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BCC MINUTES
PAGES: 134

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Witness My Hand And Seal Of Office
Valerie Espinoza
Deputy Marjorie County Clerk, Santa Fe, NM

SANTA FE
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

November 8, 2005

Michael Anaya, Chairman [excused]
Harry Montoya, Vice Chair
Paul Campos
Jack Sullivan
Virginia Vigil

SFC RECORDED 02/20/2006

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

November 8, 2005

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05 p.m. by Vice Chairman Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

Members Present:

Commissioner Harry Montoya
Commissioner Virginia Vigil
Commissioner Paul Campos
Commissioner Jack Sullivan

Members Absent:

Commissioner Mike Anaya

V. Invocation

An invocation was given by County Clerk Valerie Espinoza.

VI. Approval of the Agenda

- A. Amendments**
- B. Tabled or withdrawn items**
- C. Consent Calendar: Withdrawals**

ROMAN ABEYTA (Deputy County Manager): Thank you, Mr. Chairman. We have minor amendments. The first being under XIII. Public Hearings, A. 1, CDRC Case #V 05-5410, Vista Clara Ranch Variance. We got a request from the applicant that that be tabled. However, this is an item that the Commission placed on the agenda so it is up to the Commission whether they want to hear the case. The applicant will not be present; she is ill. But again, that is up to the Commission to determine whether or not they want to table that case.

Then case number 3, we changed the title so that it read correctly. So now it's CDRC

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Case #Z 04-5190, Beth Longanecker Master Plan. Case number 4, the original agenda had it noted as withdrawn. This case is not withdrawn. It will be heard this evening. And finally, Mr. Chairman, staff is requesting that case number 8, CDRC Case #Z 04-5120, Louis Atencio Master Plan be tabled. We've got a water budget report from the County Hydrologist that staff is reviewing with the applicant and the applicant has just submitted additional information for staff to consider before BCC hears the case.

COMMISSIONER MONTOYA: Okay.

MR. ABEYTA: Other than that there are no further changes.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, Mr. Abeyta, as to the Vista Clara variance, did you have an opportunity to talk to the owner and explain the nature of the proceeding and the issues?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, I did not. I spoke with Wayne Dalton, the Development Review Division Director, and he stated that he discussed the issues with her and that she was in agreement with the additional condition or conditions that the Board may place on her this evening. But because she wasn't going to be present she requested a tabling. But it is my understanding she would agree to a condition.

COMMISSIONER CAMPOS: Mr. Ross, any direction. Do you think it would be better to table since she is not present?

STEVE ROSS (County Attorney): Mr. Chairman, Commissioner Campos, I don't suppose there is an issue as long as the applicant truly agrees with the proposed condition.

COMMISSIONER CAMPOS: But unless she's here and saying, we really don't know.

MR. ROSS: A letter might be appropriate under the circumstances.

COMMISSIONER CAMPOS: We can't get that today. So table it? Is it okay? Preferable?

COMMISSIONER MONTOYA: Table? Okay. So we'll table that one.

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: On that case, I think we need to clarify the notification. It's not reconsideration of the case. It's a reconsideration of conditions applied thereto. That was the basis on which it was approved for reconsideration.

MR. ROSS: Mr. Chairman, due to the timing issues the case was advertised like this and noticed on the property like this because at the time that the matter came up it was just posed as a reconsideration of the vote. We'd have to renote it if we wanted to be more specific about the subject matter of the case, which might take six weeks.

COMMISSIONER MONTOYA: Okay. So we'll table that and take that into consideration. Any consent withdrawal items?

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: A.1.

COMMISSIONER MONTOYA: X. A. 1?

COMMISSIONER SULLIVAN: Yes.

COMMISSIONER MONTOYA: That's it. Hearing no other, do we have a motion for approval of the agenda as amended?

COMMISSIONER VIGIL: So moved.

COMMISSIONER SULLIVAN: Second.

COMMISSIONER MONTOYA: Motion and a second.

The motion to approve the agenda as amended passed by unanimous [4-0] voice vote.

VII. APPROVAL OF MINUTES

A. October 11, 2005

COMMISSIONER MONTOYA: Do we have a motion?

COMMISSIONER SULLIVAN: Mr. Chairman, I have some corrections.

COMMISSIONER MONTOYA: So the motion as –

COMMISSIONER SULLIVAN: I'd move for approval with typographical corrections.

COMMISSIONER MONTOYA: Okay.

COMMISSIONER VIGIL: Second.

COMMISSIONER MONTOYA: Motion and second. Any discussion?

The motion to approve the October 11th minutes as corrected passed by unanimous [4-0] voice vote.

VIII. MATTERS OF PUBLIC CONCERN –NON-ACTION ITEMS

COMMISSIONER MONTOYA: Anyone in the public who would like to address the Commission?

IX. MATTERS FROM THE COMMISSION

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I do have an item that I wanted to bring before the Commission. I actually have two representatives today here with me who can better represent that item. I am interested in Santa Fe County participating in the Life Safety Vest program that has been initiated through KRQE news 13, Yolanda Tyner Ward has taken on the leadership of this, and with her is Vince Buddress. Yolanda's going to give us

about ten minutes of information on that project. Thank you for being here Yolanda.

YOLANDA TYNER WARD: Thank you, Commissioner. Thanks to the Commissioners and Council and staff administration for giving us these few minutes to discuss the project with you. 110 New Mexico law enforcement officials have lost their lives in the line of duty. In August, August 19th, two officers in the city of Albuquerque responded to a domestic disturbance and lost their lives in the line of duty, the latest of 110 police officers, sheriff's officers and other law enforcement officials.

As this story aired on Channel 13, and subsequent stories followed over the next few days, one of the news items that our station aired was about bullet-proof vests, or what we lovingly refer to as life vests. The project that came from those news stories is called Project Life Vest, and that's what I'm going to talk to you about today. One of the news stories at the end of August stated that officers are issued adequate life saving equipment, Kevlar vests. Some are kind of heavy and a little bulky, but generally speaking, they work. There is a better vest on the market called Zylon and as KRQE New 13 reported, Zylon was lighter, more breathable, easier to maneuver in. However, law enforcement officials, in order to upgrade to the Zylon had to pay \$250 out of pocket to purchase these vests.

We all know that law enforcement officials are not among the higher paid citizens in our county or in our state. So I was laying on the couch and as the weather came on I said to my husband, there's got to be a way, and he thought I was talking about the weather and he said, what's wrong. And I said, well, there's got to be a way that these cops don't have to pay \$250. There's got to be a way for us to raise the money. One of my advertisers is Smiths Grocery. So the next morning I went to work and I called my contact up in Salt Lake City and said I have a half-baked idea and this is not a crank call. But I have an idea about raising enough money to buy upgraded Zylon vests for every law enforcement official in this state. They need to be protected. She said we're on board. We'll collect money at all of our grocery stores.

Twenty-three grocery stores began collecting money for Zylon vests. The Department of Justice then released a study and our news director came back to the sales department and she said, Yolanda, I have some bad news and I said what is it? She said the DOJ just came out with a report of a culmination of a two-year study that Zylon has a 60 percent failure rate. Well, that's not real good odds. And I said, well, what about the cops that have already upgraded to Zylon? What about the two bills that they put out of their pocket to pay for these vests? They're going to have to go back to Kevlar? The Zylon manufacture has agreed to reimburse law enforcement agencies for the vests that they purchased that are Zylon, however, it's on a prorated basis. So if the vests are two years old they would only get the remaining three years of refund.

The average vest lasts five years. Degradation is caused by light and moisture. That means sweat. When the officers sweat as they often do in the heat of duty, these vests have a tendency to degrade. Over a period of five years all vests should and can be replaced. Also, when an officer takes a hit, a bullet to the vest, it should be replaced because the integrity of the fabric then is compromised.

I called the Sheriff's Department in Bernalillo County. I called the Albuquerque Police Department. We received a call from the Rio Rancho Police Department, the New Mexico State Police are also involved in this project. What we are doing is we are raising money for the purpose of purchasing vests. We will not purchase the vests. The money goes to the vendor that each agency has online to purchase the vest. In other words, there's no liability on the part of the station or us as individuals for raising the money should something happen that a vest is inadequate and an officer is injured or killed.

So this money will go to, in the case of Albuquerque Police Department and Rio Rancho and the State Police, this money will go to a business in Albuquerque, Kauffman's West. They are the contractor for these vests. So far we've raised \$15,000 plus. Unfortunately, the vests cost between \$850 and \$1000 each. That's not very many vests. Originally this project was to begin in September, mid-September and run for three weeks and wind down October 8th. The public has not allowed us to do that. We are now online through the end of the year. Smiths' collections have ceased because they have their food drive going on and 7-11 asked to pick it up where Smiths left off. All 7-11 stores are now taking contributions. Most area financial institutions are accepting contributions.

We also received a donation of the lapel pin. You have a lapel pin in your hand, those lapel pins were donated gladly by Zia Graphics and what we're doing is we're taking contributions of \$5, for every \$5 you give you get a lapel pin. So the money has come from a variety of sources that raised \$200 by doing extra chores at home. Day before yesterday, or I guess Friday, we had a visit from a third grade class, their teacher and their principal, and these kids had raised \$500 for Project Life Vest through bake sales. Over \$500, because they saw a need and they found a way that they could help out.

We held like a telethon, only it was a phone bank at the station during the 4:00 and 4:30 news one day where viewers could call in and contribute money to the project. So it was through all of these different ways that we've been able to raise the money thus far. We plan to continue through the end of the year, and frankly we'd like to find an operation or organization such as some sort of philanthropic organization that would take this over from here because for Mr. Buddress and I this has actually become sort of a career choice and we don't really want it to be that. So we'd like to find an organization to take over for us. We would love to have the Santa Fe County Sheriff's Department as well as the Santa Fe Police Department if you deem that to be appropriate, we'd love to have them jump on board.

The level of commitment from law enforcement has been high because for every dollar that we give them to purchase vests, or we give to Kauffmann's to run a credit where each agency will go in and say we need three vests. For each dollar that we give them for the purpose of protective gear, that's a dollar they can spend in other areas such as tactical gear for their SWAT team, additional ballistic gear, helmets, ceramic shields that they require when they go into a situation that they know is going to be dangerous. So that's all we have. Does anybody have any questions?

COMMISSIONER MONTOYA: Any questions? Commissioner Vigil.

COMMISSIONER VIGIL: No, I don't. I'm just very enthused and excited that

there are programs and initiatives and people with your level of enthusiasm willing to help our law enforcement. I will just say, Mr. Chairman, that I have spoken to Sheriff Greg Solano who mentioned that they are in need of about 120 vests and I will follow up by assigning a constituent services person to work with you, Yolanda, and perhaps even give you some ideas of how Santa Fe might be able to transfer the philanthropic issue that you brought up. But I appreciate you being here. I'm constantly looking for resources that are of no cost to the County because I recognize it, as you said, creates a benefit for line-item budgeting. And thank you for all the work you've done on this. I think we have to keep the safety of our law enforcement officers online, on the radar screen constantly and I appreciate all that you have done with that and hope to dovetail.

MS. WARD: Okay. Thank you very much.

COMMISSIONER MONTOYA: Thank you.

IX. MATTERS FROM THE COMMISSION

A. Presentation on the Miguel Lujan Tap by PNM (Commissioner Anaya)

ROBERT CASTILLO: Good afternoon, Mr. Chairman, members of the Commission. My name is Robert Castillo and I'm employed by the Public Service Company of New Mexico. I joined the company about three months ago, so if I talk below your level of intelligence, I've brought a couple of experts with me. I brought Blake Forbes and as you recognized already, Rhonda Mitchell.

We were asked to come over and talk a little bit about the Miguel Lujan Tap and specifically about the costs of undergrounding that line versus building it overhead. Now, I believe you've received packets that show the location of the line. *[Exhibit 1]* So unless you have questions I'm not going to spend much time talking about its evolvement. We are in the permitting process and as part of that process we've asked for a variance, a couple of variances. One is for the height level. The County has a requirement, an ordinance that says structures should not be over 24 feet tall. We're asking for a variance because some of our poles will be between 85 to 100 feet tall.

We've requested another variance. The County has an ordinance that requires the undergrounding of electrical lines. We're requesting a variance from that ordinance. Now, recently, there was a citizen alert that was sent to various residents here in Santa Fe. We're not sure who received them. We're not sure who the author of the citizens alert is. It's somewhat anonymous. But several – probably a month and a half ago Rhonda and I visited with Chairman Anaya and we were going to educate him and follow up by educating the entire Commission to what the actual cost comparisons are of undergrounding versus overhead. But in the meantime, this anonymous alert came out and kind of – well, it alerted and it alarmed some people as to what the cost might be.

So we agreed – Mr. Anaya asked that we attend here and kind of describe what those costs are so that all of you, when it's time for you to vote on our variance request will have the

knowledge of what the actual costs are so that you can vote intelligently on behalf of your constituents.

Now the total project is .8 miles in the county and .9 miles in the city for a total of 1.7 miles. Now, the total cost of the overhead version of the project would be \$2 million. To underground the county's portion, because the City of Santa Fe has already approved overheads within the city limits. They do not have an undergrounding ordinance at this point in time. The County does have an undergrounding ordinance so if we do not receive a variance, it will cost an additional - and these are approximate numbers, okay? Because we've not done an exact estimate of costs because a decision has not been made as to whether it's going to be underground. If it is, it's going to add approximately \$2 million to the cost of the project. So the total project cost would become \$4 million.

Now, PNM historically has built lines overhead in an effort to be conscientious with respect to cost, costs that get passed on to customers. We are a regulated entity, regulated by the New Mexico Public Regulation Commission. They set our rates. They by law are bound to returning our costs plus a reasonable profit. But they too are very conscientious and they want us to employ efficiency and least cost measure. So traditionally we have built overhead, because underground for distribution probably costs two to four times as much as overhead. For transmission, it can cost five to ten times as much.

The Miguel Lujan tap is considered transmission line. For your information, we have never built underground transmission. We have built underground distribution but now transmission. And that's another reason I say these numbers that we're providing to you are nothing more than estimates because we don't have any real world experience in undergrounding transmission.

Now, again, in an effort to be sensitive to local communities, if the local community decides as the County of Santa Fe has decided through ordinance, without a variance, the line will be undergrounded. PNM is amenable to that. The PRC, we have been to the Public Regulation Commission and they again do not like costs being spread to all customers across the state of New Mexico if the benefits are not going to be received by all the customers across the state of New Mexico. So for example, this ML tap, if it is to be built underground it's going to benefit the local customers so we worked with the Commission and they approved what we would have called Rate 22, which is an undergrounding tariff.

So if the County of Santa Fe, you as Commissioners decide not to grant the variance that we've requested and we are then obligated to build the line underground we will do so. However, the cost of that line, the incremental cost that I mentioned of \$2 million, according to the rate that's on file with the Public Regulation Commission, we will be bound to charging the customers of Santa Fe County who live outside the city limits, and that was included in this citizens alert. Again, we don't know who sent it out. Over all, it's pretty factual. There was one area that I felt we needed to clarify. It says that residential and commercial customers will see their electric bills increase my hundreds of dollars over the recovery period.

Well, the estimate that we put together on a three-year amortization - in other words, including that additional cost of an underground line to customers, our estimates show, I believe

it's \$2.86 per month to residential customers. So it's less than hundreds of dollars. What I'm looking at right now is this chart that you all have for your information. We showed recovery of excess costs from anywhere from a 12-month period of amortization up to a seven-year period. And the reason we set out that as an example is that's what's included in the Public Regulation Commission's tariff.

We can amortize a project up to seven years with the Commission's approval. So if you look at this chart, on a seven-year amortization, the cost to residential would be \$1.40 a month. The example we had been using was assuming 36 months of recovery, which is in the middle of the chart, this is showing \$2.63 would be the cost to a residential. If you go down to large power users, it is in the hundreds of dollars. It's \$590-some odd dollars per month to that size of customer for a three-year period.

So, again, people were alarmed by this citizens alert. I wanted to make it clear because some people were giving PNM the credit and/or the blame for this alert. PNM did not send this out. It is fairly accurate over all and we just wanted to explain to you again that there are additional costs for undergrounding distribution and/or transmission. And the Commission as a whole has philosophically decided that the local customers had ought to pay for those added costs. Now, it's been talked about going to the legislature by various parties to try to get a law in place that would prohibit the Commission from allowing utilities to pass only to the local customers but rather to pass it on to all New Mexico customers. So far nothing like that has materialized so this is what we have in place today and this is the way the system would function if all of you decide that it's in the best interests of the County of Santa Fe to underground the Miguel Lujan tap. With that I would stand for questions.

COMMISSIONER MONTOYA: Thank you, Robert. Any questions?
Commissioner Vigil.

COMMISSIONER VIGIL: Thanks. Thank you, Robert. You all are going through the community process at this particular stage. Is that not correct?

MR. CASTILLO: Yes, Commissioner Vigil.

COMMISSIONER VIGIL: And what communities have you met with?

MR. CASTILLO: I will turn to Rhonda, because this process has been going on for some time. You're quite right, and being that I'm so new I'm not familiar with everywhere we've been in the last several months.

COMMISSIONER VIGIL: And I think, Rhonda, I guess I would zero my question in to just this particular issue: Who have you met with with regard to this?

RHONDA MITCHELL: We've met with the communities in the Agua Fria area, Cerrillos Road, all of that surrounding area, I believe. We've had open houses on this starting last year, I believe in January. So there's been a significant outreach on this project to the community, but specifically, the Agua Fria, Cerrillos Road area.

COMMISSIONER VIGIL: Okay. And you're not here before the Commission to make the request for the variances. You're just here to try to explain this citizens alert. Is that not correct?

MS. MITCHELL: That's correct. We come before the Commission next

month, I believe for approval.

COMMISSIONER VIGIL: Okay. Thank you. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. Thank you. Thank you, Robert. Thank you, Rhonda, for your presentation.

MR. CASTILLO: Thank you very much. We appreciate your time.

COMMISSIONER MONTOYA: Sure. We'll see you next month then. We're still on Matters from the Commission. Commissioner Campos.

COMMISSIONER CAMPOS: Question, my regular question about the Land Use Code. Where is it? How are we doing?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, by December, we'll have our staff review completed and so hopefully we can start the public hearings in January.

COMMISSIONER CAMPOS: Great. Thank you. The second question, discussion for the Commission is about the affordable housing ordinance and whether we give notice today. My preference would be that we do give notice today of a hearing in January, that we set a specific date in January, a special meeting with one issue, to discuss that ordinance. If that's consistent with legal, if we have enough time to do that, that's what I would prefer to do.

We're going to have a study session in December which is scheduled as a major study session, and with that we should be able to resolve most of our issues. So Mr. Ross, can we give - if we give notice to publish on the affordable housing ordinance, can we schedule a hearing in January? As far as time requirements, notice requirements and all that?

MR. ROSS: Mr. Chairman, Commissioner Campos, are you referring to beginning the public hearing process in January? Because there are two public hearings required for this particular ordinance.

COMMISSIONER CAMPOS: Because it's a zoning ordinance?

MR. ROSS: It has zoning implications. So it's completely do-able to start the process in January.

COMMISSIONER CAMPOS: We could give notice that January would be the first meeting, and then we should probably give notice of the second meeting at the same time?

MR. ROSS: Well, we would do both notices at the same time. There will be public meetings on these dates, January and February. Probably the land use meeting, if you think that's appropriate. That would give us plenty of time to put everything together and to get the notice out properly.

COMMISSIONER CAMPOS: I'm just curious how the other Commissioners feel about that.

COMMISSIONER VIGIL: Is this an item we have on the agenda?

COMMISSIONER MONTOYA: Yes.

COMMISSIONER VIGIL: Okay.

COMMISSIONER MONTOYA: It's under Matters from the County Manager. I guess we could probably have the discussion at that time.

COMMISSIONER CAMPOS: Whatever you want, Mr. Chairman. That's all I have.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Chairman, I do want an update on the request I had, and I noticed - I actually had two requests. One of them is on the agenda and that's the .25 water limit for usage in residential areas and hopefully in the future we might be able to get an update, with regard to what the issues are on a resolution for the 30 percent open space requirement for development. I don't think that this Commission has actually deliberated on that particular issue, but I know that staff has been working on bringing forth some of the issues with regard to that. So perhaps at our next land use meeting we can just get those issues laid out and this body will have the opportunity to give direction on that.

COMMISSIONER MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. The first thing I wanted to mention was that last week, Commissioner Vigil and I, as well as Mr. Ross and Steve Shepherd took a day to visit the San Juan Regional Medical Center in Farmington, the purpose being to see what we could learn, what we could gain from their experience working with the county and working as a non-profit hospital. And I think, I came away quiet encouraged that there are ways that we can improve the interactions and I think also the ultimate goal of the County which provides a great deal of funding for St. Vincent Hospital and the service delivery of St. Vincent Hospital. And we'll need of course to carry this further with the board of St. Vincent, but primarily what impressed me in the whole operation was their very concerted effort to involve the community in the hospital's operation. They create corporation which is made up of more than 100 non-profits throughout the city and the county, such as the Rotary and things like that.

From those associations that helps them of course, keep the communication going back and forth so that everybody knows what's going on when they have to take a particularly difficult position such as closing a particular facility and things like that. But also from that group of non-profits that become boosters to some extent, they derive nine of their board of director members, of 12. That, I think, really solidifies the community participation, the continued community participation in the hospital in its interaction with the residents.

I think there's a lot of things that we can learn there and it's a little different financial situation there because the county owns the land and by so doing, actually, with regard to sole community provider funds, the hospital itself pays the quarter share of the sole community provider funds. So the county does not have to pay any sole community provider funds, or that quarter share. That enables the hospital to maximize the use of all the sole community provider funds that are made available to it each year. So I think that we were given a whole smorgasbord of ideas. When we were there we met with a number of county individuals, Jim Henderson who is the Commission chairman, Irvin Chavez who's a Commissioner, who's been on the Commission for many years, Keith Johns, who's the County Manager, the chief executive officer, Kim Carpenter, who's the assistant CEO, and Linda Thompson who's the assistant CEO for project development that handles issues vis-à-vis the county, not the least of which is that they're currently constructing a \$60 million addition to the county hospital using a gross receipts tax that the county approved but dedicated for the hospital. It gives them that

flexibility to do that since they have an ownership interest in the hospital and the land.

There's a lot of interesting funding options and management options. Also at the meeting was Steve Altmiller. He's the chief executive officer of the hospital itself and Mike Phillips, who's their chief strategic officer, also known as the finance officer. So they were prepared to answer two hours of questions that both Commissioner Vigil and I had, and we then later met with the county chairman and got some county perspectives from him on that. So I would propose to the staff and to ourselves that our next step from this be arranging, scheduling a meeting with the St. Vincent Regional Medical Center board of directors to open this issue up for discussion, for frank discussion, a work session of some type that we wouldn't necessarily be asking them to take votes on it, but to hear some thoughts that we as Commissioners might have on how the hospital can better serve our community. So I like to suggest that and pass that on.

Also, we talked at the meeting in October, on October 11th, about whether we were going to hire a Washington lobbyist. And I wondered where we stand in that process.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, we're currently putting together the RFP and we were going to bring the scope of work back to the BCC and discuss specifically what kind of deliverables the Commission wanted to build into that. And we expect that to be either at the end of November or the first meeting in December, have that discussion with the Board then.

COMMISSIONER SULLIVAN: Okay. Also, my last item, Mr. Chairman, was last week there was a meeting of the Legislative Natural Resources Committee in Los Alamos and we had been able to get our proposed regional water authority on that agenda. It conflicted with the Buckman Direct Diversion Board meeting so I wasn't able to attend so I wondered how that meeting went. Perhaps Gerald, you could give us an update.

MR. GONZALEZ: Mr. Chairman, Commissioners, it's my understanding that that item was postponed by the committee to the next meeting. We didn't have anybody available in order to cover that item. I know we'd been planning on having one of the Commissioners there in order to add some support to the presentation. I was testifying in court and unable to attend and I don't think we had anybody else who was at the time prepared to be able to make a presentation regarding that item. So we thought it would be better to go ahead and postpone it to the next committee meeting coming up so that rather than doing it haphazardly we could do it much more thoroughly.

COMMISSIONER SULLIVAN: Have we gotten a response – was this a request from us or from the committee?

MR. GONZALEZ: My understanding was that the request came from us. We have sent the letter over to the City asking them for their response regarding the proposed legislation. I haven't heard anything back from them.

COMMISSIONER SULLIVAN: Okay. I'd encourage us to keep prodding them for a response, because we were following it up on the Speaker of the House's recommendation that we get detailed responses to the legislation that we had proposed and come back with something that would be acceptable to both the City and the County, which makes good sense.

And I know we've sent over a letter I think just recently signed. I don't think the City probably has had enough time to get a full response put together, but I would like to follow up on that. Do we know when the next Water Resource Committee meeting is?

MR. GONZALEZ: That I don't know. They seem to meet on a monthly cycle so I'm assuming that it will be about the same time this month.

COMMISSIONER SULLIVAN: Yes, we're coming up to the legislative session. Maybe someone can explain to me, are we unable to get this on the current session because of the session being limited to fiscal matters? Or is there some methodology that we could?

MR. GONZALEZ: Mr. Chairman, Commissioner Sullivan, it's my understanding that it's likely to be ruled not germane and not introduced at session, but that's just my supposition. I guess we'd have to have a closer reading from somebody at the council service. This is a fiscal session, so substantive bills must have a clear fiscal connection to state finances in order to be considered, is my understanding.

COMMISSIONER SULLIVAN: Well, let's just add a million dollar price tag on it for the state legislature then it might be a fiscal bill. But before we do that, obviously we need to be in synch with the City on this and I think they just did not have enough information the first go around, and reacted to that lack of information rather than to the legislation itself. So if we can keep on top of that I'd appreciate it. That's all I had, Mr. Chairman.

COMMISSIONER MONTOYA: Thank you, Commissioner Sullivan. I'd like to just ask regarding a follow-up from the retreat. Have we started looking at what the limits are? We talked about the dollar limits that are currently under what's allowed in state statute that we're still bringing a lot of the requests that may not need to come to us. Do you recall that conversation, Roman?

MR. ABEYTA: Yes, Mr. Chairman. Both our legal department and finance department are putting that analysis together and we plan on getting direction from the BCC in December and then in January, starting with the new approved schedule.

COMMISSIONER MONTOYA: Okay. Great. And then there's a bridge dedication that I'd like to invite everyone to. It's going to be happening this Friday. If you recall, I think it was at the October 11th meeting, we approved dedicating the bridge in El Rancho off of County Road 101-B, after Robert "Bobby" Trujillo, and it's going to be this Friday again at 1:00. It will start at the El Rancho Community Center with a procession going to the bridge and then we'll of course be dedicating the bridge to him, but also honoring all veterans alive or deceased on that day.

And then there's also a play happening, if I could ask Rosanna Vazquez to talk a little bit about that. I just got that information. Rosanna.

ROSANNA VAZQUEZ: Good afternoon, Commissioners. I wanted to just let you know that this weekend and next weekend, the musical production of Annie is going to be playing at the James A. Little Theatre. It's being put on by a group of children, Pandemonium Productions, and Virginia, I think your son was involved in that program for many years. They do great productions. It's an all-kid production. There's about 90 kids, and the first 100

children that come this weekend are free. And so you might see pink posters all over the place. I've been putting them up and I'm a very proud mother of two little kids who are going to be in the play. So I would love to see any of you there and there's going to be really good food too. Thank you.

COMMISSIONER MONTOYA: Thank you, Rosanna.

X. CONSENT CALENDAR

A Budget Adjustments

1. **Resolution No. 2005-__ A Resolution Requesting an Increase to the Jail Operations Fund (518) / Adult Facility to Budget Additional Care of Prisoners Revenue Received from the Department of Corrections Inmates to Give 5% Increases to Detention Officers that Transferred Immediately to Santa Fe County from MTC and a Budget Increase for Misc. Revenue Received to be Used Exclusively for Inmate Welfare (Corrections Department) ISOLATED FOR DISCUSSION**
 2. **Resolution No. 2005-182. A Resolution Requesting an Increase to the General Fund (101)/County Sheriff to Budget a Grant Awarded Through the New Mexico Department of Transportation for Expenditure in Fiscal Year 2006/\$24,000 (Sheriff's Office)**
- B. Professional Service Agreements**
1. **Request Authorization to Ratify Professional Services Agreement No. 26-1812-ADF/RH to MSN, LLC to Provide Temporary Nursing Staff for the Medical Unit at the Santa Fe County Adult Detention Facility \$73,846.56 (Corrections Department) [Exhibit 2]**
- C. Miscellaneous**
1. **Request Authorization to Enter into an Agreement with Administrative Office of the Courts (AOC) to Facilitate Video Arraignment on Behalf of Santa Fe County (Finance Department)**
 2. **Request Authorization to Accept and Approve a Memorandum of Understanding #26-1205-SD/MV with the New Mexico Transportation to Work Overtime to Enforce all Traffic Violations in the Construction Zone (Sheriff's Office)**

COMMISSIONER MONTOYA: Can I have a motion for approval minus item

X. A. 1?

COMMISSIONER VIGIL: So moved.

SFC RECORDED 02/20/2006

COMMISSIONER SULLIVAN: Second.

COMMISSIONER MONTOYA: Motion by Commissioner Vigil, second by Commissioner Sullivan.

The motion to approve the Consent Calendar with the exception of item X. A. 1 passed by unanimous [4-0] voice vote.

X. A. Budget Adjustments

- 1. Resolution No. 2005-183. A Resolution Requesting an Increase to the Jail Operations Fund (518) / Adult Facility to Budget Additional Care of Prisoners Revenue Received from the Department of Corrections Inmates to Give 5% Increases to Detention Officers that Transferred Immediately to Santa Fe County from MTC and a Budget Increase for Misc. Revenue Received to be Used Exclusively for Inmate Welfare (Corrections Department)**

COMMISSIONER SULLIVAN: Mr. Chairman, I'd like to get a staff report on this.

COMMISSIONER MONTOYA: Okay. This is regarding the Corrections Department. Mr. Parrish? He's not here.

