

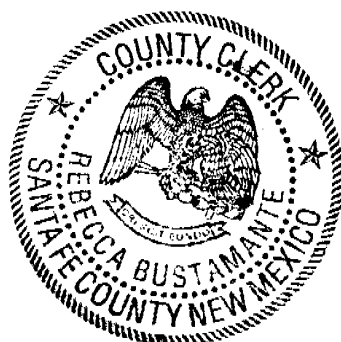
2352135

**SANTA FE**  
**BOARD OF COUNTY COMMISSIONERS**

**SPECIAL MEETING**

**January 14, 2003**

Paul Duran, Chairman  
Jack Sullivan, Vice Chairman  
Paul Campos  
Michael Anaya  
Harry Montoya



1251. 605  
COUNTY OF SANTA FE } SS  
STATE OF NEW MEXICO  
I hereby certify that this instrument was filed  
for record on the 27 day of Feb A.D.  
20 03 at 1:35 o'clock P.M.  
and was duly recorded in book 2352  
page 135-249 of the records of

Santa Fe County  
Witness my Hand and Seal of Office  
Rebecca Bustamante  
County Clerk, Santa Fe County, N.M.

*Marcella Rojas*  
Deputy

SANTA FE BOARD OF COUNTY COMMISSIONERS

COMMISSION CHAMBERS

COUNTY ADMINISTRATION BUILDING

REGULAR MEETING

(Public Hearing)

January 14, 2003 - 2:00 p.m

2352136

Amended Agenda

- I. Call to Order
- II. Roll Call
- III. Pledge of Allegiance
- IV. Invocation
- V. Approval of Agenda
  - A. Amendments
  - B. Tabled or Withdrawn Items
- VI. Approval of Minutes *December 10, 2002; special; Regular December 10, 2002 amended;*
- VII. Matters of Public Concern -NON-ACTION ITEMS
- VIII. Matters from the Commission
  - A. Appointment of State Representative, District 45
  - B. Temporary Salary Increase of Interim County Manager *98,500*
- IX. Presentations
  - A. Presentation and Request Direction on Proposed Site Development Plan for the Santa Fe County Fair Grounds Complex (Project and Facilities Management Department) *Approved*
- X. Administrative Items
  - A. Appointments
    1. Appointment to the County Development Review Committee  
WITHDRAWN
    2. Appointment to the Agua Fria Development Review Committee  
WITHDRAWN
    3. Appointments to SWAMA (Solid Waste Management Agency)
    4. Appointments to EZA (Extraterritorial Zoning Authority) *Ray, Campos, Dun*
    5. Appointment of the Chairman to the Board of County Commissioners *Sullivan, Campos, Vice Chair*
- XI. Consent Calendar
  - A. Resolution No. 2003 *01* A Resolution Requesting an Increase to the EMS - Healthcare Fund (232) to Establish Budget for the Emergency Preparedness Grant Program for Expenditure in Fiscal Year 2003. (Fire Department) *Approved*
  - B. Resolution No. 2003 *02* A Resolution Requesting an Increase to the General Fund (101)/Rancho Viejo Spur Trail to Budget a Grant Award Received from the New Mexico Energy, Minerals and Natural Resources Department for Trail *Approved*

Construction Expenditure in Fiscal Year 2003. (Project and Facilities Management Department)

- C. Request Authorization to Accept and Award a Price Agreement to the Lowest Responsive Bidder, IFB 23-21 RB1 Re-Roofing of Rio En Medio and County Health Center (Project and Facilities Management Department)

XII. Staff and Elected Officials Items

A. Administrative Services Department

- 3-2 1. Approval of Collective Bargaining Agreement Between AFSCME and Santa Fe County

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B. Utilities Department

- Approved 1. Request Approval of First Amendment to Customer Contract for Commitment of Water Service Between Santa Fe County and Ranch Partners, Inc.

C. Matters from the County Attorney

- Approved 1. Resolution No. 2003 <sup>02</sup> Resolution Determining Reasonable Notice for Public Meetings of the Santa Fe Board of County Commissioners and all Commissions, Committees, Agencies or any other Policy-Making Bodies Appointed by or Acting Under the Authority of the Board of County Commissioners

2. Executive Session

- Debate a. Discussion of Pending or Threatened Litigation b. Discussion of Possible Purchase, Acquisition or Disposal of Real Property or Water Rights

C. Matters from the County Manager

XIII. Public Hearings

A. Public Works

- 01 1. Ordinance No. 2003 - An Ordinance Amending Ordinance No. 1994-2, "An Ordinance Regulating Procedures for Disturbing and Repairing County Property and Rights of Way"

B. Land Use Department

- 04 1. Resolution No. 2003 - A Resolution Amending Resolution 1999-137, The Santa Fe County Growth Management Plan, As Amended, to Adopt and Incorporate the El Valle De Arroyo Seco Highway Corridor Plan (Second Public Hearing). Robert Griego
- 2. Ordinance No. 2003 - An Ordinance Amending Ordinance 1996-10, the Santa Fe Land Development Code, Article V, Section 5.2.2.c. and 5.2.2.g, to Require the Submission of Water Supply Plans and Water Permits for Master Plan. (Second Public Hearing) Roman Abeyta
- 3. Ordinance No. 2003 - An Ordinance Amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article V, Section 5.2 Master Plan Procedures to Require the Submission of a Preliminary Water and Liquid Waste Disposal Plan With Master Plan Applications and Include Language that Clarifies that a Master Plan Approval Does Not Confer a Vested Development Right (First Public Hearing). Roman Abeyta
- 4. CCDRC CASE #A/V 02-5350 - Boylan Appeal/Variance. Zena Boylan, Applicant, James Siebert, Agent, are Appealing the Land Use Director's Decision to Deny a Caretaker Residence/Guest House on 2.82 Acres, Which Would Result in a Variance to Article III, Section 10 (Lot Size Requirements) of the Land Development Code. The Property is Located

