, for a small sum, any particular service that we would not be able to provide ourselves.

COMMISSIONER SULLIVAN: So then if there are issues that the City might not see as just County issues, that they might want us to lobby on, would that be done by contract or would that be done by one of the staff members?

MR. MONTOYA: Mr. Chairman, Commissioner Sullivan, I would envision a combination of both, but I would be hopeful that we would be able to handle that internally. However, if we are not capable in terms of being specific on one particular area, such as maybe expertise on NEPA or something specific like that, we would then engage someone that could be an expert for us in that area and we would move ahead that way.

COMMISSIONER SULLIVAN: Thank you.

COMMISSIONER GONZALES: Mr. Chairman, just in closing, I think we've learned a lot through the last year in how the appropriation process works. I think that it's important to keep money available as Commissioner Sullivan indicated with a travel fund that would allow for members of the Commission or the Manager and the appropriate staff to meet with not only the congressional staff but the committee staff, which is really what it takes to get these bills moving through the process and coordinating that and tracking it with our federal delegation. So I think it's important that we keep that money available so that we don't strain your budget or the department heads' budgets in an effort to get out to Washington to lobby on these efforts.

So I'd move for approval to grant the Manager, to grant him authority to end the contract with the County's federal lobbyists.

COMMISSIONER TRUJILLO: We've got a motion.

COMMISSIONER CAMPOS: Second.

COMMISSIONER TRUJILLO: Second by Commissioner Campos. All those in favor? [Unanimous] Opposed? The ayes have it. The contract will be

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terminated.

MR. MONTOYA: Mr. Chairman, thank you very much, and I also wanted to simply comment to the Board that I thought it was wholly appropriate by the Board to defer their meeting last Tuesday to this evening based on the horrific events that we experienced last week and I appreciate the Commission's action on that point. Thank you, Mr. Chairman, members of the Board.

IX. E. Matters of Public Concern – NON-ACTION ITEMS

CHAIRMAN DURAN: Is there anyone out there that would like to address the Commission?

IX. F. Matters from the Commission

- 1. Resolution No. 2001-140. A resolution condemning terrorist attacks and supporting our United States president and Congress in their response to our national crisis**

COMMISSIONER GONZALES: Mr. Chairman, it's a resolution condemning the terrorist attacks and supporting our United States president and Congress in their response to our national crisis. Mr. Chairman, last Wednesday I sent out a call to counties across the country to issue a similar resolution condemning the attacks and supporting President Bush and the Congress as they prepare to act in accordance with this and I think this is important so that the administration understands that while the American People support them that all levels of government will support their action as well.

So without reading this, I will allow for the Commission, maybe a minute or two to read it and then answer any questions but I think that basically, it condemns the attacks and provides support to our president to take the action that's needed. Of the 3,000 counties, I'm proud to say, as of this morning, we've probably got close to 60 percent that have answered my call to create the resolution and we're on our way to trying to get as close to 100 percent as possible.

COMMISSIONER TRUJILLO: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

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

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one item. I certainly concur, as a veteran, I feel very strongly about what happened here. In the first whereas, although everything indicates in that direction, I don't think we've been told yet by the president or anyone that in fact the terrorists were foreign. They were terrorists, clearly. They were

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living in the United States and we're not certain under what auspices, or some of them were apparently. So, and I don't see that elsewhere in the resolution. I would just suggest striking the word foreign. Terrorists is enough. We really don't care whether they're foreign or homegrown. We certainly don't support terrorists.

COMMISSIONER GONZALES: That's appropriate, Mr. Chairman. I'd concur.

CHAIRMAN DURAN: Okay. Any other comments? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries.

COMMISSIONER GONZALES: And Mr. Chairman, if we could provide direction to the staff to forward the resolution and ask that a letter be drafted to the president for the chairman's signature and forward that to the Office of Intergovernmental Affairs at the White House. That's where they're collecting this. If the chair would write George Bush, I would appreciate it.

CHAIRMAN DURAN: I'd like to have all the Commissioners sign off on that.

COMMISSIONER GONZALES: The only thing is, Mr. Chairman, we're trying to get them in as soon as possible and I'm not sure if they're going to be able to track down all the Commissioners before the 25th.

CHAIRMAN DURAN: That's fine. I'll sign it.

MS. BUSTAMANTE: Mr. Chairman, I would just like to say on behalf of all the employees and all the other elected officials that we certainly appreciated your allowing everyone to go home at 12 noon on that day. I think it was real important to be with our families and be glued to the TV. We wanted to say thank you very much.

CHAIRMAN DURAN: Well, thank Benito. He's the one that actually opposed my initial thought, but I'm glad he did.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Oh, Matters from the Commission.

COMMISSIONER SULLIVAN: An additional item or two that I'd like to bring up. Number one, I noticed tonight that we've not been able to televise the BCC meeting and also I noticed in the past that we've lost coverage on our EZA meetings. And I understand from Rudy that we're negotiating, that the Community College is concerned it doesn't have the personnel available that our meetings are going so long that they can't provide that coverage and we're looking into alternatives.

I would certainly encourage you Sam to move on this as quickly as possible. I've gotten a lot of positive feedback on our televising of the meetings, which of course weren't televised up until this year. And also in talking with the Community College personnel the last time they were here, the indication was that there may be a possibility through satellite for coverage in Eldorado as well. That would certainly be much appreciated by the people in Eldorado. So where are we moving on that, Sam?

MR. MONTROYA: Mr. Chairman, Commissioner Sullivan, we were advised that the Community College could not support or could not staff the function any

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longer so we looked for the possibility of inquiring to see who might be interested in providing this service. We are meeting Thursday with an individual that is willing to learn the process and is also looking for part time work, which is a perfect mix. So we will be doing that this Thursday and then there'll be a training component where they do this together for maybe two or three meetings and then we will be paying the individual that we're hoping to engage from the contract money that we had set aside with the college. So we do have a funding source for it as well, and I think we've found the right individual that we're meeting with this Thursday. So we will move quickly to fix that problem and this is probably the only meeting that we might miss, this and tomorrow night, that are not televised.

COMMISSIONER SULLIVAN: Okay, and would that include the EZA meetings?

MR. MONTOYA: Yes, Mr. Chairman.

CHAIRMAN DURAN: We don't want to disappoint our fans.

COMMISSIONER SULLIVAN: Well, believe it or not, there are a lot of people who cannot make the Commission meetings, particularly the administrative meetings that start in the afternoon or in the morning, and they see them on the reruns and they are involved. That's all I can tell you is that it brings that involvement. Let me just say I haven't heard any negative things. I haven't heard any snide comments. I haven't heard anything other than some real issues coming forward, so I think it's a positive, for all the Commissioners.

CHAIRMAN DURAN: You should read my mail.

COMMISSIONER SULLIVAN: Regardless of their TV presence, I guess. Second question, Sam. The meeting proposed for the County redistricting. When will that be?

MR. MONTOYA: Mr. Chairman, that is scheduled for the 24th, which is, I believe, next Monday, at 3:00 pm.

COMMISSIONER SULLIVAN: Next Monday?

MR. MONTOYA: Next Monday at 3:00 pm in this room. Mr. Chairman, the intent there is to provide—I have appointed a redistricting committee that is comprised of all of the different department that could help us put together several options actually for the Commissioners to consider in terms of splitting the county into five districts that are equal in number and diversity and I believe the staff has some excellent proposals for you and we simply wanted to go over them with you in a workstudy setting. And then, Mr. Chairman, we would also recommend to the Board that we have some hearings, public hearings to invite the public to review the possibilities that we've generated for you. But we did want to give you a sneak preview, if you will, to look at these particular possibilities and to give us some direction on how to proceed.

COMMISSIONER TRUJILLO: Mr. Chairman, Sam, when does this process have to be finalized by? The end of the year?

MR. MONTOYA: Mr. Chairman, the process needs to be done by, I

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would believe at the very latest next February, because people start to give notice that they're interested in running for different districts. I noticed an article even this morning. So Mr. Chairman, if we can get it done by December we would be way ahead of the curve ball and I think that would be good for people to know exactly what district they would represent if they're willing to run for any Commission district.

COMMISSIONER TRUJILLO: So this is going to affect the next election.

MR. MONTROYA: Yes. And I also want to point out, Mr. Chairman, that the state legislature does not need to ratify your action. The Board of County Commissioners set the boundaries for the five respective districts.

COMMISSIONER SULLIVAN: Finally, Mr. Chairman, I had an opportunity as I believe Commissioner Gonzales did, to stop by the County picnic this weekend and just was glad to see the esprit de corps and the folks there enjoying the food and each others' company and I appreciated visiting with folks and want to compliment those on the staff who organized it. It was certainly well organized and well executed and we had a good time.

MR. MONTROYA: Mr. Chairman, Commissioner Sullivan, thank you very much and I want to thank the Commissioners for endorsing this on an annual basis. I think the employees really appreciate the fact that you do appreciate their hard work and thank you all for supporting that. And thank you for coming. Thank you.

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

MS. BUSTAMANTE: Mr. Chairman, I would like to comment on the redistricting from the Santa Fe County Clerk's Office. Although technically I guess we could wait till the end of February, I just would like to say that the Governor's proclamation is the end of January. By the last Monday in January he has to issue his proclamation. On the third Tuesday of March is when candidates have to decide whether or not they're going to run. They can't make any changes after the Governor's proclamation. We would have to send out an immense amount of new cards. The election will start the end of March, early April. It's just going to put an incredible pressure on the County Clerk's Office if we wait until the end of February so I would just ask, with the limited staff, getting our machines ready, getting everything ready for the election, I would just ask if you could possibly do it by the end of December it would be a tremendous help to our office. Thank you.

CHAIRMAN DURAN: Why couldn't we do it next month?

COMMISSIONER GONZALES: I think we can. I think we can do it as soon as we're ready to vote and have it pass the test.

MS. BUSTAMANTE: At the latest, I would say December 31st.

COMMISSIONER GONZALES: May I ask the Clerk, is it appropriate for the Clerk's Office to put together some type of campaign to one, register new voters and two, get out the vote type campaign? Is that appropriate for the Clerk's Office or not?

MS. BUSTAMANTE: Mr. Chairman, members of the Commission, yes it's appropriate. Again, the limited staff and just amount of work that we have to do, it's very

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hard because a lot of these need to be done during the weekends or at night and stuff. Going into the election year it just creates a real staff problem, also overtime, etc.

COMMISSIONER GONZALES: Oh, okay. So it would be quite expensive to do something like that.

MS. BUSTAMANTE: It will be expensive as far as time is concerned and as far as the limited staff I have to do it.

COMMISSIONER GONZALES: Are we prevented from seeking out like private partnerships with the business community to fund things like that or do we not want that?

MS. BUSTAMANTE: Mr. Chairman, members of the Commission, we work with the League of Women Voters, that New Mexico has. We provide the various forms for them. We'll assist in any way we can. The statistics show that the people who do register, less than ten percent actually go out and vote on that day.

COMMISSIONER GONZALES: Right.

MS. BUSTAMANTE: I think where we're trying to concentrate is working with the schools, trying to get people to actually vote, rather than—but we're happy to do it.

COMMISSIONER GONZALES: Well, whatever guidance you could help us in seeing how we can get people more involved with the election process, that would be great to see.

MS. BUSTAMANTE: Thank you.

COMMISSIONER GONZALES: I know you have a lot of good ideas on that.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: An item I'd like to have staff comment on in the Board of County Commissioners, is that potential to have a new GRT voted on to a quarter percent. I was wondering if that's an issue we need to consider soon in light of our monetary needs for water structures, diversion structures. It would take, I think a vote and I was just curious what the manager believes, what the Commissioners are thinking.

CHAIRMAN DURAN: I don't think anybody's here that can answer that.

COMMISSIONER CAMPOS: Nobody's listening.

CHAIRMAN DURAN: Can you address that, Steve?

MR. KOPELMAN: Mr. Chairman, I know we've discussed the issue with staff so I think we're in a position to be ready to start moving forward on it and we probably need to discuss it in a little more detail. But we are mobilizing. We're kind of getting up to speed on the new statute that was passed and figuring out how to go about doing it. So I think if we get direction from the Commission to really begin moving forward I think we can do that.

COMMISSIONER CAMPOS: I'd like to get some feedback so we can at least look at a timetable.

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CHAIRMAN DURAN: Would that have to be a special election, or it would be in the next general election?

MR. KOPELMAN: Mr. Chairman, I believe it could be either.

COMMISSIONER TRUJILLO: Either or.

MR. KOPELMAN: Could it be in the City election?

MR. KOPELMAN: Only if the City were going to impose it, not if the County were to.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I think in that same discussion we talked earlier in this meeting about that as a potential source for road funding and it was brought up that certainly water and a diversion facility is on the immediate future. But I think if we put that issue out, (a) we probably shouldn't put it all out as an entire quarter percent at one time and that (b) we should broaden the scope of it to include not only water benefits, which are going to primarily, head-count-wise, are going to benefit County residents who live within the City of Santa Fe, but also road improvements which will benefit those who live outside the City of Santa Fe, since if you're in the City of Santa Fe you have to go to the City to get your roads repaired or built.