MR. ABEYTA: Mr. Chairman, in regards to this request, in September we presented budget numbers to the BCC and in that we included that one issue that we ran into in putting together the jail takeover was the salaries of the correctional officers. One concern that we had is because of the FLSA status that they were going to fall under and the benefits including retirement and healthcare that we provide that if we brought them over at their same salary that they were currently being paid by MTC they were going to take a really substantial hit in overall net pay that they bring home. So because of the recruitment problems that we're currently having we decided to try to come as close as we could so that they wouldn't feel as bad a hit when they brought home a paycheck as a result of working for the County.

So what we put together was a five percent increase that we would give all of the detention officers that would be coming on board with the County.

COMMISSIONER SULLIVAN: Mr. Chairman and Roman and Greg, what I'm not understanding, I guess is that when we were doing our budget sessions about the corrections we were told that in hiring existing MTC corrections individuals that we would actually be paying greater benefits, so that it would be a positive move for those individuals, provided they were qualified and met our screening criteria, would be probably more than happy to continue to work for the County. And I'm hearing that for some reason, we need to give those who made that move a five percent increase, which seems to contradict what at least I thought I heard when we were originally discussing the budget.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, when we started

getting closer to the takeover and we actually started meeting with some of the potential applicants that would be coming over to the County, they raised that as a real concern. Their position was, well, we understand we're going to have retirement now and we're going to have better healthcare but our bottom line is what we bring home every two weeks or every month to pay our bills and this is just going to be too big of a hit for us to continue this. They understood the PERA and the health benefit but a lot of them expressed that they're living from check to check and it would be hard for them to continue to work for the County, given the amount of money they were going to lose or have to pay into the benefits themselves.

COMMISSIONER SULLIVAN: So the deductions that the County takes for these retirement benefits and healthcare benefits reduces their take-home pay.

MR. ABEYTA: Yes, because they still have to contribute themselves to both.

COMMISSIONER SULLIVAN: So they were getting no retirement and apparently very little or no healthcare benefits and now we're making that up through a five percent increase. Now, this is not to all the detention officers. It's only to those who transferred immediately to Santa Fe County from MTC. Is that correct?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, yes, that's my understanding.

COMMISSIONER SULLIVAN: And immediately means what? That's all done now? Those transfers have already occurred?

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: And does that have any ramifications in terms of our dealings with the union personnel employees in the County or with existing employees at the detention center who wouldn't get that five percent increase?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, it's my understanding that no, it would not. But regarding the union, that's something that they've already contacted us about that they're going to be looking into anyway.

COMMISSIONER SULLIVAN: So it is having some ramifications.

MR. ABEYTA: Well, it is in the sense that - they're still going to be taking a hit, even with the five percent increase, but we didn't think that we could do anything better than that.

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

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Are we voting on just that issue or are there two or three other related issues and could you explain the other issues.

MR. ABEYTA: That's the one issue, but as I understand, the other issue is the revenue that we're going to be transferring to cover that cost.

COMMISSIONER CAMPOS: What does this phrase mean: Budget additional care of prisoners revenue received from the Department of Corrections. What does that mean?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, it's my understanding that that's existing revenue that we received from MTC from taking over the facility. But

perhaps either Greg or Frank can explain what that agreement is with them and why we received that revenue. But that's the revenue we're using to cover this cost.

COMMISSIONER CAMPOS: And what that language means. I didn't understand the caption.

GREG PARRISH (Corrections Director): Mr. Chairman, Commissioner Campos, I believe the offsetting revenue is from money that we hadn't budgeted from DOC but we're actually going to receive because we have more DOC inmates than we actually budgeted for. That will offset the five percent. We originally had thought we'd have 94 DOC inmates and we've been averaging about 130.

COMMISSIONER CAMPOS: So you have additional revenues and you want to use that for the five percent increase?

MR. PARRISH: That's my understanding, yes.

COMMISSIONER CAMPOS: What is the language: additional care of prisoners revenue? Additional care. That just means that you had more prisoners? Is that all that means?

MR. PARRISH: Yes. It just means that we had additional inmates than we had actually anticipated the revenue side of our budget.

COMMISSIONER CAMPOS: And then the last sentence say a budget increase for miscellaneous revenue received to be used exclusively for inmate welfare. What's that about?

MR. PARRISH: Commissioner Campos, there's what they call an inmate welfare fund. It's money that we receive from the commissary that we turn back towards the use to benefit all the inmates. We purchase recreation equipment, things that will benefit the whole facility. And that was money that MTC had, I believe around \$94,000, that was what they already had and they turned that over to us when we took over the facility. So that fund is now available for us to use for purchasing things for inmates.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a follow-up. Is that money, then, is this total budget transfer of \$203,869.70 for the five percent increases, or not?

FRANK RENDON (Deputy Finance Director): Mr. Chairman, Commissioner Sullivan, the increases are estimated at \$109,000. The \$94,000 are explicitly to be used for the inmate welfare.

COMMISSIONER SULLIVAN: Okay. So under the category charge for services/care of prisoners, \$109,000 goes towards employee salaries, wages and benefits.

MR. RENDON: That is correct.

COMMISSIONER SULLIVAN: And the rest will go toward the inmate - it's simply a transfer of the inmate welfare fund into our coffers.

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

COMMISSIONER SULLIVAN: And do we have any procedures for what we

do with that inmate welfare fund?

MR. PARRISH: Mr. Chairman, Commissioner Sullivan, that fund has to be used for the benefit of the inmates. We use it for recreation. We're hoping to use it for programming. It's driven by guidelines by the American Correctional Association, what you can use it for.

COMMISSIONER SULLIVAN: I understand, but it never seemed to be too clearly defined with MTC or even with their predecessor and as a result we have quite a balance that obviously was not used for inmate welfare. Do we have a plan or a budget that we're going to apply to this?

MR. PARRISH: Our intention is to upgrade some of the recreational equipment and also use it for some programming. We're still trying to determine if that's proper, because it has to impact the entire population. MTC never used that money - we could if we - they had to receive our approval but we would have approved it for recreational things and programming that would benefit the majority of the population.

COMMISSIONER SULLIVAN: What are your thoughts by programming?

MR. PARRISH: Possibly some substance abuse educational type programming, but it has to be made available to the general population.

COMMISSIONER SULLIVAN: I see. Okay, thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Any other questions?

COMMISSIONER VIGIL: I have a question.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: For Steven Ross. Steven, is this agenda item worded appropriately for us to take action on all the items that we're being requested to?

MR. ROSS: Mr. Chairman, Commissioner Vigil, what specific item are you referring to?

COMMISSIONER VIGIL: It looks to me that there are several transactions that need to occur to transfer budget items, to provide a five percent increase to detention officers, and again to use money from MTC and transfer that. I know that within the reports that we received in the packet that that's made a little more clearly but my concern was whether or not everything that needs to occur by our action is represented in this agenda item.

MR. ROSS: Mr. Chairman, Commissioner Vigil, the only things that this resolution accomplishes are those that are set forth on the first page of the budget resolution. So there's revenue in, two items, and about six items of expenditures that would be permitted by this. I assume from what Mr. Parrish has discussed that all those items are in there. I see the inmate welfare transfer in, and a number of transfers out to employee benefits, salaries and wages and other operating costs. So it looks like it's all in there.

COMMISSIONER VIGIL: Okay. That's all I needed to know. Thank you, Mr. Chairman. With that I'll move for approval.

COMMISSIONER MONTOYA: Motion by Commissioner Vigil.

COMMISSIONER CAMPOS: Second.

COMMISSIONER MONTOYA: Second by Commissioner Campos. Any more

discussion?

The motion to approve Resolution 2005-183 passed by unanimous [4-0] voice vote.

XI. STAFF AND ELECTED OFFICIALS' ITEMS

A. Fire Department

- 1. Request Approval of Joint Powers Agreement for Fire Suppression, Fire Prevention, Rescue, Emergency Medical Services, and Emergency Communications Between the Town of Edgewood, New Mexico and the County of Santa Fe with Retroactive Approval to July 1, 2005**

STEVE MOYA (Assistant Fire Chief): Mr. Chairman, Commissioners, Sophia has a packet for you with the new joint powers agreement with the Town of Edgewood and I'm here for any questions.

COMMISSIONER CAMPOS: Do we have to read it? Why did we get it so late?

SOPHIA COLLAROS (Assistant County Attorney): Mr. Chairman, Commissioners, this is very similar to what you have in your packet. However, the Town of Edgewood submitted the JPA to the council, addressed it before it had gone to the DFA for pre-review. So there are just a few changes and I'll bring them to your attention because you've already looked at it. There's very little that's different from what you have in your packet. There were some typos that were corrected. On page 1, if you look at line 34, the word "related" was corrected. Page 2, line 46, the word "County" was taken out because it was incorrectly inserted. Page 5, line 191, the word "City" was changed to "Town", and then if you go to page 4, lines 145 and 146 reference an exhibit F which is the last page in the document and it's a map, and this is what DFA had requested be submitted.

So what you have here are all the relevant ordinances that are referenced. These are County ordinances and Town ordinances that pertain to fire suppression and emergency services.

COMMISSIONER MONTOYA: So that one is saying it's in exhibit F where the copy we have didn't reference it at all.

MS. COLLAROS: Did not have it. Because at the time that this came to you for packet materials the response from DFA, we were waiting for the response and DFA has requested that a map describing the area be attached to the joint powers agreement.

COMMISSIONER MONTOYA: Is exhibit F in this?

MS. COLLAROS: It's the very last page. It should be that colored map. Did I happen to hand you one that didn't have it attached?

COMMISSIONER MONTOYA: No, I've got one. Okay. Any other changes?

MS. COLLAROS: Those are all the changes.

COMMISSIONER MONTROYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Sophia or whoever. I recall from reading the draft in here that our payments are limited to what the tax would have been collected were Edgewood still in the county. Is that correct?

MS. COLLAROS: That is correct. Those payments, and in addition there are the impact fees less three percent for administrative purposes.

COMMISSIONER SULLIVAN: How does that – it would seem that we would want to set up the compensation based on the actual amount of time spent. Is there any tracking mechanism? What if the Fire Department – this is only EMTs and fire, correct? It's not Sheriff.

MR. MOYA: It's just EMS. Yes, sir.

COMMISSIONER SULLIVAN: Right. If that were to exceed that amount, how do we know that and how do we get compensated for that?

MR. MOYA: I'd probably have to get that information for you, Commissioner Sullivan. I'm not sure.

COMMISSIONER SULLIVAN: So do we keep track of that? Do the EMTs keep track of their calls and the locations and so forth?

MR. MOYA: Yes, we do have call logs that each region carries. They are at the stations and we do have access to those records.

COMMISSIONER SULLIVAN: But this is the way the joint powers agreement has been all along? It's always been based on this impact fee and tax formula?

MR. MOYA: Yes, sir. That's correct. And it's the same thing here for County of Santa Fe.

COMMISSIONER SULLIVAN: And describe to me how it works again.

MR. MOYA: We have, for each district, for instance, Eldorado, if there's a build-up there, there's a fee that is imposed for fire, and it's less three percent. Is that correct, Sophia? Less two percent for administrative. And that goes to that district.

COMMISSIONER SULLIVAN: So all of the impact fees, based on the County's schedule, that are charged by the Town of Edgewood, less three percent for admin, comes to Santa Fe County.

MR. MOYA: That is correct. We do get a check monthly from the Town of Edgewood.

COMMISSIONER SULLIVAN: And are their fees the same as ours?

MR. MOYA: Yes, sir. It is based off the same ordinance that Santa Fe County. Town of Edgewood adopted the ordinance.

COMMISSIONER SULLIVAN: Okay. So they have adopted the same numbers as we have, and every time a new building is constructed they charge the same fire impact fee as we do.

MR. MOYA: That is correct. And a copy of the ordinance is in your packet.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER MONTROYA: Any other questions? Do we have a motion?

COMMISSIONER VIGIL: I'll move for approval, Mr. Chairman.
COMMISSIONER MONTOYA: Motion by Commissioner Vigil.
COMMISSIONER CAMPOS: Second.
COMMISSIONER MONTOYA: Second by Commissioner Campos. Any

discussion?

The motion to approve the JPA with the Town of Edgewood passed by unanimous [4-0] voice vote.

X. B. Project & Facilities Management Department

1. Request Approval of Amendment to contract #22-0098-PW for an Increase to the Compensation clause for Louis Berger & Associates for the New Public Work Facility \$541,462.00

RUDY GARCIA (PFMD): Mr. Chairman, Commissioners, let's give Joseph a few minutes. He's actually the one that spearheaded this so he has more information on this that I can provide.

JOSEPH GUTIERREZ (PFMD Director): Mr. Chairman, members of the Commission, in front of you today is a request to approve amendment number one with Louis Berger Group for contract services agreement #22-0098. The amendment is in the amount of \$541,462. This is increasing the original contract that goes back to November of 2001.

This is basically to move forward on the Public Works project. We've been meeting with the Louis Berger Group for approximately the last two to three months in finalizing this agreement and the Public Works project has pretty much been on hold for about the last three years and this body approved a bond sale just recently and actually those bonds sold last meeting and those dollars will become available in December. The amount of those bonds that will be used for this project is approximately about \$5 million.

The MACC on this project is approximately \$10 million. Back in 2001, approximately \$3.2 million was set aside for this project because at that point that was all the funding the County had. Knowing that dollar amount set aside was not in line with the projected MACC at that point.

I also have with me, with the Louis Berger Group, I have Tom Dansford, who's with the Louis Berger and I have Michael Freeman who is the architect on the project. And I think in front of you you have some drawings that we put in front of you and some energy efficiencies which at this point I'm sure that is something you want to look at. We weren't aware of the 50 percent energy efficiency item. As you can see at this point, Michael Freeman is projecting, has a base savings of about 26 percent at this point. Again, we're in the drawing stage, the schematics. We're about 50 to 60 percent complete. Upon approval of this agreement, we're estimating that it's going to take the architect another 120 days to finish this project. With a 120-day time frame, we would probably at that point go out for a construction

bid, probably about March, April. So theoretically we'd be breaking ground on this project probably May or June or July of this next calendar year. Again, I stand for questions, and again, I have the architect here and he can answer any questions for you.

COMMISSIONER MONTOYA: Thank you, Joseph. Any questions?
Commissioner Sullivan.

COMMISSIONER SULLIVAN: Joseph, there isn't any information in the packet about how these fees were derived. The original \$3.2 million fee – has all of that been paid?

MR. GUTIERREZ: No, the original fee was not \$3.2 million.

COMMISSIONER SULLIVAN: Excuse me. The MACC was \$3.2 million. How much was the original fee and has all that been paid?

MR. GUTIERREZ: The original fee at that point, \$280,000 was set aside to the Louis Berger Group. Approximately of that – that included the GRT at that point. Approximately \$226,000 has been expended against that original contract.

COMMISSIONER SULLIVAN: And was that for master planning or was that for design through bidding or what?

MR. GUTIERREZ: It was for all the aspects of what's detailed, and they are making me copies of the amendment right now. In the original agreement it's phased out. In terms of programming, schematic design, design/development, construction documents, bidding negotiations, pretty much in the programmatic and schematic design at this point.

COMMISSIONER SULLIVAN: Okay, I understand where it is now, but the original agreement in 2001 was to \$280,000 and that was to provide all of the services through construction for a building that was to cost \$3.2 million. Is that correct?

MR. GUTIERREZ: In the agreement it was projected to cost – the MACC was at \$3.2 million in the agreement. Although when I go to the file and look at the correspondence that occurred between the County and the contractor at that point what I read into it is that everyone was on the same page that the MACC was not a reasonable MACC at that point at \$3.2 million. I think at that point they were talking about a \$6.5 million MACC and that was approximately three years ago. All of that wasn't incorporated into the contract because the dollars were not available at that point.

COMMISSIONER SULLIVAN: And what was the square footage estimated at that time?

MR. GUTIERREZ: The square footage that we're looking at now was about 30,000 square feet. I think it's 14,000 for maintenance and 16,000 for office. The numbers are right. It could be reversed in terms of office and maintenance building.

COMMISSIONER SULLIVAN: And what was anticipated back in November of 2001 in terms of square footage?

MR. GUTIERREZ: The square footage pretty much was a similar square footage.

COMMISSIONER SULLIVAN: Okay. So the square footage hasn't changed, but between May of 2003 and now, the estimate has gone from \$6.4 million to \$10 million. It's

the same square footage. That seems rather high, number one, and number two, I'm concerned that if we're designing the same building, and regardless of what the price of steel may be doing or the price of concrete, the effort involved in the design shouldn't be any different. We're increasing the contract by more than half a million dollars here, it seems with the same size building. Originally we started at \$280,000 so now we're closer to more than \$800,000 for design fee. That would be about eight percent.

MR. GUTIERREZ: Mr. Chairman, Commissioner Sullivan, you're correct. It's closer to eight percent. There's a budget item in the contract that calls for additional services. If you take the additional services and the GRT out of that, then the contractor's percent, although this contract is a fixed lump sum, it comes in at the neighborhood of about 7.25 percent in relationship to a \$10 million MACC.

COMMISSIONER SULLIVAN: If everyone felt that the building should have cost \$6.4 million, how did it go up without increasing the square footage, from \$6.4 million, which was the date of a revised, in May of 2003, the date of a revised cost estimate, to just a little more than a year later, it went from \$6.4 million to \$10 million?

MR. GUTIERREZ: Let me clarify that point, Mr. Chairman, Commissioner Sullivan. The MACC is at \$10 million. That also includes almost 14 percent escalation clause in there, which is approximately a little over a million dollars. So we're looking at cost of building, at this point and then what the cost is going to be when we eventually break ground, which could be of May or June in next fiscal year. Then we're looking at about a \$6.5 to \$7 million to about a \$9 million cost today, in terms of that cost estimate. I'm sorry I didn't clarify that at first.

COMMISSIONER SULLIVAN: I'm still having trouble understanding that, because it says Project and Facilities Management requested an estimate and in May 2003, the estimate came in at \$6.4 million. And then in June of 2003, Public Works presented an update on the design progress, 2004, voters approved a bond issue and in May of this year you received a revised cost estimate at \$10 million. So from May of 2003 to May of 2005 it went up 60, 70 percent in cost in two years. And the square footage didn't change. How did you do that?

MR. GUTIERREZ: Mr. Chairman, Commissioner Sullivan, you're correct. Let me ask - if it's okay with the Commission, can I get the architect to respond?

COMMISSIONER SULLIVAN: Whoever can tell me how that happened.

MICHAEL FREEMAN: Mr. Chairman and Commissioner Sullivan, I'm Michael Freeman. I'm with Bauer Freeman McDermott, Architects. I can explain the condition, and it's a little convoluted, so please bear with me and I hope I'll have it in order. The original building, the original MACC, was about \$3.4 million. When we did the program, we realized that the original MACC was not sufficient to handle all the facilities that Public Works needed. Our fee, however, was based on that \$3.4 million project. The last estimate, as you have copies of, I believed, was \$6.4 million, but that has to be qualified by saying that that estimate did not include paving and security fencing at an 8.4-acre material service yard. We were looking to save money because all along we recognized that the County did not have

sufficient funds available to build the sort of project that Public Works needed.

So we had proceeded under the assumption that Public Works would do the paving and would provide the security fencing for the yard. That was worth about \$1 million. So the actual cost before the project – we ceased work on the project three years ago – was about \$7.4 million.

In those three years, as you pointed out, Commissioner Sullivan, the costs – well, we quit working in 2003.

COMMISSIONER SULLIVAN: The estimate that was dated May of 2003.

MR. FREEMAN: 2003, and it's the end of 2005.

COMMISSIONER SULLIVAN: But the \$10 million came in the May of 2005, so that's exactly two years.

MR. FREEMAN: Yes, and where that comes from as Joseph has pointed out, is there's close to a million dollars in cost escalation built into that. So the actual increase due to inflation over the past two-plus years has been about two million dollars. But we expect further inflation costs and that the contractors will certainly be aware of this, over the 18-month construction period that this project will take. So we've built that in because the contractors will certainly build it in to their bids. So rather than have to come back later for additional funds we've anticipated what we know will happen.

As I've pointed out, our fee was originally – and it's actually Louis Berger's fee, they're the lead firm on this project, was predicated on a \$3.4 million project, although at County Commission direction, we continued to work on completing the drawings on a project that, depending on how you figure the numbers, was either \$6.4 or \$7.4 million. I should also point out that I believe during 2003, the issue of whether the Public Works Department should complete the project by doing asphalt paving on the 8.4 acres or not did come before the Commission and the Commission rejected that option and said that it should all go under the work of the general contractor.

So the numbers are accurate but they take a little explaining as to how they were put together.

COMMISSIONER MONTOYA: Questions?

COMMISSIONER SULLIVAN: The only other question I would have, and this is for staff, Gerald or Mr. Ross. This seems to be a major change in the agreement, in the scope and in the price. It would seem to me that – and I don't know for how long this agreement went that was executed back in November 2001, but that's four years ago. Should this be put out for RFPs and a re-evaluation if we're now looking at a \$10 million project, as opposed to a \$3 million project? And should we be looking at other criteria such as energy efficiency that we talked about earlier today? It just seems to me that we've come this far, now the project has tripled in price, that we're dealing with a totally different animal at this point in time.

MR. GONZALEZ: Mr. Chairman, Commissioners, I didn't catch the tripling in price, but –

COMMISSIONER SULLIVAN: Three million to ten million.

MR. GONZALEZ: Well, it's my understanding when I came on as County Manager that the County recognized that the entire project could not be constructed for the \$3-point-some million. That it was anticipated that additional revenues would be raised in order to complete the entire project and we knew at that point that there was going to be additional money required in order to construct the complete facility. What was being designed was that portion of the facility that we could afford, given what was put out and bonded for in terms of funding.

I know James Lujan and Robert Martinez have some of this history, but based on that, and my understanding of where we were funding-wise, I don't see a tripling in the price. I suppose we could construct the original small portion of the facility that was originally projected, and we can stay within probably more reasonable limitations but we'll only have a Public Works facility. Robert, any -

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, Commissioner Sullivan, just to go back a little more in history, before the bonds were even - the question went to the voters I believe it was in 1999, Public Works and PFMD were directed to do an estimate for a new Public Works facility by the County Manager at that time. And the estimate was \$8 million. And at that time the voters were going to be deciding on bonds for open space, water, fire and the new Public Works facility. So the estimate that Public Works and PFMD put together for a facility was \$8 million.

The County Manager at that time felt that was too much to go to the voters so he split that in half. So right away, we knew we did not have, we were not going to the voters with enough of a request to build a facility. What was planned on was that we would look at selling the existing property that the Public Works facility is on to come up with the difference. The County did a market analysis of the existing Public Works facility property and that came in far below what was hoped to offset the difference. So from the onset we knew that this facility would be in the range of about \$8 million.

COMMISSIONER SULLIVAN: But Robert, Louis Berger is a large consulting firm. They signed a contract, did they not, back in November that they would design a facility with a maximum allowable construction cost of \$3.2 million. They signed that contract, didn't they? Or did they not?

MR. MARTINEZ: Mr. Chairman, Commissioner Sullivan, they did sign that contract.

COMMISSIONER SULLIVAN: So they must have thought that they could build something, maybe not quite as elaborate, but something on the range of 30,000 square feet for that price. Otherwise they wouldn't have signed the contract.

JAMES LUJAN (Public Works Director): What happened at the time, Commissioner Sullivan, the County kept increasing the size of the building, through needs assessments. We went through all the departments, what we needed, and that's why we're here today. We went last year before the voters to increase the dollar amount. In fact we presented to you - I don't know the exact date, and when we said we would do some of the work in-house on the earthwork, you yourself is that one that said no. Let it all go out to contract. So

the price kept increasing. We were trying to fund something and do it within the \$3 million and change, but the needs kept increasing and the size. We were going to cut out some of the wash bays, and we weren't going land up with a facility that was just bare minimum. So we kept increasing it and that's why we went back to the voters to look for additional funding for Public Works facilities and roads.

Louis Berger did sign. We just kept asking for more.

COMMISSIONER SULLIVAN: I understand that can happen. So what was the square footage anticipated in the original design and cost estimate?

MR. LUJAN: I don't recall that. Tony -

COMMISSIONER SULLIVAN: You feel it must have been - Mr. Gutierrez said that it was 30,000. You feel it must have been perhaps less than that.

MR. LUJAN: Mr. Chairman, Commissioner Sullivan, I don't recall the original square footage. I wasn't even here when they cut the bonds. It had already failed a couple of times and that's why Robert has the most history on it, but I don't know what the original number was.

MR. GUTIERREZ: Mr. Chairman, Commissioner Sullivan, I've gone through the whole file, because I don't have a lot of history with the County so I've gone through the file that we had and the original square footage, I have yet to determine that. I don't see it in print anywhere in the file. And it's not an attachment to the agreement.

COMMISSIONER MONTOYA: Okay. So I think the bottom line in terms of the question that Commissioner Sullivan is asking is based on this, do we have to put it out to bid again? Or can we amend the contract as is being recommended?

MR. GONZALEZ: Mr. Chairman and Commissioners, I assume that if you want to put it back out to bid again we can. We're rolling the dice if we do that in terms of where we end up, given the escalation in terms of costs where contractors are and also the addition of new energy efficiency to the building. It's sort of a roll of the dice from that standpoint, except that we have a known on this side; we have an unknown on the other side.

MR. GUTIERREZ: Mr. Chairman, Commissioner Sullivan, I'd also like to add to that the additional cost in terms of if we were to put this out to bid. We're seeing price adjustments just in a couple of months in terms of the construction bids that we put out. Even though they're small construction bids that run in the neighborhood of \$600,000 to \$800,000, when we don't make the mark the first time we come back the second time. We're usually reducing the square footage of the building as opposed to having the ability to add more dollars. It seems like based on the last bond sale that you currently approved that we somewhat set a ceiling in terms of budget for this project.

COMMISSIONER SULLIVAN: Mr. Gutierrez, is there a provision that allows us to extend this contract for four years?

MR. GUTIERREZ: Mr. Chairman, Commissioner Sullivan, there's not a clause in the contract that says we have a four-year extension. But also in this contract, this contract doesn't have a termination date. The original contract did not include a termination date. And that's the reason we have the ability to come in front of you and amend this contract at this

point.

COMMISSIONER SULLIVAN: Mr. Chairman, I guess, I think it would be useful for Mr. Ross to comment on that. I don't know that the County is able to execute contracts with no termination dates in them. Or to amend contracts with no termination dates in them. And I haven't seen the contract so I don't know if the amendment has a termination date.

MR. ROSS: Commissioner Sullivan, I haven't seen the contract either. I haven't researched it. Architects and engineering contracts are limited to four years under the procurement code so we have to look and see what's going on here. But I haven't looked at it. I don't know. It seems to me they amended the statute to provide that limitation just a couple years so I'd have to actually get back to you on whether - what the duration of such a contract would be. It's either four or eight years under the procurement. It depends on the code that was in force at the time the contract was entered into.

COMMISSIONER SULLIVAN: Mr. Chairman, if the Commission does wish to approve this amendment this evening, I would suggest that it be with a condition that we validate the legal applicability of that four-year time period.

COMMISSIONER MONTOYA: Okay. Is that a motion?

COMMISSIONER SULLIVAN: No, I'm not going to make a motion on this one, Mr. Chairman.

COMMISSIONER MONTOYA: Okay.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: The other issue is that the 26 percent of energy savings is way less than what Ed Mazria suggested was possible simply by design. So it doesn't seem that this firm is really active or interested in saving energy. They've been hearing us talk for over a year about this and we come up with 26 percent which according to Ed Mazria is half of what we should be getting. I don't know. I read through this and it's pretty basic. You would expect that this is nothing out of the ordinary. You would expect this from an architect. And yet we're not getting much, I don't think. I'm not impressed.

MR. GUTIERREZ: Mr. Chairman, Commissioner Campos, you're correct. The 26 is below the 50, but in terms of what our expectation was, I didn't know that we had an expectation of 50 percent. But we can certainly shoot for that.

COMMISSIONER CAMPOS: The architects should have. Mr. Mazria talked about the national debate of 50 percent, and the 60 and then 70. I mean, 26 is not - and what they're talking about here is almost nothing.

COMMISSIONER MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Question, and Joseph, I know you referenced this. Is it possible under this current contract the architect to meet closer to the 50 percent. And perhaps that's a question for the architect.

MR. FREEMAN: Commissioners, I'm glad this came up because I did sit though Ed Mazria's presentation. I should point out that some of the examples of Santa Fe buildings that met the 50 percent standard were mine. One of them that has been documented

and instrumented by PNM is the municipal court building, which has by utility bills saved over 60 percent of the energy for a standard court building. Another building that you may be familiar with is the City of Santa Fe fire station 7, behind the rodeo grounds, which also meets the 50 percent standard. What Mr. Mazria did not point out is that his numbers are computer numbers. Ours are reduced by 25 percent for real world conditions.

In addition, Mr. Mazria's examples were things like schools and libraries which are unique types of buildings in that they're relatively easy to save energy with. The major building in this complex, the Public Works complex, is the vehicle maintenance building. And it has ten large, 16-foot by 16-foot overhead doors. Every time those overhead doors open to admit or have a vehicle drive out, all of the heat drives out with those vehicles. So those buildings are notoriously difficult to make energy-efficient. What we've done in that building, in addition to passive solar heating, is to use natural light and extra insulation to overcome the losses through the overhead doors.

But these are really not standard buildings. The vehicle maintenance building is not a standard building where you can use those numbers that Ed Mazria gave you. On the other hand, the office building does come a lot closer to the 50 percent number that he used. But again, we've reduced it because the computer projections are ideal situations. The way people actually use buildings, in other words, they may leave the room for a few minutes and not turn the lights off. They may not set the thermostats back when they leave at night. So my experience, and I've been doing these energy-efficient buildings for close to the 30 years that I've been in Santa Fe. In fact our firm, together with Mr. Mazria's firm were for years the only two firms that would still do this work, even when clients didn't ask for it. And the two major buildings that I pointed out for the City of Santa Fe I think are good examples of our history of commitment to energy-efficient work and our expertise at doing it.