Withdrawn  
Fetter

on Vista Del Monte Road, Within Section 30, Township 16 North, Range 9 East (Commission District 5). Wayne Dalton

5. CDRC CASE #V 02-5380 – Armando Jurado Variance. Armando Jurado, Applicant, Requests a Variance of Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 1.83 Acres into Two Lots; One Lot Consisting of 0.885 Acres, and One Lot Consisting of 0.971 Acres. The Property is Located in the Village of La Bajada, Within Section 12, Township 15 North, Range 6 East and Section 7, Township 15 North, Range 7 East (Commission District 3). Wayne Dalton

*Sullivan  
voted  
against 4-1*

6. LCDCR CASE #V 02-5301 – Buff Douthitt Variance. Buff Douthitt, Applicant, Al Quintana, Agent, Request a Variance of Article XIV, Section 6.10.1 (Areas for Commercial Development and Requirements) of the Land Development Code to Allow Commercial Use on 3.03 Acres. The Property is Located at the Intersection of the West Frontage Road and Los Pinos Road, within Sections 26 and 27, Township 16 North, Range 8 East (Commission District 3). Wayne Dalton **TABLED**

*Tabled*

7. CDRC CASE #V 02-5470 – Bruce Oakeley Variance. Bruce Oakeley is Requesting a Variance to Article III, Section 10 (Lot Size Requirements) of the Land Development Code to Allow a Land Division of 7.53 Acres to Create on 2.5 Acre Tract and One 5.03 Acre Tract. The Property is Located Off of East Pine Within Section 6, Township 14 North, Range 9 East (Commission District 5). Vicki Lucero

*Tabled*

8. EZ CASE #DL 02-4370 – Aragon Family Transfer. Leroy and Mary Jane Aragon, Applicants, Are Requesting Plat Approval to Divide 4.8106 Acres Into Three Lots for the Purpose of a Family Transfer. The Lots Will Be Known As Lot 2-A (1.250 Acres), Lot 2-B (1.250 Acres), and Lot 2-C (2.300 Acres). The Property is Located Within the Arroyo Hondo West Subdivision, Off of Hondo Lane, Within Section 15, Township 16 North, Range 9 East (Commission District 4). Vicente Archuleta

*Gorman  
w/ 5/27/17  
conditions*

9. EZ CASE #S 02-4501 – Altshuler Subdivision. Altshuler LLC., (Donald Altshuler, Manager) Applicant, Gorman & Associates, Agent, Request Final Plat and Development Plan Approval for a 21 Lot Residential Subdivision on 80.22 Acres, with the Potential of Having Guesthouses on 10 of the Lots for a Total of 31 Residential Units. The Property is Located Off Tano Road West (County Road 85-A) Within Sections 3 & 4, Township 17 North, Range 9 East (Commission District 2). Vicki Lucero

*Approved*

*Joe Catanache*

10. TDRC CASE #S 02-5291 – Tesuque Ridge Subdivision. Jay Ross, Applicant, Scott Hoeft, Agent, Request Final Development Plan and Plat Approval for a 12 Lot Residential Subdivision on 100 Acres. This Request Includes a Variance of Article VII, Section 6.7.8 (Fire Protection Plan and Required Improvements) To Allow the Furthest Buildable Portion of Three Lots to Exceed the Code required 1,000 Foot Spacing From a Fire Hydrant. The Property is Located in the Traditional Historic Community of Tesuque, Within Section 6, Township 17 North, Range 10 East (Commission District 1). Wayne Dalton

*Tabled*

11. EZ CASE #S 01-4631 – Santo Nino De Felipe. Ray and Yolanda Reynolds (Jim Siebert, Agent), Applicant is Requesting an Extension of the Final Plat/Development Plan Approval Previously Granted for a Mixed Use



**Subdivision (Residential, Commercial) Consisting of 20 Residential Lots and 2 Commercial Tracts on 7.8 Acres. The Property is Located Along Airport Road Within the Two Mile Extraterritorial District, Sections 6 & 7, Township 16 North, Range 8 East (Commission District 5). Joe Catanach**

**XIV. Adjournment**

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**The County of Santa Fe makes every practical effort to assure that its meetings and programs are accessible to the physically challenged. Physically challenged individuals should contact Santa Fe County in advance to discuss any special needs (e.g., interpreters for the hearing impaired or readers for the sight impaired).**

**SANTA FE COUNTY**

**REGULAR MEETING**

2352140

**BOARD OF COUNTY COMMISSIONERS**

**January 14, 2003**

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:10 p.m. by Chairman Paul Duran, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

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

**Members Present:**

Commissioner Paul Duran, Chairman  
Commissioner Jack Sullivan  
Commissioner Paul Campos  
Commissioner Mike Anaya  
Commissioner Harry Montoya

**Members Absent:**

[None]

**IV. Invocation**

An invocation was given by Deputy County Assessor Ralph Jaramillo.

**V. Approval of the Agenda**

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

CHAIRMAN DURAN: Mr. Kopelman, are there any amendments to the agenda?

STEVE KOPELMAN (Acting County Manager): Thank you, Mr. Chairman, members of the Commission. On Administrative item X. A. 1 and 2, Appointments to the County Development Review Committee and Appointments to the Agua Fria Development Review Committee, staff is requesting that these items be withdrawn. There are additional

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vacancies and Land Use staff was asking whether or not at next meeting they could bring this to you because there are additional vacancies rather than just doing it piecemeal.

In addition, I think the only other matter is under Public Hearings under Land Use Department XIII. B. 6, LCDRC Case #V 02-5301, requesting tabling at this time.

CHAIRMAN DURAN: What number is that, Steve? I'm sorry.

MR. KOPELMAN: Mr. Chairman, XIII. B. 6.

CHAIRMAN DURAN: Tabled. I see it.