But I think even, as I indicated before, a small, one-sixteenth percentage would be a large amount. I don't know if they would be put out as separate issues they way they were done on the open space issue and so forth to decide on. That's something we can discuss but I think you need to not accept that the community will vote for these issues unless there's some support and a network built out there to get the word out. The Community College did that and lost a bond issue that very way, and that's why I was kind of pushing for a strategic road plan that would begin to provide that. But whatever we decide, if anything, that we want to put out for a bond issue for a public referendum, we need to also include a support mechanism to get the word out, what we're doing and how it benefits not only the County but under that quarter percent, I believe that includes the city residents as well, doesn't it Steve?

MR. KOPELMAN: Yes, it does.

COMMISSIONER SULLIVAN: And obviously, when we're talking about water, I think it's fairly easy to make that connection. But the other needs that we may have we certainly need to get the word out and develop the volunteer committee and get the active people who we've been dealing with on these water issues over the many months out there on the streets and working for it. I guess what I'm saying is we need some planning and I think that's what Commissioner Campos is saying as well. If we're going to do this we need to start planning for it now. Not only deciding what and how much but how to publicize it.

[Commissioner Gonzales left the proceedings at this point.]

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X. PUBLIC HEARINGS

A. Ordinance No. 2001-10. An ordinance amending the Santa Fe County Land Development Code, Ordinance No. 1996-10 to add Section 13 to Article I entitled "Procedures for ordinance amendments" (second public hearing)

CHAIRMAN DURAN: Is there anyone out there that would like to address the Commission concerning this ordinance? Okay, what's the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Kopelman, this addresses amendments to the ordinance, or does it also include, let's say brand new language. In brand new language, let's say new sections, would that be considered an amendment?

MR. KOPELMAN: Mr. Chairman, Commissioner, I think that's how we're approaching it, because it's any amendment or any change to the Land Development Code. So this would entail amending current language or adding a section, which in effect amends the Land Development Code.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: So any of us can bring up an amendment to the ordinance and anyone in the community can come forward and solicit the support of any of the Commissioners to amend any ordinance.

COMMISSIONER CAMPOS: That's right.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: In Section 13.1, I have a problem with the word "sponsoring" which I've mentioned before, and only because I think someone could introduce an amendment, I think that's fine. They may subsequently vote against it, once they hear all the evidence, or some modification of it. So I wouldn't like to indicate by sponsoring an amendment that at that point in time, we've made up our mind on it.

MR. KOPELMAN: Mr. Chairman, maybe we could delete the word "sponsor" and just say "propose." The discretion of proposing such ordinance amendment. I think that's consistent with the state statute.

COMMISSIONER SULLIVAN: What about "introducing?"

MR. KOPELMAN: I think that's fine too.

COMMISSIONER SULLIVAN: "Introducing" seems to be more mechanical, as opposed to "proposing" seems to advocate.

MR. KOPELMAN: Mr. Chairman, that would clearly be consistent with the state statute.

COMMISSIONER SULLIVAN: So I would suggest consideration of "introducing." And then the only other question I had was in 13.2.1. All proposed

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amendments shall be submitted to the CDRC or the LDRC and I'm assuming this is all proposed amendments to the Land Development Code. Obviously, we're not going to submit everything to them. How is that done now?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, in most, in many cases that's done. I think that what this ordinance is proposing to do is to make sure it's done in each case where it's an amendment to the Land Development Code. I think that state statute anticipates that that would be done, although the language is somewhat ambiguous in Section 3.21.14.

COMMISSIONER SULLIVAN: And do we specify how many public hearings either the CDRC or LDRC are supposed to have?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, that would be in a different section of the Code. This would just require that the public hearings take place and then you would look in the other section of the Code that would deal specifically with how those hearings are conducted.

CHAIRMAN DURAN: It should be two public hearings.

MR. KOPELMAN: Mr. Chairman, that's the case. That's by resolution when they're Land Development, when they're zoning issues. That's correct.

COMMISSIONER SULLIVAN: Mr. Chairman, two public hearings at the BCC.

MR. KOPELMAN: Two public hearings at the BCC and one at the—

COMMISSIONER SULLIVAN: My question is what about CDRC And LDRC?

MR. KOPELMAN: Mr. Chairman, it would be one hearing unless the Commission decided to adopt a resolution to require more than one at those committee levels.

COMMISSIONER SULLIVAN: So when you publish title and general summary, do you do it once for both, or does each entity have to have a publish title and general summary?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, technically, under the statute, I don't believe you're legally required to publish for the CDRC or the LDRC but I know as a matter of course, I'm pretty certain Land Use does that. We think it's probably the better approach to take.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: So this ordinance suggests that we never had this right before.

MR. KOPELMAN: Mr. Chairman, I think what this ordinance is attempting to do is really clarifying it and making clear how the process works. I think we've been following this roughly but not exactly all the time and I think is probably a good step in making sure that we're totally in step with state statutory requirements.

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

COMMISSIONER SULLIVAN: Excuse me, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

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COMMISSIONER SULLIVAN: Just one other question. Is there an emergency provision here, should the Board feel that there was something of an emergency nature that they didn't want to spend that additional month in advertising time and so forth to go to either the CDRC or the LDRC, is there that flexibility?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, state statute does have a specific provision that authorizes the adoption of emergency ordinances, and there's a certain threshold standard that has to be met. We have taken that approach sparing but we have done that in the past and that continues to be an option if the Commission is able to comply and make a finding of the emergency situation. So this would not prevent you from going forward in the appropriate case.

COMMISSIONER SULLIVAN: I'm just thinking, I don't know what those emergency provisions are, but if we suddenly had a land use issue that say, the federal government required a decision within 30 days on some issue having to do with perhaps tribal issues or something like that and we had to move quickly in order to meet a federal deadline, would something like that qualify, do you think?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, I think it probably would. And again, the state statutory provision would override this ordinance in the appropriate case.

COMMISSIONER SULLIVAN: Okay. Just as long as we have that flexibility.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: I'd move for adoption of Ordinance No. 2001-10.

COMMISSIONER TRUJILLO: Second, Mr. Chairman.

COMMISSIONER CAMPOS: There's a motion and a second. Any further discussion?

MS. BUSTAMANTE: Mr. Chairman, again, clarification. Are we going to make the changes that Commissioner Sullivan—

CHAIRMAN DURAN: With the amendments?

COMMISSIONER CAMPOS: As amended, "sponsor" to "introduce" in Section 13.1. Yes.

MS. BUSTAMANTE: Yes.

Upon roll call vote, Commissioners Duran, Trujillo, Campos and Sullivan all voted in the affirmative. [Commissioner Gonzales was not present for this action.]

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X. B. Land Use Department Items

1. EZ Case #S 01-4300. Tierra Grande. Land Ventures, LLC (Allan Hoffman) applicants, Oralynn Guerrerortiz, agent, request preliminary and final development plan and plat approval for a 16-lot residential subdivision on 40.1 acres. The property is located off a future extension of Los Sueños Trail, within Section 19, Township 17 North, Range 9 East (5-Mile EZ District)

VICKI LUCERO (Review Specialist): Thank you, Mr. Chairman. On August 9, 2001, the EZC met and acted on this case. The applicant is requesting preliminary and final development plan and plat approval for a 16-lot subdivision on 40.1 acres in one phase. Lot sizes will range from 2.03 acres to 3.16 acres with an average lot size of approximately 2.45 acres. This project was reviewed for access, water, fire protection, liquid and solid waste, terrain management, archeology and environmental issues.

Recommendation: this application is in conformance with the Extraterritorial Subdivision Regulations. Staff's recommendation and the decision of the EZC was to recommend preliminary and final development plan and plat approval for a 16-lot residential subdivision subject to the following conditions. Mr. Chairman, may I add the County and City conditions into the record?

[The conditions are as follows:]

County conditions:

1. All redline comments must be addressed, and original redlines must be returned.
2. Slope analysis must be stamped by a Professional Engineer.
3. Road names and rural addressing must be approved by the County prior to recording the final plat.
4. The standard County water restrictions, final homeowner's documents, and disclosure statement must be recorded with the final plat.
5. The developer must pay the solid waste fee in accordance with subdivision regulations (\$43.00) per lot, prior to recording the final plat.
6. All lots are subject to the Santa Fe County Fire and Rescue Impact Fees. This must be clearly noted on the final plat.
7. All utilities must be underground.
8. A signage plan must be submitted for review and approval prior to final plat recordation.
9. Water use on this property will be restricted to 0.50 acre-feet per year per lot. Water restriction covenants must be recorded with the final plat. A water meter must be installed for each residence annual readings must be submitted to the County Hydrologist by September 30th of each year.
10. Water supply wells must be constructed in accordance with NMED Guidelines for Water Supply Systems And Treatment Works and NMED's Requirements

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Governing Water Supplies.

11. A new water quality report must be submitted.
12. The applicant must submit an engineer's cost estimate and financial guarantee for all required improvements (i.e. Street and traffic signs, fire protection, etc.). A schedule of compliance projecting time period for completion of improvements must be included. Upon completion, the applicant must submit a certification by a registered engineer that improvements have been completed according to the approved development plan.
13. Compliance with applicable review comments from the following:
 - a) State Engineer's Office
 - b) State Environment Department
 - c) State Historic Preservation Office
 - d) Soil & Water District
 - e) State Highway Department
 - f) County Hydrologist
 - g) County Development Review Director
 - h) County Fire Marshal
 - i) County Public Works
14. Individual lot owners will be required to conduct soil tests at proposed liquid waste locations. If soils are found to be inadequate, advanced liquid waste systems will be required. This must be noted in the disclosure statement.
15. The applicant must comply with Section 3.6.1 (Water Systems) of the EZO including any applicable Environment Department requirements.
16. All lots in the subdivision must connect to the County water system when it is within 200 feet of the development.

City conditions:

1. Applicant's engineer shall use current engineering standards for horizontal alignments and vertical profiles for roads within the subdivision.
2. Grading and drainage conditions of approval (Joe Barela, PE, Sub. Engineer)
 - a. Provide a temporary and permanent erosion control plan.
 - b. Provide a grading and drainage plan.
 - c. Contours are not legible on slope analysis/existing conditions plan. (Proved to Subdivision Engineer)

Also, I wanted to add that the applicant has been working with the Puesta del Sol homeowners or property owners association and I actually received a letter from the vice president who asked me to hand out the letter to you regarding some of the issues that were discussed and possibly some conditions that they would be looking at entering into the record. [Exhibit 2]

CHAIRMAN DURAN: Vicki, what's the average density of these lots?
MS. LUCERO: The average lot size is 2.45 acres.

CHAIRMAN DURAN: And we've given them a half-acre per year allocation on the water?

MS. LUCERO: That's correct. Yes.

COMMISSIONER SULLIVAN: Why is that?

CHAIRMAN DURAN: I thought our minimum was five acres for—what's the minimum size lot out in that area?

MS. LUCERO: Mr. Chairman, I believe that it is 2.5 acres.

CHAIRMAN DURAN: So this is not consistent with what we've done in the past.

MS. LUCERO: The applicant has submitted a geohydro report that stated that the water availability was $\frac{3}{4}$ acre-feet per lot. The County Hydrologist has reviewed that geohydro and has cut the acre-feet to half per lot.

CHAIRMAN DURAN: So a guest house could be built on these lots?

MS. LUCERO: Yes, that's correct.

CHAIRMAN DURAN: Okay, any other questions of Vicki?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Following up on that, I am still at a loss to understand why, just because there is water available out there we wouldn't be applying the same conservation standards that we've applied elsewhere out in the Community College District, they're in the zone where there is adequate water and those 2.5-acre lots, residences, are limited to .25 acre-feet. What's the justification for doubling that here, other than the fact that there happens to be enough water there?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, as I mentioned, the County Hydrologist did review the geohydro and that was a figure that she had put on it. It is at the Board's discretion though to further limit that if they feel that it is appropriate.

COMMISSIONER SULLIVAN: I guess we'll look at the other conditions but not all of the City conditions are in the County's recommended conditions, and I think one of those was taken care of but you could you just bring me up to speed on that?

MS. LUCERO: Mr. Chairman, the memo that was submitted from the City dated August 9 had changed at the EZC meeting. The City staff was there and they actually struck out one of the conditions that was there. The applicant met with the City and I believe they struck out condition number two from that memo and condition number 3.d. I believe. But it was the City themselves actually struck that condition.

COMMISSIONER SULLIVAN: Right. So emergency access is not required then. 3.d. was a requirement for emergency access.

MS. LUCERO: Right. That's correct. That was stricken.

COMMISSIONER SULLIVAN: And that's not required.

MS. LUCERO: No, sir.

COMMISSIONER SULLIVAN: Another question I had Vicki was that one

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of the conditions was the connection to the County water system when the subdivision is within 200 feet of County water. Condition number 16. How far is it now from the County water system?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I'm not actually sure of the exact distance. I know at this time the City isn't issuing any type of connections to developments outside the city limits but it is further than 200 feet away.

COMMISSIONER SULLIVAN: Is it within a mile?

MS. LUCERO: I believe it is within a mile.

COMMISSIONER SULLIVAN: Oralynn is shaking her head yes. Half a mile? About a quarter mile. Okay, so we're about 1500 feet away from the County water system. And it's cheaper to drill three wells. Oh, she hasn't been sworn in. Well, she's trustworthy. Okay, I'll ask Vicki. Is the reason that we're going to three wells here the fact that the County allocation is not, is all allocated up?

MS. LUCERO: That's correct. There is no water left to allocate to this project.

COMMISSIONER SULLIVAN: Is there any affordable housing in this subdivision?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, no, there is nothing proposed.