But Commissioner Vigil, to answer your question, there are strategies. You recall, these buildings were designed four years ago and at that time they were state of the art. They're also using exclusively passive systems that we know work in Santa Fe. But as Mr. Mazria pointed out, when the type of building doesn't allow you to get to that 50 percent threshold there are other strategies that can be utilized to bring you up. Commissioner Sullivan, when Mr. Mazria made his presentation, talked about wind energy and we did a brief study on wind energy for this project and presented it to the Commission in 2003. We also took a look at photovoltaic power in 2003, based on the technology that was available at that time.

There was no - because of the utility rates there seemed to be no economic justification for it and the County Commission directed us not to pursue those avenues. Technology in the past three years or so has increased, especially in the areas of photovoltaic power, has increased exponentially and this building, these buildings would be ideal candidates for a project to demonstrate the County's commitment to alternate energy using photovoltaic power or perhaps using wind energy, although I share some of Mr. Mazria's reluctance on that in that it seems with current wind generation products that we have available to us that maybe wind farms and buying green power from the grid may be the most viable approach at this time.

But we certainly would be more than happy to go back into the design. There are some

simple things that can be done to increase the energy efficiency of the building if the Commission so directs. I also should point out, as the discussion has gone on this afternoon, that there were very restrictive budget considerations that had to be addressed in the original design. And the project was always over the original MACC, the needs of the Public Works Department were always greater than the funding, and I think Robert has explained why that was and the issues with the bond issue.

But there are – so we were working under those really restrictive budget constraints. I'd also like to backtrack briefly about the question about the square footage. I believe Commissioner Sullivan posed that question. The square footages remained essentially the same since the initial programming. This is the square footage that the Public Works Department needs to replace the facilities and upgrade the facilities at Galisteo Street into a new complex. What the plan originally was to build less of the facility. In other words to phase it, to try to keep it within the original MACC. But there was no way that one could separate out various portions of this facility and have some of them at Galisteo Street and some of them out at Highway 599, and still organize and run the department in a reasonable, logical way.

No matter how we tried and what combinations we tried to put together as far as locating some facilities out at 599, leaving some facilities at Galisteo Street, all we could see was people traveling back and forth in cars with the resulting time wasting and wastage of fuel to try to run the department from two widely separated locations. And so at County Commission's direction at that time, we proceeded with the larger project, and based on your direction, we've come to this point where now there appears to be money available for the project that wasn't available three years ago, two and a half years ago, and that the project in its entirety, and as a fully functioning complex can be built right now and that's the question before you.

COMMISSIONER MONTOYA: Okay, Commissioner Vigil, do you have any other questions?

COMMISSIONER VIGIL: I do. I want to zero in on this particular question. I know we're late on time. Let me narrow it just a bit. Under the current contract and what we may be approving today, can you improve the energy efficiency design?

MR. FREEMAN: Yes, we can. And I have many suggestions for doing that, which probably aren't appropriate to bring up due to time constraints now, but I would be more than happy to report back to you, perhaps at the first Commission meeting in December and let you know what those strategies might be, what the economic viability for those strategies are, and what the improvement in energy efficiency for the complex would be by implementing these strategies.

As I mentioned a few moments ago, the technology has rapidly advanced, especially in terms of photovoltaics and we certainly can come a lot closer in the office building especially, for meeting the 50 percent target. The vehicle maintenance building I would have to reserve judgment until I did a little more research on it.

COMMISSIONER VIGIL: Okay. Thank you. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. What are the wishes of the

Commission? We've discussed this.

COMMISSIONER SULLIVAN: Mr. Chairman, I don't think we can wait on this facility. I'm disappointed at the price. I'm disappointed at the inaccurate cost estimating but I'm also disappointed that we don't have a Public Works facility already, when we started on it four years ago. So I would move for approval of this amendment with the provision that in fact it is legally do-able under the state statutes are reviewed by our attorney.

COMMISSIONER VIGIL: Second.

COMMISSIONER MONTOYA: Okay. Motion and second. Any other discussion?

The motion to approve the amendment to the Louis Berger contract, with the stipulation as noted above passed by unanimous [4-0] voice vote.

XI. C. Treasurer's Office

- 1. Resolution No. 2005-__ . A Resolution Designating First State Bank to Become a Depository Financial Institution for Santa Fe County as Outlined in the County's Investment Policy, Resolution No. 2004-107. This Would Allow the Treasurer's Office to Invest three to Five Million Dollars in Certificates of Deposit Secured by an Irrevocable Letter of Credit Issued By Federal Home Loan Bank**

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I move that we table this item. I understand the attorney has concerns about a notice provision. Is that correct?

MR. ROSS: Mr. Chairman, this particular resolution needs to be executed by the Board of Finance, not by the Board of County Commissioners, and I'm concerned that we didn't have this on the agenda for a Board of Finance meeting. That's my concern.

COMMISSIONER MONTOYA: So it wasn't noticed as a Board of Finance meeting?

MR. ROSS: It was not. It was just noticed as an item here for the Board of County Commissioners.

COMMISSIONER MONTOYA: When's our next Board of Finance meeting?

MR. ROSS: I'm not sure.

COMMISSIONER MONTOYA: Victor, do you know when that is?

VICTOR MONTOYA (County Treasurer): It will probably be at the end of -

COMMISSIONER MONTOYA: December?

MR. MONTOYA: Yes. Or probably in January, which will be the next quarter.

COMMISSIONER MONTOYA: Okay, so we have a motion to table?

COMMISSIONER VIGIL: Second.

COMMISSIONER SULLIVAN: I would move to table. I would suggest that we could schedule an emergency Finance Board meeting ahead of that time if necessary to deal with this one issue. There was no packet material on this in my packet. Did you have anything in yours?

COMMISSIONER MONTOYA: No.

COMMISSIONER SULLIVAN: So it's a little difficult for me to vote on it either way.

COMMISSIONER MONTOYA: So we have a motion to table and a second.

The motion to table consideration of designating a depository financial institution passed by unanimous [4-0] voice vote.

COMMISSIONER MONTOYA: So Victor, if you could get with legal and see if maybe you can reschedule it either the end of this month or December some time.

MR. MONTOYA: The first meeting in December?

COMMISSIONER MONTOYA: Yes. Thank you.

XI. D. Matters from the County Manager

1. Request for Authorization to Publish Title and General Summary of the Santa Fe County Affordable Housing Ordinance [Exhibits 3 and 4]

COMMISSIONER CAMPOS: Mr. Chairman, as far as the request to publish title and general summary, I would be in favor of doing that today. We have a major study session in December. I think that should resolve most of our issues and gives us enough time to analyze, to discuss, and to get information from staff and that we schedule a meeting, a first public hearing in January. I'm informed by counsel that we need to have two public hearings, so maybe we can have them both in January. I would suggest that these meetings be one-issue meetings so that we can really focus on the affordable housing details. We know it's a complex ordinance and it will require discussion, and there may be a lot of public input. That would be my suggestion, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. Commissioner Sullivan, then Commissioner Vigil.

COMMISSIONER SULLIVAN: I would agree.

COMMISSIONER MONTOYA: Is that all you have to say?

COMMISSIONER SULLIVAN: Don't even ask that question, Mr. Chairman.

COMMISSIONER VIGIL: We're in shock. I just received the memorandum that summarizes and gives staff's response to the issues that came up from our last study session. One of my concerns of course has been that we're getting information right before we

have to make decisions and that's always uncomfortable for me. However, I guess the question I have is do we have our study session prior to the December meeting? Steve Ross.
MR. ROSS: Mr. Chairman, Commissioner Vigil, we do have a study session scheduled I think on the 13th of December, at 10:00 in the morning, I believe if my memory serves.

COMMISSIONER SULLIVAN: Yes, 10:00.

COMMISSIONER MONTOYA: To go over all these changes, right?

COMMISSIONER SULLIVAN: Or potential changes.

COMMISSIONER MONTOYA: Potential changes. Yes.

COMMISSIONER VIGIL: And I guess one of my concerns has been we really haven't been getting any input from the public and because that's a critical piece for me I'm

going to go ahead and vote to publish title and general summary.

COMMISSIONER MONTOYA: At this point?

COMMISSIONER VIGIL: Is there a motion on that or just direction?

COMMISSIONER CAMPOS: That was a suggestion. I think we can vote on that today saying we're going to have hearings in January, a stand-alone hearing, one-issue

hearings, perhaps two. That's the discussion that we need to have.

COMMISSIONER MONTOYA: Commissioner Vigil, did you have any other

COMMISSIONER VIGIL: No.

COMMISSIONER MONTOYA: What's your suggestion, Commissioner

Campos? You mentioned it during Matters from the Commission about having a couple of

public meetings?

COMMISSIONER CAMPOS: Well, we have to have, according to legal

counsel, we have to have two hearings on this ordinance, because it affects land use issues and

that's been the policy and maybe an ordinance that obligates us to do that. So that's the

standard. And we can have both of them in January, maybe a couple of weeks apart.

COMMISSIONER MONTOYA: Okay. Steve, any comments?

MR. ROSS: Mr. Chairman, what we'll actually need to get the process going at

some point, and it could be today, it could be on the 13th I suppose, is we actually need a vote,

a vote directing staff to publish title and general summary. It's the first step in getting a zoning

ordinance enacted. And then Commissioner Campos is right; state statute requires two public

hearings for a zoning ordinance.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos and then

Commissioner Sullivan.

COMMISSIONER CAMPOS: At this point do we have to give the dates?

MR. ROSS: What we would do, you would direct us - no, the short answer is

no. You would direct us to do that. We will figure the dates out, we'll arrange for the

publication, and get them going. If you want them both in January we can decide on that now

and make sure we work back from our dates from the meetings in January.

COMMISSIONER CAMPOS: A question for Ms. Quarles who's been leading the effort on affordable housing, how does this work for you and your schedule? Does this make sense to you or would you suggest something different?

DIANE QUARLES (Strategic Planner): Commissioner Campos, I think it would probably work well, considering that we have a study session on the 13th. That's a month from now and then the public hearings would be a month from that. So that gives us two months and ample time to go over a thorough analysis of the changes that came out of the last study session to make any revisions and to get it into final form.

COMMISSIONER MONTOYA: Commissioner Campos, are you done?

COMMISSIONER CAMPOS: Mr. Ross, do you have an additional comment?

MR. ROSS: Mr. Chairman, the only - before we have a vote on this, the only question that remains is what to publish. You have a memorandum from Ms. Quarles dated November 7th. That has about a month-old draft in it of the ordinance as it existed about a month ago. She's prepared - you have the one in color, dated November 8th, that's the latest version.

COMMISSIONER MONTOYA: I have two dated November 7th.

MR. ROSS: The memo's that's dated November 7th is attached to the October 19th draft, and you should have another one dated today or yesterday. Perhaps it's in color, showing the changes from that draft. We can work off of either of them.

COMMISSIONER SULLIVAN: Mine's dated November 8th, today. You have two, Mr. Chairman. We have two cover memos dated November 7th, but the first one relates to the draft ordinance we've been working off of from some time dated October 19th, and the second one relates to some amendments that Ms. Quarles put together and that one, that memo is dated November 7th but the draft ordinance is dated November 8th. If you page through a little bit you'll find that. There you go. November 8th. So that's what I think Mr. Ross is saying, which one do we publish?

MR. GONZALEZ: I was just going to say, Mr. Chairman, Ms. Quarles can explain the difference between the two so that you have some idea of what you're looking at.

COMMISSIONER MONTOYA: Which one would you recommend that we publish?

MS. QUARLES: As a matter of clarification, the October 19th is the version that has been publicly distributed and that you have been working from at the last two study sessions. I believe there's nothing in here that you have not seen or discussed. The November 8th, I want ahead and prepared - this would have been presented to you had we had time at the last study session, so what I did is I had to play a little bit of catch up. I went through all the information that was distributed and talked about from the developers in the task force. I analyzed it. Based on those recommendations, I actually reincorporated that language into the ordinance. You have not formally discussed this one, and it is prepared for the December 13th meeting.

That's what the two versions are. You will be discussing this on December 13th. You can choose to publish either one of them, I believe and again, Steve Ross can give a better

indication. But again, this one has been seen by the public and you have had an opportunity to discuss it. These would be the proposed changes that we would be discussing on the 13th.

COMMISSIONER MONTOYA: So which one would you recommend?

MS. QUARLES: I'm going to kick that to the County Manager and he'll probably kick it back to me.

MR. GONZALEZ: Mr. Chairman, Commissioners, the most recent version we believe is the most comprehensive because it does incorporate all the feedback that we got from the task force and the development community and at the same time mediated between those comments and the October 19th version. We feel that it successfully synthesizes those two and I guess if I were to pick a version I would probably pick the most recent version. The one thing in terms of picking a date for the publishing notice of title and general summary is that we just have to pick a date that will allow you to take a vote that affirmatively picks one of those versions to go forward with the publication of. So if we're meeting on December 13th in order to discuss these two versions then you should authorize a date that follows that discussion and decision on December 13th. And we are set that now, it's just that you need to give yourself the space in order to make that decision.

COMMISSIONER MONTOYA: Okay. So we have a recommendation to publish title and general summary for the November 8th draft proposed revision. Do we have a motion?

COMMISSIONER CAMPOS: So moved.

COMMISSIONER SULLIVAN: Second.

COMMISSIONER MONTOYA: Motion by Commissioner Campos, second by Commissioner Sullivan. Discussion?

The motion to authorize publication of title and general summary of the affordable housing ordinance passed by unanimous [4-0] voice vote.

COMMISSIONER MONTOYA: We don't need the dates as part of the motion?

COMMISSIONER VIGIL: I prefer we don't.

COMMISSIONER SULLIVAN: Way to go, staff, and affordable housing task force and everyone else who has put their blood, sweat and tears into this undertaking.

XI. 2. Update on Various Issues

MR. GONZALEZ: More tears than anything else, Commissioner Sullivan. Just quickly, I remind folks that the El Rancho Bridge dedication will be at 1:30 on November 11th, renaming it as the Bobby Trujillo Bridge. Also, on November 21st at 10:30 we have the Agua Fria Community Center ground breaking that we're inviting the public and anyone else that wants to attend. There are two other things. One is a reminder that Roman Abeyta sent out an e-mail requesting a list of legislative non-capital priorities so that we can prepare for our

legislative session. I think we had the end of this week as the deadline for that so if you can get that information to us, we've already had a meeting with the lobbyist and we have a schedule for moving forward to meet with the legislators and letting them know what's on the agenda but that would be helpful. So it's just a general reminder to try to get those lists in to us by the end of the week.

And then finally, looking forward toward December, we have traditionally postponed or canceled that last December meeting and I didn't know what the druthers of the Commission might be for this year in terms of doing the same thing.

COMMISSIONER MONTOYA: Anyone want to speak their druthers?

COMMISSIONER VIGIL: My druther is to skip.

MR. GONZALEZ: Nice to see all those smiles up there. Ordinarily of course it would take place it would take place on December 27th. So that would mean that we would take care of all the December business on the 13th except for what would need to be taken care of by way of special meeting.

COMMISSIONER MONTOYA: So we would not have the Healthcare Board meeting?

MR. GONZALEZ: There's nothing that I know of that needs to come forward, but if there was we could try and start that meeting just a little bit early in order to take care of any business.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I've stated my piece. I'd rather we not have that second meeting.

COMMISSIONER MONTOYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Agree.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Agree.

COMMISSIONER MONTOYA: Okay. It is unanimous.

COMMISSIONER CAMPOS: If there's pressing business then we'll have a special meeting and you'll tell us, right?

MR. GONZALEZ: Right. That's all I had, Mr. Chairman.

XI. Matters from the County Attorney

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

MR. ROSS: Mr. Chairman, we need to go into closed executive session for all four items.

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

COMMISSIONER MONTOYA: Okay, we will be back in approximately an hour, about 6:05 to begin our public hearings for land use.

[The Commission met in executive session from 5:05 to 6:35.]

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

XII. PUBLIC HEARINGS

A. Land Use Department

- 1. LCDRC CASE # VAR 05-5300 Las Lagunitas Sign Variance. Ranch Partners, LLC, applicant, Linus Abeyta, agent, requests a variance of Article VIII (Sign Regulations), of the Santa Fe County Land Development Code to allow a temporary marketing sign to be located on the southeast corner of the property and to allow six (6), 3'x 5' flags to be located at the northeast corner of the property. This request also includes a renewal/extension of a previously approved variance to allow the six (6), existing 3'x 5' flags at the main entrance of the subdivision to remain. The property is located at 90 Rito Guicu (Las Lagunitas), along the I-25 West Frontage Road, within Section 5, Township 15 North, Range 8 East (Commission District 3)**

JOSE LARRAÑAGA (Review Specialist): Thank you, Mr. Chairman. On January 11, 2000, the BCC granted an 18-month temporary permit to allow three temporary signs, one illuminated sign of 125 square feet and two temporary signs of 100 square feet with six flags at the main entrance.

The applicant is now requesting a renewal/extension of the previously approved variance to allow the six flags at the main entrance of the subdivision to remain for 24 months. The existing flags are 3' x 5' (15 square feet) and are approximately twenty-two feet in height. Two of the six flags had to be a USA flag and state flag. The previously approved temporary signs have been removed.

This request also includes a request for a variance of Article VIII of the Land Development Code to allow a temporary marketing sign. The temporary sign will be 11 feet x 11 feet (121 square feet) and approximately 13 feet 9 inches in height, with a setback of forty feet from the intersection of Entrada La Cienega and the Frontage Road. The Land Development Code specifies that the maximum sign area for a temporary marketing sign is 16 square feet. The proposed height and set back are in compliance with the sign standards.

The applicant would also like to install six flags at the northeast entrance. The flags will be 3' x 5' (15 square feet), and approximately twenty feet in height. The sign and flags will be up for a period of 24 months. The Land Development Code specifies that pennants are prohibited signs, unless they relate to an event, function or activity of a specific limited duration.

Staff recommends approval of the renewal/extension of the existing flags for a period of 24 months. Staff does not recommend approval of the temporary sign and of the additional flags on the property. The decision of the LCDRC was to recommend approval of the previously approved variance to allow six flags at the main entrance to the property. The decision of the LCDRC was also to recommend approval of a variance of Article VIII,

Section 5 of the Land Development Code to allow a temporary marketing sign and three additional flags for a period of one year, subject to the following conditions:

1. The applicant shall remove all flags and marketing sign within one year of BCC approval.
2. The illumination on the existing northeast entrance sign shall be placed on a timer and must be turned off at 10 pm.

COMMISSIONER MONTOYA: Questions for staff? Is the applicant here?
Mr. Abeyta, do you have anything to add to the case?

[Duly sworn, Linus Abeyta testified as follows:]

LINUS ABEYTA: Other than the fact that we met with the La Cienega community. We issued notice and we came to an agreement. Each party gave a little bit. We reduced the amount of flags from six to three and we have voluntarily said we'd put our wall light on a timer to shut off at 10:00.

COMMISSIONER MONTOYA: Okay. And were you in agreement with the conditions that were placed on by the LCDRC?

MR. ABEYTA: Yes, sir.

COMMISSIONER MONTOYA: Okay. Any questions for the applicant?
This is a public hearing. We'll ask now for people that would like to speak on behalf or against this case. If you'd please come forward. Okay, seeing none, what are the wishes of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: If I'm understanding this correctly, this temporary approval was granted for the three signs and the flags back in January of 2000, almost six years ago. Isn't that kind of stretching the concept of a temporary installation a bit? It seems that when a development first starts they want to maybe generate a little public recognition and so forth, but six years seems a little bit long for a temporary, and then to extend it to more years to eight years. It seems fairly permanent to me.

COMMISSIONER MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: I didn't hear a real strong argument for doing this. It was just we agreed with the La Cienega land review folks but it's certainly just simply a marketing thing and as Commissioner Sullivan pointed out, they've been out there for six years.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Question for the applicant. How much of your development has been sold out, Mr. Abeyta?

MR. ABEYTA: We are at 80 percent sold out, and the sign would be, the variance that we are asking is only for 12 more months, as per our discussions with the LCRDC.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: And how do you respond to Commissioner Sullivan's notation that the variance was originally requested six years ago. I didn't read that into it, but do you have a history of that?

MR. ABEYTA: Yes. It was granted six years ago. At that time it was pretty hard to sell land out there, at that time. At this point we anticipate us to be sold out in 12 months. That's why we're asking for 12 more months for our signage.

COMMISSIONER VIGIL: Okay. Thank you.

COMMISSIONER MONTOYA: Okay. Is there a motion?

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'd like to make a motion along what staff recommends except instead of 12 months make that 24 months, and not go along with the temporary sign and the additional flags.

COMMISSIONER MONTOYA: So with staff recommendations, then.

COMMISSIONER CAMPOS: Except that the 24 would become 12.

COMMISSIONER MONTOYA: Oh, okay.

COMMISSIONER CAMPOS: And not going along with the temporary sign or the additional signs on the property.

COMMISSIONER MONTOYA: Okay. We have a motion by Commissioner Campos. Motion dies for lack of a second. Do we have an alternate motion? Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chairman. I would like to move that the Board of County Commissioners accept the decision of the La Cienega Development Review Committee to recommend approval of the variance and of the negotiated settlement that the applicant has entered into with them as a result of the minutes of the meetings.

COMMISSIONER MONTOYA: Okay. We have a motion by Commissioner Vigil. I'll second that for purposes of discussion. Any discussion on this?

COMMISSIONER VIGIL: I would just ask the applicant to delineate everything that was negotiated with the LCDRC. I think I heard you say that there were only going to be three flags?

MR. ABEYTA: Yes. Three additional flags at the northeast corner of the property. In addition to that would be the six flags at the front entry. Two of those flags, one would be the United States flag and the other would be the state of New Mexico flag.

COMMISSIONER VIGIL: And the sign?

MR. ABEYTA: The sign -

COMMISSIONER VIGIL: How large will it be?

MR. ABEYTA: It's going to 11 x 11 feet.

COMMISSIONER VIGIL: And the lighting for the sign?

MR. ABEYTA: Actually, that sign will not be lit. The timer that we say we will be putting on a sign, actually is the sign on the northeast corner of the property. It's a

wall sign with the words Las Lagunitas on it and that would be placed on a timer to light up the wall and sign and that is more of a permanent sign in nature, just showing that this is the development, indicating where Las Lagunitas is. And that will be placed on a timer to turn off at 10 pm.

COMMISSIONER VIGIL: And your requested time is 12 months.

MR. ABEYTA: The requested time is 12 months for the billboard, the 11 x 11 billboard, and the flags, which would be nine in total.

COMMISSIONER VIGIL: Okay. All the flags?

MR. ABEYTA: Yes.

COMMISSIONER VIGIL: That is the information under which I made my motion. I just wanted to get that on the record, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. Thank you. Any other discussion? No one came and spoke in opposition to this. Apparently LCDRC is comfortable with their recommendation as well. I would just encourage staff that we make sure that we follow up on this after the period that's being recommended here and I think this is a temporary thing; it's not a permanent thing.

The motion to approve LCDRC Case #V 05-5410 tied by 2-2 voice vote.

COMMISSIONER MONTOYA: Motion fails.

COMMISSIONER CAMPOS: Whose turn is it to make a motion now?

COMMISSIONER MONTOYA: I guess the other thing is this would just come up at the next land use meeting?

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Apparently the applicant was granted an 18-month permit six years ago and hasn't removed the sign for four and a half years, and the flags. So it would seem that they're substantially out of compliance with that temporary permit as of right now, unless I'm missing something here. Mr. Dalton, is there something I'm missing on this? Or who is it that brought this forward? Mr. Larrañaga.

MR. LARRAÑAGA: Mr. Chairman, Commissioner Sullivan, they had gotten a temporary permit for 18 months and one illuminated sign. That's down. And then another sign and that one they have taken down also. What's existing on the old one is the six flags on the main entrance.

COMMISSIONER SULLIVAN: And that was all a part of the permit granted January 11, 2000.

MR. LARRAÑAGA: Yes, sir.

COMMISSIONER SULLIVAN: Which was an 18-month temporary permit.

MR. LARRAÑAGA: Yes, sir.

COMMISSIONER SULLIVAN: So it wouldn't appear that we could rely on the applicant to voluntarily take those flags down. We would have to have some

enforcement of that after 12 months or 24 months. They haven't taken them down yet.

MR. LARRAÑAGA: Not the flags. No.

COMMISSIONER VIGIL: Mr. Chairman.

COMMISSIONER MONTTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I'd like staff to bring in - I'd like a legal ruling. If the motion has been voted down, is it in fact - does that mean that the applicant cannot come forth before the BCC when in fact we're not with our full five membership.

WAYNE DALTON (Review Division Director): Mr. Chairman, Commissioner Vigil, I believe it was two votes to approve and two votes to deny and I believe the case is automatically tabled until the next public hearing when Commissioner Anaya is here.

COMMISSIONER VIGIL: And Steve Ross has just arrived. Thank you, Wayne.

MR. ROSS: Mr. Chairman, Commissioner Vigil, that's correct. That's what our rules of order specify, that when somebody is missing and we have a tie vote that it's placed on the next land use agenda for further consideration, but no public hearing or anything like that. It just comes up for a vote next time.

COMMISSIONER VIGIL: Okay. I understand that. You have another opportunity. And I sort of welcome that opportunity and would like to make a few statements. This is a minimal easement request for a variance and the La Cienega Development Review Committee had heard this case at least three times. So there was a lot of give and take in this case and I read the minutes of those meetings and recognized that everyone who participated in it came to the best possible resolution, and that is the kind of resolution that we need to encourage in our community. The minimal variance is requested only for 12 months and this is a development that does require marketing as a part of their tool and we have to balance these issues with the economic development component that we're promoting in our community. So I did not see a problem in granting this variance. I do believe it was a minimal easement. Anyway, we'll be hearing it soon.

COMMISSIONER MONTTOYA: Okay. It will be coming up.

COMMISSIONER CAMPOS: Mr. Chairman, just a comment to Commissioner Vigil. That sign is 11 by 11. It's a huge sign. It's way over the size permitted by the Code. It's not a minimal easement. It's 121 square feet versus 16 feet as permitted by the Code.

COMMISSIONER VIGIL: For 12 months.

COMMISSIONER CAMPOS: It doesn't matter. It's huge.

COMMISSIONER MONTTOYA: Okay. We'll take it up again next month. You'll be notified. Just be in contact with staff. Thank you.

XII. A. 3. CDRC Case # Z 04-5190 Beth Longanecker Master Plan: Beth Longanecker, applicant, Jim Corbin, agent approval of a commercial horse barn on 4.43 acres. The property is located off State Road 14 at 2 Ron's Road within Section 26, Township 15 North, Range 8 East within Commission District 5

JAN DANIELS: (Review Specialist): Thank you, Mr. Chairman. Good evening. This case has been tabled since January 11, 2005 in order for the applicant to drill a new well and to complete action agreed between the applicant and the applicant's neighbors. The applicant is requesting master plan zoning for a horse business on 4.43 acres that includes the following existing structures: One residence; one barn, another barn, one hay barn one shavings storage shed, four 12'x 12' loafing sheds, one 11'x 54'x 7' containment pit, one 5'x 4 x 6' high sign that reads, "Turquoise Trail Equestrian Center, Home of Beth Longanecker Performance Horses."

The proposed project will provide full service boarding and training of performance horses for no more than 25 equines, exclusively registered American Quarter horses, as well as world-class training instruction for those individuals who will compete in Western and English riding disciplines at state and national levels.

The proposed project has all construction improvements in place as shown on the site plan. The property has previously been used for a commercial equestrian facility, however, the use of the property was not continuous and is not considered legal non-conforming. The applicant has occupied the property without a business registration, and, therefore, is requesting the required zoning and development plan approval.

This case has for the following: location, adjacent property – on adjacent property it says the lands to the east are developed with residential uses except where businesses are grandfathered in and those businesses no longer exist. To go on: floodplain, access, terrain management and soils, landscaping, water, solid waste/manure, liquid waste, parking, traffic impact, archeology, outside lighting, signage and fire service.

Our recommendation: Staff's position is that the applicant is in accordance with Article V, Section 5, Master Plan Procedures, of the Land Development Code to allow a boarding and training facility on 4.43 acres.

On November 14, 2004, the CDRC recommended master plan zoning for a boarding and training facility on 4.43 acres. Staff recommends zoning subject to the following conditions. Mr. Chairman, may I enter the conditions into the record?

COMMISSIONER MONTOYA: Yes.

[The conditions are as follows:]

1. Water use shall be restricted based on water availability report as approved by the County Hydrologist. The applicant will meter the well and send annual meter readings. The applicant shall submit a fire protection plan as required by the County Fire Marshal's Office with final development plan submittal.
2. The applicant shall pay a fire review fee in the amount of \$100 in accordance with

- Santa Fe County Resolution No. 2001-114, prior to recordation of the development plan.
3. The applicant shall pay a fire review fee in the amount of \$100 in accordance with Santa Fe County Resolution 2001-114 prior to recordation of the development plan.
 4. The applicant shall submit a drainage and grading plan with preliminary and final development plan submittal.
 5. Submit landscaping plan in conformance with minimum standards for road frontage landscaping. All trees shall be a minimum of 6 feet in height, 1.5-inch caliper at planting. All landscaping shall require only low to moderate water use as per County Code.
 6. Compliance with the applicable review comments from the following:
 - A. State Engineer's Office
 - B. State Environment Department
 - C. County Hydrologist
 - D. County Fire Marshal
 - E. County Public Works
 - F. Development Review Director/Technical Review
 - G. State Department of Transportation
 7. The applicant must comply with Ordinance 2003-6 for rainwater harvesting.
 8. All proposed signs shall conform with the Land Development Code. An off-site sign is prohibited.
 9. The applicant shall obtain a business license prior to development plan recordation.
 10. The applicant must provide solid fence or wall with landscape buffer along east property line.
 11. Any expansion or change of use shall not be allowed on the property.

COMMISSIONER MONTROYA: Okay, questions for staff? Commissioner Vigil.