COMMISSIONER CAMPOS: What about B. 7? Is that tabled?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I believe that there's a request to table that also. I'm sorry I didn't bring that up at the beginning. That's correct. Number 7 also. The CDRC Case #V 02-5470.

CHAIRMAN DURAN: And number 10 also? Is that correct?

MR. KOPELMAN: Let me just double-check real quickly, Mr. Chairman.

CHAIRMAN DURAN: I think that has been tabled. I don't think they've been to the TDRC.

MR. KOPELMAN: Mr. Chairman, that's correct too. And I apologize for not having caught that one.

CHAIRMAN DURAN: That's okay. It's your first day on the job.

MR. KOPELMAN: And then also, Mr. Chairman, I believe at the last meeting under Matters from the Commission, matter VIII. A, the appointment of State Representative. At the last meeting you had discussed bringing that forward at 3:00 today so you may decide to go through some of the administrative items up until 3:00 and then take that item.

CHAIRMAN DURAN: Okay. Is that the pleasure of the Board?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Move for the approval of the agenda as amended by the proposals of Mr. Kopelman, including moving item X, Administrative Items to a position below Matters of Public Concern so we can move on with that.

CHAIRMAN DURAN: Okay. Is there a second?

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: Any further discussion?

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

**VI. Approval of the Minutes: December 10, 2002, Special meeting**

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

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COMMISSIONER SULLIVAN: Just two typographical changes that I'll give to the recorder.

COMMISSIONER CAMPOS: Mr. Chairman, just for clarification, the first minutes are from a special meeting of December 10<sup>th</sup> and the second is for the regular meeting of December 10<sup>th</sup>.

CHAIRMAN DURAN: Okay. We're voting on the special meeting. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Move for approval as amended.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

**The motion to approve the minutes of the December 10<sup>th</sup> special meeting passed by unanimous [5-0] voice vote.**

**December 10, 2002, Regular meeting**

CHAIRMAN DURAN: Any changes to those minutes?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: One correction to those minutes.

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

COMMISSIONER SULLIVAN: Move for approval as amended.

COMMISSIONER CAMPOS: Second.

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

**The motion to approve the minutes of the regular meeting of December 10, 2002 passed by unanimous [5-0] voice vote.**

**VII. Matters of Public Concern - Non-action items**

CHAIRMAN DURAN: Is there anyone out there in the audience that would like to address the Commission about any issue or any concern they might have? Okay, there's not anyone.

**X. Administrative Items**

**A. Appointments**

**3. Appointments to SWMA (Solid Waste Management Agency)**

COMMISSIONER CAMPOS: Mr. Chairman.

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CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Would it be possible to start out with Chairman of the Board of County Commission and then come down to SWMA and EZA? I think they're all going to be related somehow. And maybe up front we can all just say what positions we're interested in or running for or not running for so we can maybe accommodate the interests of all the Commissioners who are interested in either SWMA or EZA or one of the officer positions on the Commission.

CHAIRMAN DURAN: No, I think we're going to deal with it just the way they are right now. Appointments to SWMA, I'm willing to step down from SWMA and let any of the new Commissioners if they would like to serve on that. So I'd like to make a motion that we appoint – how many are on there? Are there three or four?

COMMISSIONER CAMPOS: Three. I'd like to stay on it.

COMMISSIONER SULLIVAN: Mr. Chairman, I'd be willing to step down as well. Commissioner Campos is currently the vice chair.

COMMISSIONER CAMPOS: I'd like to stay on but if the two new Commissioners would like come on, I think it's a very important authority, deals with some very big issues including recycling, a lot of environmental issues. Commissioner Anaya, I understand you're interested.

COMMISSIONER ANAYA: Mr. Chairman, yes. Commissioner Campos, I am interested in that. So I would like to serve.

COMMISSIONER CAMPOS: Commissioner Montoya?

COMMISSIONER MONTOYA: Commissioner Duran, if you're interested, we could let you serve on it.

CHAIRMAN DURAN: You want me to serve on it?

COMMISSIONER CAMPOS: He's been wanting to get off for a couple of years as I understand it.

CHAIRMAN DURAN: I would defer to whatever you want to do. I would stay on there if you would like me to. It actually meets at 3:00, 4:00. It might be more difficult for you to get here than myself.

COMMISSIONER SULLIVAN: But the meetings are less frequent.

CHAIRMAN DURAN: Right.

COMMISSIONER SULLIVAN: Generally, only quarterly. Or every other month.

CHAIRMAN DURAN: Why don't you go on it and I'll be your alternate.

COMMISSIONER CAMPOS: Let me make a motion then to appoint Commissioner Anaya, Commissioner Montoya, myself as the regular members and Commissioner Duran as the alternate for SWMA.

CHAIRMAN DURAN: If you can't make it just call me.

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: Any further discussion?

**The motion to appoint Commissioners Campos, Montoya and Anaya as members of the Solid Waste Management Agency, with Commissioner Duran as alternate, passed by unanimous [5-0] voice vote.**

**X. A. 4. Appointment to the EZA (Extraterritorial Zoning Authority)**

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Just a comment. We have three members that are County and two that are City. Right now we have Commissioners Sullivan, Duran and myself on the EZA. I understand that both new Commissioners are interested in the EZA position. That's what I picked up in our conversation. My suggestion would be to at least keep two of the sitting members and then have one of the new members come on as a regular member and the other member perhaps as an alternate. I think we do need the experience on the EZA but we do need some new blood on the EZA.

COMMISSIONER MONTOYA: Are you interested, Commissioner?

COMMISSIONER CAMPOS: I'd like to stay on the EZA.

COMMISSIONER SULLIVAN: My feeling is I'd like to stay on too. So much of the land use cases are in the southern part of the - well in District 5, that continues to be of extreme interest to me and to my constituents.

CHAIRMAN DURAN: I'd like to stay on it also and I'd like to make a motion that the following Commissioners be appointed. Commissioner Campos, myself and Commissioner Anaya.

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: Any further discussion?