COMMISSIONER SULLIVAN: So there would be no reason to, as we did on another trailer park project to give or sell some of the County's own allocation to the developer, based on affordable housing. But I just see us getting so close to a water system, potable public water system, I just wonder if we're doing the right thing in drilling three wells and expending that much money, requiring the developer to expend that much money, when it seems like there just ought to be some other way to do that. Has the developer, Vicki, looked into acquiring water rights and bringing those into the County system?

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I couldn't answer that question. Perhaps the applicant or agent.

COMMISSIONER SULLIVAN: We'll ask her that. Thank you.

CHAIRMAN DURAN: Well, I have a question, Vicki. Why is it that every other development out there was restricted to—I understand what you said. The Hydrologist read the hydrology and determined that there was adequate water to support two dwelling units per lot, which is in total conflict—and with them being less five acres, which is in total conflict with what the minimum size lot is out there. I guess I question how she could come up with that. Is the Land Use Administrator here? How can she find a way of circumventing the Code requirement that one dwelling unit for every 2.5 acres, that's the density in that area and this is the first I've ever hear that a geohydro would allow you to have even—to increase the density there. Because that's basically what they've done. They've increased the density out there. They've doubled it.

MR. ABEYTA: Mr. Chairman, the Code is specific that a minimum lot

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size for creating a lot is 2.5 acres, but it's silent when it comes to increasing the density on a 2.5-acre lot. So staff has always, and the County has always had a policy that you could have a guest house on a 2.5-acre lot. You couldn't divide it any further than 2.5 acres but you could have a guest house if you could prove enough water on a 2.5-acre tract. And like Vicki stated before, that's just our interpretation of the hydrology report and our recommendation. If you want to set the policy now that you don't want guest houses on 2.5-acre lots, then that's within your jurisdiction, and we'll take that policy from this point forward. But again, we have allowed guesthouses on 2.5-acre lots if you prove water.

CHAIRMAN DURAN: In that area?

MR. ABEYTA: In that area, which I believe this is in the Basin Hydrologic Zone. But again, we won't let them divide them, divide smaller than 2.5. We won't let your create smaller lots, but we will give you a guest house if you prove the water.

CHAIRMAN DURAN: So basically what we've done though is the potential of doubling the density. We've allowed them to go down to 2.5, and we've also allowed them to have a guest house and if everybody in this subdivision decide they wanted to rent their guest house, then we've doubled the density on this property.

MR. ABEYTA: Mr. Chairman, that's correct, but I believe the applicant made the proper submittals to take that into consideration. In other words, her traffic report should have analyzed that. Her liquid waste plan should have taken that into consideration and her water supply plan took that into consideration. So I believe she's met the requirements to have that much density on her property. Again, she cannot further divide the lots but they could have guest houses.

CHAIRMAN DURAN: Okay. Is the applicant here? Do you have any questions of staff?

COMMISSIONER CAMPOS: I have a question. Ms. Lucero, why have they not proposed let's say a wastewater treatment package system? Is it just too small? Too few to use? They're proposing a septic system for each unit.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I believe that the Code does not require an advanced septic system again, because the Code deals with lot size and not density. What we did do, however, is condition 14, is requiring soil tests and if the soils are inadequate, then each property owner may be required to do an advanced system, and that's going to be noted on the disclosure statement and on the plat. But again I think the problem here is the Code talks about size of lot, and not density and again, the Board, it's within your discretion to set that policy this evening for us to take forward that you won't be allowed to have guest houses on 2.5 regardless of whether or not you proved adequate water.

COMMISSIONER CAMPOS: Mr. Abeyta, do we have the authority to require a wastewater package system?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, we would have to research that. I don't want to give you a yes or a no right now because I'd have to research the Code and see if it's required or not.

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COMMISSIONER CAMPOS: I just think it's an important issue as we face more water contamination issues throughout the county. We have to maybe change our outlook a little bit. I don't know what the other Commissioners feel but that would be my sentiment.

CHAIRMAN DURAN: I don't know of any subdivision that's been approved—there might have been a lot that's been created or a lot split but I don't know of any subdivision that's been approved with 2.5 acres with a guest house, with two dwelling units, with the potential of two dwelling units on it. Do you know of one?

MS. GUERRERORTIZ: [From the audience] Las Campanas.

CHAIRMAN DURAN: They're on City water also. You're not sworn in yet so maybe we better get you sworn in. So does staff know of any development that's been approved that's on a community water system.

MR. ABEYTA: Mr. Chairman, not off the top of my head, I don't.

CHAIRMAN DURAN: I know of none and I've been in this business for 25 years.

MR. ABEYTA: Mr. Chairman, I don't know if any have been—I mean none have been proposed and this may be the first one that's been proposed, and again, because of our policy, and again the Code isn't clear on this so they proved the water so we allowed them to come forward but that doesn't mean that you have to approve it with that.

CHAIRMAN DURAN: Any more questions of Vicki? Staff?

COMMISSIONER CAMPOS: Quick question. Is metering required of the wells?

MS. LUCERO: Mr. Chairman, Commissioner Campos, yes, it will be required and it is addressed in one of the conditions, I believe.

COMMISSIONER CAMPOS: Yes, I see it in number nine.

MS. LUCERO: Yes, that's correct. Condition number nine.

CHAIRMAN DURAN: Okay, Vicki. Thank you. Is the applicant here? Would you please step forward, state your name for the record and let the Clerk swear you in.

[Duly sworn, Oralynn Guerrerortiz testified as follows:]

ORALYNN GUERRERORTIZ: I'm Oralynn Guerrerortiz, P.O. Box 2758, Santa Fe, New Mexico. I think I'll start with addressing some of the questions that were raised. There are a recommendation of only three wells. Presumably, you could have had 16 wells, one for each home. We chose to limit the amount of wells, limit how much was actually being put in initially. This project may, ultimately be connected to the County water system if it becomes available. It is within a quarter mile. It's at the La Vida area, which is just up the road in essence, and the neighborhood is Los Sueños, La Serena. La Mirada, La Vida and El Prado.

Those developments all were granted more than a quarter acre-foot of water at the time that they were approved. Others in the area, I can think of Las Campanas. Las

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Campanas officially is not on City water. Officially, they have their own water rights and their own community water system in essence. They were granted a half acre-foot because they had the water rights to prove a half acre-foot for each lot that they developed, except for a few of their casitas were only granted a quarter acre-foot.

The existing Code in essence says demonstrate how much water you have, provide conservation measures, set up standards for limits of the water use, but it does not actually say, currently, each home will be limited to a quarter acre-foot. What it actually says is it cannot be lower than a quarter acre-foot, but it doesn't set a maximum acreage per lot. And because we had excellent water, excellent quality water, and excellent abundance of water—we're in the Basin area—we were able to prove .75. The County Hydrologist in her wisdom recommended .50 and we found that acceptable.

With regards to wastewater systems. We propose traditional septic tanks. Under current County and state law, you can have a septic tank system on a lot as small as $\frac{3}{4}$ of an acre. You can actually have a well and a septic system on such a small lot. We didn't propose an advanced system or combining everything together simply because of cost. One of the advantages that you may not recognize immediately of having, potentially, two homes ultimately on these properties is that it does provide more less expensive homes in an area that's actually fairly expensive. Hopefully, potentially, you could have a main home and maybe a rental home, that would hopefully rent at a much more reasonable price than most of the homes are going for in that neighborhood. So it could be providing some affordable, or more affordable, I should say, because I don't know what will happen and at this point there's no restrictions on anything.

CHAIRMAN DURAN: Excuse me, Orallynn. How much gallons per minute are the wells producing?

MS. GUERRERORTIZ: Those wells were producing more than 20 gallons per minute.

CHAIRMAN DURAN: So you've already drilled the wells?

MS. GUERRERORTIZ: No, we only drilled one and we are going to construct the other two for the development. And they're also being designed and built to a higher standard than the average home will in essence, because they are community wells, and there will be setbacks from those wells to protect them, meaning that all liquid waste systems will be at least 200 feet away and things like that. The normal standard is 100 feet, so it's twice the normal standard.

CHAIRMAN DURAN: So the three wells will serve, each well will serve about ten lots.

MS. GUERRERORTIZ: No, two wells will serve six lots, that's twelve, and one lot will serve four lots and will also feed the fire protection system. In general, I'll tell you that this is a beautiful area. It's got gorgeous views. It's fairly flat terrain. It's mostly between three to six percent in slope. We're not disturbing any 30 percent slopes. There are absolutely no variances being requested on this project. We are constructing about 3600 linear feet of offsite roads which are roads that are shown on the

arterial roads task force plan. It's a continuation of Los Sueños Trail which was before called Hager Road and La Vida Trail, which is a connection to Frijoles Village. Actually, we're not making the connection at this point, but we're providing another 1700 feet on that future road.

So significant offsite road improvements on this that will serve the greater area in the future. The emergency access road is actually in already. It's a dirt road. It was the original driveway to the Hager homestead. It's going to be left as a locked gate, not open for public use but it could be a way for the Fire Marshal to get in if he needed to. From discussions with the Fire Marshal there are multiple ways to get in this area so he did not require that that road be improved.

The property to the south of this project is owned by the Catholic Church at this point and they may choose to sell it or develop it themselves and presumably, they would make some improvements on that road in the future.

We contacted the neighbors, the people who rode bicycles in the area, and agreed to put in a number of trail easements and trail connections that will also match the future plan that's coming out of that neighborhood. I think what we've tried to do is prepare a very environmentally sensitive project. I hope you all will agree. I'll stand for any questions you might have.

CHAIRMAN DURAN: I have a question. Just clarification. You said earlier that Los Sueños and La Mirada all were approved with a half acre?

MS. GUERRERORTIZ: No. What I said were approved with more than a quarter acre. My recollection, and I'm going on memory—

CHAIRMAN DURAN: Well, let's talk about, I'm more concerned about dwelling units, the right to have dwelling units. Because you can only have a dwelling unit per quarter acre-foot. So I guess the question I have is La Mirada and Los Sueños, were they approved with the ability to have more than one dwelling unit?

MS. GUERRERORTIZ: La Mirada I'm sure wasn't. That was the one that was—I can't remember if it got City water or not. I think it did. Yes. And it was either limited to a quarter or the City standard is usually .33. That's what they usually—

CHAIRMAN DURAN: And in Los Sueños, you can't have a guest house.

MS. GUERRERORTIZ: In Los Sueños you can't?

CHAIRMAN DURAN: You cannot. So then the only project that you claim had the right to have a guest house on less than 2.5 acres was Las Campanas. Is that correct?

MS. GUERRERORTIZ: Las Campanas without a doubt. I don't recall another one right now.

CHAIRMAN DURAN: And Las Campanas is on City water.

MS. GUERRERORTIZ: Las Campanas officially is on a community water system. The City just uses their pipelines to bring it to them. Las Campanas uses their own water officially.

CHAIRMAN DURAN: Do any of the other developments up there allow

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guest houses?

MS. GUERRERORTIZ: I don't recall sir. You spoke of Los Sueños and you do remember that one but I don't remember the details, although .40 stands out in my mind and I don't remember why.

CHAIRMAN DURAN: And that's less than what's allowed. You can't have two dwelling units. My only concern is that we are under a lot of pressure to conserve our water resource and in addition to that, density is something we need to consider when approving these projects. And I would be—the Hydrologist isn't here for me to ask her questions and there may be a good reason why she decided to do this. I can't think of one, because no one else has ever gotten this type of density out there. And we are talking about doubling the density when you are talking about a main house and a guest house, you've actually doubled the allowable density out there and I don't know how that could happen.

I actually would like to make a motion to table this until the next meeting so that we have the benefit of the expert testimony of the hydrologist. I'd like to make that a motion.

COMMISSIONER SULLIVAN: Mr. Chairman, before you make a motion to table, I had a question to ask. That will kill the discussion and I just wanted to ask the applicant a question. Oralynn, what would it cost, or what do you anticipate the cost of the storage tank and the additional two wells to be?

MS. GUERRERORTIZ: The wells run about \$20,000 at least apiece. And the storage tank and fire—well, you'd still have fire hydrants. The storage tank system by itself is about \$30,000. So we're putting into it about \$70,000, which we may lose in the future if we can later connect to City or County water when it becomes available.

COMMISSIONER SULLIVAN: So \$70,000 if, let's work off the quarter acre-foot for a moment. It would be four acre-feet of water rights that you would need, plus 1500 feet of line to get there. Let's say the 1500 feet of line was \$20 a foot, just to throw a number out, so maybe \$30,000 worth of water line to get there, leaving you \$40,000 of the \$70,000. I bet you could get four acre-feet of water rights for \$10,000 an acre-foot. Bring them to the County system, and then we have the issue of better fire pressure and we have the issue of being able to more closely monitor conservation issues, which of course we have problems doing under well construction.

MS. GUERRERORTIZ: Thank you, sir for suggesting that. There would be a lot more considerations. We'd be on a 1500-foot dead-end line, which I imagine the County would want looped. I would also recognize that purchasing of the water rights is one step, transferring them to a place where the County can get them is a fairly significant step. I don't think you've seen many people before you who have tried to accomplish that because of the difficulties and the time related to that.

COMMISSIONER SULLIVAN: I think in terms of the first one, while certainly looping is advisable, I'm confident a lot of line sections out there aren't looped and ultimately it would be nice to do it but I think with flush hydrants and so forth you can

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get around that issue. I don't know what would be involved in transferring the water rights but if you were transferring them to the County system, then it would seem that we have got some pretty good flexibility to pick up those water rights from some wells we've just recently been purchasing, such as the Hagerman well.