COMMISSIONER VIGIL: The questions that I have are probably questions that may be eradicated before we go to the preliminary development stage because I think you're just requesting master plan. There was a lot of question about water, the State Engineer, whether or not even our hydrologist had an opportunity to fully review this. I'm assuming that that is going to be part of the process, once master plan is approved.

MS. DANIELS: Mr. Chairman, Commissioner Vigil, the well has been drilled. Everything has been resolved as far as the water issues are concerned. We are requiring them to use the new well as a condition to go before CDRC.

COMMISSIONER VIGIL: Okay. Then I guess I have some questions. The Pojoaque Soil and Water Conservation district said in a letter they submitted that they did not have the opportunity to sample soils. Do you have an update on that?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, we don't have a soil sample as of yet. And the Department of the Environment made a statement that they were

not clear whether there was going to be extra stall for bathing of the horses, or an understanding there was going to be a drainage system and where that would drain. Do you have an update on that?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, the applicant is here tonight and will be able to answer that question later for you.

MR. DALTON: Mr. Chairman.

COMMISSIONER MONTOYA: Wayne.

MR. DALTON: Commissioner Vigil, all these issues that were brought up by the reviewing agencies will have to be addressed at development plan.

COMMISSIONER VIGIL: Okay. That was my question. Thank you.

COMMISSIONER MONTOYA: Okay, I have one question for staff. Under the adjacent property, you mentioned that there were no existing businesses that were grandfathered in. Why is that?

MS. DANIELS: In the beginning when the applicant made her development plan and gave it to us there was a business or two to the east that had been grandfathered in that no longer exist. So I just wanted to update you on that item.

COMMISSIONER MONTOYA: Why do they no longer exist?

MS. DANIELS: Well, Mr. Chairman, they went out of business. I don't know.

COMMISSIONER MONTOYA: Okay, so the people that owned the businesses still own the lots?

MS. DANIELS: Oh, no. I think it was like a home occupation, something small.

COMMISSIONER MONTOYA: Okay, so the home occupation is out of business but the person who owned it is still living in the residence.

MS. DANIELS: I don't know if they moved or not. Again the applicant -

COMMISSIONER MONTOYA: I guess my ultimate question is can a business open up again in those places that are no longer in business but were in business at one time.

MS. DANIELS: Mr. Chairman, a home occupation probably could.

MR. DALTON: Mr. Chairman, if a business is grandfathered in and the business stops for more than a year, then it loses the grandfather status and it would not be allowed to continue on the property. So they would have to come through for rezoning on the property.

COMMISSIONER MONTOYA: Okay. All right. Any other questions for staff? If not, Mr. Corbin, is there anything you'd like to add to staff's report?

[Duly sworn, James Corbin testified as follows:]

JAMES CORBIN: I think two things, maybe three. There are other businesses in the area. There's the Santa Fe Livery just to the south across Ron's Road from this property. I don't know how the business got there. I haven't looked at it or anything like that, but it certainly exists and it's contiguous to this property with only Ron's Road in between. To the

west you have the Lone Butte Feed Store. I don't know if it's the Lone Butte Feed Store, but it's the Feed Store. I always used to call it the Lone Butte Feed Store and somebody always corrects me. But it's out in that area and it's directly west. There's the feed store and café that are located directly west of this location. There is a lot in between. The new fire station is just to the north of this location right across the road that enters into that area.

On the 4 x 4 sign, I believe the neighborhood wanted a 3x 4 sign and we're certainly in agreement with that. So a 3 x 4 sign is fine. She has no sign up there right now and really doesn't have any major plans to put a sign up there but obviously, usually a business has a sign like that so the opportunity to do that may be useful to her at some point in time. But she has no sign now and what the neighborhood wanted was 3 x 4 and that's perfectly okay with us.

The containment pit is 11 x 34 x 7, not 54 at this point in time. The 54 was the original manure pit that caused a lot of the concerns from the Pullaras with respect to potential contamination of their well which when we finally figured out where the well was, the pit was too close to the well, needed to be moved. We have moved it.

The points of basic concern between my client and the Pullaras, I've got some photos here that might be useful in terms of our discussion, if I could bring them up so you could take a look at them. *[Exhibit 5]*

COMMISSIONER MONTOYA: Are they in our packet?

MR. CORBIN: No, they are not in your packet.

COMMISSIONER MONTOYA: They are additional photos?

MR. CORBIN: Yes.

COMMISSIONER MONTOYA: Okay.

MR. CORBIN: This is the old manure pit. It's 35, 40 percent filled in with materials from the new manure pit which is much, much smaller. This is the new manure pit. It's cleaned out on a biweekly basis or early if it needs to be. This as you can see is the new manure pit in that open area that's been compacted and shaped a little bit for drainage. So that has been done. And here's another copy of the completed old manure pit.

In terms of the neighborhood wanted to be sure to put the L-shaped detention ponds in *[inaudible]* The east-west pond will go in that area between the fences, you can see there close to the road. And it's not been put in yet but it will be put in. That's where it needs to go. That's in our plan. And the north-south leg of the detention pond goes in that area there. It will require taking down the panels of that corral.

There was concern about wells. This is the old well. The new well - you can see the meter can and well-house right beside the old well. It's a supplemental well so it feeds through the old well process into the system. There's no new system and the meter records the readings of both of them so there is no way that she could double-dip in terms of the system.

The other part was a privacy adjustment suppression fence, solid fence that runs from the shavings shed to the road. The Pullara house is over here on this side of it. And I'll address a concern that I heard tonight for the first time. You can see down through here between the two properties is pretty well cleaned out and starting to look good.

And then from the back side of the fence *[inaudible]* the Pullaras' house, you can see

where the rails are. Pretty good construction. The gentleman that built it is here tonight with us. [inaudible]

We believe, and I was under the impression that we had agreed with the Pullaras to build the fence from the shaving shed to the road because that's between the corrals and their house and that's where the bulk of the dust was coming from. We talked to Mrs. Pullara tonight and she was under the impression that the fence should go all the way to the back part of Beth Longanecker's property. She certainly doesn't have the dollars for that right now. It's something she'd like to do at some point in time. But she's footed all of the costs associated with the wells, the fence, taking care of the manure pit, both filling it in and digging the new one, and her costs to do all that, to get in compliance with what the County wants and to be a good neighbor is somewhere in the neighborhood of \$40,000 to date, which she had to go further into hock to take care of.

So we believe we have acted in good faith. I think that if there's a concern from the Pullaras to go all the way on to the back part of the property for both of them that they and we need to sit down and work that out. And since Beth has picked up the whole cost to date, I frankly think that being a good neighbor would be a shared cost in terms of that. But that's something for us to work out with the Pullaras I believe. And that's all I have for you. I'm ready for any questions you might have.

COMMISSIONER MONTOYA: Okay. Questions for Mr. Corbin?

COMMISSIONER VIGIL: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Corbin, this has been in our packets for quite some time. I feel like I know you very, very well, Beth Longanecker.

MR. CORBIN: It's been very traumatic and difficult for Beth, frankly, as might imagine.

COMMISSIONER VIGIL: I'm sure. In previous packets there have been letters of opposition from the neighbors. Where are we with the opposition?

MR. CORBIN: They're here tonight, or at least a representative of the neighborhood is here tonight. The last two things that they were concerned about were the sign, and 3 x 4 I'm told is acceptable to them. The retention pond, the L-shaped retention pond, they just wanted to be sure that that was going to be done and it is going to be done. It was always part of our program, but because of the \$20,000 that we had to put into the ground for the well to prove saturated thickness, she has had to delay that. It will still have to be done before we go for final approval at the CDRC, or if we have to come back to you folks for a final approval, either way. So I think we're in good shape with the neighborhood. There's a representative here tonight that can speak to that.

COMMISSIONER VIGIL: Thank you. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: All right. This is a public hearing. Thank you, Mr. Corbin. We'll open it up for public comment now. People who would like to speak for or against this case, please come forward. State your name and be sworn in for the record.

[Duly sworn, Patricia Pullara testified as follows:]

PATRICIA PULLARA: Mr. Chairman, Board of Commissioners, I'm Patricia Pullara and I'm directly to the east of Beth's property. And in fact my house is very close to the property line, probably 25, 35 feet from the property line. I'm the one that you probably have a letter from. For a long time this has been going on since October 2003. So that's when I first complained and wrote the letter in February of 2004.

I'm having a problem with this because we moved in a couple of weeks, a few weeks after Beth moved in in April 2002. For a year and a half – do you have copies of the letter? I have a couple of extra copies here of the letter and some pictures. [Exhibit 6] These are some pictures of some of the problems that we've taken and you can just pass them along. The last picture is of well, which is just about covered. It's got a chair over the top so it isn't run over by the propane truck. It's covered with dust. It was about 20 inches out of the ground when we moved in.

So you have some idea of what's going on. We moved out to this property and we're quite familiar with horses. We've had a lot of horses and we've shown for a long time. We don't have any horses right now, but the whole procedure, including having a big indoor arena and stables and just outside of Denver, we have done and we have shown quite heavily. So we're pretty familiar with horses.

My problems are that basically I moved there knowing and checking with the County. I was here at Land Use and I called before we purchased the house and I was told that there would only be four horses and if they weren't kept clean that she couldn't have any more than that in the area, because of restrictions and because of the water. This is why we purchased the property. And now I have a boarding and training stables next door and I have had lots of problems.

The pit itself has been addressed, but now whether – everything that goes along with it. It was very close to our property line and our well, and of course we didn't particular like drinking the water so we didn't. The flies have been a really bad problem. There have been times when Beth has – in fact if you look carefully at your packet that you have you'll find that there have only been, out of two years, 24 months, in your packet, of 24 months and there have only been eight times that her pit which was about 90 feet long, 8 to 10 feet wide and 8 to 10 feet deep, was emptied. In fact even the people from across the street brought their manure and shavings over and dumped it in Beth's pit.

The pit was overflowing, and you can see the pit in those pictures that we have and I think probably you saw it in Jim Corbin's pictures. But it was overflowing. Many times we couldn't stand the stench and the flies, so we were not able to sit outside for the last four summers. It's been getting worse. So we asked them during the first summer if she would move the pit and she said, well, my septic over there, so this is a problem. Until Jim got involved in this, and this all happened, which I don't know if you want me to go into right now. Nothing got done. Beth did not do anything I asked her. I told her that dust is a problem and the flies are a problem and to do something about it and move the pit because it was right next to our – it's very close to our well. But like a septic system would have to be 100 feet away.

So that was part of the problem. The other problem is that basically, the flies of course, and the fact that the dust – she dug an arena that's over a foot deep, and the arena is all loose so that you have good footing for the horses. And that is pure dust. So basically, in our yard, we've sealed all the windows on that side of the house. We're not able to open the windows anymore. The dust has covered all our – we have our circle driveway in the front and then we have another circular driveway all the way around the house. It's completely covered. All of our gravel has been covered.

Until Jim got involved in that – well that hasn't been taken care of as yet either, but until he got involved none of our problems have been solved. And I'm afraid that we'll go back to the same thing if we allow her to get basically a business license and a commercial license to business there. That's what my problem is.

The reason for the fence was because – we're trying to eliminate some of the dust. All right? And they're putting the fence up so I won't have to look at it. Because the whole property is now – there is no greenery on the property. Almost none. If you look at some of those pictures and some that Jim will show you, you can see there's no greenery. The corrals go all the way to the road on one side and all the way to the road on the other side. There's road on two sides of the property and come all the way to my fence. So there is no greenery whatsoever. It's incongruous with the type of residential property that we have.

This has created a problem for us, and we're also worried about our well which she's now drilled a second well and this could be a problem for us in the future. And I have a list of things and questions that I have of you that I haven't been able to get answered yet as to what we do. Because I'm under the understanding –

COMMISSIONER MONTOYA: How many questions do you have?

MS. PULLARA: I have several questions.

COMMISSIONER MONTOYA: If you could just be succinct and then we'll attempt to answer them.

MS. PULLARA: Okay. You're telling me that 25 horses can be kept on the property if she gets this commercial zoning. Is that correct?

COMMISSIONER MONTOYA: Staff? Twenty-four?

MS. PULLARA: Twenty-four horses. Okay. This is a commercial use since she basically is doing business with this horse motel, basically. Horse motel, restaurant and training, health club. And she needs a business license so she will be making money off the property. So right next to her is our property, which is residential. I've had problems with the boarders and people throwing trash over the fences so we have to pick it up all the time. So we now have about a foot extra of dirt on our property from that. Hopefully, some of the dirt will be eliminated by the fence.

I want to know, basically, when you give her, if you give her an other development license, basically, or that designation. It's not residential. It's not agricultural, but it's other development, that is really a commercial license. But is it because there is no reference in your Code, which I've gone through, to stables? Is that why it's under other development? Anything that can't be placed in that particular designation is under other development? Is that correct?

It's really commercial? Is that correct?

COMMISSIONER MONTOYA: Staff?

MR. DALTON: Mr. Chairman, Commissioners, this property is being zoned under other development and other development uses are allowed anywhere within the county without being in the commercial district.

COMMISSIONER MONTOYA: Okay.

MS. PULLARA: I'm sorry. That was it's being put under other development because of why?

MR. DALTON: Horse facilities and other types of uses that aren't required to be in a commercial district are zoned either other development or community service facilities.

MS. PULLARA: Right. But it still is a commercial development because it is a business. Is that correct?

MR. DALTON: That is correct. It would be considered a commercial development but it would only be allowed to be this type of use on the property. Nothing else could be located on the property, with the exception of a horse facility.

MS. PULLARA: Right. So it is a commercial business, because it is making money. Is that correct?

MR. DALTON: Mr. Chairman, if there is people coming and going to the property, then it is considered as being commercial.

MS. PULLARA: Yes, we have people coming and going all the time with dogs. Some of them have three dogs which has been a problem for us. So we're not being able to enjoy residential property and that's what you basically are for, the protection of property. And now, more questions. Will she be able to put up more buildings? Right now she has put up seven new ones since I've been there, and that's a couple of weeks after. Since she's been there she's put up seven big buildings, some of them very large. Seven buildings. Will she be able to put up more buildings?

MR. DALTON: Mr. Chairman, the applicant would only be able to put up the amount of buildings that are approved by this Commission. So the applicant would not be able to get master plan approval for seven buildings and construct three more. It would have to be done - if she wanted to add buildings on the property she would have to come forward to the Board for a master plan amendment.

COMMISSIONER MONTOYA: Okay. So, no, she won't be able to add any more than what is being requested here.

MS. PULLARA: Okay, then she can't necessarily put an indoor arena, which she wants to do. Which is a great big building.

COMMISSIONER MONTOYA: No.

MS. PULLARA: That will not be the case.

COMMISSIONER MONTOYA: No.

COMMISSIONER VIGIL: Unless she requests it and comes to us for approval. She still has that option.

MS. PULLARA: Okay. Would that be only because she's a commercial

operation?

COMMISSIONER VIGIL: No, it will be because we're only approving a master plan for what is currently there. Anything else would need approval of this Board.

MS. PULLARA: Okay. As far as the sign, basically, that kind of takes away from the, you know, residential area, which we basically are in. There is a sign across the street. The property, which looks much more residential. It doesn't look like a livery stable but it's called Santa Fe Livery, across the street from her. It has a very small sign that just says Santa Fe Livery and you don't even notice it, but 3 x 4 is a pretty big sign. You're going into a residential area there and she's beginning - she's the first house. Have you all seen this area and seen what we're talking about? Have you been out there? To know what we're talking about?

COMMISSIONER MONTOYA: I have not.

COMMISSIONER VIGIL: I think staff has.

MS. PULLARA: Staff has, yes. I'm sure they are. But you guys are the ones that are going to pass on it so that's why I wondered if you had been out there to see it.

COMMISSIONER MONTOYA: That's why we rely on staff recommendation also.

MS. PULLARA: All right. Now, what happens if we start to have - we've let her, basically, she's been allowed to drill a second well in a residential well and there are people out there that are having problems with their wells. Now, she's going - we've got a problem with dust as I told you. We've got over a foot of dust that's basically come onto our property because of what's going on over there. How are we going to control the dust and the flies? The flies we can control by keeping the manure out and taking it out once a week. And what do we have to make sure she does this, because she hasn't even kept it clean. Animal Control has cited her at the beginning of this and would have cited her many more times except they wanted to get it to court. But that's another story and it has to do with someone in Land Use who wrote and said that she had been taking the manure out monthly which was not true. But I guess she was not familiar with that. She took it from Ms. Longanecker that basically that is what had happened, but that's not true. If you look at the receipts you'll find that the rest of the deliveries were sawdust for the shavings that were put in the stalls. They weren't taking out the manure. So we're talking about three months before the manure was taken out.

So what do we have? In other words, if we let her go, if we let her either continue as she's doing and put up the fence, which that's not my responsibility to put up the fence and I would not put up the fence. We understood they agreed to it or we wouldn't be here this far. And now, just now, Mr. Corbin had agreed to it out in the car when I was coming in but just now he has disagreed. I guess Ms. Longanecker does not want to do it. And that will at least break some of the dust. But the rest of the dust has to be controlled by water. This water - it will take a lot of water to keep down the dust.

Right now we have the whole property covered with horses and arena and buildings. There's nothing else except the house on there. Everything's covered. So I moved to a residential area and basically I do deserve some protection on my property too. So I was going

to allow her if she completed these things to continue to do the business but not as a business, not as a commercial business. I don't think that's right. Because I have no way except coming back to you and saying hey, she's not doing what she said she would do. Or she's not complying. She's not keeping the manure up. What are we going to say to her to give her a penalty or make her do it if we give her commercial zoning, basically?

So that's what my questions are? How do we put any teeth into this? In other words, it hasn't happened before and she's known for 3 ½ years now. The only teeth that – she kept the manure out for the last two years because we had come to you, come to Land Use, and because they had cited her. But she's been moving the manure. Otherwise, she wouldn't move it. Because it's costly. So what do we do to take care of this problem?

COMMISSIONER MONTOYA: Okay.

MS. PULLARA: If I allow this to happen. So that's why I was going to allow her to continue doing her stables if she completed the fence and she did a few other things around there and moved the pit so that we could enjoy the water, right? But I'm not –

COMMISSIONER MONTOYA: What was your last question? Excuse me. Because we need to move on with this hearing. There are other people, I believe who would like to address the Commission as well. So your final question?

MS. PULLARA: My final question is is there a way of moving her – she's got corrals as you see on there, on the whole property, where she doesn't have the arena and the buildings. Is there a way of moving them back from the road so we can get some greenery on the property?

COMMISSIONER MONTOYA: On your property or her property?

MS. PULLARA: On two sides. On her side. On her property. I have greenery on mine. But all we have is dirt right now.

COMMISSIONER MONTOYA: I can't answer for her on that and I don't think our staff can –

MS. PULLARA: Is there a way of pushing those corrals back? I mean we might as well have setbacks if we're going to do something like this. A smaller sign, setbacks, watering, a certain amount of water that's done a day. All of this. And no trash being thrown in my yard from the boarders. So control the dust and control the flies. So we have to have some sort of requirements that she will have to move that manure if she's going to come into a residential area and do a business. Or even if we don't consider it a business, if it's going to continued – if her usage can be continued the way it has been without a license, without making it commercial.

COMMISSIONER MONTOYA: Okay.

MS. PULLARA: Basically I think I deserve my right to my property and my use as I purchased it. So this is problem I have. Why should I have to suffer? And that's what's happening. We've really been suffering for the last 3 ½ years. This is not what we intended. We have not enjoyed the property at all. So this is what my feelings are.

COMMISSIONER MONTOYA: Okay. Thank you, Ms. Pullara. Anyone else like to speak on behalf or against this? Sir, if you'd come forward please. For the record state

your name and be sworn in as well please.

[Duly sworn, Robert Rucker testified as follows:]

ROBERT RUCKER: I am a neighbor basically two houses down from Beth Longanecker. I built my house there in '77/'78. In any case, I've sort of seen the neighborhood change a lot over the years. I would like to make a couple of comments from the perspective of the immediate neighborhood. I've been working on two zoning issues. This zoning issue and then another one relating to the San Marcos District Plan which is in process right now. And so the comments I'm making are from the perspective of the neighborhood. We have sort of formed and met and talked and even got a petition together, which is not going to be delivered here today because it's not relevant.

But what I want to say is number one, we're concerned, the neighborhood is concerned about precedent, but we're concerned about is we oppose commercial zoning but we do not oppose this application. I would say that the rest of the neighborhood is either generally in support or neutral on this application. Now, I think that the Pullara family have a special problem, special issues and that whatever agreements were made in the past to redress these issues, I think that should be done. But I'm just stating from the viewpoint I feel of the rest of the neighborhood, this is not a problem for us.

You've already made reference to the other development. One of the whole problems, there were a bunch of us ready to come and jump up and down in opposition to this at one point and that was because we thought this was an application for commercial zoning under 3.4. And part of this was because of language that appeared here and there in memorandums and so forth. I would say Jan Daniels and Vicki Lucero spent about 2 ½ hours with me and convinced me that what we had was a 3.8, other development application, that there would be no change in use or expansion if this application were to be approved, and that it would not set a precedent for further commercial zoning in our neighborhood. We are opposed to that. We do have a petition against that but this is directed toward the current San Marcos Planning District effort and I would say they have reversed a proposal for commercial zoning in our neighborhood.

In any case, the sign was a problem from I think we feel smaller is better. We feel we don't have a particular problem with the current proposed size, 3 x 4. But smaller is better, of course. It is a residential neighborhood. Okay, that's really about it. I do want to thank the Development Review staff for spending the time and for clarifying. I feel there has been a great deal of misunderstanding within our neighborhood exactly what this application is about. And I guess I would like that there be some statement somewhere in the record that yes, this is a 3.8, other development. The Commission has no intent to approve 3.4 commercial zoning in our neighborhood on the basis of this application. Again, the neighborhood, other than the Pullaras do not have a problem with this application. Thank you for your consideration.

COMMISSIONER MONTOYA: Thank you, Mr. Rucker. Anyone else like to come speak on behalf or against this proposal?

[Duly sworn, Stacia Nusbaum testified as follows:]

STACIA NUSBAUM: I'll try to make my points as brief as I can. I'm here to support Beth Longanecker. My husband and I live out in the area. We bought our home out

there actually because Beth Longanecker was going to be out there. I wouldn't have my horses anywhere else. I am part of Beth Longanecker's show team. I have a very lovely American quarter horse. I've got a couple of them, and I represent our state when I go to all the shows throughout New Mexico and we also go out of state to show as well. I'm very proud to be doing this. I think you all know that quarter horses have had a long tradition in New Mexico. It brings a lot of income into our state, millions of dollars in fact, over the years.

Again, I wouldn't have my horses anywhere else because this woman is so careful. I have been with her for five years now. Before, she was at the Santa Fe Horse Park and now that she has her own place – I could have my horses on my property but I'm not going to do that because she takes such fine care with them. The place is immaculate. I am there almost on a daily basis. I have seen this entire process with the neighborhood and the neighbor from day one and I can't tell you enough how I have watched Beth Longanecker with everything she has been asked to comply with in pursuit of getting her business license.

Let me start with the manure. I know the man that hauls the manure away. He has a business doing this. There has never once ever been a time when that manure has been allowed to pile up beyond the banks of that manure pit. I thought it was fantastic that she did move the pit. Lamont Industries is out there on a regular basis. Beth has all the paperwork to prove that. It's not just sawdust. Also there was something said about the Santa Fe Livery bring their manure over to Beth's property. That has never happened. That wouldn't even be allowed to happen. Those folks don't even have a pit. Their manure gets piled up into a big mountain of manure until Lamont gets over there to clean it out. Beth's stays down in a pit.

Flies do go along with horses. We know that. There's times throughout the year that it can get a little worse because it gets hot but Beth is on a very interesting predator program where she has these insects, is what I know about it, that are shipped. You put them out on the properties and they take care of the flies. They kill the flies before they hatch.

Regarding trash being thrown over the fence, I tell you, I've never seen it. I'm there on a daily basis. I'm one of those real hands-on horse owners. It's never happened. The property, when Beth bought that property. My husband and I actually looked at that property at one point before it was sold and the property was pretty dilapidated. Not the house itself, especially the interior, but the outside was a mess. And previously, in meetings like this we've had other neighbors get up and testify that Beth has really cleaned that property up. It was a mess before then.

As far as greenery, I've got some acres myself and I've got trees on them, but beyond that, I don't have a lot of greenery. I think that is where we live. We live in a high desert, arid climate. Unless you were going to go out and plant grass and waste a lot of water watering it, I don't see that happening. Beth has started some greenery. She started some landscaping in some very crucial areas but it's going to take a couple of years for those plants to mature. She's planted native sage and other various grasses to make things look better. But that's landscaping. I had a bunch done at my house. It takes a year or two for these things to get going.

So I just wanted to add that not only do we have a show team that represents our state. Most of us, in fact all of us that are with Beth Longanecker would not have our horses

anywhere else. There's a real care and she's very particular about how the horses are handled. They're never allowed to cause us any harm at all. They're all well behaved. I just can't say enough for all the time that I've been with her and again, I want to stress that I've watched this entire process from where it started and that property has been improved and cleaned up and the pictures show it as well. I also want to say that there's times when we're a tourist attraction too, when we're out there taking our lessons in the arena. We've had people come over from the café and want to take our pictures because we represent the West and the tradition of quarter horses. That's how it is out there. It's rural. It's dirty. Horses get further and further out. We know we can't have them in a lot of places in town anymore. They've got to be somewhere and it is an important activity. She's got a lot of kids that she teaches and I just can't say enough good about her and everything that she'd done to make this work. Thank you.

COMMISSIONER MONTOYA: Thank you, Ms. Nusbaum. Anyone else wish to speak on behalf of this proposal or against? How many more are going to speak on behalf of or against this? Okay, you're our last one.

[Duly sworn, Steve Lawrence testified as follows:]

STEVE LAWRENCE: My name is Steve Lawrence. I thank you for the opportunity to address you and to share my views. My daughter has been riding with Beth Longanecker for six-plus years, ever since we moved to Santa Fe, and she, like many young people, is passionate about riding. She's also very passionate about her instructor Beth Longanecker. My wife and I have the utmost faith in Beth and the teaching that she does with not only our daughter but with many other young people as Stacia Nusbaum mentioned.

We are also actively involved in not only seeing our daughter become a fine horsewoman and compete on the state level, but we're also active in doing whatever we can to facilitate the improvements on Beth's property. We admire her a great deal. Her knowledge of horses is quite impressive and her safety and teaching ability is top-notch. So we do whatever we can to help her with improvements to her place. I'm a carpenter by trade and I enjoy spending many weekends each month out there helping here.

And so I realize for the people that live near by that this can be a very emotionally charged issue, but I have never seen trash deliberately thrown across property lines. I've been involved in building the fence. My wife has been involved in weeding along the entire fence line and around the property. And basically we intend to continue helping Beth in whatever way that we can. So I would just like to state that and share with you that we feel that she runs a very fine operation and hope that things can be worked out so it's beneficial for all parties. Thank you.

COMMISSIONER MONTOYA: Thank you, Mr. Lawrence. At this point are there any questions for the applicant or for staff?

COMMISSIONER VIGIL: One quick one for staff.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: My experience with horse boarding and training facilities throughout the county is when we set a certain amount of limitation for the boarding. If it's 24, I guess in this case and the applicant exceeds that boarding, does that go through

Code Enforcement, or how do we handle that situation?

MR. DALTON: Mr. Chairman, Commissioner Vigil, that is correct. If the applicant would exceed the amount of horses approved by the Board of County Commissioners it would become a Code Enforcement issue and the applicant would have to remove the amount of horses that's exceeding what was approved. So yes, that does become a Code Enforcement issue.

COMMISSIONER VIGIL: And I would just ask Mr. Corbin if his client fully understands the limitation of the boarding is 24 and the reason I ask is there's some evidence that at some time there were more than 24 horses there.

MR. CORBIN: Yes, she understands that it's 24, Commissioner Vigil, and there have been on occasion, temporarily, 26, 27 and then after that it could be 18, 15, 20. That kind of thing. But she's perfectly willing to live with the 24.

COMMISSIONER VIGIL: Thank you. No further questions, Mr. Chairman.

MR. CORBIN: If I could, Mr. Chairman. There was a question about the area that was addressed earlier. Let me show you the area so you folks know what it looks like out there then we'll - from another angle here, this is looking from the east towards the west on Ron's Road. Beth Longanecker's property is right in that location. Santa Fe Livery is right there. You can see they're quite similar. And the Feed Store and Café is across the road, just on the other side of highway 14. I've got a couple more shots of the Livery, but that's probably more than enough. There is a shot here of the Longanecker property and you can see, it does not go directly up to the road. There's, on both of these, there's about an eight-foot from the edge of the road to the first gate on the property.

COMMISSIONER MONTOYA: Okay. Commissioner Campos, do you have any questions of staff?

COMMISSIONER CAMPOS: No questions.

MR. CORBIN: I'm not going to get into who shot John on some of the other comments. We could have had 40 other people here tonight testifying in Beth's support. If you look at the CDRC we did have a lot of folks here then, and I realize you folks need to get on with business. So we had a couple of people. One represents the neighborhood and the other two folks that are typical of the folks that know Beth Longanecker, use that facility, and know what goes on in that facility. Now, there's a little bit of emotionalism in the area and we understand that and we will continue to work with the folks next door to try and reduce the problems between the two places.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Corbin. We have a recommendation from staff. What are the wishes of the Board?

MS. PULLARA: May I speak again?

COMMISSIONER MONTOYA: Ma'am, at this point we're ready to take action on this case.

MS. PULLARA: So you don't want to hear what I have to say?

COMMISSIONER MONTOYA: We've already heard from you and from everyone else so the public hearing has been closed.

COMMISSIONER VIGIL: Have we lost Commissioner Sullivan?

COMMISSIONER MONTOYA: I believe he's gone.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: I'm going to move to approve the proposed development pursuant to the conditions set by staff.

COMMISSIONER VIGIL: I will second that.

COMMISSIONER MONTOYA: Okay. We have a motion and a second. Any further discussion?

The motion to approve CDRC Case #Z 04-5190 passed by unanimous [3-0] voice vote. [Commissioner Sullivan was not present for this action.]