**The motion to appoint Commissioners Duran, Campos and Anaya to the EZA passed by unanimous [5-0] voice vote.**

**X. A. 5. Appointment of the Chairperson of the Board of County Commissioners**

CHAIRMAN DURAN: I would just like to say that since I've been the Chair for the last ten years I think it's time to find a new Chairman.

COMMISSIONER SULLIVAN: How many?

CHAIRMAN DURAN: I've been the Chair for two years and I think I've enjoyed it. I think that it would be an appropriate thing to let another Commissioner come on board as the Chair and I would make the recommendation that Commissioner Sullivan be that individual.

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COMMISSIONER ANAYA: Second. Was that a motion?

CHAIRMAN DURAN: That's a motion.

COMMISSIONER ANAYA: I second.

CHAIRMAN DURAN: Do you want it?

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman, I appreciate the opportunity and the honor and appreciate your hard work for the past two years as well.

CHAIRMAN DURAN: It's been a pleasure. It's a great thing to be the Chair of this Board, serving at the pleasure of the Board and it's also an honor. I'm sure you'll do a good job.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Go ahead, Harry.

COMMISSIONER MONTOYA: Would this take effect at the next meeting?

CHAIRMAN DURAN: Well, I spoke to staff and there are some issues with the signature on some of the checks -

COMMISSIONER SULLIVAN: I didn't do it.

CHAIRMAN DURAN: No, no, no. And they were wondering, their suggestion was to do it at the next meeting. Does that work?

COMMISSIONER SULLIVAN: Whatever. That works for me.

CHAIRMAN DURAN: Okay. So it would be effective next meeting.

**The motion to appoint Commissioner Sullivan as Chairman of the BCC passed by unanimous [5-0] voice vote.**

COMMISSIONER CAMPOS: Do we need a Vice Chair at this point?

COMMISSIONER SULLIVAN: I think we do, Mr. Chairman.

CHAIRMAN DURAN: We do, actually.

COMMISSIONER SULLIVAN: I would make a motion that Commissioner Campos be appointed as Vice Chair of the Santa Fe County Commission.

COMMISSIONER CAMPOS: I'll second that for discussion. Does someone else want to be Vice Chair? That's fine. I don't care.

CHAIRMAN DURAN: Do you want to be the Vice Chair? I thought that we had talked about -

COMMISSIONER ANAYA: I think Commissioner Campos would be an excellent Vice Chair. I'm all in favor.

CHAIRMAN DURAN: Okay, good. It's not published. Can we do it anyway?

MR. KOPELMAN: Mr. Chairman, you can take the action. We'll just have it on for ratification at the next meeting. That's probably the -

CHAIRMAN DURAN: That's what we'll do.

**The motion to appoint Commissioner Campos as Vice Chairman of the BCC passed by unanimous [5-0] voice vote.**

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**XI. Consent Calendar**

- A. **Resolution No. 2003-1. A resolution requesting an increase to the EMS - Healthcare Fund (232) to establish a budget for the Emergency Preparedness grant program for expenditure in fiscal year 2002 (Fire Department)**
- B. **Resolution No. 2003-2. A resolution requesting an increase to the general fund (101)/Rancho Viejo Spur Trail to budget a grant award received from the New Mexico Energy, Minerals and Natural Resources Department for trail construction expenditure in fiscal year 2003 (Project and Facilities Management Department)**
- C. **Request authorization to accept and award a price agreement to the lowest responsive bidder, IFB 23-21 RB1, reroofing of Rio en Medio and County Health Center (Project and Facilities Management Department)**

CHAIRMAN DURAN: Are there any items on the Consent Calendar that any of the Commissioners would like to isolate for further discussion? If not, the Chair would entertain a motion to approve the Consent Calendar as presented.

COMMISSIONER CAMPOS: So moved.

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: Any further discussion?

**The motion to approve the Consent Calendar as presented passed by unanimous [5-0] voice vote.**

**VIII. Matters from the Commission**

- B. **Temporary salary increase of interim County Manager**

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: I just had this matter placed on the agenda. I think that it would be appropriate that we would have the interim County Manager at the salary that was paid to our previous County Manager and I would just like to make that recommendation.

CHAIRMAN DURAN: Is that a motion?

COMMISSIONER MONTOYA: Yes, sir.

CHAIRMAN DURAN: Second.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: A question. How much was Mr. Lopez earning and how much does Mr. Kopelman earn?



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HELEN QUINTANA (Human Resources Director): Mr. Chairman, members of the Commission, Mr. Lopez was earning \$98,416 annually.

COMMISSIONER CAMPOS: And Mr. Kopelman?

MR. KOPELMAN: Mr. Chairman, members of the Commission, I believe currently my salary is a little under \$86,000.

CHAIRMAN DURAN: Okay. Any further discussion?

COMMISSIONER CAMPOS: Mr. Chairman, I assume our plan is to select someone in February so we're just talking about one month. I would be, I would think we should just maintain the salary as is for the one month, the six weeks, whatever it takes.

CHAIRMAN DURAN: Okay. Any other comments?

**The motion to approve a temporary salary increase for the interim County Manager passed by unanimous [5-0] voice vote.**

**IX. Presentations**

**A. Presentation and request for direction on proposed site development plan for the Santa Fe County Fairgrounds complex (Project and Facilities Management Department)**

TONY FLORES (Project Manager): Mr. Chairman, Good afternoon. As Rudy prepares the easel, as three of the sitting Commissioners are aware, last June we awarded a professional service agreement with the firm of Ellis/Browning to develop a master plan for the Santa Fe County Fairgrounds complex. The request was made on behalf of Commissioner Sullivan and his direction to us to get that property planned for development and phasing as monies or funds become available. As a result of that professional services agreement the firm of Ellis/Browning has conducted six meetings with the Fair Board and other adjacent property owners to develop schemes or proposed schemes for the development of the fairgrounds.