MS. GUERRERORTIZ: Officially, in this case, we would have to transfer them to the Buckman wells, because the water that serves this area comes through the Buckman system. You'd have the problem of the wheeling agreement, which limits how much water the County can wheel through the City system, and then you'd have the problem of there's a limitation on what the Buckman wells are allowed to withdraw. So it's a little more sticky in this position.

If it was closer to a County well, that we could transfer water rights to that well, then there would be a different story. But we don't have that flexibility at this point.

COMMISSIONER SULLIVAN: Well, in terms of the wheeling agreement, my understanding is we're well under on what we're pumping through on the wheeling agreement, so we don't have a capacity problem there.

MS. GUERRERORTIZ: Agreed. But you have so far, you've committed rights that have a right to go through that. What we'd be asking is if we give you four acre-feet or provide eight acre-feet to the County, and maybe Steve could speak to this issue, but I imagine, what would need to happen is you would also need to have a commitment that you could provide the water to the site.

COMMISSIONER SULLIVAN: But why would we, and just enlighten me on this because I'm not certainly the expert, why would we have to move them? I understand what you're saying. We have 500 acre-feet theoretically committed at Buckman through the wheeling agreement, although we're only actually running about 100. Why would we have to, why would this water have to come through Buckman? Why couldn't it come from another of the County sources as long as it's going into the system? The Hagerman well or the wells at the prison? Why would they have to be—we're only constrained by the wheeling agreement on Buckman water and so we can inject other water into the County system, can't we? From other wells?

MS. GUERRERORTIZ: Mr. Chairman, Commissioner Sullivan, in this case, the water that's in the northwest sector comes from—I forget what they call it. It's a meter off the City system. And that meter, I believe is either on the Buckman line or on a line coming from the Buckman line. I don't know exactly about the complications about this but I don't think you've seen many people in front of you trying to accomplish this because of the problems associated with it and I'm really looking to Steve. Hopefully he's going to put some input in here.

COMMISSIONER SULLIVAN: I don't doubt any of what you're saying but I think maybe it's incumbent on us to try and help find a solution to this because that's what we need to encourage. We need to encourage developers to bring water rights to the development where they're in reasonable proximity to the development. If you looked at it in terms of an individual lot basis, if you divided 16 lots by 1500 feet, technically, each

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lots only 100 feet away from the system in terms of cost. Do you see what I'm saying? If it was one individual and they were within 200 feet, we'd say connect up. Here we have 16 individuals that are within 1600 feet, so they're really only 100 feet away.

And I understand the timing issues that you're talking about and I'm just wondering, and I don't see Doug Sayre here, but I'm just wondering, and this may go with your tabling motion, Mr. Chairman, that if there's some way we can provide the encouragement or the financial incentive even, if that's necessary, because this would put 16 homes on the County system.

MS. GUERRERORTIZ: If I might make a suggestion. We did a geohydro study. It came out the way it came out. We had no control over it. It just showed .75. The staff under their wisdom reviewed it and recommended .50. I understand your concern about the two dwelling units. We looked on it as an opportunity to provide additional, less expensive housing in an area that doesn't have much. If it provides you more comfort, we'd be willing to go below the .5 acres, .49, something that makes you recognize that we would not have two dwelling units, if that's your intention to stop the two dwelling units.

COMMISSIONER SULLIVAN: But even if you could—let me just follow up on the water issue. Suppose that it would make it more marketable and it would be a good idea and the density wasn't a problem with the area, if you were on the County system, then you would get the water rights that you needed and we would still have the control that we wanted and the usage would be limited by virtue of the number of water rights that you brought to the project.

MS. GUERRERORTIZ: We me still be in the same question, this quandry of whether or not we can have more than one home for 2.5 acres. That's the issues that Commissioner Duran raised. It's kind of a separate issue whether or not the water is available and whether or not we met a density issue that he recognizes in other areas of the county.

COMMISSIONER SULLIVAN: I was just thinking out loud, if this provided an incentive to hook on to the County system, then perhaps the Commission might consider the guest home more favorably.

CHAIRMAN DURAN: I don't have a problem with that. The problem is if we approve this the way it is right now, it sets a bad precedent. Because that aquifer out there is the same all the way out to Tano Road. And you get 20, 25 gallons a minute no matter what and once people find out that all they have to do is do a geohydro, they can start increasing the densities in that whole quadrant because of a loophole that you found. And I think that it's—I don't think it's fair. I wouldn't be opposed to taking it down to .45 for .49, just to prevent that particular issue. And if at some point you can hook up to the County water system and get off the aquifer, that's the whole reason why I'm bringing this up. If everybody goes out there and does this, the density has doubled in that whole quadrant.

MS. GUERRERORTIZ: And I will say that we are adjacent to a landowner

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who owns more than 500 acres who, if he ever does develop that property, presumably would have to be connecting to a community water system, so we'll be within 200 feet. And I suspect that's something that's only being held up currently because no water is available.

CHAIRMAN DURAN: The balance of the Hager property. Is that the one you're talking about? Yes. Once he finds out, it makes the property a lot more marketable and the fact of the matter is, people who have guest houses, I wouldn't say all of them, but quite a number of them, end up renting them out and it becomes a little bit more attractive from a financial point of view. You can build a house, get a guest house, rent it for sometimes a third of your mortgage. So it's just not—I don't think it's right. I think it sets a bad precedent and if you would agree to limit the water to below .5, which allows you to have two units, I really have no problem with the project.

MS. GUERRERORTIZ: That's something that we can agree to. Frankly, we really did just turn in what it came out to and we were happy to get a response of a half acre. I happen to know the Code allowed it, so I moved forward. I didn't question it. But I understand your concern about setting a precedent. So we'd be willing to lower it below a half acre if it provides you comfort.

COMMISSIONER SULLIVAN: I had another question, Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: The conditions, and this is to the staff, this letter of September 10, we haven't had a chance to go through these, that the Puesta del Sol people have suggested several additional conditions. What's the staff's recommendation on those?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, I'll defer to Vicki.

MS. LUCERO: Mr. Chairman, Commissioner Sullivan, I've read through the conditions and staff doesn't have a problem with any of these conditions. They're all in conformance with the ordinance and the subdivision regulations.

COMMISSIONER SULLIVAN: What's the applicant's feeling on this letter?

MS. GUERRERORTIZ: This letter actually came out through a series of meetings we had with the applicant. For the most part it was like, yes, no problem. We actually thought these were good ideas and had already incorporated in. The only concern we had was the height limitation and that was problematic but we've worked it out so the language in here is fine as proposed.

COMMISSIONER SULLIVAN: So if the staff were to, or the Commission were to add on the conditions in this letter, and again, I apologize. I haven't had a chance to digest them.

MS. GUERRERORTIZ: Their concern was primarily that traffic would not go from this development through their project, that it wouldn't become an open highway for the public, in essence. And that would be going along a very poor old driveway. We were never intending that to be an occurrence. So we were more than happy to agree to

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that. They also pointed out another trail easement we were unaware of and we agreed to that immediately.

COMMISSIONER SULLIVAN: So if our direction to the staff were to incorporate as conditions, those conditions in this letter that are appropriate or that don't duplicate conditions that are already there, would that cause any problems?

MS. GUERRERORTIZ: No. Not at all.

COMMISSIONER SULLIVAN: Okay. The other question I had Oralynn was on the archeological, they indicated that you needed to bypass a particular trail easement and you've worked around that. Is that right?

MS. GUERRERORTIZ: There was one site that partially goes into the road easement. The road easement, luckily, is 66 feet wide. Our road will be 24 feet. We're just moving the road away from where that archeological site is so we won't disturb it.

COMMISSIONER SULLIVAN: And then another site was found not to be a site, is that it?

MS. GUERRERORTIZ: I guess they looked at it and documented it enough that it wasn't considered significant.

COMMISSIONER SULLIVAN: So there's not an archeological—none of your road development is on the archeological?

MS. GUERRERORTIZ: We will not disturb any archeological site that they want to protect. There's one site they want to protect and we will, we've removed the road from it.

COMMISSIONER SULLIVAN: And the other question I had is what is a draft fire hydrant?

MS. GUERRERORTIZ: It's something that you suck water from, as opposed to one that's under pressure. The pumper trucks pump suck the water from them. These are underground water storage tanks.

COMMISSIONER SULLIVAN: Underground tanks. You have a 30,000 gallon—

MS. GUERRERORTIZ: Two 15,000-gallon tanks.

COMMISSIONER SULLIVAN: Underground tanks that they'll be—so your firefighting capability is limited to the pumping capability of the truck that happens to respond.

MS. GUERRERORTIZ: Correct. And those trucks can pump out at 500 gallons per minute.

COMMISSIONER SULLIVAN: Okay. But the County Fire Marshal has been requiring—Roman, correct me if I'm wrong—1000 gallons per minute in its reviews. Isn't that correct?

MR. ABEYTA: I'm sorry, Commissioner Sullivan. Can you repeat the question?

COMMISSIONER SULLIVAN: My question was that I recall in previous County Fire Marshal reviews that the requirement was for 1000 gallons a minute fire flow.

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Does that ring a bell?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, it does. I believe it may have been for a commercial project though and that may be the difference, but I don't know. I believe 500 is standard for residential.

COMMISSIONER SULLIVAN: Five hundred is the absolute low. There's nothing lower than 500. It goes 500, 1000, 1500, 2000. Five hundred gallons a minute is the most minimum.

MS. GUERRERORTIZ: And residential is generally 500, and 1000 is based on so many square feet of commercial, and then it goes up based on the square feet of non-residential, generally. Usually the amount of storage is a function of the amount of homes. 30,000 is usually the cut-off standard, at least when I was here and I think it's still the case. Up to 24 homes were allowed to be on 30,000 gallons. At 25 homes you provided 60,000 gallons. Those are the only things that the Fire Marshal usually changed.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any other questions of the applicant?

COMMISSIONER CAMPOS: A quick question. Would tabling for 30 days affect your project in a big way?

MS. GUERRERORTIZ: Well, I suspect that our goal—no, I don't suspect. I know that our goal was to break ground within a month to try to get most of the rough grading done before the ground froze. So it takes about a month after this meeting to get something recorded. It's pushing, frankly.

CHAIRMAN DURAN: I had talked to Commissioner Campos a little bit about if we'd tabled this to make sure that we were making the right decision relative to the densities in this area. I think that it's pretty easy to realize that if Hager has 400 acres and there's still a lot of undeveloped property in that quadrant and if everyone finds out that they have the right to double the density out there just by proving that they have adequate water and that aquifer is a huge aquifer and it's very plentiful, then we would just be automatically increasing the densities by allowing that to happen.

MS. GUERRERORTIZ: I understand your concern, Mr. Chairman. I think to alleviate that concern, that's why we're willing to agree to some value that you find acceptable below a half an acre. Because you do need half an acre to have two dwelling units.

COMMISSIONER CAMPOS: Mr. Chairman, my inclination is to have a little more time to think about this and talk to staff about this. I'm just not comfortable with it. I would like to table it for 30 days until the next land use meeting. The other issue is the wastewater treatment package. I'd like to look at whether we have authority to make such a requirement and from the applicant I would certainly want to know what the costs would be and how it would factor in.

MS. GUERRERORTIZ: I can give you a feel for costs now, if you'd like to hear those. There's different ways people have done such things. They've done cluster systems where they're advanced, or they've done a single treatment plant. The cluster

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systems, in the case of Las Lagunitas, they had up to six homes on a given system. Those cluster systems ran at least \$25,000, but there was a requirement for a discharge permit in that case because you had more than 2,000 gallons a day coming from it. So it got into a requirement for monitoring wells and some other issues.

I'm fairly familiar with that section of the Code, sir, and I would believe that you may need to consider some Code rewrite if you want to require that. My understanding of what the Code says is in areas where there's a known water quality problem, then that's a possibility that the Board can require these advanced systems, but in light of excellent water quality, I don't know that under current Code you have that flexibility until you get into larger subdivisions. The cut-off now is 99, no, 100 lots. So if you have 100 or more lots, you can require an advanced wastewater system or wastewater treatment plant, or if the lots are on less than one acre in size, you can get into that, if they're with water also.

I'm pretty familiar with that so I could probably quote it by verse if you'd like.

CHAIRMAN DURAN: I'd like to have some time to think about it.

COMMISSIONER TRUJILLO: I guess I feel that the applicant is making efforts to address the density issue and the impact on the water table, on the aquifer by going down to below half an acre. The water rights, that to me addresses the issue of the guest houses. The issue of the septic tanks, EID has their own requirements about that and then they're very stringent regarding those requirements. So I'm comfortable that individual septic tanks in that area will not have a detrimental impact on the aquifer.

So I guess I don't see what tabling this case would do. They would come back again and agree to go below half an acre to address the concerns regarding mining of the water table. So I'm ready to vote today.

CHAIRMAN DURAN: Okay. I have a question. How deep is the aquifer? Isn't it like 600, 700 feet?

MS. GUERRERORTIZ: We hit water at 750. It's pretty deep.

CHAIRMAN DURAN: So if it doesn't leach my then, we're all in trouble. Okay, do you have a motion to table?

COMMISSIONER CAMPOS: Yes.

CHAIRMAN DURAN: There's a motion to table.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: A second by Commissioner Sullivan. Those in favor signify by saying "aye." [Commissioners Campos and Sullivan voted to table.] Opposed? [Chairman Duran and Commissioner Trujillo voted no.]