MR. CORBIN: If I could, I would like to thank the County Commission and the staff for your patience and the help of the staff in terms of us getting to this point. Thank you all very much.

COMMISSIONER VIGIL: And if I could, Mr. Corbin, encourage you to work through as many issues as you possibly can because I know there's been a lot of work already put into this and it's a shame. So to keep the harmony in the neighborhood continued on that path. The neighborhood and neighbors.

- XII. A. 4. CDRC CASE # MIS 05-5460 Monty Bruckman Accessory Structure: Monty Bruckman, applicant, agent, request approval to allow a two-story accessory structure with a total floor area of 5,760 sq. ft. on 5 acres. The request also includes a Variance of Article III, Section 2.3.6.b. (Height Restriction for Dwellings or Residential Accessory Structure) of the Land Development Code to allow a height of 30'. The property is located northeast of Edgewood off of Highway 344 at 17 Cloonagh within Section 8, Township 10 North, Range 7 East, (Commission District 3)**

MS. DANIELS: Thank you, Mr. Chairman. Monty Bruckman, applicant, requests a variance of Article III, Section 2.3.6.b. (Height Restriction for Dwellings or Residential Accessory Structures) of the Land Development Code to allow a height of 30 feet for a two-story residential addition, with a total floor area of 5,760 square feet on five acres. The property is located northeast of Edgewood off of Highway 344 at 17 Cloonagh within Section 8, Township 10 North, Range 7 East, Commission District 5.

The proposed structure will be a two-story residential addition with a total floor area of 5,760 square feet and will be placed on a 5-acre lot. The property currently has one dwelling, which is on a 1,200-gallon septic system. The proposed structure will be 30 feet in height.

The applicant states that the first floor of the proposed addition will be 3,840 square feet and will be used to house a collection of antique cars. The second floor will be 1,920 square feet and will house the library, a dark room, a radio room, and an observatory for the applicant's telescopes.

On September 20, 2005, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 2.3.6.b. (Height Restriction for Dwellings or Residential Accessory Structures) of the Land Development Code. Staff recommends that the request for a variance be denied. Article III, Section 2.3.6.b. (Height Restriction for Dwellings or Residential Accessory Structures) states that the height of any dwelling or residential accessory structure shall not exceed 24 feet. If the decision of the BCC is to recommend approval of the variance, staff recommends the following conditions. Mr. Chairman, may I enter the conditions into the record?

COMMISSIONER MONTOYA: Yes.

[The conditions are as follows:]

1. The structure is not to be utilized for any commercial use.
2. The applicant must comply with all other building permit requirements including payment of fire impact fees and conformance with lighting standards, drainage, and slope.
3. The structure shall be restricted to earth-tone colors.

COMMISSIONER MONTOYA: Any questions for staff?

COMMISSIONER VIGIL: I have a question, Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: So the current residence is one level or two level?

I'm looking at pictures that show a two-level.

MS. DANIELS: Mr. Chairman, Commissioner Vigil, it's a two-story home.

COMMISSIONER VIGIL: And that's within the Code? That's 24 feet?

MS. DANIELS: It's legal non-conforming. It's actually 26 feet tall but they got the building permit three months prior to the ordinance that came into effect limiting the 24-foot restriction.

COMMISSIONER VIGIL: Thank you for explaining that. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. Any other questions for staff?

COMMISSIONER CAMPOS: Ms. Daniels, what is the justification, the argument that this variance should be granted? What is the argument of the applicant? Do you know?

MS. DANIELS: He is here tonight. Staff is recommending denial.

COMMISSIONER CAMPOS: I understand that.

MS. DANIELS: He wants to build – he has an antique car collection and he wants to be able to store them on the first floor and then he wants to be able to have an observatory and a library and these other radio rooms and things because they're already using

the rest of the residence for a living space.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER MONTOYA: Okay. Would the applicant come forward please. Monty Bruckman. Is that correct?

MONTY BRUCKMAN: That is correct.

COMMISSIONER MONTOYA: Okay, Monty, is there anything you have to add to staff's report?

[Duly sworn, Monty Bruckman testified as follows:]

MR. BRUCKMAN: The only thing I would add, the existing structure is a Victorian architecture. It utilizes very steep pitched roofs and that sort of thing, so we felt like the design to comply with that and meet the covenants that are in effect for the development would require that we keep something similar to that. So we came up with a design working with a contractor that would match the existing structure and not look added on, match the same style of doors and windows, the same roof shingles, the same vinyl siding, this sort of thing. In other words, keep it from looking like it was built on after the fact.

When we investigated the availability of the various pre-fabricated trusses to cover the span for the dimensions of the building, the only way we could do it was to go a little bit over that 24 feet to get the span that we needed. So that was a factor in requesting that, in addition to matching that style and the fact that the existing, I believe is as Jan had stated was 26 feet. Part of that also, I don't know if you can tell in the paperwork there, part of that results from the fact that the land is sloped so when you're looking at the distance from the roof to the foundation, part of that is the slope of the land.

We looked at the actual percentage of the floor area that the roof over 24 feet would be covering and I haven't done the math to the 12th decimal or anything but it looks like we're only talking about a 4 to 5 percent of that total floor area. That would exceed the 24-foot.

COMMISSIONER MONTOYA: Okay. Any questions for Mr. Bruckman?

COMMISSIONER VIGIL: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Mr. Bruckman, I'm wanting to understand. I'm looking at the south elevation scale. Am I to understand that you are actually placing this addition in a higher elevation of terrain than where the current residence is?

MR. BRUCKMAN: No, the addition is on a lower section. The addition is south of the existing. And the land slopes down from north to south, and it slopes down from west to east.

COMMISSIONER VIGIL: Okay. And so the 30 feet is really identified because it's a pitched roof and that's the peak level. And you're testifying that how much percentage of the pitch is actually above the required 24 feet?

MR. BRUCKMAN: Approximately five percent of the floor area that's under that pitch that's above 24 feet, out of the total floor area of the structure. The existing residence is 5990 square feet and the footprint for the addition I believe was 3800-something. Whatever the figure was there. So you're looking at total those, and then I computed the number of

square feet contained under the triangular section of the roof that was above 24 feet and it look like about five percent.

COMMISSIONER VIGIL: Okay. Does staff agree with that calculation, based on the information you've received?

DOLORES VIGIL (Land Use Administrator): Mr. Chairman, Commissioner Vigil, I'd like to defer that to Jan. Jan, have you had a chance to look at that and estimate what that would be?

MS. DANIELS: Mr. Chairman, Commissioner Vigil, I have not actually estimated it, but looking at the plans, it's very, very small. It's just the very top of the roof. Most of it, the observatory and everything is lower. It's just that pitch is what's above.

COMMISSIONER VIGIL: And this piece of property is located on - is it five acres of land?

MS. DANIELS: Yes. And I believe Mr. Bruckman is buying another five acres next to it and it is surrounded by five-acre plots and you cannot see it from the highway. It's way, way back, covered with foliage and trees that will not be able to be observed by the neighbors.

COMMISSIONER VIGIL: Okay. Thank you.

COMMISSIONER MONTOYA: Thank you, Commissioner. Commissioner Campos, any questions?

COMMISSIONER CAMPOS: No questions.

COMMISSIONER MONTOYA: All right. This is a public hearing. Is there anyone that would like to speak against or on behalf of this case. If you'd please come forward. Okay, seeing none, the public hearing is closed. What are the wishes of the Board? We have a staff recommendation for denial and we have a CDRC decision for approval.

COMMISSIONER VIGIL: Move to uphold the CDRC recommendation of approval on this variance.

COMMISSIONER MONTOYA: Okay, we have a motion by Commissioner Vigil. I'll second for discussion.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: We have a regulation that says 24 feet. If you adopt this variance you're going to set a precedent for anybody that wants to build anything. There is no criteria. There is nothing except I want to build this because it suits my style. It doesn't meet any of the criteria. It doesn't address any of the criteria. So if you want to set a precedent and ignore the rules, that's what the BCC can do.

COMMISSIONER VIGIL: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: I also believe the rules allow us to evaluate each independent case to identify whether or not there's a minimal easement. I heard testimony tonight that only five percent of that entire addition was away for the 24-foot requirement. If that is accurate, I think I can make a determination that that's a minimal easement. In addition it

is surrounded by five acres. It isn't visible and I don't believe it is anything beyond a minimal easement. And I think that's why these cases come before us to allow us the opportunity to make an independent evaluation on it.

COMMISSIONER MONTOYA: Okay. We have a motion and a second.

The motion to approve CDRC Case #V 05-5460 passed by majority 2-1 voice vote with Commissioner Campos casting the nay vote. [Commissioner Sullivan was not present for this action.]

- XII. A. 5. CDRC CASE # Z/DP 05-5440 Lamy Station Café Master Plan, Preliminary and Final Development Plan: Michael Gintert, applicant, is requesting master plan zoning approval with preliminary and final development plan approval for a dining car café at Lamy Station on the Southern Railroad property on 2 acres. The property is located at 152 Old Lamy Trail, in the Traditional Community of Lamy, within Section 33, Township 15 North, Range 10 East**

JOHN SALAZAR (Review Specialist): Thank you, Mr. Chairman. Michael Gintert, applicant, is requesting master plan zoning approval with preliminary and final development plan approval for a dining car café at Lamy Station on the Southern Railroad property on two acres. The property is located at 152 Old Lamy Trail, in the Traditional Community of Lamy, within Section 33, Township 15 North, Range 10 East, Commission District 5.

On August 18, 2005, the County Development Review Committee met and acted on this case. The decision of the CDRC was to recommend approval for master plan zoning, preliminary and final development plan.

The applicant is requesting to open a dining car café— approximately 1,200 square feet – at the Lamy Station on the Southern Railroad property, which he currently is leasing, to accommodate tourists from Santa Fe Southern Railroad as well as locals and Amtrak travelers. The applicant is also proposing an outside patio dining area while the dining car will seat 36. The applicant is also requesting approval to allow liquor sales as part of the cafe. Currently there has been no food available for travelers waiting on trains since the Legal Tender across the street closed down five years ago. The café will operate in the morning through lunch.

The application was reviewed for existing development, access and roads, parking, terrain management, water, fire protection, liquid and solid waste, landscaping, traffic, signage and lighting.

Recommendation: Staff recommends master plan zoning and preliminary development plan approval with final development plan to be approved administratively subject to the following conditions. Mr. Chairman, may I enter those conditions into the

record?

COMMISSIONER MONTOYA: So entered.

[The conditions are as follows:]

1. All redlines comments must be addressed.
2. Lighting cut sheets and a lighting analysis shall be submitted prior to final development plan approval.
3. All lighting and signage shall conform to County Code requirements as approved by staff.
4. A detailed landscaping and signage plan shall be submitted prior to final development plan approval.
5. All landscaping shall be in compliance with County Code standards as approved by staff.
6. Compliance with applicable review comments from the following:
 - a) State Environment Department
 - b) State Highway Department
 - c) County Fire Marshal
 - d) County Public Works
 - e) Technical Review Division
 - f) City of Santa Fe Planning and Zoning
 - g) County Hydrologist
 - h) State Engineer
7. A solid waste disposal contract must be submitted prior to Final Development Plan approval.
8. An access permit will be required from County Public Works and/or the DOT prior to final development plan approval.
9. One space must be designated for handicap parking.
10. A detailed drainage plan will be required prior to Final Development approval.
11. The dumpster shall be screened by a 6' solid wall or fence.
12. Additional landscaping will be required in and around the parking area.
13. Commitment from the Lamy Wastewater System will be required prior to final development plan approval.
14. The applicant shall submit a cost estimate and financial guarantee for completion of required improvements as approved by staff.
15. The applicant must comply with County Ordinance #2003-06.

COMMISSIONER MONTOYA: Okay, any questions for staff?

COMMISSIONER VIGIL: One.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Is the patio dining going to be only seasonal?

MR. SALAZAR: Mr. Chairman, Commissioner Vigil, it will only be seasonal.

COMMISSIONER VIGIL: So it's going to be outdoor and there's going to be

no enclosed -

MR. SALAZAR: Correct.

COMMISSIONER VIGIL: Okay.

COMMISSIONER MONTOYA: Just during the winter, right?

MR. SALAZAR: That's right, Mr. Chairman. When it's snowing.

COMMISSIONER MONTOYA: Okay. Any other questions for John? John, I had one, and that was on the water. It said that we have not yet received a response from the County Hydrologist?

MR. SALAZAR: Mr. Chairman, I forgot to strike that out of the old report. We did receive a letter from Steve Wust. He deferred his opinion to the State Engineer. The State Engineer basically said they didn't have a problem. There weren't any unique situations with the water supply.

COMMISSIONER MONTOYA: Okay. So it was acceptable to the State Engineer?

MR. SALAZAR: He was saying since it wasn't a subdivision they really wouldn't comment on it.

COMMISSIONER MONTOYA: Okay, is the applicant here? Michael Gintert, would you please come forward. State your name for the record and be sworn in.

[Duly sworn, Michael Gintert testified as follows:]

MICHAEL GINTERT: My name is Michael Gintert.

COMMISSIONER MONTOYA: Michael, do you have anything to add to staff's report or their recommendations?

MR. GINTERT: Only that there's a great need out there for food for the people, the travelers and tourists who come to New Mexico and I can tell you that I've seen people get off the train and it's their first step in New Mexico and there's nothing there for them. I would provide food and shelter in a hospitable manner and it would make positive impressions for people and we'd take it seriously.

COMMISSIONER MONTOYA: Okay. Any questions for the applicant? Michael, I do have one and that's regarding - is there currently a liquor license that's been designated for that establishment?

MR. GINTERT: No, there is not and I'm thinking I just want to get a wine and beer license when I can.

COMMISSIONER MONTOYA: Wine and beer.

MR. GINTERT: The trains are very attractive to children and we want to have a caboose for kids and various family and kid orientation because they come all the time.

COMMISSIONER MONTOYA: Would you be opposed to not having any sort of liquor out there at all?

COMMISSIONER MONTOYA: I would not be opposed to that but I know that there's a lot of interest for having wine and beer. Some people asking for beer quite a bit. But I would not be opposed to that.

COMMISSIONER MONTOYA: Okay. Thank you. This is a public hearing. Is

there anyone in the audience who would like to speak on behalf or against this? Kathy, if you'd be sworn in please.

[Duly sworn, Kathy Pilnock testified as follows:]

KATHY PILNOCK : My name's Kathy Pilnock. I live at 13 El Capitan Lane in Lamy. I am just here to offer my support for this project. Since the Legal Tender and the post office have closed in Lamy - he was talking about the tourists - to heck with the tourists. How about the locals? We want a place to eat and be sheltered as well and I think my survey of the community, about 90 percent of the community is in favor of this. And also probably 60 percent of them probably want the wine and beer license as well. Maybe it would be possible to have the wine and beer served later during the evening and not during the day when the more family oriented activities are there.

COMMISSIONER MONTTOYA: What percentage again?

MS. PILNOCK: I'd say probably 60 percent of the people in Lamy would want to be able to drink some wine and beer without going - I guess the closest place now would be the Steaksmith. So it would just be pleasant to eat some Mexican food and be able to drink a Corona with it. I think that goes well with it.

Also, I am the secretary-treasurer of the water users so if you have any questions about our capacity for delivering water I'd be happy to answer them, although I'm not here to speak for or against it as part of the Lamy Water Board. They handle the political end of those things.

COMMISSIONER MONTTOYA: Okay. Thank you, Kathy.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Kathy, I have a couple of questions. We did get a letter actually validating that your association would be supporting the water supply.

MS. PILNOCK: Right.

COMMISSIONER VIGIL: Okay. I just wanted that on the record. And I also was really curious, why did the Lamy restaurant close and do we know what the status is of that. Let me just preface that my saying that I'm very excited that there is going to be this service available out there should we approve this, because I recognize even not living in that area but having been born and raised in Santa Fe it was always a destination to get out there, so I'm glad to know there's some rekindling of a restaurant. But do you have any history on that?

MS. PILNOCK: Yes. I think the restaurant closed - well, one reason I think, the restaurant had closed and gone into bankruptcy before the latest owner had purchased it and it was closed for a number of years. I think when a restaurant is closed for a number of years it takes an extraordinary effort and amount of consistency and dedication to get people in the habit of going back to it. I think possibly that the current owners didn't put enough effort into that initial - give it enough time to become a habitual place for people to go. But my understanding is that something intriguing may be happening with the Legal Tender at some point soon in the future.

I'm also on the church, Our Lady of Light Historic Foundation Board for the restoration of the old chapel out in Lamy. We had a church board meeting last night and the idea was

brought up that maybe what we really need to do is kind of integrate all these plans, the plans for the café, the plans for the church restoration, the potential future of the Legal Tender. Right now, downtown Lamy, as I call it, downtown Lamy is a pretty abandoned, boarded up looking place and if we can turn that around a little bit and make it a more active, lively place without turning it into a tourist trap or exclusively for tourists to come to, it would be exciting for a lot of people in the community. We miss having the Legal Tender. We miss gossiping at the post office. We only see each other now at the supermarket at the Agora once in a while. We block the aisles talking about stuff. So I think this café could be part of an overall rehabilitation plan for the town center.

COMMISSIONER VIGIL: Thank you. I have one more question for the applicant, if I may. Staff is recommending master plan and preliminary development plan approval with administrative approval for the final plat. I guess I have some hesitancy with that. Would you have any problem with the final plat approval coming before the Board of County Commission instead of going through an administrative review?

MR. GINTERT: I'm not aware - what would be the difference?

COMMISSIONER VIGIL: Staff's recommendation - is that correct? - is that we do master and preliminary plan approval tonight, and that final approval be done by staff. My recommendation would be that the final plan be done by the Board of County Commission only because we don't approve these kinds of projects very often. So would you have a problem with that? I'm wondering if you understand.

MR. GINTERT: So instead of happening internally with the staff you want me to come back for another session.

COMMISSIONER VIGIL: For a final plan. Yes.

MR. GINTERT: I wouldn't have - I would want to proceed as you recommend, but it has been two years I've been trying to get a license and it's not really a huge deal; it's a little café and to serve some sandwiches and things and it seems like it's taking an awful long time just for simple - would it take another month, are you saying? Or another two months?

COMMISSIONER VIGIL: I don't think it would take any longer except for the fact it would have to be noticed and we would have to have it at one of our regularly scheduled meetings. Let me just ask staff why they recommended the final development be done administratively.

MR. DALTON: Mr. Chairman, Commissioner Vigil, there are some issues that the applicant has not addressed and if you look at your conditions, one of the conditions is the applicant shall submit a detailed landscaping plan. The applicant shall submit a solid waste disposal contract prior to final development plan. A detailed drainage plan will be required prior to final development plan approval, and a commitment from the Lamy wastewater system will be required prior to final development plan approval. So the applicant needs to submit this information to staff before we can approve the final development plan administratively, if we went that route.

COMMISSIONER VIGIL: Okay. And why did you recommend that it be

approved by staff rather than bringing it before the Board of County Commission?

MR. DALTON: Mr. Chairman, Commissioner Vigil, staff feels that these are not very detailed items that the applicant needs to submit, therefore staff feels that it could be done administratively, rather than having the applicant come back to the Board for approval.

COMMISSIONER VIGIL: Okay. And one of the conditions is that he comply with the Water Harvesting Ordinance. Where are we with that?

MR. GINTERT: I have a plan for that, a design which involves at the bottom of the train car, running PVC gutters that would drain directly into large tanks which are already on the car. There's large tanks under the car that were used for culinary water originally, and they're perfect. They stainless steel tanks and they would hold a lot of water and we would water the patio with that water.

COMMISSIONER VIGIL: Okay. Staff, would there be any further delay if the final development came before the Board of County Commission versus you approving it administratively?

MR. DALTON: Mr. Chairman, Commissioner Vigil, the applicant would have to comply with all the conditions prior to coming back and submitting for final development plan approval. So all these conditions would have to be addressed prior to the applicant coming in and requesting final. So yes, there would be a delay.

COMMISSIONER MONTOYA: Commissioner Vigil.

COMMISSIONER VIGIL: Wouldn't we want these conditions to be complied with before we did final development review and plan?

MR. DALTON: Mr. Chairman, Commissioner Vigil, yes, we would require these conditions being complied with prior to the applicant submitting for final. And the applicant would also have to notice in the paper and to the neighbors again.

COMMISSIONER VIGIL: Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I'm ready to make a motion. I would move for master plan zoning and preliminary development plan approval with final development plan to be approved administratively subject to the conditions stated by staff.

COMMISSIONER MONTOYA: Okay, with basically the staff recommendation.

COMMISSIONER CAMPOS: Yes, sir.

COMMISSIONER MONTOYA: I'll second that for discussion. Any further discussion? The only thing that I would request and it's nothing that we can really mandate or anything but one of the initiatives that we've had within Santa Fe County has been the whole issue of DWI and with what's happened recently with the tragic occurrences that have happened is that we try to limit - and already per capita, Santa Fe County has way more liquor licenses than what we need and I don't know that we need another establishment to provide an opportunity for somebody to drive drunk and I would just request that if there's anyway that you can restrict or not do any sort of liquor that would be just something that would be nice to have in an establishment that just serves food and non-alcoholic beverages. But again, that's

nothing that I can mandate or say that's got to be part of the deal. But that's just food for thought.

MR. GINTERT: I'll think seriously on that and I am – personally, I agree with you. But as a business person I may have to think differently, but I plan to be open for breakfast and lunch first and that's mostly in homage to the locals who really want a place they can meet and I'll have to see how it goes.

COMMISSIONER MONTOYA: Yes. No Bloody Marys for breakfast.

MR. GINTERT: Right. Definitely not for breakfast.

COMMISSIONER MONTOYA: Okay. I have a motion and a second. Any other discussion?

The motion to approve CDRC Case # 05-5420 passed by unanimous [3-0] voice vote. [Commissioner Sullivan was not present for this action.]

- XII. A. 6. LCDRC CASE # V 05-5420 Martinez Family Transfer Variance. Rose Martinez, applicant requests a variance of Article II, Section 4.3.3b (Requirements for small lot family transfers-five year ownership) of the Land Development Code to divide 2.78 acres into two tracts for the purpose of a family transfer. The property is located within Por Su Gracia Subdivision at 25 Paseo de Angel, within Sections 27 & 28, Township 16 North, Range 8 East (Commission District 3)**

VICTORIA REYES (Review Specialist): Thank you, Mr. Chairman. Rose Martinez, applicant requests a variance of Article II, Section 4.3.3b of the Land Development Code to divide 2.78 acres into two tracts for the purpose of a family transfer. The property is located within Por Su Gracia Subdivision at 25 Paseo de Angel, within Sections 27 & 28, Township 16 North, Range 8 East, Commission District 3.

On September 1, 2005 the LCDRC recommended approval of the request for a variance of Article II, Section 4.3.3.b of the Land Development Code to divide 2.78 acres into two tracts for the purpose of a family transfer. The applicant has owned the property since May 28, 2003 and is requesting a variance of Article II, Section 4.3.3.b in order to divide the land into two parcels for the applicant and her daughter. The applicant states that the property was purchased with the intention of creating two parcels for her daughter and herself. Currently there is one residence on the property in which the applicant's daughter, son-in-law and grandchildren reside in.

The property is located within Por Su Gracia Subdivision, consisting of 18 lots on 48 acres which was approved by the BCC on January 10, 1995. Access will be off of Paseo del Angel, which will require crossing a 100-year flood zone that does not have an all-weather crossing.

Recommendation: It is the position of staff that density should not be increased in areas where access is not adequate for emergency vehicles. Staff also recommends that the request for a variance be denied. The requirements of the Code for family transfers is for the property to be owned for five years before it can be transferred. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Thank you, Victoria. Any questions for Victoria? For staff? Okay. Is the applicant here? If you would be sworn in and state your name for the record, please.

[Duly sworn, Rose Martinez testified as follows:]

ROSE MARTINEZ: My name is Rose Martinez.

COMMISSIONER MONTOYA: Thank you, Rose. Is there anything you'd like to add to staff report or staff recommendations?

MS. MARTINEZ: Yes. I want some clarification as to - I know there's an association that belongs to this area. I don't know where this office is. I don't know these people. I do know that this association is located there I guess because now they're coming forth. What I want to know is do only the chosen few get to join this association or is it open to all the people that buy there? I don't understand. I know that there is a letter stating that there's 13 people opposed to this. I only counted eight. So I just want some clarification as to what is this association. We were never told of an association. There's no office there.

COMMISSIONER MONTOYA: Ms. Martinez, which association are you referring to?

MS. MARTINEZ: They say that there's an association that belongs to Por Su Gracia.

COMMISSIONER MONTOYA: Por Su Gracia, the subdivision?

MS. MARTINEZ: Yes.

COMMISSIONER MONTOYA: Oh, okay.

MS. MARTINEZ: I have no idea what the title is. I just know that there's an association.

COMMISSIONER MONTOYA: I can't answer that staff. Do you have any response to that?

MS. REYES: Mr. Chairman, usually when subdivisions are created there are associations formed and usually it should be stated in the disclosure statement when the applicant purchases the property, and I'm not sure of why Ms. Martinez didn't know about it.

COMMISSIONER MONTOYA: Okay. Because you're part of the Por Su Gracia Subdivision, right?

MS. MARTINEZ: Yes.

COMMISSIONER MONTOYA: Okay.

MS. MARTINEZ: But I have never seen an office. I've never seen any place that you go to. I understand there's been meetings; we have not been included. I

have no idea as to how this happens, that they have meetings and we're not aware of it. That was just my - I wanted some clarification.

COMMISSIONER MONTOYA: Sorry, I can't - that's about as good clarification as we can give you. Go ahead. That was the only question you had?

MS. MARTINEZ: That was the only question I had. Yes.

COMMISSIONER MONTOYA: Okay. Are there any questions then for the applicant then, for Ms. Martinez?

COMMISSIONER VIGIL: I have a question. Ms. Martinez, when you received the property - one of the issues that has come up with this is family transfers cannot be granted until you've owned the property - or considered, let me say, for at least five years, and you've owned this property since 2003?

MS. MARTINEZ: Yes.

COMMISSIONER VIGIL: Okay. You've only owned it a couple year, right?

MS. MARTINEZ: Yes. When we bought the property it was for myself and my daughter and when we bought it we spoke to the people we bought it from that we wanted to have two separate dwellings. I have just gone through cancer and my family has been with me, my daughter and her children have lived with me since they got married and had their children and we decided to get a place where the children could play and have room to run around. Where we lived was 50 x 100. We were across from St. Elizabeth. The children were not allowed to go outside. So we were kind of in a desperate situation because the children were getting older. They needed to run and play.

So we saw this property and it was beautiful. We liked it. We wanted it, and we understood that if we came before the County, we could get two dwellings there so that I could have my own place yet be close enough to my daughter if I would get sick again.

COMMISSIONER VIGIL: And how did you have that understanding? Who represented that to you?

MS. MARTINEZ: The real estate that we went through was Santa Fe Properties.

COMMISSIONER VIGIL: Okay. Thank you very much.

COMMISSIONER MONTOYA: Okay. Commissioner Campos, any questions? Okay, this is a public hearing. Thank you, Ms. Martinez. We'll allow you any final comments. At this point I'd like to open this up for people who would like to speak for or against this requested variance. Would you please come forward.

[Duly sworn, John Hays testified as follows:]

JOHN HAYS: My name is John Hays. My business address is 530 Harkle Road in Santa Fe. I'm here on behalf of a number of neighbors who have concerns about this request. A few of them are with me tonight. Frank and Patty Andrews and Bea Castellano-Lockhart. I believe you also have - in the packets we gave you a petition that was signed by 13 of the neighbors expressing their opposition to the variance. I do have three additional signatures I'd like to present to you and to the clerk. *[Exhibit 7]*

COMMISSIONER MONTROYA: Okay.

MR. HAYS: So we do have a petition with 16 signatures from people both in the Por Su Gracia Subdivision and the surrounding area expressing their concern about the variance. First let me say that this is not a matter of sympathy or lack of sympathy for Ms. Martinez and her family. We understand the desire of families to want to live together and be near each other, but this is just not the piece of property to do this at. And there are certainly other alternatives on this property in terms of expanding the existing mobile home where she could live with her family or finding another piece.

Staff did recommend against approving the variance, basically because the requirement is you need to own property for five years in order to do a family transfer. Ms. Martinez here has owned the property for only about 2 ½ years so we're talking about a 50 percent variance in terms of time. There was some discussion earlier this evening about minimal easing for variance. This is quite a major easing of a requirement in a Code that you have the property for five years.

Also, as you know, variances are designed to meet land use conditions, topographical conditions, problems with a specific property. The issue here is simply that the applicant has not owned the property long enough to comply with the County Code. So it doesn't seem like it falls under the kind of thing that the County should be granting variances for.

Also, from a real practical point of view the reason that staff had recommended denying the variance is the access. And there are some photographs, both that we've provided and that staff has provided, showing Paseo de Angel and I'd just like you to refer to one of them. And I don't know if you've been out there, but I have and this is a very, very steep access road where you come down a steep hill into a very wide arroyo that's frequently muddy, and then up the other side. So this is not an all-weather access and what you're doing is increasing the density, increasing the number of homes served by emergency vehicles where the access isn't adequate. And that's a real concern, and that's the real basis for the neighbors objecting to the variance. You're just making a bad situation worse.

I would like to address the issue that Ms. Martinez asked about, the association. This is in a subdivision where there are restrictive covenants, and we're well aware that the County does not enforce restrictive covenants; the neighbors do. The covenants are very clear that these 2.5-acre lots cannot be split. So even if the County grants a variance to allow her to do a family transfer, it's prohibited by the covenants and there are neighbors who will enforce their rights as owners of property of in the subdivision to enforce the covenants. These people bought into a subdivision that said you're going to have 2.5-acre lots that can't be split. Ms. Martinez here, for maybe very understandable reasons is trying to do that, but it doesn't meet the variance criteria. It aggravates a public safety concern and it violates the restrictive covenants. We just don't think it's a good idea.