Based upon those options, in November the Santa Fe County Fair Board met and selected options or items from each of the schemes to put forward a final plan that is brought before you today. The series of events that would take place is we are requesting one, it was included in your packet the final master plan that has been developed and recommended by the Fair Board. Two, if the Commission so directs us, we would proceed with them finalizing the development plan with all the required master plan documents including the engineering documents, building elevations, signage elevations, parking layouts, the whole gamut of master plan requirements.

The purpose of it coming November, December or January at this time is that the fairgrounds improvements were included on this year's infrastructure capital improvement plan and we would like or request to have a document before us, at least in the conceptual stage as presented today, so that we have an ideal or we have a diagram so to speak to present to our prospective legislators for future funding. So before you today we have the master plan that has

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been recommended. There was a Fair Board meeting last night. The only item of concern is that the nomenclature or the titles of the buildings, their issue was that each of these buildings has a multi-purpose use to it. So they were afraid by us tying a building to youth agricultural building fine arts building that that would be the only use that facility could house or occupy.

I explained to the board last night that every building we have in the County unfortunately has various uses and various needs at different times of the year and that although they're identified as a youth building or a fine arts building that the true nature or use of that building would be a multi-purpose facility within the entire complex. So I stand for any questions regarding the process or -

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: As far as dollars, where is the money coming from to pay for the improvements?

MR. FLORES: Mr. Chairman, Commissioner Campos, at this time, the County does not have any improvement dollars on the table. We have included, as I indicated in our infrastructure capital improvement plans for this year, 2003, 2004 and 2005. So there is no money tied to this plan at this point.

COMMISSIONER CAMPOS: Where do you expect to get this money from, Mr. Flores?

MR. FLORES: Mr. Chairman, Commissioner Campos, we are requesting a portion of the seed money to start the development of the process from the legislature.

COMMISSIONER CAMPOS: A portion, then what about the other portion?

MR. FLORES: As the plan develops and as facilities are identified for implementation or construction, it would depend. I don't anticipate coming before the Board asking for dollars so we would have to ask the legislature, other grants, other types of funding sources rather than hit our general fund.

COMMISSIONER CAMPOS: My concern is the general fund. I don't think we can go to the general fund for this project. If we can get it from the legislature that would be fine but the general fund is not in a condition to take a big investment. How much are you thinking that this project will cost in the initial phase?

MR. FLORES: \$310,000.

COMMISSIONER CAMPOS: Okay, and in the subsequent phases, all phases?

MR. FLORES: Subsequent phases, another \$300,000.

COMMISSIONER CAMPOS: So about \$600,000 to do what you're planning to do right now?

MR. FLORES: Yes.

COMMISSIONER CAMPOS: Okay. Thank you, sir.

CHAIRMAN DURAN: You're not requesting that we consider funding this out of the general fund. Is that correct?

MR. FLORES: Mr. Chairman, that's correct.

CHAIRMAN DURAN: Thank you.

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COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman, Mr. Flores. What in this design right now has been completed?

MR. FLORES: Mr. Chairman, Commissioner Montoya, currently, the facilities that are cross-hatched, they're kind of a various way, but it's these darker areas right in here that are currently built. There are some additions proposed to these, such as the small animal barn and both the large annex buildings, some additions in there to make them a more functional facility, but it's basically this area right here that's currently developed. And also there's a building right in this area right here where our County Extension Agent is currently housed.

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

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Tony, that was going to be my first question is where is the County Extension Building on the current drawing?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, it's in this area right here where it says renovate building pending feasibility study.

COMMISSIONER SULLIVAN: Okay. So was the intent then to move the extension building down to the lower left-hand corner?

MR. FLORES: Yes. As you come into the facility, yes, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Okay. Is there a – you mentioned \$310,000 and \$300,000. Is there a cost estimate that goes with this? I just got the sketches in my packet.

MR. FLORES: Mr. Chairman, Commissioner Sullivan, at this time, no, there's not.

COMMISSIONER SULLIVAN: What would the \$300,000 do? What would be the first phase as you see it?

MR. FLORES: As we see it, as the County sees it and as the Fair Board were discussing this last night, the first improvements to the site would be for infrastructure, to get water, sewer, roads. Those areas would be the first step to develop the plan, would be to put the infrastructure in place first.

COMMISSIONER SULLIVAN: Does that include – you know they have a situation with their well there. Does that include getting on City water or not?

MR. FLORES: The attempt will be made to request to the City for connection. That's correct, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Because they're on well and septic tanks at present.

MR. FLORES: That's correct.

COMMISSIONER SULLIVAN: So the \$300,000 would go towards getting off the wells and septic tank.

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MR. FLORES: Mr. Chairman, Commissioner Sullivan, the \$310,000, a great deal or portion of that would go to infrastructure improvements and the balance, if we're successful with that amount, we would then identify what area we could actually complete with whatever remaining balance we may have.

COMMISSIONER SULLIVAN: Okay, the meeting I attended with the board and the architect, there was a great deal of discussion about the Northern New Mexico Horsemen's Association which has the ring right to the north there. Were we able to get all of their concerns and issues worked out? Was there anything left on the table with them?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, it's my understanding that we've worked out all those issues including this area in the back that they were concerned about, that we were limiting them to be able to get in and out. I believe those issues have been addressed.

COMMISSIONER SULLIVAN: Because I know they use their ring as a staging area for the events in the main area. Okay, so we're on good terms with the Horsemen's Association. That's good.

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

COMMISSIONER SULLIVAN: And typically, they've worked together very closely. And all of their concerns were well founded ones. We have what appears to be like an emergency exit going out towards the Genoveva Chavez Center. Could you explain what that does?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, if you recall the meeting that you attended, I think a great deal of discussion revolved around in our opinion an unsafe thoroughfare, ingress and egress that goes back to the center. It is my understanding that this is still being developed to work out what type of arrangement we can have with the City and their Genoveva Chavez Center. But based upon your recommendations, the issue of a turn-around and being able to access this point out and possibly do something with this thoroughfare was included as part of the development plan or the site plan. I believe that this would be a future and ongoing discussions with the City as this plan unfolds and as funding becomes available.