What does that mean? Is it tabled? Two for and two against the table?

MS. BUSTAMANTE: The vote was two-two.

MR. KOPELMAN: Mr. Chairman, two-two, it doesn't carry.

CHAIRMAN DURAN: Right. The motion doesn't carry.

MR. KOPELMAN: You need another motion.

CHAIRMAN DURAN: Well that motion dies so we continue with the public hearing. So this is a public hearing. Is there anyone out there that would like to

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address the Commission concerning this project? Okay, if not, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I'd like to just point out one thing to the staff.

On the general conditions, the general County conditions, number two, slope analysis must be stamped by a professional engineer. I think the proper way we should see that on all those is that a slope analysis must be prepared and sealed by a professional engineer. There is a problem of some individuals looking at drawings and stamping them without having participated in the work and on this particular project I assume Oralynn did the slope analysis and sealed it herself.

MS. GUERRERORTIZ: I think the confusion arose on this one was because there were very little slopes greater than 20 percent, so it looked like it hadn't been done at all. And the question arose. But there was actually a slope analysis and it was sealed. I think they just looked over it because there was hardly any steep slopes on the property.

COMMISSIONER SULLIVAN: I'm just addressing it—I would like us to get away from issue of stamp, because that indicates looking at something and then for some nominal amount of money stamping it, which is against the state law for engineering services. So I don't want us to encourage that through our language and I think the proper language is prepare. The engineer not only has to seal it, but that engineer has to have direct supervision of its preparation or has to prepare it. So if we could make that clarification on this and future ones.

I still feel that we're overlooking the potential for connection to the County water system here and I think other than that, I think the septic is okay, given the area. I do think that advanced treatment systems are not that advanced and are difficult to deal with from a maintenance standpoint on a small subdivision, but I would really like, I think otherwise, I'm comfortable with the application. I would like to see the applicant spend 30 days in exploring in more detail the feasibility of connecting to the County water system.

If it looks like it's a lost cause and there's nothing we as the County can do, then I think this application meets all of the criteria. That's my comments.

CHAIRMAN DURAN: So do you want to make a motion?

COMMISSIONER TRUJILLO: I make a motion to approve CDRC Case 01-4300, Tierra Grande at .49 acre-feet per lot.

CHAIRMAN DURAN: That's with all staff's recommendations?

COMMISSIONER TRUJILLO: That's with all staff's recommendations, City and County and the like.

CHAIRMAN DURAN: Would you consider .45?

COMMISSIONER TRUJILLO: .45 is fine.

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CHAIRMAN DURAN: I'll second that. And with the letter from Puesta del Sol. Okay, any further discussion? Those in favor signify by saying "aye."
[Commissioners Trujillo and Duran voted with the motion.] Opposed? [Commissioners Campos and Sullivan voted against.]

Okay. You'll have to come back next land use meeting.

MS. GUERRERORTIZ: Thank you very much, gentlemen.

- X. B. 4. **LCDRC CASE # A/V 01-5160. Bonnie Anderson Appeal/ Variance: Bonnie Anderson, applicant, is requesting a variance of Article III, Section 10 of the Land Development Code to allow a duplex on 0.816 acres. The property is located at 262A Los Pinos Road, within Section 28, Township 16 North, Range 8 East**
[Letter distributed as Exhibit 3]

WAYNE DALTON (Review Specialist): There is currently a duplex and 1 septic system on the property. The property is served by an onsite well, which serves the existing homes. In March of 2000, the applicant was issued a building permit for an office and bathroom addition adjoining a bedroom in the existing home. Since this time the applicant has blocked off a door between the existing kitchen and bedroom, and has installed a stove and sink creating two dwelling units. Currently the applicant rents one of the homes and the applicant's daughter resides in the second home. The applicant states due to her financial obligations it is necessary that she rent her home. The applicant also states that she feels obligated to her daughter to provide her a place to live, the applicant's daughter is a full time student with only a part time job.

Recommendation: Staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at 0.75 acres per dwelling unit. The decision of the LCDRC was to recommend approval of a variance to allow a duplex on .816 acres subject to the following conditions. Mr. Chairman, may I enter those conditions into the record?

[The conditions are as follows:]

1. Water use shall be restricted to .25 acre-feet per dwelling . The applicant shall install water meters for both homes. Annual water meter readings shall be submitted to the County Hydrologist by June 30th of each year.
2. The applicant shall submit a revised Environmental Liquid Waste Permit showing correct lot size, and correct number of bedroom and bathrooms for the two dwelling units.
3. No additional dwellings to be placed on the property.

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4. The existing driveway will serve both homes.
5. The applicant must follow all other building permit regulations including construction of a retention/detention pond.
6. Failure to comply with all conditions shall result in administrative revocation of the variance.

CHAIRMAN DURAN: So Wayne, the applicant will live on this property with her daughter in the other one?

MR. DALTON: Mr. Chairman, currently, the applicant is renting this out. I believe she's renting one of the homes to I think some of her daughter's friends, and her daughter resides in the second home.

CHAIRMAN DURAN: Any questions of Wayne? Is the applicant here? Would you please step forward and let the clerk swear you in please.

[Duly sworn, Bonnie Anderson testified as follows:]

BONNIE ANDERSON: Bonnie Anderson. I'm living now in Abiqui, Post Office Box 629.

CHAIRMAN DURAN: Do you have anything to add to Wayne's testimony?

MS. ANDERSON: Five years ago there was a divorce and my property in La Cienega was divided with 2.5 acres going to my ex-husband and the .816 acres and the house staying with me. I lived in the house with my daughter and then my financial obligations, as a result of the divorce and now in preparation for my retirement from my job in two years, put me in a situation where I had to rent the house in order to take care of debt now and in two years to help to support myself. When I retire my salary will be half what it is now. And I'm also hoping to keep for my family, for my six children, part of our family home. We lived there for 25 years and built all of that.

CHAIRMAN DURAN: Would you be opposed to a requirement that it could remain a duplex provided that someone in your family resided on the property? Can we do something like that?

MR. KOPELMAN: Mr. Chairman, it's probably not the most prudent course to take.

CHAIRMAN DURAN: But it's innovative though.

MR. KOPELMAN: Mr. Chairman, it is innovative. Mr. Chairman, I'm not sure that that condition would be upheld by a court down the road, to be honest with you.

CHAIRMAN DURAN: It all depends on who the judge was. Okay, any questions of the applicant? Do you have anything else to say?

MS. ANDERSON: Well, there were restrictions placed on this division to a duplex by the La Cienega Development Committee. Having the septic system reviewed and having a meter put on both the units, and I've done both of those things and have a plan for upgrading the septic system.

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CHAIRMAN DURAN: Okay. Thank you very much. This is a public hearing. Is there anyone out there that would like to speak for or against this proposal? What's the pleasure of the Board?

COMMISSIONER TRUJILLO: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER TRUJILLO: Move for approval of Case #01-5160, Bonnie Anderson Variance, with the conditions from staff and the La Cienega Local Development Review Committee.

CHAIRMAN DURAN: I second that. Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: If you approve this, it's permanent, I would think. It's for all time.

CHAIRMAN DURAN: Yes, it is. And the community that she resides in approved it.

COMMISSIONER CAMPOS: Would it be wise to do a short term?

CHAIRMAN DURAN: Well, there's already a motion on the table. Are you asking to amend that motion?

COMMISSIONER CAMPOS: Yes.

CHAIRMAN DURAN: And what is your amendment?

COMMISSIONER CAMPOS: To just maybe a five-year period.

COMMISSIONER TRUJILLO: Are you amiable with a time period? Five, six, seven—as long as your daughter needs—

MS. ANDERSON: Well, it won't—I mean my daughter's not going to live there permanently. I will probably use that from time to time when she moves away or other members of my family may use it. I wouldn't want to have to restrict it to my 23-year old daughter staying there. I'm hoping some day she'll move.

COMMISSIONER TRUJILLO: But the restriction could be on family members. It does have to be on just your daughter.

MS. ANDERSON: And at the end of six or seven years, then what happens? I have to go through all of this again if there would be a change?

CHAIRMAN DURAN: It becomes one unit, or you come back and ask for an extension.

MS. ANDERSON: I would be agreeable to that. I would be agreeable to that if that's the only way it could happen.

COMMISSIONER TRUJILLO: Okay.

CHAIRMAN DURAN: So, you want to say seven?

COMMISSIONER TRUJILLO: Seven years.

MS. ANDERSON: I would be agreeable to that.

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CHAIRMAN DURAN: So your motion is for seven?

COMMISSIONER TRUJILLO: Seven years.

CHAIRMAN DURAN: I'll accept that as an amendment. Those in favor signify by saying "aye." [Commissioners Trujillo, Duran and Sullivan voted aye.] Opposed? [Commissioner Campos voted nay.] Motion carries. [Commissioners Gonzales and Sullivan were not present for this action.]

- X. B. 6. **CDRC CASE #Z 01-5230: Solitaire Manufacture Home Sales Lot. Solitaire Homes, applicant, Steve Crawford, agent, requests master plan zoning and preliminary and final development plan approval for a manufactured home retail sales outlet on 3.17 acres. The property is located east of US 285, north of County Road 88 in the traditional community of Arroyo Seco, within Section 18, Township 20 North, Range 9 East**

COMMISSIONER TRUJILLO: Penny, just a question before you start. Since when has Arroyo Seco been recognized as a traditional community?

PENNY ELLIS-GREEN (Review Specialist): Mr. Chairman, Commissioner Trujillo, it's on our maps identified as a traditional community.

COMMISSIONER TRUJILLO: Really? It doesn't meet the criteria, 75 years of continuous existence.

MS. ELLIS-GREEN: I believe it's listed in the ordinance as a traditional community and there's the traditional community designation on all our land use maps.

MR. ABEYTA: Mr. Chairman, Commissioner Trujillo, we've—the Code has always recognized it as a traditional community since '81.

COMMISSIONER TRUJILLO: Even though it doesn't satisfy the criteria?

MR. ABEYTA: I guess so.

CHAIRMAN DURAN: Okay, Penny.

MS. ELLIS-GREEN: Mr. Chairman, Commissioners, on August 2, 2001, the CDRC met and acted upon this case. The applicant is requesting master plan and development plan approval for a manufactured home sales outlet. A modular building will be utilized as an office building, seven homes will be displayed on the property. The property is located within an existing community center commercial district at the US 285/CR 88 intersection. Approximately 16 acres of land is currently utilized for commercial uses within this district. The Code allows for up to 80 acres to be developed for commercial uses within this type of district.

Recommendation: The decision of the CDRC was to recommend master plan zoning and preliminary and final development plan approval subject to the following 14

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conditions. And Mr. Chairman, may I enter them into the record?

[The conditions are as follows:]

1. All redline comments will be addressed. The drainage and grading plan is to be approved by the Development Review Division Director, and original redlines will be returned.
2. Access from County Road 88 is not permitted; all access to this development shall be from Gunbarrel Road. The applicant shall improve Gunbarrel Road to a 24-foot width with 6 inches of basecourse and 3 inches of asphalt from County Road 88 to the driveway, to be approved by the Public Works Department.
3. The first 100 linear feet of the driveway shall be a maximum of 3 percent grade.
4. Water use shall be restricted to 0.25 acre-feet per year. Water restriction covenants shall be recorded with the master plan. The applicant shall install a water meter on the well, annual meter readings shall be sent to the County Hydrologist by July 31st each year.
5. Final placement of the fire hydrant shall be coordinated with the County Fire Marshal prior to installation. Fire hydrants shall be in place, operable, tested, and approved prior to the office building or display homes being brought on site.
6. The applicant shall construct a basecourse driving surface between the two rows of display homes, to meet local road standards.
7. A maximum of seven display homes are permitted on this property at a time. All homes shall be setback a minimum of 25 feet from other structures. This shall be noted on the master plan.
8. A Knox Box is required on all gates.
9. All parking must be defined.
10. All lighting must be shielded. The applicant shall submit cut sheets for all outside lighting.
11. The Development plan must be recorded with the County Clerk.
12. Compliance with the applicable review comments from the following:
 - a. State Engineer's Office
 - b. State Environment Department
 - c. State Highway Department
 - d. County Development Review Division Director
 - e. County Fire Marshal
 - f. County Public Works
13. The applicant shall submit a financial guarantee, in an amount approved by the County, for all improvements including fire protection, liquid waste system improvements, roads, parking, drainage improvements, retention ponding, and landscaping prior to grading or construction permit issuance. The financial guarantee for landscaping and revegetation will be kept until the plantings have taken, for a minimum of one year.
14. The leachfield shall not be located within a driving surface.

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CHAIRMAN DURAN: I have a question. Is there anything in here about maximum lot coverage?

MS. ELLIS-GREEN: Maximum lot coverage would be 30 percent in this district.

CHAIRMAN DURAN: Let me tell you—my concern is that we have one of these out as you come into town and it's like on a three-acre piece, and you can't even see any dirt underneath all of them.

MS. ELLIS-GREEN: Mr. Chairman, I believe the lot coverage is approximately ten percent in the proposal. They are restricted to no more than seven homes being displayed at one time.

CHAIRMAN DURAN: Okay. Thank you.

COMMISSIONER TRUJILLO: Penny, what is the access to this property?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, originally, the applicant had proposed direct access from County Road 88. That was not recommended by the Public Works Department and the applicant has now agreed to use Gunbarrel Road. So they will pave from Gunbarrel Road, or from the intersection of Gunbarrel and County Road 88 back to their intersection and then have direct access off of Gunbarrel Road.