I would like to address one other issue in case the Commission, if inclined to approve the variance. There has been some grading done on the property in connection with the existing mobile home and if I could show you a photograph. *[Exhibit 8]* And I did speak with Charlie Gonzales of the County staff about this. It's my understanding that this cut there, either was not

done with a permit or maybe not in compliance with Code, but that cut does not meet County standards. It's not reinforced and it's not the proper slope. So that I would ask that if you are going to approve a variance, which we ask you do not, that you put a condition of approval that until the existing grading is fixed the lot split application cannot move ahead. It doesn't make sense to have existing Code violations or problems on the property and then create another lot and another mobile home or another house being built until the existing situation is approved.

But the surrounding neighbors have real concerns. I think unfortunately for Ms. Martinez, that really needs to outweigh her specific concerns. I think there are other alternatives for her and her family to live together. She has a house in town, I believe. Her family is out here. There are other arrangements they can work out that don't do injustice for the purposes behind the County Code. And I think Ms. Lockhart might want to make a few comments. Thank you.

COMMISSIONER MONTROYA: Okay. Thank you, Mr. Hays.

[Duly sworn, Bea Castellano-Lockhart testified as follows:]

BEA CASTELLANO-LOCKHART: My name is Bea Castellano-Lockhart and I want to thank you for the opportunity to have those of us here addressing very important issues. Sometimes you come to a meeting to oppose something or other or to support something or other and don't realize that some of the people on the other side are people that you actually have met. I didn't know till I came here that I knew Rose Martinez in the past, and I've been here 35 years. I'm originally from Dallas and I guess I'm about as native as you're going to get now.

But I have the greatest sympathy for her. I talked to her briefly outside and I understand she has a lot of emotional issues that want to pull the heartstrings. I'd like to turn around and just show something to her. I only brought one copy but I'm just going to walk it around. I am a neighbor to Frank Andrews, the primary opponent, and I have copies of properties that have the common corner with the applicant's property, so I'm going to turn around and just show her where I live and then I'm just going to walk over and show you very briefly if I may. Thank you.

Even if I didn't have this common corner, I think I have enough standing. I've been a resident of this area for 14, almost 15 years. I remember when I first moved out there, oh, there was one home here, another one there. I think Frank and I were the very first neighbors out there. Maybe Ernie Holmes. I have seen a tremendous, tremendous amount of growth out there. And it's been good. It's been good for the County. I suspect that when they allowed that kind of planning for the area, 2.5, that there was a lot of feasibility studies that were made, not just the water, the roads, the accessibility. One of the key things that's impacting me out there, I'll tell you what it is, it's the water. If we allow any more lot splits out there – do you know that the well that I have now, which functioned a little low but was okay when I came in in 1990, I'm having to have a new well. That's just on the basis of the growth that's been allowed out there by the normal lots that have been approved.

So imagine, we give one lot split, another one, and there's always going to be some family heartstrings pulling at us. We're going to have a tremendous impact on our water table

out there. It was proposed for 2.5 acres or thereabouts. But beyond that, I think that we have some bigger issues. I don't live right in Por Su Gracia but I have a list of neighbors. Yvonne Sanchez, her name's on that list. There's very, very important people on that list that were not able to be here tonight with us but they felt strongly and were compelled enough to tell you we oppose this because those of us that have run for office or want to propose this or oppose that kind of an issue, how hard or how easy is it to get people's signatures. They were willing to tell you that this is not good for our community. It is our community, your community. And I have the greatest sympathy for Rose Martinez and her family, but I ask you that in your discretion that you consider the very wise recommendation of your own committee and that you deny the application. Thank you. I'd be happy to answer any questions. Thank you.

COMMISSIONER MONTOYA: Okay. Anyone else wishing to speak for or against this case? Epi, come forward please and be sworn in.

[Duly sworn, Epi Montoya testified as follows:]

EPI MONTOYA: My name is Epi Montoya. I'm here for the recommendation that we do get the variance. One thing that the variance was put in place and we've got to remember that the variances were put in place that we have to wait five years, was put in place that this land doesn't get sold to developers and used for profit. And that was the whole purpose of the five-year wait limit on family transfers. This is not the case as you can see. She's not a developer and she does not plan to sell the land for profit.

The issue about the flood plain and about the dangers if there is a flood and there is dangers, then pretty much then there shouldn't be anyone in the back behind that river, whether it's one person or fifty persons, they're still going to be endangered. As far as the water table goes, there's going to be growth and there's going to be development and we are experiencing drought and heavy development around the area. So if we have to dig wells to readjust and dig deeper to hit the aquifers then that's what we need to do. We can't stop growth.

Should there be an emergency, if there is a flood there, she does have – there is an easement on the southeast corner of the lot. If there is an emergency that easement can be used to get out, if there is an emergency. Pretty much that's all I've got to say.

COMMISSIONER MONTOYA: Okay. Thank you, Epi. Anyone else. Come forward please. Whoever else is going to come, would you please come up front and be ready.

[Duly sworn, Joseph Sanchez testified as follows:]

JOSEPH SANCHEZ: My name is Joseph Sanchez. I live on Los Pinos Road. As they're talking about the flooding situation, there's houses built down lower from their lot. As far as water, they were talking about where they live. They live – in La Cienega, there's people build in the top; people build down below. Now, if you live on top, of course you well's going to run low if you didn't go deep enough. You're going to find water in La Cienega. You don't have to drill that far. If you're on the bottom, closer to the river part you're going to hit water right away.

I don't see a problem with family transfers as far as it goes down there, as long as it's family. Like Epi said, as long as there's no development. These are the communities, these are family communities. La Cienega was built with families that settled there. I don't see why

people have such a disagreement about families staying together. This is what La Cienega is about. As far as we go back, I was brought up there. I know a lot of people there. I don't see nothing wrong with it. I don't see, as far as flooding - people are kind of just predicting on what's going to happen. I don't see a problem with that. That's all I have to say about that.

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

[Duly sworn, Melinda Coriz testified as follows:]

MELINDA CORIZ: I live in the mobile home that's located on Paseo del Angel and I didn't know that we could go and ask the neighbors to sign any signatures and stuff but we didn't do that. My father, he just passed away, Julian Martinez, and me and my mom, we took care of him and cared for him and my mom just went through cancer and I was the one that helped her also. We got the property to be together so we could help each other. I've had nothing but problems with Mr. Andrews and I feel that he is harassing me. He's made it a nightmare for me to live where I live and with dog issues. I didn't want any problems so I gave him \$1400. I had just lost my father. I gave him the money.

On October 31st, Mr. Andrews called me for an additional \$1600 for the animal issue. Basically, we're terrified and we're feeling that we're harassed by the man. Other than that, I do want to live with my mom and I do want to take care of her and I don't want to go out and buy another piece of property somewhere else but we could do it - we don't have that much money and we just want to be together and help each other. I don't see any problem with that.

COMMISSIONER MONTOYA: Any questions for Ms. Coriz?

COMMISSIONER VIGIL: Ms. Coriz, did you purchase this property together with your mother and were you there during all the communications and transactions that occurred through the purchase of the property?

MS. CORIZ: My mom, she purchased it but we're paying half of the payments. But she's borrowed on her home and we're paying half of the payments. I didn't go with her to purchase it or anything.

COMMISSIONER VIGIL: Okay. I was just wondering, when you purchase this kind of property and there are covenants that restrict any kind of lot splitting, that kind of information is shared with the owner, even if it is at closing. So despite the fact that you're coming before us for a family transfer, which we all have a lot of empathy for, even if we approve that, you understand that the neighbors have a cause of action against you and they can take you to court to prevent you from dividing this. And that's a whole different legal action. Do you understand that?

MS. CORIZ: Yes, but I also would like to go to the Paseo del Angel neighbors and see what their concern is also. Because from what I read, they were all on the other side, like on Spring side. The reason why we want to kind of step forward on this is because my dad just died of an illness and we - it just kind of opened our eyes that you don't have each other very long and I would like to spend as much time and my kids with my mother. My dad he died real young. He was 57 and he didn't get to spend that much time with his grandkids, as much time as he would have liked to. So the reason why we're kind of pushing this is because we saw what happened to my dad and I don't want that to happen with my kids.

COMMISSIONER VIGIL: Question for staff on this. The five-year requirement, who was imposed on? How was that imposed? Victoria.

MS. REYES: Mr. Chairman, Commissioner Vigil, that's imposed on the applicant. She has to own the property for five years. If she does own it for three more years this would be an administrative process, and then can be appealed if there's opposition.

COMMISSIONER MONTOYA: Can be appealed by whom?

MS. REYES: By anyone who's opposing the application.

COMMISSIONER MONTOYA: Oh. So if we were to fast-forward three years to May 28, 2008, this wouldn't be coming before us. It would be done internally.

MS. REYES: Mr. Chairman, that's correct, unless there was someone who wished to appeal the request.

COMMISSIONER MONTOYA: I'm sorry, Commissioner Vigil.

COMMISSIONER VIGIL: Thanks for clarifying that.

MS. CORIZ: I have one more - about the retaining wall, I guessed they showed pictures. Tomorrow, I believe, I'm getting shipment of material to finish my property. Me and my husband, we don't have that much money so we were just working as it comes but we were planning on doing the whole retaining wall and stuff. It should be done shortly. I don't think that would be an issue.

COMMISSIONER MONTOYA: Ms. Coriz, could you just clarify, you said you paid - was it Mr. Andrews?

MS. CORIZ: Yes.

COMMISSIONER MONTOYA: \$1400 for what?

MS. CORIZ: He accused my dogs of attacking his dogs. At the time, my father, he had just died. It had been maybe like two weeks. And the animal shelter came out right away and picked up my animals and they never found any blood, any sign that my dogs had done it. Mr. Andrews said his wife had seen my dogs do it but we weren't sure and I didn't want any problems so I immediately paid him because I felt that they accused my dog of attacking their dog and I took total responsibility in paying - I have receipts and everything. But now that I'm kind of getting over the loss of my dad and seeing - I don't really think - my dogs are German shepherds, and they play with my Chihuahuas and they're really, really nice animals. I don't think that they did it. I really don't.

And the man at the animal shelter said that there was no blood. He checked all my animals and everything. There was no sign of them being in any altercation. He said he would stand up if we went to court. But I didn't want to go to court with my neighbor. I don't want any problems with him, so I just paid him the money.

COMMISSIONER MONTOYA: You paid him the money for -

MS. CORIZ: All the vet bills.

COMMISSIONER MONTOYA: Oh, for the vet bills.

MS. CORIZ: Yes. And then on October 31st he called me and said he wanted \$1600. So I was like - I told my husband, he's - are you kidding. We're not going to pay him. But at the time that I paid him the \$1400 I was under severe loss and I just - I don't

know. I just lost my dad and that was the only loss that I've had so I was mortified. I don't know. I should have taken it to court.

COMMISSIONER MONTOYA: Okay. Thank you. Anyone else like to speak for or against this case?

MR. HAY: Could I respond briefly on behalf of Mr. Andrews? I don't want to get sidetracked.

COMMISSIONER MONTOYA: We've already heard your public input. We'll allow people who haven't spoken at this point.

[Duly sworn, Frank Andrews testified as follows:]

FRANK ANDREWS: My name is Frank Andrews. I hadn't planned to address this Commission. I think Mr. Hays and Ms. Castellano-Lockhart have expressed the issues that we think are relevant. When I say "we" I'm talking about the 16 community members who have signed the petition. But I heard myself accused of harassment and I just thought I should explain the situation. We have a 350-foot common property line with the Martinez property and the people that are living there now have numerous dogs. Most of this year there's been a pack of dogs centered on that property. They spend a lot of time harassing our dogs in our yard. We had one dog killed a few months ago by that pack. The leader of that pack was a female German shepherd owned by the Coriz. The dog that actually did the killing was a pit bull and he was taken away by animal control.

Since then in August we observed, my wife witnessed an attack on our pet by the two German Shepherds belonging to the Coriz family. This dog suffered serious wounds. It's documented by animal control. Their dogs were picked up as a result of that. There was a later attack in September. The dogs again came on our yard, attacked our dog. Our dog subsequently died. The Coriz agreed to pay the first vet bill from the first attack, and when the dog died two weeks ago I called Johnny Coriz and just asked would it be possible for you to be responsible for the actions of your dogs. I have not heard back from them since that call.

That's the only contact I've had with them. But we've been out over \$3000 for veterinary bills for damage caused by their dogs, and they did pay the first \$1400, and if they can't pay the rest we'll just have to eat it but I thought I would ask them if they could pay it. And that's all of that issue. Thank you.

COMMISSIONER MONTOYA: Okay. Thank you.

COMMISSIONER VIGIL: I have a question. Mr. Andrews, perhaps you can - Mr. Andrews, are you a member of an association in that neighborhood?

MR. ANDREWS: No, I am not.

COMMISSIONER VIGIL: Do you know that one exists?

MR. ANDREWS: Yes, there is a Por Su Gracia Association. Everyone that lives in the Por Su Gracia Subdivision where the Martinez property is located - it's part of their deed. They have a list of the covenants of the Por Su Gracia Association. I understand -

COMMISSIONER VIGIL: Do they meet regularly?

MR. ANDREWS: I do not believe it meets regularly. Since I'm not a member, I'm not sure. I'm acquainted with the president of the association. Her name is Yvonne

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Sanchez, and she's one of the signers of our petition here. She wanted to be here tonight but family obligations kept her away.

COMMISSIONER VIGIL: Okay. Thank you.

COMMISSIONER MONTOYA: Thank you, Mr. Andrews. Anyone else want to speak for or against this application? Okay, seeing none, this public hearing is closed. Any final questions for the applicant or for staff? What's the wishes of the Board.

COMMISSIONER VIGIL: Mr. Chairman, I do have one question. With regard to the grading, do we have any knowledge whether Code Enforcement has been out there and what the results of any visits have been?

MS. REYES: Mr. Chairman, Commissioner Vigil, Code Enforcement has been out there and actually, the grading was part of the permit for the mobile home placement and Charlie's been working with them and the grading is for a retention wall.

COMMISSIONER VIGIL: Okay. There has been involvement. So there's been no Code violation issues?

MS. REYES: Mr. Chairman, Commissioner Vigil, no.

COMMISSIONER VIGIL: Okay. No more questions, Mr. Chairman.

COMMISSIONER MONTOYA: Do we have a motion?

COMMISSIONER VIGIL: You know, this is a difficult case, Ms. Martinez. Variances are something that are very sympathetic to most of us who are out here, particularly those of us who recognize the need to be close to our families and close to the opportunity to create a support system for each other. However, this particular variance is really difficult to really, for me, actually make a leap towards, because there were many opportunities, first of all, that you may have had that in some way or another, you should have known that this wasn't possible, either through the covenants when you purchase the land or through actually coming through and talking to County staff with regard to this.

It's a difficult thing to do in particular because maybe in three years, after the five-year period is up you may come up to us and be able to work something out with the association and the neighborhood where there may be some kind of mutual understanding about your needs and the water issues might be addressed. With that I am going to have to make a motion to uphold staff's recommendation to deny. I believe that's staff's recommendation. To deny the variance.

COMMISSIONER MONTOYA: Okay, we have a motion.

COMMISSIONER CAMPOS: I'll second that.

COMMISSIONER MONTOYA: Second by Commissioner Campos.

COMMISSIONER CAMPOS: Just a comment, Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: It's pretty simple that there's a contract here with your neighbors, and also there's a rule that says you have to wait five years. That's pretty clear. I think everybody has to abide by that. So that's my comment, Mr. Chairman.

COMMISSIONER MONTOYA: Okay. The only comment that I have is that this go before the LCDRC, although I don't know exactly what - was it a unanimous vote,

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Victoria? I think it was.

MS. REYES: Mr. Chairman, it was unanimous. I'm not sure. I don't think all the board members were there but everyone who was there did vote for it, just because they believed that the intent was for a family transfer.

COMMISSIONER MONTOYA: And I guess that's where I am and I always have been when it comes to family transfers is if it's going to stay within the family, and we've had these sorts of requests in the past, and knowing it's going to stay within the family, I have no problem with that. But you can also see when an applicant has come forward and saying it's going to be within the family and then knowing in your mind and in your heart that it's really not going to be there. That's when I have a difficult time, but this was clearly a case where I see, again, fast-forward, May 28, 2008, this isn't even going to come here before us. This is going to be done administratively, according to the covenants. This five-year period will have expired by then and at that point the applicant is free, because the minimum lot size for this is 1.25 acre. Right? Correct, Victoria?

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

COMMISSIONER MONTOYA: So clearly they have enough land to do the family transfer. That's where I am on this. So we have a motion and a second.

The motion to approve LCDRC Case #V 05-5420 passed by majority 2-1 voice vote. [Commissioner Sullivan was not present for this action.]

- XII. A. 7. AFDRC CASE # V 05-5480 Casa Rufina Variance: Casa Rufina Apartments (Santa Fe Properties Rufina Limited), applicant, Bill Agnew, agent, request a variance of Ordinance No. 2003-06 (Commercial rainwater catchment systems), to allow the applicant reduce the size of a catchment system from 100,000 gallons to 30,000 gallons. The property is located at the northwest corner of Rufina and Henry Lynch Road, in the Traditional Historic Community of Agua Fria, within Section 32, Township 17 North, Range 9 East, within Commission District 2**

DOMINIC GONZALES (Review Specialist): Thank you, Mr. Chairman, Commissioners. Casa Rufina Apartments (Santa Fe Properties Rufina Limited), applicant, Bill Agnew, agent, request a variance of Ordinance No. 2003-06, Commercial rainwater catchment systems, to allow the applicant reduce the size of a catchment system from 100,000 gallons to 30,000 gallons. The property is located at the northwest corner of Rufina and Henry Lynch Road, in the Traditional Historic Community of Agua Fria,

The applicant is now requesting a variance to the Rainwater Harvesting Ordinance. The applicant states that the Casa Rufina Apartments would be able to utilize a 30,000-gallon water catchment system that could handle the project's landscaping needs. The applicant states that the

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required 100,000-gallon system would be too costly, and would be unpractical, due to the excess water that would remain in the water catchment system.

Ordinance 2003-6 states a water harvesting plan to collect all roof drainage for use as landscape irrigation shall be submitted. Cisterns shall be buried, partly buried within an insulated structure and shall be connected to a pump and a drip irrigation system to serve all landscaped areas. Cisterns shall be sized to hold 1.5 gallons per square foot of roofed area. The size of the cistern may be adjusted to provide a month's worth of landscaping water. The size of the cistern shall be approved by the Land Use Administrator. The water harvesting plan shall be in accordance with the general guidelines prepared by the Land Use Administrator.

Recommendation: On October 6, 2005, the Agua Fria Development Review Committee recommended approval of a variance of Ordinance 2003-6 allowing the applicant to reduce the size of a catchment system from 100,000 gallons to 30,000 gallons. Based on recent landscaping drainage calculations that have been submitted by the applicant, staff feels the proposed 30,000-gallon water storage tank is sufficient to comply with the Water Harvesting Ordinance. Thank you.

COMMISSIONER MONTOYA: Thank you, Mr. Gonzales. Any questions for Dominic?

COMMISSIONER CAMPOS: I have a question, Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: On variances to the harvesting ordinance, is there a specific language in that section of the law that permits us to grant variances?

MR. GONZALES: Mr. Chairman, Commissioner Campos, I don't believe that there is any language in regard to the variance. The Land Use Administrator does have the discretion to reduce the size of the cistern. At this time, the applicant did work with Charlie Gonzales. They reduced it, I believe, to 50 percent. Staff that going over that 50 percent reduction they'd have to come forward to the Commission and request anything lower than 50 percent of what's allowed.

COMMISSIONER CAMPOS: Mr. Ross, last week or two weeks ago we did the Vista Clara variance on rooftop harvesting and now another request for rooftop harvesting variance reduction in actual catchment. How do we deal with these things legally? Is there something specifically in the ordinance that tells us how we deal with these requests?

MR. ROSS: Mr. Chairman, Commissioner Campos, no, not in the Water Harvesting Ordinance. It is an amendment to the Land Development Code, however, so you could treat it as a variance under those criteria which we're all fairly familiar with.

COMMISSIONER CAMPOS: I don't see the criteria addressed. Does the criteria of granting variances, is that met, do you think?

MR. ROSS: Mr. Chairman, Commissioner Campos, it's the usual language that we deal with in Section 3.1 of Article II where you can show that strict compliance with the Code would result in extraordinary hardship. It's the same thing we've dealt with. The requirement under state law is under hardship and our ordinance goes further and says extraordinary hardship, because of unusual topography or other non-self-inflicted conditions, or

that these conditions would result in inhibiting the achievement of the purposes of the Code. It's essentially something having to do with the land, some peculiarity of the land. We've talked about that before. A river, a dam, a cliff, something like that that prevents you from being able to fully utilize your property. That's the showing that has to be made.

COMMISSIONER CAMPOS: Thank you. Thank you, Mr. Chairman.

COMMISSIONER MONTOYA: Thank you. Commissioner Vigil, any questions for staff?

COMMISSIONER VIGIL: I actually had a question for the developer. Well, let me ask staff on question. What kind of landscape is planned? Do we have a comprehensive plan here?

MR. GONZALES: Mr. Chairman, Commissioner Vigil, I believe there is a landscaping plan. It's going to be Exhibit E in the packet.

COMMISSIONER VIGIL: I think I looked at that and I wasn't real clear what kind of plants were going to be provided and I'm on the wrong -

MS. VIGIL: Commissioner Vigil, Exhibit D. It's a schematic landscape plan that is naming several types of trees, evergreen, ornamental trees, deciduous shade trees, shrubs, evergreen shrubs, perennial grasses and several different types of perennial plantings, and a few annuals. And if you look at the plan it will show you where each one of these would be placed although the plan that we have would is a larger plan is easier to read than the one in your packet.

COMMISSIONER VIGIL: Dolores, you're referencing Exhibit D?

MS. VIGIL: It is folded. What happened was when the packet was made, Exhibit D was folded and you have to rip it open. You'll see that it's there.

COMMISSIONER MONTOYA: Dominic, on this plan is the proposal to directly feed into some of the irrigation or the drip into some of this, as opposed into all of the cisterns? I'll wait to ask the applicant. Commissioner Vigil, is it okay if we move to the applicant?

COMMISSIONER VIGIL: Yes.

COMMISSIONER MONTOYA: If the applicant would come forward please and get sworn in and state your name.

[Duly sworn, William Agnew testified as follows:]

WILLIAM AGNEW: We're here with our team. I'm William Agnew. I'm on architect on Camino Alire in Santa Fe. I represent the developer, Casa Rufina, Limited Partnership. I also designed the project and lead the team. We essentially took the Code, followed it exactly. The only difference is we did develop a very specific landscape plan. We worked out the water requirements for the landscape which was designed, has been designed by a registered landscape architect. We're capturing 100 percent of the roof area of the water, just like the Code says.

COMMISSIONER MONTOYA: You are?

MR. AGNEW: Yes, we are. But this landscape plan, which is xeriscaped as everybody wants. It's kind of natural, mainly, requires 117,000 gallons of water per year and

the way the water flows into the tanks, which we will show you. The tanks are basically never empty. In other words, the 30,000 gallons is sufficient to water the landscape for many, many, many years. So we're just saying we've engineered it as opposed to using the rules of thumbs which is one of the ways the ordinance reads.

We'd originally applied, to speak to you, Commissioner Campos, we'd originally applied for a review of the Code Administrator's decision to require a certain amount of water and the County said, well, just apply for a variance, so we were directed to use the variance approach as opposed to an appeal of the Code Administrator's decision. That's how it ended up being a variance. I could speak to the overall issues, which I told you we have the person who designed the catchment system and figured out the flows of the water in and out of it, Marty Stallings here, and we have Craig Campbell here who is the registered landscape architect who can answer questions about the landscape and the amount of water we decided to use. So who do you want to talk to?

COMMISSIONER MONTROYA: Okay, any questions for the applicant?
Commissioner Vigil.

COMMISSIONER VIGIL: Yes, but while I'm thinking about it I have a question for Steve Wust. Steve, have you had an opportunity to review this variance request and what is your position on it?

STEPHEN WUST (Water Resources Director): Mr. Chairman, Commissioner Vigil, I haven't seen it.

COMMISSIONER VIGIL: Okay.

COMMISSIONER MONTROYA: That was quick.

COMMISSIONER VIGIL: That concerns me. We aren't getting our own hydrologist to review these requests. This is the third water catchment system and I don't have any reason not to believe the calculations that have been made but part of I think what creates a balance for the County Commission is that our own in-house experts have the opportunity to review this.

MS. VIGIL: Mr. Chairman, Commissioner Vigil, we rely on our technical review staff that's within our department. The Land Use Department has reviewed this and felt comfortable with the numbers that were provided to us.

COMMISSIONER VIGIL: Okay. I'm still not comfortable with our own hydrologist who has some expertise in this area. And perhaps I'm putting you in a tough position here, Steve. I'm not sure. I don't know, but I'm concerned that you who worked on this and has to do a lot with enforcing a lot of the water ordinances that we're enacting and engaged in the process. So that's my position, Mr. Chairman.

Now I have a question for the applicant, and this is ancillary to your request. When we approved, or when this project was approved, it was represented by some of the agents that there would be a high level of marketing to the residents surrounding this project, trying to get them engaged in being applicants for this housing project. I know it's almost fortuitous because I've most recently had some e-mails asking me who is buying out there. Are they local residents? Do you have any sense of the demographics of your buyers?

MR. AGNEW: Well, this is a certified housing opportunity project. You have to earn below 70 percent of the median income to rent. It is a rental project.

COMMISSIONER VIGIL: There's no purchasing?

MR. AGNEW: No. It's funded by the MFA on a federal tax credit process and there are stringent requirements to qualify people that have to have below a certain minimum income, or a certain maximum income to be able to rent one of these places which are rented at a certain percentage of market value that there's some calculation that the people who run these things do. The marketing of the previous project, we were the architects, we're not the developers, but the Ventana de Vida project on Pacheco Street, that place was full immediately by word of mouth. And my understanding is this. The Pacheco project people just referring them to this project and they have a waiting list.

Of course the project isn't done. We're trying to get this thing done by December 31st which is the tax credit law. So does that answer your question?

COMMISSIONER VIGIL: Well, I'm just not real sure who's - are you giving pre-approvals for the tenants? Are you getting them to be pre-approved right now, and if you are -

MR. AGNEW: You know, I don't know. I'm not in on the rental end.

COMMISSIONER VIGIL: Do any of you know?

MR. AGNEW: No, I don't think any of us know that. We're just architects and stuff.

COMMISSIONER VIGIL: Architects and stuff.

COMMISSIONER MONTROYA: You're the ones with all the answers.

MR. AGNEW: I've worked with these developers before and they don't want to break a federal law and rent this thing out where they're not allowed to so they'll do what they've got to do.

COMMISSIONER MONTROYA: Okay, any other questions for the applicant?
Commissioner Campos.

COMMISSIONER CAMPOS: I have a question for Mr. Gonzales. As far as the harvesting ordinance, is it strictly for outdoor gardening, or can it be used for flushing toilets and other things if it's plumbed appropriately.

MR. DALTON: Mr. Chairman, Commissioner Campos, the Water Harvesting Ordinance is required for outdoor irrigation uses.

COMMISSIONER CAMPOS: Only?

MR. DALTON: Yes.

COMMISSIONER MONTROYA: Okay. We're going to open this up for public hearing now and seeing no one out there, this public hearing is closed now. So do you have any final comments? The applicant or staff?

[Commissioner Sullivan returns to the meeting.]

MR. AGNEW: I just want to make sure everybody is clear on what we're after. We're going to water the landscape. I don't want you to vote no so if we need to give you a dog and pony show, we're all ready to go.

COMMISSIONER MONTROYA: Okay, I think we're educated on what we've got going on here. Any closing comments from staff on this? Wayne? No?

COMMISSIONER VIGIL: Just let me ask Steve Wust a question.

COMMISSIONER MONTROYA: Commissioner Vigil.

COMMISSIONER VIGIL: I guess the original requirement to install this water catchment cistern would actually provide 100,000 gallons for landscaping and the applicant is recommending that that catchment system be reduced so that only 30,000 gallons be available for landscaping. And I'm not real sure what the total square footage is of this property. Mr. Wust, can I give you a schematic of the landscaping if you would come up and get it. It's very basic. Those are the figures as I understand them. That's the schematic of the landscaping without - unless you feel very uncomfortable without having a more in-depth analysis, would you at first blush say this might be appropriate and accurate for the landscaping required.

DR. WUST: Mr. Chairman, Commissioner Vigil, on first blush, I don't think I'll be able to because it's going to be very dependent on the types of plants and their water needs and the type of system used, the type of irrigation system used. The important consideration on this is not so much the total volume of water per year but basically the flux of water. Whatever the rooftop is producing, what's in storage and what's getting used, because you don't want to have the runoff on the rooftop at any time exceeding the storage capacity of the system. So if it's using smaller amounts of water and the rooftop is producing larger amounts of water, we want more storage, particularly for the drier years.

That's the whole idea that in the rainy season you're going to be catching the majority of your water and then if you want different types of landscaping you may be wanting to water throughout the year but you're not going to be catching water throughout the year. That's why you want an increased storage capacity. So just in general, that's the reason we look at larger storage capacities, but to try to see if that's sufficient to meet the needs - again, you'd have to do a calculation on how much are they going to need to water every month and how much is the rooftop producing in any given month, and things like that. It shouldn't be done on a yearly average; it needs to be looked at more or less month-to-month, which is long answer for saying basically I can't do it on first blush.

COMMISSIONER VIGIL: Thank you very much.

MR. AGNEW: We do have the month-to-month water capture and usage for the last ten years here. From 2002 back to 1996, plus a 30-year average. So we did look at those exact issues.

COMMISSIONER MONTROYA: It's sounding to me like we do need your dog and pony show. Do we need that for the information?

[Previously sworn, Martin Stallings testified as follows:]

MARTIN STALLINGS: My name is Martin Stallings. I'm a principal for Desert Rain Systems who did the design/build for this project. The thing I'd like to address is the fact that on this system, what we try to do is we try to size the system to make sure that a) they're not too big or they're not too little. And the way we sized this particular system with Craig Campbell's figures of 117,000, we had several meetings with Charlie Gonzales to make

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sure that these numbers were accurate. And we have to trust Charlie in the fact, of course Craig is in the business as a landscape architect that these numbers were true and accurate.