COMMISSIONER SULLIVAN: Okay. And do we have anyone lined up in the legislature to carry a bill that would help us with this first phase?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, we have actually already started contacting our legislators on various bills. We have had discussions with one representative on another similar project and we have not identified who we're going to tap for the entire amount, although the legislative requests are being completed to be presented to the legislators this week.

COMMISSIONER SULLIVAN: Okay. And then my last comment was kind of a follow up to Commissioner Campos' question or comment about funding. One of the thoughts that I had for the youth facility were one to come in the future and I'm glad to see it here because I think we already have of course a youth facility there in terms of the 4-H activities and I'm thinking of being able to expand to other youth organizations but not to

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impinge on the facilities that the 4-H needs because that's a great organization.

So one of the funding thoughts was that if we were to locate a youth organization that could separately go to the legislature and receive funding then we might be able to assist with that or participate with that. You see what I'm getting at? So that the youth facility wouldn't necessarily be a full County operation. We could own a building and lease it to an organization that might run a youth program. We have several senior citizen facilities as you know and I'd like to see us do some emphasis here on youth facilities, particularly right in this central section of the city where we have so much need. And that's separate and I think complemented by Genoveva Chavez. I think that this is a long-term facility, whether it's for Boy Scouts or Girl Scouts or whether it's for any youth organization. I don't have any one in particular in mind.

I think that will work well. Is the intent then that all the parking remaining on the west side, and then everything on the east side be basically pedestrian oriented?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, correct. By doing that we've identified as what other fairs and even the state fair, an essential thoroughfare for pedestrian traffic coming out of the parking area and accessing the facilities. So that there wouldn't be any other than staging parking possibly, any other parking that would go on except handicap parking in the back of the youth facility and the existing small annex, and from in here, basically identifying public parking here and funneling the public into the facility through this walkway.

COMMISSIONER SULLIVAN: And then the access from down through the staging area in the Horsemen's Association, that would come down next to the show barn? Where would they bring their animals down?

MR. FLORES: Yes, that's correct, Commissioner Sullivan. Through here. Right through here.

COMMISSIONER SULLIVAN: Okay. Thank you.

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Anaya.

COMMISSIONER ANAYA: I've attended a few of these meetings and I appreciate that the Santa Fe County Fair Board, along with the architect worked countless hours on this. And we appreciate that, Tony. You've done a wonderful job and with that, I'd like to make a motion to approve.

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion to approve with a second. Any further discussion?

COMMISSIONER SULLIVAN: Let me clarify, Commissioner Anaya. That would be for the recommended scheme that the staff is recommending? The recommended plans?

COMMISSIONER ANAYA: Yes. Plans and master plan. Yes.

COMMISSIONER SULLIVAN: Because I think there were a couple of alternatives. That would be -

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COMMISSIONER ANAYA: The first one.

COMMISSIONER SULLIVAN: The first one is called master plan and then there's three called schemes one, two, and three. Is scheme one the same as the master plan?

MR. FLORES: Mr. Chairman, Commissioner Sullivan, they took bits and pieces of each of the schemes as the memo indicated and incorporated them into a final master plan that's before you today for recommendation and approval.

COMMISSIONER SULLIVAN: Okay, so it's the master plan dated 11/19/02 that we're approving. And I would like to see the follow-up on the cost estimates once they're developed. I believe that was a part of the contract and I think that's what the legislators look for. Sure, give us some money for the fair but the idea was to have something specific and the one thing I forgot to mention was what are we going to do about the sign? That thing's getting kind of raggedy.

MR. FLORES: Mr. Chairman, Commissioner Sullivan, if you recall, the contract actually requires the architect to develop conceptual sign standards for entrance and building as part of the entire plan. We wanted in essence a full package of what the plan would be in the future. As far as the existing sign, I can go back and check with our Operations Division and also the Community Health Department on if there's anything we can do to the existing sign.

COMMISSIONER SULLIVAN: I think it's reached the end of its useful life and it's been a stalwart citizen of its county but I think it's time to think about a new one. So if we're going to design one that's great, and it will be thematic with the rest of the facility.

MR. FLORES: Mr. Chairman, that's the intent of the other plans that will be subsequent to this one.

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

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

**The motion to approve the proposed site development plan for the fairgrounds passed by unanimous [5-0] voice vote.**

## **XII. Staff and Elected Official Items**

### **B. Utilities Department**

- 1. Request approval of first amendment to customer contract for commitment of water service between Santa Fe County and Ranch Partners, Inc.**

GARY ROYBAL (Utilities Director): Good afternoon, Mr. Chairman, members of the Board. Before you is a first amendment to a customer contract for commitment of water service between Santa Fe County and Ranch Partners, Inc., also doing business as La Cienega Joint Ventures. In the execution and performance of this contract there was a dispute

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on three items or provisions within the contract. The disputes were surrounding service charges, connection changes and customer rebates.

After significant discussion and negotiations with Ranch Partners we reached agreement to settle these disputes with them. On service charges, the settlement is that in lieu of a \$28 per month stand-by fee on platted and unplatted lots within the subdivision, the amendment calls for a \$15 per month stand-by fee on all remaining lots, which are 87 lots, whether they're platted or unplatted. On connection charges, there was a \$300 connection charge that was provided for in the contract. The Utilities Department was charging applicant about \$800 to connect onto the system which was the reimbursement for the cost of installing this service line, the meter vault, the meter.