COMMISSIONER TRUJILLO: Is that a County Road, Gunbarrel Road? I don't think so.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, I believe it's got a County Road emblem on it.

COMMISSIONER TRUJILLO: Okay. Help me orient myself here. Is that right at the intersection of 285 and 88?

MS. ELLIS-GREEN: That's right. You would turn on to County Road 88 and it would be the first intersection on your left.

COMMISSIONER TRUJILLO: On your left. Okay. One more question, Mr. Chairman. What is the feeling of the community regarding this project?

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, I haven't received any letters for this project. I received several telephone calls of members of the public who had been told there would be a mobile home park there, but when I explained the project, they didn't seem concerned at that point.

COMMISSIONER TRUJILLO: Because I know that right next to this property, I guess potentially there's going to be a restaurant.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, we have had preliminary discussions with someone who wants to do a restaurant, I believe on this tract, which is a little closer to 285 and County Road 88, that intersection, but no application has been made as of yet.

COMMISSIONER TRUJILLO: Okay. Thank you.

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COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner. Questions of Penny.

COMMISSIONER CAMPOS: Ms. Ellis, I don't see a staff recommendation. Usually you do have one.

MS. ELLIS-GREEN: Mr. Chairman, staff made a recommendation of approval to the CDRC and then the recommendation that comes to the Board is the CDRC's recommendation. We usually include staff's recommendation if it's contrary to CDRC's recommendation.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Penny, and this is true of I think all of these that we have conditions on where we restrict the water usage to .25 acre-feet per year and the County Hydrologist receives a report. What happens if the usage is greater than .25 acre-feet per year.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Sullivan, this application will need to be—the well will need to be metered and water meter reports will be sent to the Hydrologist. This application has not proved a 100-year water supply. The Code states if you use more than a quarter acre-foot, you must prove a 100-year water supply. So if they use more than a quarter acre-foot of water, at that point they would not be in compliance with their conditions and at that point we'd need to contact the applicant and they would have the right to either cut back their water use or at that point prove adequate water supply, prove they had more than a quarter acre-foot.

The County Hydrologist did review the water budget. I believe there's one or two employees on this property and she agreed that it would come in below a quarter acre-foot.

COMMISSIONER SULLIVAN: So we don't have any provisions for any of these for any kind of enforcement other than requesting the applicant to—so Steve, is there anything in our Code, any enforcement power or any penalties that we've established when any of these applicants exceeds the .25 acre-feet?

MR. KOPELMAN: Mr. Chairman, we have the metering requirement and so we can monitor that, although as a practical matter, we don't really have the staff to do that. And the answer is yes, we would have some enforcement power. It's a binding covenant. And the question is what is the enforcement mechanism and I guess that's a good question, because we've never been in that situation that we've actually come back in. I guess arguably, we would probably be able to get an injunction to prevent them from using more that what was allocated, but again, I don't think we have the personnel really to be monitoring that on a regular basis. We haven't to date.

COMMISSIONER SULLIVAN: Probably, we ought to look at this perhaps in the future. It just comes up here so I bring it up here but we have only then requiring this .25 and at least the reports to the Hydrologist within the last year or so. The reports

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the Hydrologist have only been fairly recent. So I'm wondering now as the Hydrologist starts to get these reports and she begins to see discrepancies in the usage, what is her next step?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, she's putting together a program now, because like you said, she has been putting this on and she's starting to get meter readings in now. I believe in initial conversations with her, she'll notify the property owner first, let them know that there's a problem, remind them of their water restriction, and then probably give them a period of time, make them submit another report quarterly. Compare that with last year's quarterly and see if they are reducing their water use.

If they're not then we'll either notify them again or we have our notice of violation process and we probably treat it like any other violation where we give them a notice of violation. Then, if we have to, if they still don't come into compliance, we would cite them into magistrate court and let the court know that they're in violation of their approval.

COMMISSIONER SULLIVAN: Okay. So if there any need, in your judgement, for any ordinances or any action on the part of the Commission to sustain this?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, like I said, she's putting together a program now and I will suggest to her that we explore that and that we bring something forward to the Board to adopt officially.

COMMISSIONER SULLIVAN: Okay, I recall reading in this one that they weren't all that close to .25 acre-feet. It wasn't a super-big issue here, provided they did what they planned to do, but I'm glad to see that something's coming forward on that because I see issues on the Eldorado situation, on the Village at Eldorado if they exceed three acre-feet. I see these coming in and we need a routine mechanism. Thank you, Mr. Chairman.

COMMISSIONER TRUJILLO: Mr. Chairman, one more question regarding traffic. This project, if I'm oriented directly is closer to a residential area. To the northeast, there's a residential area there, and then the teen center is going up. So there's going to be an extensive amount of traffic going through this road. What do the traffic studies say? And then there's a major intersection there on 88 and 285, so the road itself is not in very good shape to accommodate this extensive increase in traffic potentially with this business there. And then the restaurant, and then the community, and then the teen center.

MS. ELLIS-GREEN: Mr. Chairman, Commissioner Trujillo, in this immediate area there have been some road improvements done as part of the traffic lights. But the Public Works Department did review the traffic analysis and the analysis shows that for this project it will be pretty low use. Their recommendation is that Gunbarrel Road be utilized. The teen center is a little ways further up the road and the residential uses, some of them access off of smaller roads from 285 and there are a few residences that access off of Gunbarrel Road north of this property and east of this property.

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CHAIRMAN DURAN: Okay, is the applicant here? Please come forward. Let the Clerk swear you in and state your name and address for the record.

[Duly sworn, Steve Crawford testified as follows:]

STEVE CRAWFORD: My name is Steve Crawford. My company is called Crawford Development Services and the address is 3634 Highway 47 in Peralta, 87042. The staff report has been pretty thorough on this project. We've had a lot of discussion at the CDRC meeting. The driveway was the big issue. We agreed to move the driveway over onto Gunbarrel Road. When they created this lot a number of years ago it was addressed as #1 Gunbarrel Road. The County Public Works folks back then made the decision that they wanted the access for this parcel off of Gunbarrel Road.

The nature of this business, and the nature of the approval that we're asking for this evening is a site-specific approval for a manufactured home sales center, and it's for the Solitaire Dealership. Just as a point of reference, the amount of traffic—you asked the question, Commissioner Trujillo, about traffic. There are one or two employees as Penny stated, and the number of customers that Solitaire gets in a given month—they currently own three stores, Mr. Sulima does, and he gets about 150 inquiries or drop-ins at his three stores every month. If he were to get 100 inquiries in a month, which would be three people per day at this store, he would unbelievably happy.

So the number of clients that come to this center is going to be fairly minimal. It's not open in the morning. When you look at traffic studies, you look at the am commute period and the pm peak period. During the morning this shop is not open. You don't sell manufactured homes at 8:30 or 9:00 in the morning. In the evening peak hours the employees are there. They're not necessarily commuting between 5:00 and 6:00 but rather the one or two employees arrived at 3:00 or 4:00 for work and it's their job to man the sales center until about 7:00 or 8:00 or 9:00 at night when they shut down.

During that time period, on a very good day, like a Friday night, they might get five or six customers come in. So the number of car trips associated with this is very minimal. You asked about residential traffic, there are a few residences north on Gunbarrel Road. When you go east on County Road 88, that's the back way to Santa Cruz, the community of Santa Cruz, there's a little bit of traffic. We counted, my office did the traffic study, counted the traffic and it's in the traffic study. There's not a great deal of traffic just in my expert opinion as a traffic engineer that does a lot of these type of studies. Not a lot of traffic today on County Road 88.

The State Highway Department put in that traffic signal and improved the paving back almost to Gunbarrel Road as part of that intersection construction. The Highway Department had internal projections for a growth rate for this intersection and in my opinion those growth rates were astronomical. Like they're implying that in the next 20 years, the traffic at this intersection will be 2 ½ to 3 times. That exceeds the normal background growth rate of your community if you look at the census data and the

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projections for growth in the county at large, by a factor of say three or four times. I used that accelerated growth projection in the traffic study to predict traffic 20 years into the future here and combine our traffic with it and even 20 years into the future with a substantially increased background traffic, we still don't have any congestion to speak of for our traffic coming and going.

CHAIRMAN DURAN: Mr. Crawford, are you in agreement with all of staff's recommendations?

MR. CRAWFORD: Yes, we are.

CHAIRMAN DURAN: Do you have any questions of Mr. Crawford?

COMMISSIONER TRUJILLO: Mr. Chairman, how many pre-fab homes are going to be situated on the site at any given time?

MR. CRAWFORD: Mr. Chairman, Commissioner, the maximum number of display homes, and we use that word display homes like it's our merchandise on display, is seven. So there's the office building, which is itself a modular building, and then seven display homes. So a maximum of eight structures, one permanent, the office building, and seven at most at one time for display. So I think you're not going to be experiencing that clustering where it makes it to where you can't see any dirt. And we have a fairly large bit of landscaping on the front that's going to help soften the effect.

COMMISSIONER TRUJILLO: So you won't have any traffic of pre-fab homes going in and out of the property? Those are just show homes?

MR. CRAWFORD: Those are display homes, yes sir. And the customers have a choice, and when you buy from Solitaire you have a choice. You could buy this actual home, or you could order, based on what you see, a home from the factory. Solitaire gets relatively, compared to other dealerships, not compared to themselves, but they get relatively more orders out of the factory. The expected number of houses that get sold, again, my client, if he sells three or four homes a month—let's assume that every single one of them moves off this lot and none of them come from the factory, if he sells three or four homes in a month, he's going to be a very happy individual. They just don't sell. It's not like you have a super sale on Saturday and you sell all seven. It doesn't work that way for manufactured homes and in particular not for Solitaire brand. So the number of houses coming and going, the essence of your question is, maybe one a week, if things are going really good, one of these homes might be changing out each week.

CHAIRMAN DURAN: Great. It's a public hearing. Is there anyone out there that would like to speak for or against this proposal? If not, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman, move for approval, subject to the staff conditions.

COMMISSIONER CAMPOS: Second.

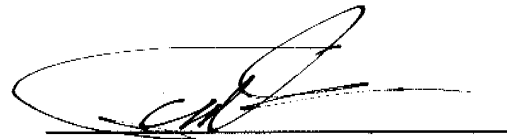
CHAIRMAN DURAN: Okay, there's a motion and a second. Any further discussion? Those in favor signify by saying "aye." [Unanimous] Opposed? Motion carries. [Commissioner Gonzales was not present for this action.]

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ADJOURNMENT

There being no further action to come before this Commission, Chairman Duran declared this meeting adjourned at approximately 9:45 p.m.

Approved by:

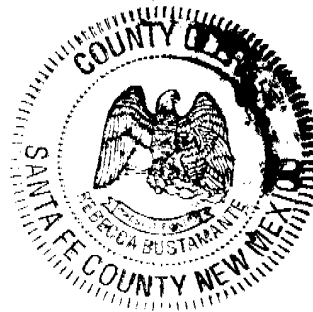

Board of County Commissioners
Paul Duran, Chairman

Respectfully submitted:

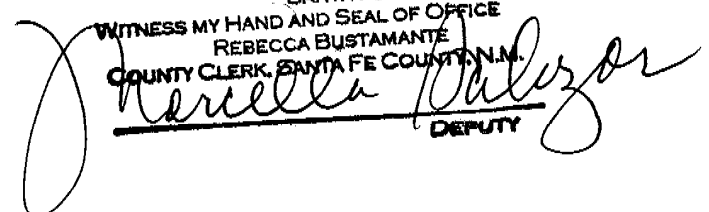

Karen Farrell, Commission Reporter

ATTEST TO:

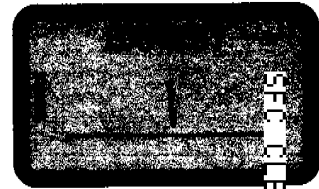

REBECCA BUSTAMANTE
SANTA FE COUNTY CLERK



1177 698
COUNTY OF SANTA FE } ss
STATE OF NEW MEXICO
I HEREBY CERTIFY THAT THIS INSTRUMENT WAS FILED
FOR RECORD ON THE 24 DAY OF Oct A.D.
20 01 AT 10:38 O'CLOCK a M
AND WAS DULY RECORDED IN BOOK 1996
PAGE 365-475 OF THE RECORDS OF
SANTA FE COUNTY

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

DEPUTY

Memorandum



SECRET
RECORDING 08/16/2004

To: Samuel Montoya **1996459**
Santa Fe County Manager's Office

Through: Steve Shepherd
Santa Fe County Indigent Fund

CC: John Lucas, M.D. CEO/President
St. Vincent Hospital

From: Arturo Gonzales, Ph.D.
Vice-President Community Services

Date: 9/17/01

Re: Sole Community Provider Supplemental Funding for FY-2002

St. Vincent Hospital is in accord with the Memorandum of September 6, 2001 prepared for you by Steve Shepherd, Director Santa Fe County Indigent Fund re: Sole Community Provider Supplemental Funding for FY-2002. Specifically, we agree to:

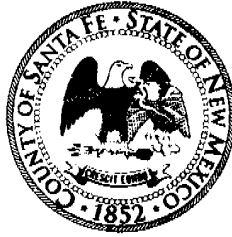
- Amend the existing MOA to allow for the additional payment of \$103,300 and applicable gross receipt taxes to the Santa Fe County Indigent Fund for the payment of Primary Care expenses.
- Work with Santa Fe County Administration in the allocation of supplemental funding resources toward assuring access to the following services by Santa Fe County Residents.
 - Pojoaque Wellness Center
 - Mammograms
 - Dialysis Assistance
 - Smoking Cessation
 - Increase the clinic health care support category and outreach coordination.