As a matter of fact we made sure that they were conservative in the fact that we were actually going to be using more water than actually was going to be called for in real life situations. But what we did, we designed this chart and we do this for pretty much every job that we install. We started out, and I've kind of explained this - can you all see this okay, the numbers on this chart? You might have, I think a chart like this, but I can have Craig walk up there and show you. But starting from the left, we have a 30-year average and the way we've developed this, we have a 30-year average, and we've taken the numbers starting from 1996 all the way to 2002 and we wanted to look at the driest year we've had on record so far, which was 2001 and the wettest year we've had in 1997.

Using those figures with the 30,000-gallon catchment system and with 117,000 gallons of usage, we also put in a ratio. And this was kind of a common ratio that we took through a selective gathering of irrigation water bills and determined usage throughout the course of the year, with the month of January and February showing relatively no usage, starting to pick up in March and April, and then getting to the highest in July and August and starting to slack off again. Which is kind of a relatively realistic look on how people use the water throughout Santa Fe.

The tank recharge is actually the third column over to the right. The tank recharge is how much water is actually going through your tank. And then where you see water stored in gallons, because we have a 30,000-gallon system, you can never get more than what you have the capacity to store. So how we read this chart, and we'll look at 1997 as the wettest year, you can see that every month we have 30,000 gallons. The amount of water that actually passed through the system was 751,000 gallons and at no time did we ever use any City water.

The way that you can tell that you used City water, where it says the water stored in gallons, if it's less - in other words, if it's zero, that means you've used City water. If you see 30,000 gallons, that means you've hit the overflow. If you see something less than 30,000, that means that you are going and still using the tank capacity, but you still haven't used City water.

So we go down to 2001 where the driest year so far on record of 9.71 inches. Because we're using 117,000 gallons per year for irrigation usage, you can see every month during the year of 2001, not one month did we ever use City water. And so I understand the idea of where you want to have a large system to store the water, but you also have to look at the fact that we're going to be continuously supplying water as we're using it. So my job as a rain catchment design/builder, we don't want to put an undue hardship on any corporation or any company to put in a system at a size larger than they actually need.

I applaud any business that will come and actually create a water budget because if you have a budget you know what you're going to start using. With this water budget they now know what they can expect to use and 30,000 gallons is a sufficient size tank system for this particular property.

COMMISSIONER CAMPOS: Any questions? Thank you, sir. Commissioners, what do you want to do?

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COMMISSIONER VIGIL: Mr. Chairman, another question for Steve Wust. Steve, do you feel you might be able to give us an objective opinion on whether or not this cistern system should be reduced if we tabled this, or not?

DR. WUST: Mr. Chairman, Commissioner Vigil, on first glance, I'm following what he said, but I wouldn't be comfortable saying it looks fine or doesn't. So at this time I really wouldn't want to make a recommendation that it's fitting the bill or it's not.

COMMISSIONER VIGIL: Right. My question was would you be able to provide an objective assessment if we tabled this and gave you the opportunity to review these data?

DR. WUST: Oh, Mr. Chairman, Commissioner Vigil, I could, looking this over.

COMMISSIONER VIGIL: Okay.

COMMISSIONER MONTOYA: Okay, what are the -- we have a staff recommendation for approval as well as the Agua Fria Development Review Committee for approval. What are the wishes of the Commission? Of this Board? Can I make a motion? I would move that we uphold staff recommendation and the Agua Fria Development Review Committee recommendation for approval.

COMMISSIONER CAMPOS: I'll second it for discussion.

COMMISSIONER MONTOYA: Okay, second by Commissioner Campos.
Discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: When I read through this, the requirement was something on the order of 100,000 gallons and just based on the usage, or I think it was 1.5 gallons per square foot as I recall. Is that correct? From the ordinance? It does seem like there's a disconnect in the ordinance when we get into extremely large surface areas. A 30,000-gallon tank -- is this an underground tank? Everybody's shaking their head over there, so that's yes. Either that or they're falling asleep. I don't know -- we either correct the ordinance or we continue to hear every project that comes forward is going to want a catchment variance. And I'm not sure that we have the procedure in place for that. A 30,000-gallon tank is a big tank. A 30,000-gallon tank is a big enough water tank to serve a lot of rural communities in New Mexico with daily water. So it does seem like there's a large amount of storage available, but it seems like our ordinance is considerably out of whack when we get to the higher square footages for developments.

I don't know what to do about that. Either we fix the ordinance or we keep on hearing these --

COMMISSIONER MONTOYA: Variance requests.

COMMISSIONER SULLIVAN: These variance requests on a case-by-case basis. Steve, would you agree it seems as we're getting to the higher levels that we seem to be requiring excessive amounts of storage?

DR. WUST: Mr. Chairman, Commissioner Sullivan, that's correct. We've

seen, like you mentioned, several times now and the Agora being the first one as I recall. But I would just recommend that we look at some language so that we're not into a debate on sizing and maybe try to put out some - if you'd like to go in that direction and just put out some technical parameters to give people some judgment when we look at different sizing.

COMMISSIONER SULLIVAN: Yes, I think so, because it does become pretty burdensome. A 30,000-gallon storage tank costs \$30,000. So my feeling is it's appropriate to waive this or to approve the variance because it appears to have a good system in place.

COMMISSIONER MONTOYA: They did also state that they're capturing 100 percent of the roof area. So they're living up to that part of the ordinance.

COMMISSIONER SULLIVAN: Yes. They can't meet the gallon and a half criteria or whatever it is. So I'm not sure how we came up with that gallon and a half because a roof's a roof and a rainfall's the rainfall. I'm not quite sure how that came about.

COMMISSIONER MONTOYA: But I do agree with you. I think we do need to - this is actually I think the third case. Agora, Vista Clara and now this one, that we need to look at the ordinance.

COMMISSIONER SULLIVAN: And just perhaps make some modifications for larger - I don't think larger developments should be exempt from it but they have - apparently it's not a linear relationship from zero to the largest size.

COMMISSIONER MONTOYA: So we're going from 100 to 30. That's a huge discrepancy.

COMMISSIONER CAMPOS: Mr. Chairman.

COMMISSIONER MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Just an idea for discussion if we're going to amend, we could use this water for flushing toilets if you could double plumb it. Couldn't you? Couldn't you use a lot of this water if you had enough water? Is that feasible from an engineering perspective?

COMMISSIONER SULLIVAN: Well, our ordinance, our rainwater catchment ordinance only pertains to landscape.

COMMISSIONER CAMPOS: I understand that. I'm saying this is an idea for discussion.

COMMISSIONER SULLIVAN: As a graywater for flushing.

COMMISSIONER CAMPOS: There are places around the world that use harvested water for all purposes. They filter it for drinking, they use it for flushing, they use it to wash their clothes. That would certainly require an expansion of the ordinance.

COMMISSIONER SULLIVAN: Then you would have to double plumb like they did at La Pradera. But they were trying to meet a water budget there. Their reason for double plumbing was a good economic one for them as a developer because they used that to reduce their amount of water rights that they had to purchase. So it was a good trade off for them.

COMMISSIONER MONTOYA: Okay, we have a motion and a second. Any other discussion?

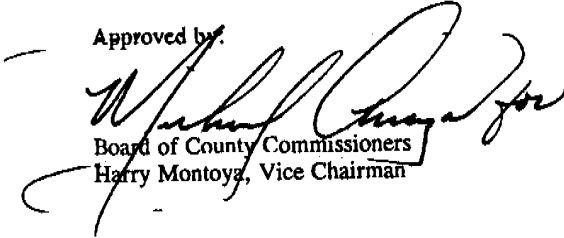
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The motion to approve AFDR Case #V 05-5480 passed by unanimous [3-0] voice vote with Commissioner Vigil abstaining.

XIII. ADJOURNMENT

Vice Chairman Montoya declared this meeting adjourned at approximately 9:35 p.m.

Approved by:




Board of County Commissioners
Harry Montoya, Vice Chairman

Respectfully submitted:

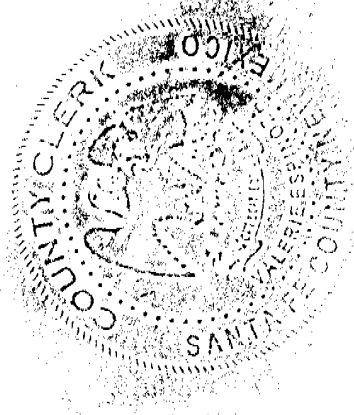


Karen Farrell, Commission Reporter

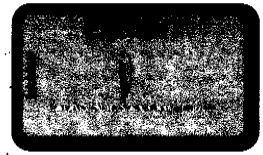
ATTEST TO:



VALERIE ESPINOZA
SANTA FE COUNTY CLERK



SFC RECORDED 02/20/2006



To: Mike

995-2740

Araya
Virginia Vigil

CITIZEN ALERT

THE COUNTY OF SANTA FE'S EZC WILL BE VOTING SOON ON AN ISSUE THAT COULD REQUIRE SANTA FE COUNTY RESIDENCES AND BUSINESSES TO PAY A \$2,000,000 CONSTRUCTION BILL!!

On November 10, 2005, the EZC will vote on a project that could require all Santa Fe County citizens who live outside of the Santa Fe City limits to pay for a two million dollar (\$2,000,000) electric power line construction project.

The County of Santa Fe Land Use staff is recommending the EZC DENY a height variance requested by Public Service Company of New Mexico (PNM) on the Miguel Lujan Tap. PNM is requesting this variance in order to construct an overhead electric power line 6/10s of a mile long down Rufina Street, between Camino de Tercero and Henry Lynch Road. If PNM's variance is denied by the EZC and the denial is supported by the County Commission, PNM will be forced to build the Miguel Lujan Tap underground. The differential cost between overhead versus underground construction, which is estimated to be in excess of two million dollars (\$2,000,000), will be paid for by all electric customers in Santa Fe County who live outside of the Santa Fe City limits.

The two million dollars (\$2,000,000) will be recovered through an underground tariff, which has been approved by the Public Regulatory Commission (PRC). PNM may file a case with the PRC and request the two million dollars (\$2,000,000) be paid back over the next several years. Residential and commercial customers will see their electric bills increase by hundreds of dollars over this recovery period.

Citizens of Santa Fe County are already faced with a recent increase in the county gross receipts tax, are facing a 50 percent increase in the cost of natural gas to heat their homes and businesses and must contend with the ever rising cost of gasoline to commute to school and work. Santa Fe County citizens don't need an additional two million dollar (\$2,000,000) burden placed on their backs.

Call your county commissioners and let them know we don't want to pay for the undergrounding of this electric power line.

Harry Montoya
986-6200

Mike Anaya
660-8831

Jack Sullivan
982-4481 Ext. 3

Virginia Vigil
995-2755

Paul Campos
986-6060

SFC RECORDED 02/20/2006

Draft information for discussion purposes only - provided by PNM

Added costs for Undergrounding the SF County Portion of Miguel Lujan Tap

Estimate of Incremental Excess Costs for Project: \$1,984,023

Rate 22 Based Charges: Excess Cost Allocators

Santa Fe County

	# of Cust. by Class in Santa Fe County (12/2004)	Est Revenue by Class in Santa Fe County (2004)	Excess Costs Allocator By Rate Class
Schedule 1	Residential 19,937	\$27,773,734	79.60%
Schedule 2	Small Power 2,175	\$2,566,302	7.36%
Schedule 3	General Power 76	\$2,313,966	6.63%
Schedule 4	Large Power 5	\$1,563,957	4.48%
Schedule 11	Water & Sewer/Pumping 14	\$671,739	1.93%
Totals	22,207	\$34,889,698	100.00%

Rate 22 Based Charges: Total Charges by Rate Schedule vs. Months of Recovery

	# of Cust. by Class in Santa Fe County (12/2004)	Excess Costs Allocator By Rate Class	Rate 22 Based Monthly Change months of recovery	Rate 22 Based Monthly Change months of recovery	Rate 22 Based Monthly Charge months of recovery	Rate 22 Based Monthly Charge months of recovery	Rate 22 Based Monthly Charge months of recovery	Rate 22 Based Monthly Charge months of recovery	Rate 22 Based Monthly Charge months of recovery
Schedule 1	19,937	79.60%	\$7.04	\$3.73	\$2.63	\$2.09	\$1.76	\$1.55	\$1.40
Schedule 2	2,175	7.36%	\$5.96	\$3.16	\$2.23	\$1.77	\$1.49	\$1.31	\$1.19
Schedule 3	76	6.63%	\$153.86	\$81.53	\$57.54	\$45.63	\$38.55	\$33.88	\$30.60
Schedule 4	5	4.48%	\$1,580.69	\$837.63	\$591.13	\$468.75	\$396.02	\$348.11	\$314.37
Schedule 11	14	1.93%	\$242.47	\$128.49	\$90.68	\$71.91	\$60.75	\$53.40	\$48.22

Costs are estimates - not based on final design
BCC - 11/08/05

Miguel Lujan Tap

115KV Transmission Line Project

Miguel Lujan Tap Transmission Line Route

- Build new single circuit 115 KV line along Rufina Road from northeast on City-owned property to meet existing alignment.
 - Line will be located on combination of road ROW and private easements.
 - Existing 48 KV line will be replaced with 115KV line.
 - Existing 48 KV stays in place until a 115KV loop is completed through Santa Fe.
 - Operate Miguel Lujan Substation to 115 KV.
- Approximate Length: 1.8 miles
- Existing PNM Transmission Facilities
- 48 KV Line
 - 115 KV Line
- Substation
- Scale: 1" = 200'
- Aerial Photography Date: 2002
- Sanctioned boundaries from Map Printed 11/2005
- A personal commitment to New Mexico

SFC RECORDED 02/20/2006

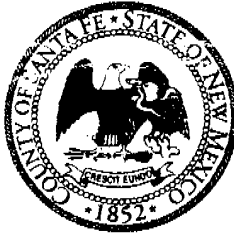


SANTA FE COUNTY

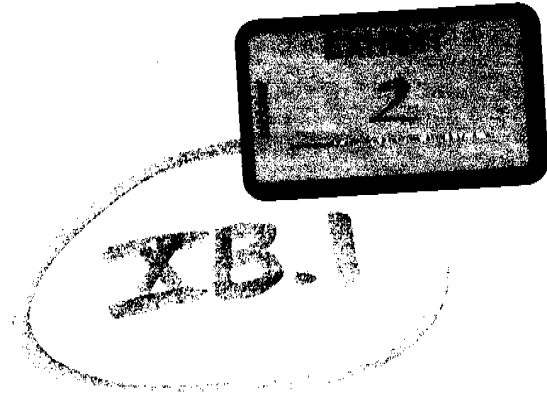
MIGUEL LUJAN SUBSTATION

AGUA FRIA TRADITIONAL
HISTORIC COMMUNITY





Finance Department
Purchasing Division



Memorandum

To: Santa Fe Board of County Commissioners
From: Randy Herrera, Procurement Manager *RH*
Via: Susan Lucero, Finance Director *SL*
Date: November 8, 2005
Re: *Request approval to ratify the award of contract # 26-1814-ADF/RH for Temporary Nursing Staff for the Santa Fe County Adult Detention Facility.*

ISSUE:

The Santa Fe County Adult Detention Facility requests approval to ratify the award of a contractual agreement #26-1814-ADF/RH for Temporary Nursing Staff for the medical unit at the facility, until such time that full-time staff can be hired.

BACKGROUND:

The intent of this solicitation was to expedite a contractual agreement for temporary nursing staff at the Adult Detention Facility to ensure adequate medical attention was delivered at the time of assuming operations of the Adult Detention Facility on October 12, 2005. The method of purchase determination is based upon an emergency procurement.

The Santa Fe County Purchasing Division solicited bids verbal and written quotes. Three (3) firms were contracted. The following firms submitted a response to the request for quote.

Medical Staffing Network (Dallas, TX.)
Quality Medical Staffing, LLC (Las Vegas, NM)
Maxim Health Care Services (Albuquerque, NM)

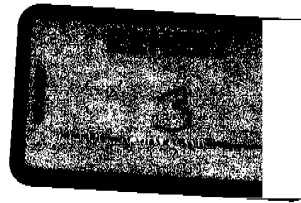
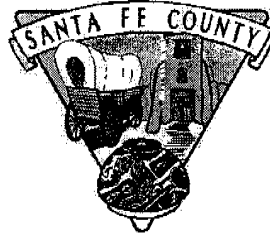
The quotes were reviewed to ensure all requirements were met and that, they were responsive to the requirements of the specifications. It has been determined that it is in the best interest of the County to pursue a contractual agreement with Quality Medical Staffing, LLC based upon an emergency procurement pursuant to 1978 NMSA 13-1-127.

SFC RECORDED 02/20/2006

REQUESTED ACTION

The Santa Fe County Adult Detention Facility requests approval to ratify the award of the contractual agreement for Temporary Nursing Staff with Medical Staffing Network with compensation not to exceed \$73,846.56.

SFC RECORDED 02/20/2006



MEMORANDUM

TO: Santa Fe County Board of County Commissioners

VIA: Gerald Gonzalez, Santa Fe County Manager
Roman Abeyta, Santa Fe Deputy County Manager

FROM: Diane T. Quarles, Santa Fe County Strategic Planner

SUBJECT: Presentation of the Draft Affordable Housing Ordinance (dated October 19, 2005) for authorization to publish title and general summary

DATE: November 7, 2005

Background: At the Affordable Housing Study Session on November 3, 2005, staff was directed to prepare and present the most current draft of the ordinance as a request for authorization to publish title and general summary of the Santa Fe County Affordable Housing Ordinance.

Action Requested: Attached for BCC consideration (Attachment A) for authorization to publish title and general summary is the most recent draft, including those changes made prior to November 3, 2005.

SFC RECORDED 02/20/2006

D. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

E. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.

F. "Affordable Unit" means an Affordable Housing unit.

G. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

H. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

I. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

J. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

K. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

L. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

1. Income Range 1: 0% to 65% of the Area Median Income.
2. Income Range 2: 66% to 80% of the Area Median Income.
3. Income Range 3: 81% to 100% of the Area Median Income.
4. Income Range 4: 101% to 120% of the Area Medium Income.

M. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

E. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Housing Units to be offered within all phases of the Project.

F. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

G. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

Section Five. Affordable Housing Requirements for Minor Development.

The Affordable Housing provided in connection with a Minor Project shall be provided, as follows:

A. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

B. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

Section Six. Affordable Housing Regulations.

A. The Affordable Housing Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations at the time of consideration and review of this Ordinance.

B. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

1. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

2. The form of the Affordable Housing Agreement including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement describe the location, housing type(s) and size(s) and the Maximum Target Housing

not be required to transfer water rights to the County for up to an additional ten percent (10%) of any Affordable Housing provided in Income Range IV, so long as at the time of application the County holds adequate water rights to supply the Affordable Units, and is otherwise capable of supplying the Affordable Units.

Section Nine. Density Bonus for Affordable Housing.

A. A Project that provides Service Level I or II may receive increased density to accommodate the Affordable Units provided pursuant to the requirements contained within this Ordinance, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of fifteen percent attributable to the Project in total.

B. A Project that provides additional Affordable Housing Units within Income Range 4 amounting to an increase of ten percent (10%) more than the Project would otherwise have to provide, may receive an additional five percent (5%) density bonus, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of twenty percent (20%) attributable to the Project as a whole.

C. The affordability requirements for a Project shall be determined prior to applying any density bonus.

D. Density bonuses of more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

Section Ten. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ___, Section ___ of the Ordinance No. ___-___, the Santa Fe County Land Development Code and Article ___ Section ___ of the Santa Fe County Fire Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project.

Section Eleven. Relief From Development Fees. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe County Land Development Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project.

Section Twelve. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ___, Section ___ of Resolution No. ___-___, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter.

of the master plan, preliminary plat or development plan, as appropriate. Alternatively, a person desiring to develop a Project may apply for concept approval of a proposed Affordable Housing Plan prior to applying for approval of a Project, in which case the application shall be processed in the same manner as an application for a [master plan] is processed. Concept approval of an alternative means of compliance does not imply nor commit to an approval for future development. An alternative means of compliance shall receive final approval as it is considered and approved under the Housing Plan as part of the normal development review process specific to that project. If off-site construction is proposed as an alternative means of compliance, the sending and receiving projects must be considered together in order to determine overall compliance with this Ordinance.

C. In deciding whether to accept a proposed alternative means of compliance for off-site construction or land dedications with the requirements of this Ordinance, the County shall consider the following where applicable:

1. whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area or within the proposed project where such a concentration would be inappropriate given present or future conditions;
2. if the proposal involves providing Affordable Units outside the Project area, whether there is adequate existing infrastructure, including water systems, liquid waste facilities and transportation systems to support the Affordable Units in the proposed location so long as it is demonstrated by a service agreement that such infrastructure for water and liquid waste disposal systems can and shall serve the proposed alternative site or project;
3. if the proposal involves providing Affordable Units outside the Project area, whether there is a specific need or market for Affordable Units in the location where proposed;
4. if the proposal involves providing Affordable Units outside the Project area, whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development; and
5. if the proposal provides an overall higher public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

D. In deciding whether to accept a proposed alternative means of compliance for cash payment in lieu of on-site construction, the County shall consider the following where applicable:

1. The cash payment shall be, at a minimum, commensurate with the total value equal to or greater than the cost to construct comparable Affordable Units within the Project or Minor Project;
2. A cash payment shall not create a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose; and
3. The cash payment shall provide an overall higher public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

C. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer and avoid application of the provisions of this Section.

D. Where the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, the Unearned Appreciation may be accelerated or the affordability lien may be released.

Section Nineteen. Affordable Housing Administrator. The position of Affordable Housing Administrator is established within the Housing Department. The Affordable Housing Administrator shall administer the Affordable Housing Ordinance, manage the fund or trust established pursuant to Section 17(B) of this Ordinance, act as an ombudsman to the development review process, and have other responsibilities set forth in this Ordinance. The salary and benefits of the Affordable Housing Administrator shall be paid from proceeds collected pursuant to Paragraph 17(B) of this Ordinance, to the extent permitted by law.

Section Twenty. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing Administrator shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented annually thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

PASSED AND ENACTED THIS ____ DAY OF _____, 2005.

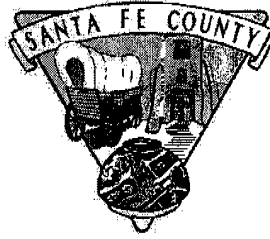
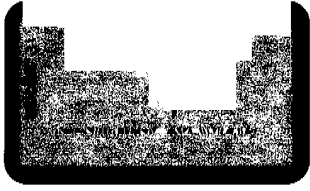
**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By
Michael D. Anaya, Chair

ATTEST:

Valerie Espinoza, County Clerk

SFC RECORDED 02/20/2006



MEMORANDUM

TO: Santa Fe County Board of County Commissioners

VIA: Gerald Gonzalez, Santa Fe County Manager
Roman Abeyta, Santa Fe Deputy County Manager

FROM: Diane T. Quarles, Santa Fe County Strategic Planner

SUBJECT: Analysis of the requested developer changes from the November 3, 2005 affordable housing study session

DATE: November 7, 2005

SFC RECORDED 02/20/2006

Background: At the Affordable Housing Study Session on November 3, 2005, staff was directed to analyze the requested changes that were presented by the Rosanna Vasquez on behalf of the developers. The following outline analyzes what was presented by the developers and the Task Force.

Proposed changes where there was general agreement between the Task Force and the Developers:

1. **Modify the percentage distribution within the 30% affordability requirement to include Income Range 4.** This would redistribute the affordability requirement to 7.5% within each of the four Income Ranges.

Staff Analysis: This would entail adjusting all three Income Ranges to 7.5%, including Income Range 4 within the mandated requirement at 7.5% and eliminating voluntary provisions for that income range. The net effect would be to reduce overall affordability to 22.5% for the at or below 100% of area median income buyer. The benefit of this change is it ensures that the entry-level market housing is not compromised in the cost shifts. It also provides housing for the "workforce" income group that falls just above AMI and allows for some "move up" housing for entry-level market buyers.

2. **Increase the density bonus percentage from 15% to 20% for the project.** This would translate to a 66% density bonus based on the total number of affordable units where 30% is required.

Staff Analysis: Increasing the density bonus to 20% project-wide may provide a significant cost off-set where a density bonus can be used. A 5% density increase may be appropriate to enhance the incentive basis; however, the density increase should only be applied to the

number of affordable units. For instance, if the affordable housing requirement was reduced to 22.5% as indicated in #1 above and the project density bonus was increased to 20%, the Ordinance would effectively be giving an 87% density bonus, or nearly a 1:1 ratio, based on the number of affordable units provided. If both changes are incorporated, it is suggested that a 66% density bonus per affordable unit be included, so that the net affordability per project remains at 15%. It is not recommended that density bonuses or water rights transfer waivers be applied to Income Range 4 housing since it is considered market rate housing.

3. *Include a guarantee of up to \$10,000 in infrastructure cost participation per affordable unit.* This refers to the provisions under Section 15 and subject to the Affordable Housing Act.

Staff Analysis: Section 15 brings the Ordinance in alignment with the NM AffHsg Act. The language is taken verbatim from the Act. The terms and conditions in how the County administers the dedicated fund or trust have to be adopted under separate ordinance—which will be forthcoming as the Housing Trust Fund Ordinance. That ordinance will establish the process for filing annual budgets for the fund and qualifying “grantees” for land dedication and infrastructure cost participation, which all must be done in accordance with the Act and the NMFA rules governing the Act’s administration. It is questionable whether a guarantee of up to \$10,000 per affordable unit is in keeping with the act or the rules. The amount available each year will have to be established by budget. The grants may also have to be determined per development based on project costs and service type. For these reasons, it is recommended that the language currently in the ordinance stand and that the process for how grants are administered be reserved for the Housing Trust Fund Ordinance.

4. *Allow for off-site construction [alternative means of compliance] within the extraterritorial jurisdiction if a project is first approved by its governing body.* This would allow for alternative means of compliance to be used across jurisdictional boundaries.

Staff Analysis: The EZ governing body would have to consider and approve a project before the BCC may consider it as an alternative means for off-site construction. The project would have to disclose that it is a receiving project for off-site units and would also have to comply with any affordability requirements for that jurisdiction. The alternative means should not be used to reduce the total affordability requirements for the two projects. Total affordability would include the total number of units required for each project separately. It is recommended that as long as it is clear that the project provides full disclosure as a receiving project, that is cannot diminish total affordability for both projects combined and that it must receive final approval by the applicable jurisdiction, the ordinance may allow for consideration as an off-site project.

5. *Allow for incentives when alternative means of compliance is used.* The Ordinance currently reserves the use of incentives for on-site construction only.

Staff Analysis: At the third study session, there was some discussion about allowing incentives to be used for the on-site affordability portion, while any alternative means of compliance would forgo the use of incentives. Since the intent of the ordinance is to encourage on-site construction through incentives, it is recommended that the use of incentives be reserved for on-site construction within the project in whole or in part. The Ordinance generally tries to limit the use of alternative means of compliance through a series of rigorous tests—it is not the intent to encourage its use.

SFC RECORDED 02/20/2006

Proposed changes where the Task Force took a neutral position or did not generally support the Developer's request:

6. *Allow for a project wide water right transfer reduction where water savings can be demonstrated.* This differs from the current language that allows for water budget reduction for the affordable units in a Service Level III, IV or V Project. The Task Force's position was generally neutral and felt that this was most likely a water utility issue rather than an affordable housing concern.

Staff Analysis: The purpose of a water rights transfer reduction for Service Levels III, IV or V Projects is to create a viable incentive where incentives are limited due to geohydrologic constraints. A "blanket" water budget reduction (including line loss reductions) for all types of development are not within the purview of this ordinance and are more appropriately addressed in the water allocation policies. The ordinance could, however, expand Section Fourteen to allow for a project-wide water budget reduction for Service Levels III, IV or V where it does not conflict with OSE requirements and can be reasonably demonstrated that such a reduction is viable.

7. *Include "positive" language regarding the use of PIDs to fund the cost of infrastructure and other services related to development as a part of affordable housing.* The Task Force's position was again neutral and stated that this was probably more related to how to pay for growth rather than specific to affordable housing.

Staff Analysis: The use of PIDs provides a much broader cost share base than just affordable housing. It allows a developer to defer the up-front development costs by passing them on to all future residents, market and affordable, through additional property taxes. Because its use is so broad, it does not provide a specific and direct benefit to affordable housing. If PIDs were employed, the maximum target housing prices would have to be reduced in order to accommodate the increase in monthly payments due to the additional taxes. If the use of PIDs were combined with other incentives such as the infrastructure grants, the developer would likely receive a windfall profit since the infrastructure costs would generally be diverted to future users. Staff recommends that the use of PIDs be considered under another venue as it relates to the cost of growth. This process would consider all revenue sources, including impact fees, PIDs, single purpose or special fees, bonds, etc...

8. *Include language that allows for other alternative means including workforce housing, education grants, shelters and youth centers, etc....*

Staff Analysis: The Ordinance indirectly sets up for projects such as workforce housing and other types of critical housing needs through the land dedication provision contained in the Alternative Means of Compliance section. This was included specifically for this purpose. It is recommended that the land dedication language be modified to include valuation of the land plus the use of cash payments where the land value is less than the estimated value of the affordable units. Land by itself does not create affordable units—it generally requires some type of cash infusion to build the actual units.

Long-term affordability continues to be discussed in the study sessions. At the last session, there was some consideration for keeping the language as is—without resale restriction provisions and appreciation share. This would allow a buyer to sell the unit at market as long as the original affordability lien can be paid off. Appreciation on the original investment goes to the buyer with appreciation on the affordability lien going to the County. This may generate revenue for the Affordable Housing Trust Fund within a reasonably short period of time, if buyers chose to sell the units after several years at market rate.

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Jim Borrego raised the issue of clustering. After some discussion, it was concluded that the Ordinance already promotes clustered affordable development as long as the units are distributed equally within each subsequent phase.