What the amendment does now is it requires the contractor or the developer to put in the service line, the meter vault and all associated equipment with that. There will be a \$300 connection charge to the applicant and the Utility Department will purchase and install the meter at that point. The other area of dispute was the customer rebate provision. The contract required or called for a rebate of up to \$232,000 for all customers hooking onto the line that was constructed by Ranch Partners. There was some dispute as to the application of that provision. Right now, we are in the process of completing a line extension off of that line to La Cienega and hooking up 51 people to that. The amendment would waive Ranch Partners' right to recover any rebate from the County for the use of that line. And basically waives the County's obligation to the \$232,000. With that, I stand for questions.

CHAIRMAN DURAN: Any questions of Mr. Roybal?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: So my understanding from the contract proposed – well, first let me ask Mr. Roybal, what was the genesis of this? What didn't the developer like about the fact that they would receive rebates as people connected in?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I'm not understanding your –

COMMISSIONER SULLIVAN: Well, what brought this forward? As I understand it the original contract was that as someone tied in they were charged \$800 for tie-in and the County did the work. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, that's correct. That's the connection charge. The connection charge would be to hook up the customer to get service.

COMMISSIONER SULLIVAN: And now, in the new agreement, that's going to be \$300. But the connector has to pay to do the connection, or the developer. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, there is still – the contract calls for a \$300 connection charge. We were charging the developer or the person requesting service \$800 to connect them onto the system. That was the cost that the County incurred in putting in the service line, the meter vault and associated equipment to hook them up for service. They contract called for a \$300 connection charge and there was a dispute whether we were charging the appropriate fee or not for that connection charge.

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COMMISSIONER SULLIVAN: And under the new contract we're still going to charge the \$300.

MR. ROYBAL: Yes.

COMMISSIONER SULLIVAN: But the County won't charge \$800, but also the County won't do the connection work. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, that's correct. There will be a \$300 connection charge. We will purchase the meter and install the meter for the \$300. The developer or the applicant for the service will install all other facilities to get service.

COMMISSIONER SULLIVAN: And before, the County was doing that?

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

COMMISSIONER SULLIVAN: So obviously, the developer feels that they can do those connections more cheaply than \$500, the difference between \$800 and \$300.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I don't know what the developer feels they could do. They do have to do it according to our specifications. We will inspect it and either approve it or disapprove it. That was the cost that the County was incurring. I assume that they could potentially do it cheaper if the contractor has the equipment onsite to do it.

COMMISSIONER SULLIVAN: And how many lots are left vacant?

MR. ROYBAL: Eighty-seven.

COMMISSIONER SULLIVAN: 87. So 87 times \$500 a unit is what?

MR. ROYBAL: About \$43,000.

COMMISSIONER SULLIVAN: \$43,000 or something like that. I guess - this sounds like a very good deal for the County because now we're not having to pay the \$232,000 in rebate fees. Is that correct?

MR. ROYBAL: Commissioner Sullivan, that's correct.

COMMISSIONER SULLIVAN: We had a schedule whereby we would rebate to the developer as each of these lots became occupied, a certain amount of money, and that would total up to \$232,000. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, that's correct. Up to \$232,000.

COMMISSIONER SULLIVAN: Okay. So how did you get such a good deal? Aside from you're being alert, cunning and a fabulous negotiator, I'm not understanding why the developer would agree to a \$232,000 cut in the contract for simply saving \$500 a lot on the connection fees.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I wasn't privy to their discussion or their risk analysis. I did my own risk analysis and my own economic analysis and I thought this was a very reasonable and adequate settlement.

COMMISSIONER SULLIVAN: Sounded good to you too? Okay. I just wondered. The last comment or question I had, Mr. Chairman, was in the agreement itself, the first amendment, the third page, 3 A, it states the company shall hereafter charge \$300 per meter connection and installation for the remaining 87 lots in the subdivision. The developer or



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lot owner shall pay this fee at the time a meter connection is requested by the developer or lot owner. Meter installation shall be in accordance with the standards of Santa Fe County. That particular sentence is not clear about who pays for the actual installation. What you're telling me here is that the developer pays for that installation and that the County puts in the meter and connects the meter. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, the \$300 connection charge covers the County's expense to purchase and install the meter for service.

COMMISSIONER SULLIVAN: What I'm getting at is I think it would be useful to clarify that in that paragraph, in 3 A. To be clear that with the payment of the \$300 the developer is not getting the service connection. All he's getting is the meter, the connected meter as you've just indicated.

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, I can put some language in there.

COMMISSIONER SULLIVAN: It does talk about it a little further down. Under rebates, it says that the parties agree that the company shall not be responsible, the company being the Santa Fe County water company, shall not be responsible for any developer rebates for any and all connections made to the system to date hereafter. So that talks about the rebates. It still wasn't clear that we're not, we, the County, are not involved in doing any service connection work. It's all the developer that does it. All we do is hook up the meter and provide the meter. Is that correct?

MR. ROYBAL: Mr. Chairman, Commissioner Sullivan, you're correct and I can add some language that would clarify that and be specific on that issue.

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

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

COMMISSIONER ANAYA: Mr. Chairman, I move for approval.

COMMISSIONER SULLIVAN: Second.

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

**The motion to approve the first amendment to the contract with Ranch Partners, Inc. passed by unanimous [5-0] voice vote.**

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

1. **Resolution No. 2003-3. A resolution determining reasonable notice for public meetings of the Santa Fe Board of County Commissioners and all commissions, committees, agencies or other policy-making bodies appointed by or acting under the authority of the Board of County Commissioners**

MR. KOPELMAN: Mr. Chairman, members of the Commission, the state statute, the Open Meetings Act, requires that every year the Board of County Commissioners adopt an Open Meeting Resolution. This is generally the same resolution we've adopted for at least the past five or six years. If you take a look on page 2, it gives basically the notice requirements that we're going to give. For regular meetings we give at least ten days advanced notice. Special meetings, it's three days notice to the public, and emergency meetings we try to do 24 hours if possible. All agendas are available in the office of the County Manager. And then on Section 2, the Board and committees can recess and reconvene a meeting and they have to give notice of that also, and only matters appearing on the agenda of the original meeting can be discussed at a reconvened meeting. This is pretty standard language, Mr. Chairman, members of the Commission, and again, it's a requirement that we have a resolution in place each year.