We look forward to working with you and County Staff on implementation of the supplemental funding within the Memorandum of Agreement for FY 2002.

Marcos P. Trujillo
Commissioner, District 1

Paul Duran
Commissioner, District 2

Javier M. Gonzales
Commissioner, District 3



Paul Campos
Commissioner, District 4

Jack Sullivan
Commissioner, District 5

Samuel O. Montoya
County Manager

Indigent Healthcare

1996460

Memorandum

To : Santa Fe County Commissioner's

Through : Samuel O. Montoya
Santa Fe County Manager's Office

From : Robert A. Anaya
Community Health & Economic Development

Date : September 10, 2001

Subject : Sole Community Provider Supplemental Funding for FY-2002.

Issue:

The State Human Services Department's (HSD) Medical Assistance Division confirmed last week that there is a total of \$ 3,775,681 of supplemental Sole Community Hospital Provider (SCP) funding available statewide. \$ 394,019 is available for St. Vincent Hospital. Santa Fe County's contribution will be \$ 103,233 if the County participates.

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.

Usually, SCP supplemental funding is distributed in the same way the base amount is. The County would be given the opportunity to commit a certain amount to each of the four (4) SCP Hospitals it supports. Those hospitals are Espanola, Holy Cross (Taos), Los Alamos Medical Center, and St. Vincent. This year, since the total available amount is small, HSD assigned each county one hospital. We were assigned St. Vincent Hospital.

I have attached the following information for your review:

- 1) A copy of the notification letter from HSD (I still have not received the original.).
- 2) Copies of HSD spreadsheets detailing statewide SCP Program base and supplemental distributions for FY-2002.
- 3) A spreadsheet detailing Santa Fe County SCP distributions for FY-2001 and 2002.

1996461

Recommendation:

Staff requests authority to:

- 1) Negotiate Amendment #2 in order to increase the existing Memorandum of Agreement with St. Vincent Hospital by \$ 103,233, plus applicable gross receipts taxes, and additional healthcare services for Santa Fe County residents. Monthly payments will be credited to the Santa Fe County Indigent Fund for providing indigent primary care and alcohol and/or substance abuse to Santa Fe County residents.
- 2) Utilize \$ 103,233 of the Indigent Fund Contingency line item to pay the match.

**MEDICAL ASSISTANCE DIVISION
FISCAL MANAGEMENT BUREAU**

1996462

August 28, 2001

Stephen Shepherd, Indigent Care Administrator
Santa Fe County
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 allocated in your county is \$394,019.00. The state share that is due from your county is \$103,233.00. **This amount is due no later than September 15, 2001** as the supplemental payment amount must be paid out by the end of the federal fiscal year (September 30, 2001).

Should you have any questions regarding the amount due, please call me at (505) 827-3127.

Sincerely,

COPY

Anna L. Chavez
Fiscal Management Bureau

Provider Number	CHAVES	CIBOLA	COLFAX	CURRY	DEBACA	DONAANA	EDDY	GRANT	GUADALUPE HIDALGO	LEA	LINCOLN	LOS ALAMOS	LUNA
83279							221,633.00						
00729		1,527,011.00					780,151.00						
83186							8,375.00						
00646	4,450,526.00												
82978								2,858,158.00					
00265													
00016													
00570													
80633									112,780.00				24,918.00
00760													
83139			25,243.00										
00621										1,201,133.00			
00406											1,022,993.00		
82955												20,206.00	
82113									13,472.00				55,000.00
00663									18,166.00				709,803.00
76546			244,831.00										
00224				1,049,936.00									
00331													
PROVIDER# PENDING													
00259													
00216													
00695													
00547													
82253													51,728.00
TOTAL	4,450,526	1,527,011	270,074	1,049,936	0	9,912,668	1,010,169	2,892,806	112,760	72,640	1,201,133	1,022,993	71,934
													789,721
State Share	231,503	100,019	17,690	66,771	0	649,280	66,166	189,479	7,386	4,758	78,674	67,006	4,712
26.20%	299,965	102,921	18,203	70,766	0	668,114	68,085	194,975	7,600	4,896	80,956	68,950	4,848
26.86%	299,965	102,921	18,203	70,766	0	668,114	68,085	194,975	7,600	4,896	80,956	68,950	4,848
26.96%	299,965	102,921	18,203	70,766	0	668,114	68,085	194,975	7,600	4,896	80,956	68,950	4,848
26.96%	1,191,466	408,761	72,299	281,068	0	2,653,621	270,422	774,404	30,186	19,446	321,543	273,855	19,257
State Share Dist. By County													
Federal Match	3,258,120	1,118,230	197,775	768,868	0	7,259,047	739,747	2,118,402	82,574	53,194	879,590	749,138	52,677
Total	4,450,526	1,527,011	270,074	1,049,936	0	9,912,668	1,010,169	2,892,806	112,760	72,640	1,201,133	1,022,993	71,934

1996463

(2)(a)

SFC CLERK RECORDING 08/16/2004

Sole Community Supplemental Distribution

1996465

<u>Privately Owned and Operated Facilities</u>		<u>County</u>	<u>% of Distribution</u>	<u>Amount Per County</u>	<u>Total Per Hospital</u>
<u>Provider #</u>	<u>Hospital</u>				
B-3186	Carlsbad Med Ctr.	Eddy	100.00%	\$ 6,147.00	\$ 23,461.00
B-2978	Eastern NIM Med. Ctr.	Chaves	100.00%	\$ 35,135.00	\$ 134,090.00
265	Espanola	Rio Arriba	100.00%	\$ 16,002.00	\$ 61,075.00
18	Gerald Champion	Otero	100.00%	\$ 8,667.00	\$ 33,080.00
B-3139	Lea Regional Hospital	Lea	100.00%	\$ 9,464.00	\$ 36,121.00
406	Los Alamos Med. Ctr.	Los Alamos	100.00%	\$ 1,398.00	\$ 5,335.00
B-2113	Mimbres Memorial Hospital	Luna	100.00%	\$ 5,736.00	\$ 21,892.00
76546	Northeastern Reg. Hospital	San Miguel	100.00%	\$ 5,586.00	\$ 21,322.00
224	Plains Regional Med Ctr. - Clovis	Curry	100.00%	\$ 8,800.00	\$ 33,589.00
695	Socorro General Hospital	Socorro	100.00%	\$ 6,289.00	\$ 24,005.00
547	St. Vincent Hospital	Santa Fe	100.00%	\$ 103,233.00	\$ 394,019.00
Government Owned/Operated Facilities					
B-3279	Artesia General Hospital	Eddy	100.00%	\$ 6,521.00	\$ 24,888.00
729	Cibola General Hospital	Cibola	100.00%	\$ 44,925.00	\$ 171,471.00
646	Dan C. Trigg	Quay	100.00%	\$ 19,427.00	\$ 74,148.00
570	Gila Regional	Grant	100.00%	\$ 85,439.00	\$ 326,104.00
B-5391	Guadalupe County	Guadalupe	100.00%	\$ 3,317.00	\$ 12,662.00

Sole Community Supplemental Distribution

1996466

760 Holy Cross Hospital	Taos	100.00%	\$	55,260.00	\$	210,917.00
521 Lincoln County Medical Center	Lincoln	100.00%	\$	30,097.00	\$	114,874.00
B-2955 Memorial Medical Center	Dona Ana	100.00%	\$	296,544.00	\$	1,131,849.00
331 Rehoboth McKinley Christian Hospital	McKinley	100.00%	\$	52,660.00	\$	200,991.00
299 San Juan Regional Medical Center	San Juan	100.00%	\$	137,415.00	\$	524,486.00
216 Sierra Vista Hospital	Sierra	100.00%	\$	21,784.00	\$	83,145.00
B-2253 Union County General Hospital	Union	100.00%	\$	16,870.00	\$	64,389.00
Roosevelt General	Roosevelt	100.00%	\$	11,768.00	\$	44,917.00
968 Miners Colfax Medical Center	Colfax	100.00%	\$	747.00	\$	2,851.00
Total State Share			\$	989,231.00	\$	3,775,681.00

996467

Santa Fe County				09/10/01
Sole Community Hospital Funding				
FY-2001 Base				
Hospital Name	SF County Match	NM HSD Contribution	Total Additional Funds	
Espanola Hospital	39,420.00	110,347.00	149,767.00	
Holy Cross Hospital	1,985.00	5,554.00	7,539.00	
Los Alamos Hospital	10,803.00	30,240.00	41,043.00	
St. Vincent's Hospital	1,178,857.00	3,299,898.00	4,478,755.00	
Totals	1,231,065.00	3,446,039.00	4,677,104.00	

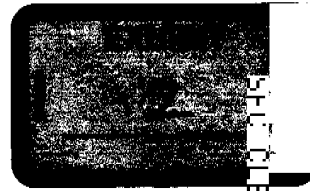
FY-2001 Supplemental				
Hospital Name	SF County Match	NM HSD Contribution	Total Additional Funds	
Espanola Hospital	66,010.00	180,828.00	246,838.00	
Holy Cross Hospital	3,322.00	9,100.00	12,422.00	
Los Alamos Hospital	18,089.00	49,553.00	67,642.00	
St. Vincent's Hospital	1,974,025.00	5,407,641.00	7,381,666.00	
Totals	2,061,446.00	5,647,122.00	7,708,568.00	

FY-2001 Total SCP Funding				
Hospital Name	SF County Match	NM HSD Contribution	Total Additional Funds	
Espanola Hospital	105,430.00	291,175.00	396,605.00	
Holy Cross Hospital	5,307.00	14,654.00	19,961.00	
Los Alamos Hospital	28,892.00	79,793.00	108,685.00	
St. Vincent's Hospital	3,152,882.00	8,707,539.00	11,860,421.00	
Totals	3,292,511.00	9,093,161.00	12,385,672.00	

Santa Fe County				09/10/01
Sole Community Hospital Funding				
FY-2002 Base				
Hospital Name	SF County Match	NM HSD Contribution	Total Additional Funds	
Espanola Hospital	95,831.00	262,149.00	357,980.00	
Holy Cross Hospital	5,541.00	15,159.00	20,700.00	
Los Alamos Hospital	10,730.00	29,351.00	40,081.00	
St. Vincent's Hospital	3,291,896.00	9,005,061.00	12,296,957.00	
Totals	3,403,998.00	9,311,720.00	12,715,718.00	

FY-2002 Supplemental				
Hospital Name	SF County Match	NM HSD Contribution	Total Additional Funds	
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	103,233.00	290,785.00	394,018.00	
Totals	103,233.00	290,785.00	394,018.00	

FY-2002 Total SCP Funding				
Hospital Name	SF County Match	NM HSD Contribution	Total Additional Funds	
Espanola Hospital	95,831.00	262,149.00	357,980.00	
Holy Cross Hospital	5,541.00	15,159.00	20,700.00	
Los Alamos Hospital	10,730.00	29,351.00	40,081.00	
St. Vincent's Hospital	3,395,129.00	9,295,846.00	12,690,975.00	
Totals	3,507,231.00	9,602,505.00	13,109,736.00	



MERRICK RECORDING 08/16/2004

September 10, 2001

Vicki Lucero
Development Review Specialist
Santa Fe County Land Use Department
Santa Fe County
P.O. Box 276
Santa Fe, NM 87504-0276

1996468

Re: Puesta del Sol Comments on the Proposed Tierra Grande Subdivision

Dear Ms. Lucero,

As a representative of Puesta del Sol Property Owners Association (PdS), I have been in contact with Alan Hoffman of Land Ventures, LLC and their engineer Oralynn Guerrerortiz concerning the proposed 16 lot subdivision (Tierra Grande). PdS was very interested in the progress of the subdivision because of our proximity and orientation to the subdivision, and because of the potential for negative traffic impact. PdS did not participate in the CDRC or EZC hearing because the notification signs were either on private property, or were placed several miles from PdS on Los Suenos Trail and therefore none of our members were aware of the proceedings.

I met with Mr. Hoffman and Ms. Guerrerortiz on 8/24/01 at the site to discuss our concerns. In subsequent contact, several additional items were discussed. The following list contains our concerns and the resolutions to which we reached agreement. PdS requests that these agreements be adopted as conditions of approval for the subdivision:

1. A primary concern is that the "emergency" access easement could be used to circumvent the intent of the ARTF ordinance by becoming a de facto arterial route through PdS because the route is much shorter than the proposed primary access through Los Suenos trail. We viewed the possibility of this and other new subdivisions in the area and any attendant construction traffic as an unacceptable outcome. In our discussions, Mr. Hoffman shared our concern and agreed to assure that the easement would never be used for public access. He committed to wording in the Plat Dedication, the Development Plan and the construction notes that should eliminate our concern. The proposed additions are:
 - a. Language to be added to the Tierra Grande Plat Dedication: Tierra Grande Road is a private access and utility easement dedicated to public use. The emergency access is to be gated and locked and shall not be for public access. The trails shown are dedicated for public use as pedestrian, bicycle and equestrian easements. All other easements are as shown.
 - b. Language to be added the Tierra Grande Development Plan: Tierra Grande Road is a private access and utility easement dedicated for public use. The emergency access it to be gated and have a Knox lock. At no time shall construction vehicles use this road. Public motorized vehicles may only use the emergency access during emergency situations. The trails shown are dedicated for public use as pedestrian, bicycle and equestrian easements. All other easements are as shown.