If the goal is to try and balance the three criteria—revenue generation for the trust fund, holding a unit affordable for an extended period of time and providing homeownership benefits through earned appreciation—the BCC may chose to consider long term affordability provisions similar to what was presented at the previous study session.

Attachment A represents the Affordable Housing Ordinance with the recommended changes as noted in the staff analysis included as underlined text. These include the following:

- Revisions to the 30% distribution to include Income Range 4 (including a number of changes to accommodate that change);
- Increase in the density bonus percentage from 50% to 66% per the affordable units;
- Revisions to the incentives to clarify applicability (relative to the 22.5% affordability);
- Change to allow water right transfer reduction in Section Fourteen to be applied project-wide subject to conditions;
- Allowance of alternative means of compliance for off-site construction in the EZ subject to project approval;
- Modification to the land dedication alternative means of compliance that requires cash payments to make up the difference between the appraised land value and the estimated value of the original units;
- Change to allow the use of incentives for that portion that provides on-site construction; and
- Revision to the long-term affordability language that allows for resale restrictions to year 5 and shared appreciation to year 10.

These changes have been incorporated as a point of discussion for the next study session on Affordable Housing, scheduled for December 13, 2005.

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SANTA FE COUNTY ORDINANCE NO. 2005-_____

AN ORDINANCE REQUIRING AFFORDABLE HOUSING IN PROJECTS AND MINOR PROJECTS DEVELOPED WITHIN THE CENTRAL AREA OF THE COUNTY, CREATING THE POSITION OF AFFORDABLE HOUSING ADMINSTRATOR, PROVIDING FOR ENACTMENT OF AFFORDABLE HOUSING REGULATIONS, PROVIDING FOR INCENTIVES TO AMELIORATE THE COST OF PROVIDING AFFORDABLE HOUSING, ENSURING LONG-TERM AFFORDABILITY, PROVIDING FOR ALTERNATE MEANS OF COMPLIANCE AND MEANS TO ADDRESS HARDSHIP SITUATIONS, AMENDING ORDINANCE NOS. _____, AND REPEALING ORDINANCES NO. _____.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section One. Purpose and Intent. The purpose of this Ordinance is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and Affordable Housing through the use of incentives and other means to help offset potential costs.

Section Two. Applicability. This Ordinance shall apply to each Project and Minor Project within the unincorporated areas of central Santa Fe County shown in Attachment A not governed by the Santa Fe County Extraterritorial Zoning Ordinance, Ordinance No. 1997-4, as amended, and the ~~Santa Fe County Extraterritorial~~ Subdivision Regulations (1994), as amended. This Ordinance shall apply to existing approved master plans or preliminary development plans, and shall apply to applications for approval of master plans, preliminary development plans or preliminary plats submitted for review after the effective date of this Ordinance.

Section Three. Definitions. For purposes of this Ordinance, the following definitions shall apply:

A. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible or Entry Market ~~Buyer~~ Buyer, where the Eligible Housing Unit is occupied by the Eligible or Entry Market Buyer as a primary residence.

B. "Affordable Housing Unit" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer within Income Ranges 1, 2, or 3 respectively.

BC. "Affordable Housing Administrator" means the County employee charged with administering this Ordinance, making recommendations and taking other actions as set forth in this Ordinance.

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ED. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this Ordinance, and which specifies the general location, number and types of Affordable Housing Units that will be built.

DE. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

EF. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.

EG. "Affordable Unit" means an Affordable Housing unit or an Entry Market Housing Unit.

EH. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

EI. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

EJ. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

EK. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

EL. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

EM. "Entry Market Buyer" means a buyer of an Eligible Housing Type of Unit whose Annual Gross Income is between 101% to 121% of the Area Median Income.

EN. "Entry Market Housing Unit" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Entry Market Buyer within Income Range 4 respectively.

EO. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

1. Income Range 1: 0% to 65% of the Area Median Income.
2. Income Range 2: 66% to 80% of the Area Median Income.
3. Income Range 3: 81% to 100% of the Area Median Income.
4. Income Range 4: 101% to 120% of the Area Medium Income.

EP. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible or Entry Market Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements

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of this Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible or Entry Market Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of \$2,000 in total.

NQ. "Minor Project" means subdivision of a parcel or parcels into between five (5) and up to ten (10) lots or parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

OR. "Service Level" means the type of water and wastewater system proposed to serve a Project or Minor Project. Service types are further categorized as centralized (public or publicly-regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems provided on-site). Categories of Service Levels are as follows:

1. Service Level I: Community Water System and Community Liquid Waste Disposal System; water service provided by the Santa Fe County Water Resources Department;

2. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Resources Department;

3. Service Level III: Centralized water and non-centralized wastewater;

4. Service Level IV: Community wells and non-centralized wastewater; and

5. Service level V: Individual or shared wells and non-centralized wastewater.

PS. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

Section Four. Affordable Housing Requirements.

A. Of the total housing permitted in any Project, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

B. The Affordable Housing distribution of the Affordable Units provided in connection with a Project shall ~~be~~ include both the Affordable Housing Units provided equally to Eligible Buyers in Income Range 1 (~~407.5%~~), Income Range 2 (~~407.5%~~), ~~and~~ Income Range 3 (~~407.5%~~) and the Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (7.5%).

C. If a fractional portion of an Affordable Unit remains when determining the required number of Units, the following requirements apply:

1. Where the fractional remainder is greater than 0.5, an additional unit shall be required.

2. Where the fractional remainder is 0.5 or less, a residual fee shall be required in accordance with the Housing Regulations.

D. Affordable Housing shall be integrated into the overall design and layout of the Project, and the Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Project so long as it otherwise complies with this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the Affordable Units shall be identified in the Affordable Housing Agreement.

E. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Housing Units to be offered within all phases of the Project.

F. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

G. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

Section Five. Affordable Housing Requirements for Minor Development.

The Affordable Housing provided in connection with a Minor Project shall be provided, as follows:

A. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

B. For a Minor Project that creates ~~between seven (7)~~, eight (8) or nine (9) housing units and ~~ten (10) housing units~~, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

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Section Six. Affordable Housing Regulations.

A. The Affordable Housing Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations contemporaneous with consideration of this Ordinance.

B. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

1. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

2. The form of the Affordable Housing Agreement including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units, and shall describe how Affordable Units will be marketed and sold to eligible buyers, and shall specify that the Affordable Housing Agreement shall be filed and recorded with the Final Plat;

3. A reasonable process for certifying Eligible and Entry Market Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

4. Reasonable fees to be charged for certification of Eligible or Entry Market Buyers;

5. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;

6. A Maximum Target Housing Price for each income range;

7. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

8. Green building standards, adjusted Maximum Target Housing Prices for green building Affordable Units, and green building certification requirements;

9. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range;

10. Method for determining fees associated with this Ordinance, including cash payments as an alternative means of compliance and residual fees; and

11. Any other matter deemed necessary by the Board of County Commissioners.

C. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Ordinance and the Affordable Housing Regulations.

Section Seven. Rental of Affordable Units. An Eligible or Entry Market Buyer shall not lease an Affordable Housing Unit provided pursuant to this Ordinance unless the proposed tenant is an immediate family member of the Eligible or Entry Market Buyer, the Eligible or Entry Market Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

Section Eight. Water for Affordable Housing. Notwithstanding the provisions of Article ____, Section ____ of the Santa Fe Land Development Code and Ordinance No. 2005-____ (Master Plan Procedures), or any Resolution governing operations of the Santa Fe County Water Resources Department, a Project that provides Service Level I shall not be required to transfer water rights to the County for the Affordable Housing Units provided in Incomes Ranges 1, 2, and 3 as required by application of Section 4(A) of this Ordinance, and may not be required to transfer water rights to the County for Affordable Housing provided in Income Range IV, not to exceed ten percent of the total housing provided in connection with the Project, so long as at the time of application the County holds adequate water rights to supply the Affordable Housing Units, and is otherwise capable of supplying the Affordable Housing Units.

Section Nine. Density Bonus for Affordable Housing.

A. A Project that provides Service Level I or II may receive increased density to accommodate the Affordable Housing Units provided within Income Ranges 1, 2, and 3 provided pursuant to the requirements contained within this Ordinance, not to exceed an increase of ~~fifty-sixty-six~~ percent (5066%) of the density density bonus as a percentage of the total number of Affordable Housing Units and as is otherwise permitted by application of the Land Development Code, and not to exceed an increase of fifteen percent attributable to the Project in total.

B. A Project that provides additional Affordable Housing Units within Income Range 4 amounting to an increase of fifteen percent (15%) more than the Project would otherwise have to provide, may receive an additional five percent (5%) density bonus, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of twenty percent (20%) attributable to the Project as a whole.

C. The affordability requirements for a Project shall be determined prior to applying any density bonus.

D. Density bonuses of more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

Section Ten. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ____, Section ____ of the Ordinance No. ____-____, the Santa Fe County Land

Development Code and Article ___ Section ___ of the Santa Fe County Fire Code, a Project or Minor Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project.

Section Eleven. Relief From Development Fees. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe County Land Development Code, a Project or Minor- Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project.

Section Twelve. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ___, Section ___ of Resolution No. ___-___, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges for each of the Affordable Units that exceed the cost of the water meter.

Section Thirteen. Reduction of Lot Size for Affordable Units. A Project that provides Service Level III, IV or V, or a Minor Project that is not eligible for a water rights transfer waiver (Section ___, herein) or a water allocation or density bonus (Section ___, herein), may reduce the lot area for each Affordable Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordable Units whose lot sizes are reduced pursuant to this Section are reasonably dispersed throughout the Project. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code."

Section Fourteen. Water Rights Transfer Reduction. A Project that provides Service Level III, IV or V, or a Minor Project that is not eligible for a water rights transfer waiver pursuant to Section ~~___~~Eight herein or a density bonus pursuant to Section ~~___~~Nine, herein may nevertheless be eligible to reduce the water budget for the Affordable Housing Units within the Project as a whole to the estimated actual usage attributable to the Affordable Units, notwithstanding the provisions of Article ___, Section ___ of the Land Development Code and subject to any requirements or conditions from the New Mexico State Engineer's Office governing such transfers:

Section Fifteen. Other Incentives Authorized by Article 27, New Mexico Affordable Housing Act. The County may donate land for construction of affordable housing or an existing building for conversion or renovation into affordable housing or may provide or pay the costs of infrastructure necessary to support affordable housing projects if permitted under the terms of a separate ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

Section Sixteen. Alternate Means of Compliance.

A. A Project or a Minor Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

1. providing Affordable Units outside the Project but within the unincorporated areas of Santa Fe County, subject to the provisions of Section Sixteen (D) of this Ordinance ;

2. making a cash payment of equal or greater value than would be required if the Project had constructed or created Affordable Units as provided in this Ordinance;

3. dedicating property suitable for construction of Affordable Units within the unincorporated areas of Santa Fe County whose value is equivalent or of greater value than would be otherwise be required if the Project had constructed or created Affordable Units as provided in this Ordinance; or

4. complying with the Green Building Construction Standards in the entire Project, so long as appropriate adjustments are made to the adjusted Maximum Target Housing Price for each Income Range according to guidelines set forth in the Affordable Housing Regulations.

B. Review and approval of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of application for approval of the master plan, preliminary plat or development plan, as appropriate. Alternatively, a person desiring to develop a Project may apply for concept approval of a proposed Affordable Housing Plan prior to applying for approval of a Project, in which case the application shall be processed in the same manner as an application for a [master plan] is processed. Concept approval of an alternative means of compliance shall not imply nor commit to an approval for future development.

C. Where an alternative means of compliance pursuant to Section Sixteen (A)(4) is proposed, both the Project and its off-site affordable housing component shall be considered and processed as a single Project, except as provided in Section Sixteen (D) of this Ordinance.

D. Where an alternative means of compliance pursuant to Section Sixteen (A)(4) is proposed but the off-site Affordable Units (hereinafter referred to as "the receiving project") are to be located within an area governed by the Santa Fe County Extraterritorial Zoning Ordinance, Ordinance No. 1997-4, as amended, the Santa Fe County Extraterritorial Subdivision Regulations (1991), or the platting and planning jurisdiction of any municipality (hereinafter referred to collectively as "the Extraterritorial Zone"), the provisions of Section Sixteen (C) shall apply; however, prior to processing an application for the portion of the Project that lies outside of the Extraterritorial Zone (hereinafter referred to as "the sending project"), the receiving project must receive final development plan and plat approval from the Extraterritorial Zoning Authority or, in areas without an extraterritorial zoning ordinance or regulations, from the appropriate municipality.

E. In deciding whether to accept a proposed alternative means of compliance pursuant to Section Sixteen (A)(3), the County shall consider the following where applicable:

1. whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area or within the proposed Project in a location where such a concentration would be inappropriate given present or future conditions;

2. if the proposal involves providing Affordable Units outside the Project area, whether there is adequate existing infrastructure, including water systems, liquid waste facilities and transportation systems, to support the Affordable Units in the proposed location, whether infrastructure for water and liquid waste disposal systems can serve the proposed alternative site or project, and whether the commitment to provide such service has been confirmed in a commitment letter, or water or wastewater service agreement;

3. if the proposal involves providing Affordable Units outside the Project area, whether there is a specific need or market for Affordable Units in the location where proposed;

4. if the proposal involves providing Affordable Units outside the Project, whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development; and

5. if the proposal provides an overall greater public benefit than if the Affordable Units were constructed within the Project or Minor Project .

D. In deciding whether to accept a proposed alternative means of compliance pursuant to Sections Sixteen (A)(2) or (A)(3) , the County shall consider the following where applicable:

1. whether the value of the cash payment or property is commensurate with the total value to construct equivalent Affordable Units within the Project or Minor Project;

2. whether a cash payment or property creates a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose; ~~and~~

3. whether the appraised value of the dedicated land is equal to or greater than the total estimated value of the affordable units that would have been constructed within the Project and, where the appraised value is less than the estimated value of the units, an additional cash payment equal to that difference; and

3. whether a cash payment or property provides a greater overall public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

E. The method for determining whether the total cash payment amount or value of property proposed for transfer is sufficient shall be established in the Affordable Housing Regulations.

F. Affordable housing incentives provided under Sections Eight through Fifteen shall apply to those Affordable Units that are constructed within the Major or Minor Project and shall not apply to that portion where an alternative means of compliance is used to meet the obligations of this Ordinance.

Section Seventeen. Hardship Conditions.

A. The Board of County Commissioners or, if a Board of Adjustment is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustment, may waive one or more of the requirements set forth in this Ordinance if a condition of hardship exists as set forth in this Section.

B. A condition of hardship shall exist for purposes of this Section, as follows:

1. For a Project providing Service Level I or II, a condition of hardship exists where the Project fails to qualify for any incentive set forth herein, where the Project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this Ordinance would result in economic infeasibility of the Project, and where complying with the requirements of this Ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the Constitution of the State of New Mexico.

2. For a Project providing Service Level III, IV or V, or for Minor Projects, a condition of hardship exists when an Affordable Unit (or lot created for an Affordable Unit) cannot be sold within a reasonable period of time without causing a loss on the Project or Minor Project taken as a whole.

Section Eighteen. Long-term Affordability.

A. Each Affordable Housing Agreement shall include a form of lien, mortgage or other instrument (the "affordability mortgage") that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument shall create a mortgage or lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety-five percent of the the unrestricted fair market value of the Affordable Unit on the date of any subsequent sale or refinancing, as determined by an appraisal approved by the County, less the amount of the first buyer's down payment. The lien, mortgage or other instrument shall be duly executed and recorded in the Office of the County Clerk.

B. Each Affordable Housing Agreement shall include a additional form of lien, mortgage or other instrument (the "appreciation share mortgage") that creates a right of first refusal in favor of the County to purchase the Affordable Unit or to broker resale of the Affordable Unit to an Eligible or Entry Market Buyer. This instrument shall require the owner of an Affordable Unit to provide the County with 120 days written notice of intent to sell the Affordable Unit during which period the County may purchase the Unit or broker a purchase and sale of the Affordable Unit to an Eligible or Entry Market Buyer, for the-then Maximum Target Housing Price. The instrument shall also provide that if the Affordable Unit is sold (either on the open market or as a result of the County's exercise of its first right of refusal) or refinanced during the five year period beginning on the date of sale of the Affordable Unit to the first buyer thereof, the-then owner of the Affordable Unit shall receive a proportional share of the resulting appreciation based on the relationship between the first buyer's down payment and the Maximum Target Housing Price at the time of the sale to the Affordable Unit to the first buyer, and the remainder of the resulting appreciation shall be paid to the County. The

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legal instrument shall also provide that if the Affordable Unit is sold (either on the open market or as a result of the County's exercise of its right of first refusal) or refinanced between the sixth anniversary of the date of sale of the Affordable Unit to the first buyer and the eleventh anniversary of the date of sale of the Affordable Unit to the first buyer, the-then owner of the Affordable Unit shall share in any resulting appreciation in an amount determined by multiplying the whole number of years that have elapsed from the date of closing of the first sale of the Affordable Unit by 0.1 and then multiplying that sum by the sales price or, in the case of a refinancing transaction, multiplying that sum by the-then unrestricted fair market value of the Affordable Unit, and the remainder of the resulting appreciation shall be paid to the County. This instrument shall also be duly executed and recorded in the Office of the County Clerk.

C. The form of the instruments described in subsections 18(A) and 18(B), above, and the methodology for determining the initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

D. Any lien, mortgage, or other instrument referred to in this Section shall be released and satisfied through an appropriate instrument on the eleventh anniversary of the date of sale of the Affordable Unit to its first buyer, and the appropriate instrument shall be recorded in the Office of the County Clerk documenting the release and satisfaction thereof.

E. Any lien, mortgage or other instrument referred to in this Section may be temporarily released for the limited purpose of closing a subsequent purchase and sale of an Affordable Unit so long as the lien, mortgage or other instrument is executed by the buyer and recorded as provided in this Section.

F. The proceeds of the instruments imposed in Section Eighteen (A) shall be deposited into a fund created in the County treasury or separate trust whose sole purpose shall be to support Affordable Housing within Santa Fe County or, alternatively, transferred to the Santa Fe County Housing Services Division to support affordable Housing within Santa Fe County. The fund or trust shall be governed by rules and requirements set forth in a separate Ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

G. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer and avoid application of the provisions of this Section, unless the sale to the Eligible Buyer resulted from exercise by the County of its first right of refusal pursuant to Section 18(B) of this Section.

H. Where the-then owner of an Affordable Unit is under extreme duress by reason of unemployment, family medical emergency, divorce, or death and is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or for other unique and extreme circumstances of hardship, the Affordable Lien may be compromised or released.

Section Nineteen. Affordable Housing Administrator. The position of Affordable Housing Administrator is established within the Housing Department. The Affordable Housing Administrator shall administer the Affordable Housing Ordinance, manage the fund or trust established pursuant to Section 17(F) of this Ordinance and a

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separate ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq., act as an ombudsman to the development review process, and have other responsibilities set forth in this Ordinance. The salary and benefits of the Affordable Housing Administrator shall be paid from proceeds collected pursuant to Paragraph 17(F) of this Ordinance and a separate ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq., to the extent permitted by law.

Section Twenty. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing Administrator shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented annually thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

PASSED AND ENACTED THIS ____ DAY OF ____, 2005.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By
Michael D. Anaya, Chair

ATTEST:

Valerie Espinoza, County Clerk

Approved as to form:

Stephen C. Ross, County Attorney

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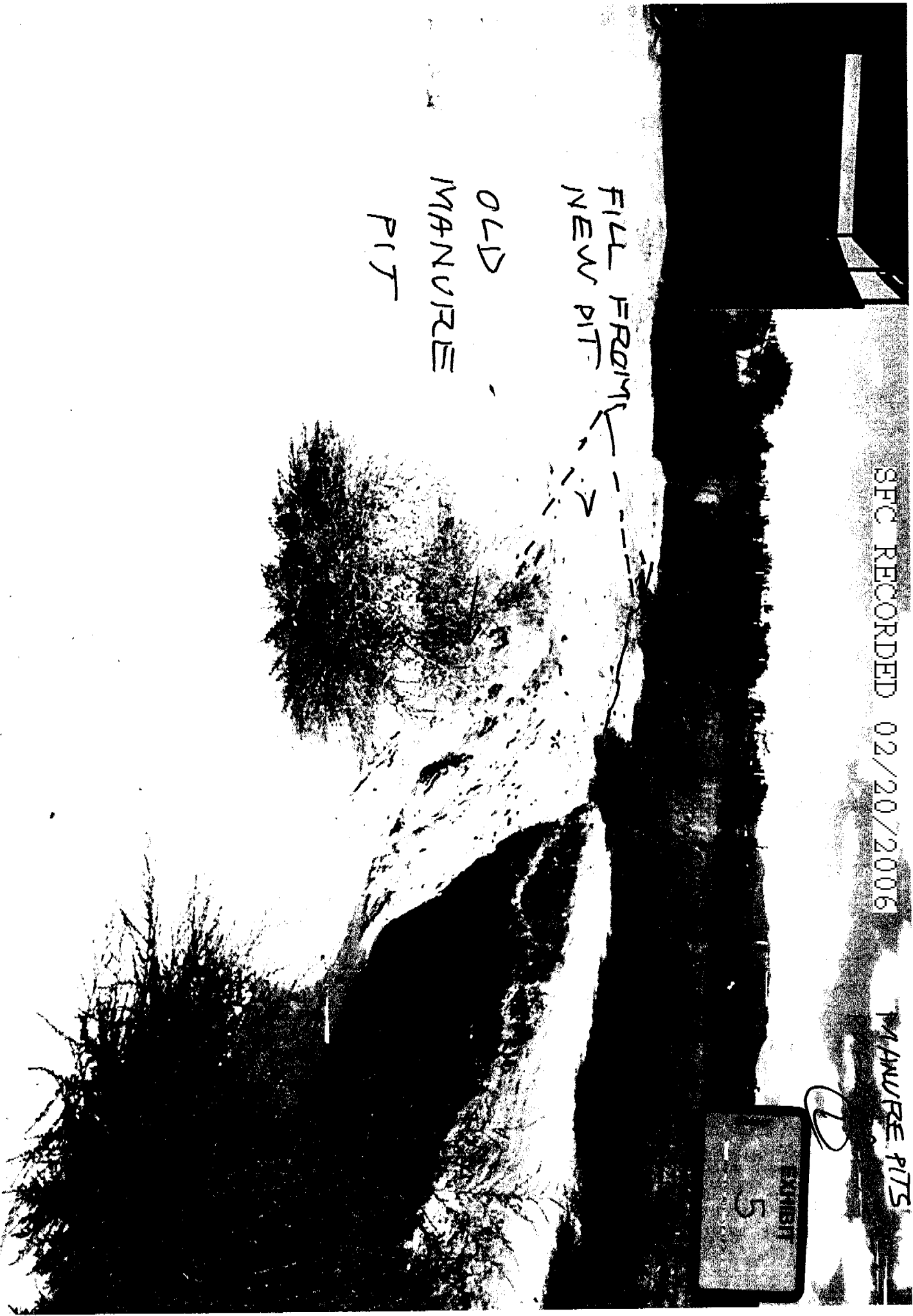
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9/12/05

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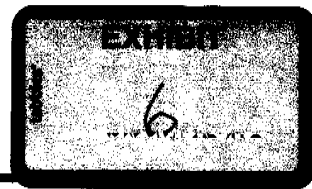


11/8/05

Frank D. Pullara, M.D.
PATRICIA F. PULLARA

16 Rons Rd.
Santa Fe, NM 87508

Phone: (505) 474-6333
FAX: (505) 424-6667
email:



February 1, 2004

Roman Abata
Santa Fe County, Land Use Department

Dear Mr. Abata,

It is with great displeasure that we must register this complaint, regarding 6 Rons Rd. Our intention, when moving to 16 Rons Rd., was to peacefully enjoy our residential acreage. However, because of the commercial operation, at 6 Rons Rd., our enjoyment, of our property, has been completely usurped.

At the time of purchasing our property, we called Planning and Zoning to ascertain what restrictions applied to our property and the other properties, on Rons Rd. We were told that only four horses were allowed, and then only if the property was kept clean and free of horse manure, otherwise less. We were told, that in no instance would more horses ever be allowed.

Since we purchased 16 Rons Rd., 6 Rons Rd. has been turned into a boarding, horse sales, training, and lesson facility. The entire property (4.4 ACRES), except for the main house (part of which accommodates horse help.), and the **seven newly erected buildings**, has been covered with outdoor run pens and a riding arena. Between twenty four (24) and thirty (30) horses are kept, on the property, at all times. There was no reason for us to expect that this type of operation would ever be developed at 6 Rons Rd.

The commercial operation, on 6 Rons Rd represents a major health hazard, a general nuisance, disturbance of the peace and a major waste of scarce ground water.

Health hazard:

An in-ground manure pit, approximately 90 ft long, 10 ft. wide and 10 ft. deep (@9000 cubic feet) was dug very close to our property line and about 60 feet from our well. This pit is filled with horse manure and is usually not emptied for months, resulting in the manure being piled six feet, or more, above the top. Because of the proximity to our well, it represents a severe contamination risk. Code requires leaching fields (and this certainly meets the criteria for a leaching field) be more than 100 feet from a well supplying household water. This pit is far less than 100 feet from our well. With prolonged accumulation of manure, this pit becomes a fly breeding ground. Consequently, because of the proximity to our property and house, the flies swarm over our entire property, infesting our patios and yards, making them unusable. It is even

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impossible to keep the inside of the house free of flies. Besides being a horrible nuisance, flies carry disease. During the day, horses are kept in the run pens, which occupy about fifty percent of the property. They play, run, and chase each other, continually raising dust. That dust is a combination of dirt and manure. This combination is a major allergen, causing severe sinus and throat irritation and inflammation, eye irritation, pulmonary irritation and sever headaches. The riding arena has been covered with a material that produces a white powdery dust, which when mixed with regular dirt dust, is an even more potent respiratory irritant and allergen. Since the arena is almost constantly being used by boarders (exercising and/or riding their horses), trainers (working/or exercising their horses), and people getting horse riding lessons, the dust is almost constant.

General Nuisance:

The stench from the manure and the growing fly maggots, is often unbearable. This also makes use of our patios and yard impossible. In the summer and spring, the house windows cannot be kept open because of the stench and dust. The wind almost always blows toward our property, and now, our property has been inundated with over 6 inches of dust. Our well head, which was over one foot above ground, is now completely covered. The problem is so serious, that we have had to permanently seal our windows, on the side of the house facing 6 Rons Rd. The borders also think they need to throw rocks at their horses, in order to exercise them, instead of putting them in the round pen, as it must be too much work to put them in the round pen. The perimeter fences are in general disrepair and weeds encircle the property.

Disturbance of the peace:

Trash is constantly being thrown onto our property, e.g.. beer bottles, cans, paper, juice bottles. Borders, and trainers and clients often bring their dogs the property (one has 3 dogs). These animals bark and fight with our dog, through the fence. Lessons are given at all times, including evenings, Saturdays, and Sundays, creating dust and loud noise, including trainers yelling commands, etc. to students. Cars, and trucks pulling horse trailers, are constantly coming and going, on the property, creating noise and dust.

Water usage:

Horses drink approximately **fifteen (15) gallons of water daily**. Therefore, twenty five horses drink approximately **375 gallons** of water daily. Additionally many of the horses require daily baths, using even more water. If water is used to control the dust, even more water will be used. This type of water usage, especially in times of

drought (which we are now experiencing) violates **Santa Fe County water conservation policies**, severely depletes the ground water and can even jeopardizes our well and other wells which are on the same aquifer.

We spoke with the owner, Beth Longanecker, over a year and a half ago, regarding these problems. We asked her to fill in the manure pit and use some type of dumpster which could be located far from our property line, and emptied frequently (at least every week), thus eliminating the stench and the flies. We also asked her to take measures to eliminate the dust and to control the behavior of her guests. She said she would install a fence between us, eliminate the pit and appropriately control the dust and the behavior of her guests. At that point, she discussed building an indoor arena, we explained that her property was a residential property, not a commercial property, and that was unacceptable. However, instead of fulfilling her agreement, she then proceeded to destroy all of the indigenous vegetation, that was left on her property, by installing many new horse corrals, and building seven new buildings, including a 14 stall barn, a building for housing hay, a wood shavings building (when the wind blows, these shavings are scattered all over our property), loafing sheds for outside horses and other related functions. The barns, the outdoor run pens and loafing sheds accommodate more than 25 horses.

This illegal activity must cease. It is a detriment to our health, subverts our intended use of our property and has adversely impacted the value of our property. However, despite multiple complaints to various people at the Planning and Zoning Commission (over a 3 month period), this illegal activity, on 16 Rons Rd., continues. To date, except for the action of animal control department, our complaints have been ignored.

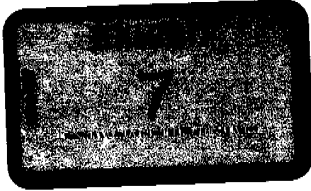
As a taxpayer in New Mexico, we are entitled to all of the protection that zoning and the other codes provide to owners of residential property.

Sincerely,


Frank Pullara, M. D.


Patricia F. Pullara

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TO THE BOARD OF COUNTY COMMISSIONERS, SANTA FE COUNTY:

Re: **Martinez Family Transfer Variance – LCDRC CASE #V-05-5420**

We are homeowners in the Por Su Gracia Subdivision and the surrounding area. We are opposed to the County giving a variance so that Rose Martinez can do a family transfer subdivision before she has owned her lot in Por Su Gracia for the required five years. The Subdivision road, Paseo de Angel South, is very steep where it crosses a large arroyo, and does not have an all-weather crossing. We oppose increasing the density of our area and building more homes when the access is not safe for emergency vehicles.

Peter Grab

Signature

PETER GRAB

Name

41 Estrellas RDN SANTA FE 87507

Address

Paul C Murray

Signature

Paul C Murray

Name

137 Las Estrellas Road
SF/87507

Address

Signature

Name

Address

Gail Murray

Signature

GAIL Murray

Name

137 Las Estrellas Rd
Santa Fe NM 87507

Address

Signature

Name

Address

Signature

Name

Address

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