1996469

SFC CLERK RECORDING 08/16/2004

- c. Language to added to the Tierra Grande Construction Notes: At no time shall vehicles or machinery used for construction or development, or contractor vehicles use this road.

PdS appreciates the good faith from the developer concerning this item. We are pleased with the commitments made and urge the county to accept this as a requirement. One small addition is that Mr. Hoffman, or another Land Ventures LLC officer, accept the responsibility for managing the lock and keys and schedule turnover of the responsibility to an officer of the future homeowners association for the subdivision. This will help PdS contact the appropriate person in case the lock has been cut or stolen.

Also, PdS requested Mr. Hoffman to vacate his easement through PdS upon the ability to connect to Los Suenos trail when the Archdiocese land between the development and PdS is eventually developed. This position should be consistent with the County's insistence that when the future subdivision is proposed that no connections through PdS be allowed. At that time, PdS will request that all individuals with easement rights through PdS on this alignment also vacate in favor of the connection through the Tierra Grande Emergency gate to the Los Suenos connection or a more direct solution to Los Suenos or La Vida Trail.

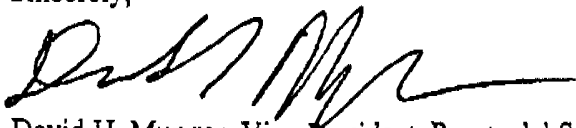
2. PdS had questions concerning trail easements. Upon review of the plans PdS suggested an additional trails easement on the West side of the subdivision. Mr. Hoffman agreed that the additional easement was appropriate and committed to the trail easement addition such that the subdivision connects to existing trails on all four sides of the subdivision. PdS has no additional concerns about trails and trail access.
3. PdS had some concerns about the height restrictions for the subdivision. Our concerns stem from very negative impacts from inadequate architectural controls in recent area development, and because the proposed subdivision is located across the Frijoles Arroyo from PdS and because the topography will tend to expose massive building profiles not consistent with area construction if building heights are not controlled adequately. In our meeting at the site, Mr. Hoffman agreed to place height limits on building sites with negative exposure impacts and he asked PdS to identify high impact lots. Our recommendation is that lot number 2, 3, 4, 5, 6, 7, 8, 9, 10, 13 and 14 all have potential for excessive negative impact either because of ridgeline location, or down slope (towards PdS) orientation. PdS requests that these lots conform to the lowest proposed building height limit. At our meeting, Mr. Hoffman stated the covenants would set a 15 feet maximum for high impact lots. PdS would prefer a height restriction closer to the EZO mountain area limit of 14 feet (the PdS limit is 13 feet maximum). PdS requests that a maximum 15 foot limit for the 11 lots identified above be included in the conditions for approval.

1996470

4. We reviewed the proposed restrictive covenants and found them to address many of our other concerns:
 - a. Section 7 on lighting exceeds the county's restrictions and appears to be very compatible with protecting the area's current enjoyment of night skies. Additionally, the developer has committed to not employing street lighting, which is consistent with the area practice.
 - b. Section 6 on exteriors is consistent with area practice of neutral or earth tones and non-reflective materials.
 - c. The Water Conservation and Environmental Protection is sufficiently inclusive of typical concerns of the existing neighborhoods.
5. Our understanding is that the subdivision will be required to connect to city/county water when it becomes available and/or when the water main passes within 200 feet of the subdivision boundary.

Overall, the proposed subdivision is compatible with the general development in the immediate area, including PdS. We appreciate Mr. Hoffman's cooperative approach. PdS is not in opposition to the proposed development providing the commitments made by the developer are adopted as conditions for approval by the BCC.

Sincerely,



David H. Munger, Vice-President, Puesta del Sol Property Owners Association
69 Camino Peralta
Santa Fe, NM 87507

505/471-4902

cc: Alan Hoffman
Oralynn Guerrerortiz

1996471

Re: LCDRC Case #A/V 01-5160
September 8, 2001

Wayne Dalton
Development Review Specialist
Santa Fe County Land
Development Department
P. O. Box 276
Santa Fe, New Mexico 87504-0276

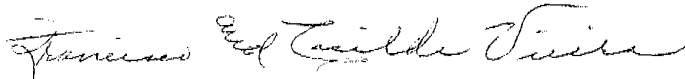
Dear Mr. Dalton:

It is our understanding that Bonnie Anderson has complied with all requirements set forth by the Land Use Department in the building of the duplex and now the forthcoming approval of the design and installation of the new septic tank system.

Our friend, Ms. Anderson, has spent much time and money in her effort to meet the demands asked of her in the above mentioned case. It is our hope that your committee will approve the design in the forthcoming meeting with the Santa Fe County Commissioners.

Thank you for your consideration in this regard.

Sincerely yours,



Francisco & Casilda Vieira
265 Los Pinos Road
Santa Fe, New Mexico 87507

RECORDER RECORDING 08/16/2004

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING

1996472

(Public Hearing)

September 17, 2001 - 3:00 p.m.

(Agenda originally scheduled to be heard September 11, 2001)

Agenda Amendment No. 2

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
 - A. Amendments
 - B. Tabled or Withdrawn Items
- VI. Approval of Minutes
- VII. Staff and Elected Officials Items:
 - A. Matters from the County Attorney, Steven Kopelman
 - 1. Executive Session
 - a. Discussion of Pending or Threatened Litigation
 - b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights
 - B. Public Works Department
 - 1. Request Authorization to Publish Title and General Summary of an Ordinance to Amend Ordinance No. 1994-2, "An Ordinance Regulating Procedures for Disturbing and Repairing County Property and Rights of Way" *N/A*
 - 2. Update of County Road Improvements Strategic and Operating Plan for Existing and Proposed County Roads
- VIII. Consent Calendar
 - A. Resolution No. 2001-¹³⁶ A Resolution Requesting an Increase to the General Fund (101)/Intergovernmental Summit to Budget Fiscal Year 2001 Cash Balance for Expenditure in Fiscal Year 2002 (County Manager's Office) *o/c*
 - B. Resolution No. 2001-¹³⁷ A Resolution to Surplus Fixed Asset Equipment *o/c*
 - C. Request Adoption of Findings of Fact and Conclusions of Law for the Following Land Use Cases:
 - need at* 1. LDRC Case #Z 01-5010 – Santa Fe Downs (Approved) *approved w/amendments*
 - o/c* 2. LDRC Case #MIS 01-5011 – Downs Liquor License (Approved)
 - o/c* 3. TDRC Case #V 01-5210 – Simon Stertzler (Approved) — *Paul Campos voted against*
 - o/c* 4. CDRC Case #V 01-5101 – Donald Kennedy (Approved)

- ok 5. CDRC CASE #V 01-5180 – Rosendo Lujan (Approved)
- ok 6. CDRC CASE #Z 01-5250 - Genuity (Approved)
- ok 7. EZ Case #S 00-4560 – Tesoro Enclaves (Approved)

1996473

IX. Staff and Elected Officials Items:

A. Land Use Department

4, yes
no

tabled

3-2
approved

3-2
disapproved

withdwn

1. Discussion and Clarification of the Decision to Approve CDRC Case #Z 01-5130, The Village at Eldorado
2. Request Adoption of Findings of Fact and Conclusions of Law for Land Use Case CDRC CASE #Z 01-5130 – The Village at Eldorado (Approved)
3. CDRC CASE #V 01-5200. Copar Pumice Co. Variance. Copar Pumice Co. (Kelly Armstrong, president) requests a variance of Article III, Section 10 (lot size requirements) of the Land Development to allow a Summary Review Subdivision of 2.01 acres into two lots; 1 acre and 1.01 acres in size. The property is located east of US 285, 2 miles south of Cuyamungue, within Sections 27 and 28, Township 19 North, Range 9 East (Commission District 1). Penny Ellis-Green (For Deliberation Only)
4. CDRC CASE #V 00-5861. Barbara Zavada Variance. Barbara Zavada, 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 commercial zoning outside of a potential commercial district on 0.90 acres. The property is located at 24 Meyers Road, in the Traditional Community of Arroyo Seco, within Section 30, Township 20 North, Range 9 East (Commissions District 1). Wayne Dalton (For Deliberation Only)
5. Request Authorization to Publish Title and General Summary to Amend Ordinance 1998-16, Sewer Use and User Charge Ordinance, Section 5(D), Reimbursement of Construction Costs, to Direct Subsequently Reimbursed Construction Costs to Fund Water and Wastewater System Expansion

B. Fire Department

approved

1. Resolution No. 2001-¹³⁸ A Resolution Declaring a State of Emergency in Ditches within Santa Fe County

C. Matters from the County Attorney, Steven Kopelman

ok

1. Resolution No. 2001-¹³⁹ A Resolution Authorizing the Appointment of Alternate Members of Boards, Committees and Authorities on Which Members of the Board of County Commissioners Serve

D. Matters from the County Manager, Samuel O. Montoya

approved
w/cont ok

approved

approved

- Request Authorization to Enter into an Operation, Management and Maintenance Agreement with Cornell Corrections of Texas for the Santa Fe County Juvenile Detention Facility and Operation of the Electronic Monitoring Program
- Request Authorization to Increase Santa Fe County's Sole Community Contribution by \$103,233 and to Negotiate Amendment Number Two to the Memorandum of Agreement with St. Vincent Hospital to Utilize Supplemental Sole Community Funds
- Request Authorization to Terminate a Professional Services Agreement with O'Connor and Hannan, L.L.P. for Political Representation

E. Matters of Public Concern - NON-ACTION ITEMS

F. Matters from the Commission 140

ok Resolution No. 2001- A Resolution Condemning Terrorist Attacks and Supporting our United States President and Congress in their Response to our National Crisis

X. Public Hearings

A. Ordinance No. 2001 An Ordinance Amending the Santa Fe County Land Development Code, Ordinance 1996-10, to Add Section 13 to Article I Entitled "Procedures for Ordinance Amendments" (Second Public Hearing)

B. Land Use Department Items:

1. EZ CASE #S 01-4300. Tierra Grande. Land Ventures LLC (Allan Hoffman), applicants, Oralynn Guerrerortiz, agent, request preliminary and final development plan and plat approval for a 16 lot residential subdivision on 40.1 acres. The property is located off a future extension of Los Suenos Trail, within Section 19, Township 17 North, Range 9 East (5 Mile EZ District). Vicki Lucero

2-2
needs to
come for
next mtg.

2. CDRC CASE #A/V 01-5026. Anna Hickey Appeal/Variance. Anna Hickey, applicant, is appealing the CDRC's decision to uphold the Land Use Administrator's decision to deny a family transfer land division of 4.16 acres into two lots: both lots consisting of 2.08 acres. The property is located at 15 Wild Turkey Way, within Section 27, Township 16 North, Range 10 East (Commission District 5). Wayne Dalton (WITHDRAWN)

Withdrawn

3. AFDRC CASE #V 01-5150. Padilla Variance. Phillip and Mary Padilla, applicants, request a variance of Article III, Sections 4.1 and 4.2 (types and locations of commercial districts) of the Land Development Code to allow commercial zoning outside of a potential commercial district on a 0.78 acre tract. The property is located at Route 6, Box 89 within the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East (Commission District 2). Frank White (TABLED)

tabled

4. LCDRC CASE #A/V 01-5160. Bonnie Anderson Variance. Bonnie Anderson, applicant, is requesting a variance of Article III, Section 10 of the Land Development Code to allow a duplex on 0.816 acres. The property is located at 262A Los Pinos Road, within Section 28, Township 16 North, Range 8 East (Commission District 3). Wayne Dalton

move
7 years.

5. CDRC CASE #V 01-5240. Melvin Varela Variance. Melvin Varela, applicant, requests a variance of Article V, Section 8.2.7d (Grade Percentages) of the Land Development Code to allow for a driveway to have a 16% grade at an intersection instead of the Code required 3% grade to access 5 lots. The property is located off State Road 50, a portion of the property is located within the Traditional Community of Glorieta, within Section 36, Township 16 North, Range 11 East (Commission District 5). Frank White (TABLED)

tabled

6. CDRC CASE #Z 01-5230. Solitaire Homes Manufactured Home Sales Lot. George Sulima and Todd Van Berg (Solitaire Homes), applicant, Steve Crawford, agent, requests master plan zoning and preliminary and final development plan approval for a manufactured home retail sales outlet on 3.17 acres. The property is located east of US 285, north of County Road 88 in the Traditional Community of Arroyo Seco, within

Section 18, Township 20 North, Range 9 East (Commission District 1).
Penny Ellis-Green

- Tabled*
7. CDRC CASE #M 00-5630. J.R. Hale Mine. J.R. Hale Mine Contracting, applicant, Sam Bregman, agent, requests approval for creation of a mine zone to allow sand and gravel extraction on 134.32 acres. The request includes a variance of Article VII, Section 3.4.1.c.1.a of the Land Development Code to allow for disturbance of rock outcroppings and a variance of Article VII, Section 3.4.1.c.1.c to allow for disturbance of slopes of 30% or greater. The property is located north of County Road 57, near Waldo, within Sections 12 and 13, Township 14 North, Range 7 East (Commission District 3). Frank White (TABLED)

XI. 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).