CHAIRMAN DURAN: Any questions of Steve?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Did you say this is exactly as it was last year?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, with a little language clean-up, yes. It's substantively the same, exact resolution.

COMMISSIONER CAMPOS: Okay. Thank you.

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

COMMISSIONER MONTROYA: Move for approval, Mr. Chairman.

COMMISSIONER CAMPOS: Second.

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

**The motion to approve an Open Meetings Resolution passed by unanimous [5-0] voice vote.**

**XII. A. Administrative Services Department**

1. **Approval of collective bargaining agreement between AFSCME and Santa Fe County**

MS. QUINTANA: Mr. Chairman, members of the Commission, negotiations between Santa Fe County and the AFSCME bargaining unit have led to an agreement for an

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interim contract that would extend six months, January 1, 2003 through June 30, 2003. The interim agreement would mirror the prior agreement that expired on December 31, with the exception of two articles.

The first article is regarding wages. The new wording for the agreement would be as follows: *Effective the first full pay period of January 2003, bargaining unit employees will receive a \$.60 per hour COLA, cost of living adjustment, and the maximum wage for the classification and comp plan will increase by \$.60. In addition, the bargaining unit employees would receive a \$400 one-time pay-out.*

The second article that was amended during the negotiations is the term of agreement which would lead to the six-month agreement and in the meantime we're still continuing our negotiations to come to a new agreement in July, July 1, 2003. Staff recommends approval of the new agreement and the new salary schedule, and in addition, staff recommends extending the agreement regarding wages to all non-union employees. I would like to defer to Katherine Miller to discuss the financial impact of the bargaining agreement.

CHAIRMAN DURAN: I have a question, Helen. I thought there was also some concern about what were we going to do with those employees that were on the probationary period. And my recommendation was that we prorate the bonus over the period of time that they were here, based on an annual contract.

MS. QUINTANA: Mr. Chairman and members of the Commission, there were actually several different ideas that were brought up regarding probationary employees who are not covered by the union agreement until they reach a full year of service with the County. One was to move the money across the board, including probationary employees. Secondly would be to give the \$.60 increase across the board but prorate the \$400 lump sum pay-out. A third option could be to distribute both the \$.60 to probationary employees as they reach their full year of service and then prorate the \$400, and then as you say to prorate both the \$.60 and the \$400.

CHAIRMAN DURAN: I just meant the \$400.

MS. QUINTANA: Just the \$400.

CHAIRMAN DURAN: And what decision have you made?

MS. QUINTANA: We haven't made a decision. That's actually up to you to decide to give direction. So we would be seeking direction on that as well.

CHAIRMAN DURAN: Okay.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: What are the options that the \$.60 to the individuals who haven't completed a full year, at the end of the year? Was that one of the options?

MS. QUINTANA: One of the options was to give the \$.60 to the individual as they reach their year of service with the County.

COMMISSIONER ANAYA: And what about, what were your ideas on prorating? How would you do that?

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MS. QUINTANA: If we were to prorate the \$400 lump sum pay-out, if somebody had less than, let's say they only have six months of service with the County as opposed to a full year, they could possibly receive half of that amount.

COMMISSIONER ANAYA: So you're saying like from one day to three months -

MS. QUINTANA: From nine months to a year, they could receive \$300. From six months and before nine months they could do \$200 and so on.

COMMISSIONER ANAYA: Okay. I like that.

CHAIRMAN DURAN: And they get the \$.60 across the board.

MS. QUINTANA: Across the board.

CHAIRMAN DURAN: No probation on the \$.60. Everybody gets the \$.60 raises then the proration of -

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: I think a couple of things we just want to be careful about is number one, while this is for one of the County's unions which represents I believe just eleven individuals, it sets the basis for the salary for all the County employees. We're in a situation with the three percent and a \$400 bonus, a person making \$20,000, that amounts to a five percent increase. I don't begrudge any employee an increase but I think we need to begin to be careful on our revenues because this sets the tone and essentially the budget for all County employees.

I know in the Highway Department there haven't been any raises in the last year. Some state agencies it's that way. I think we just need to be careful. I'm not opposed to this particular one but I believe you told me, Helen, what was the impact Countywide in terms of fiscal impact? It was about \$156,000 or something like that?

MS. QUINTANA: For the \$400? \$154,000 for 387 employees.

COMMISSIONER SULLIVAN: Okay. So I think we need to understand that while we're just dealing with - am I correct? Is there 11 members of the union?

MS. QUINTANA: Mr. Chairman, Commissioner Sullivan, if I could clarify, the bargaining unit actually exceeds 200 employees. All of those bargaining unit members are eligible to receive benefits from that agreement although there are only 11 paying members. Those are called members in good standing. All 215 or so employees would be eligible to receive all benefits from that agreement, whether or not they're in good standing or not.

COMMISSIONER SULLIVAN: These are individuals who by virtue of their position are eligible to join the union but in fact only 11 are dues-paying.

MS. QUINTANA: They are dues-paying but they are still members of the union, even if they don't pay the dues, they're still members of the union.

COMMISSIONER SULLIVAN: So the impact, as you said, of the \$400, is in effect, \$154,000.

MS. QUINTANA: If I may, the union met last night and they unanimously voted on the agreement. There were approximately 50 people who were at the meeting and all

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that voted, there was a unanimous affirmative vote.

CHAIRMAN DURAN: The reason that there's only 11 people that are paying members of the union is because most of the employees here at the County believe that this Commission has been fair in the past in terms of an appropriate amount of salary raises and all that. So I think they have believed in the past in the Commission's desire or in our goals to make sure that they are adequately compensated. I know we need to be careful but we also need to bear in mind that that's why we don't have the problems that some other communities have relative to union issues.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: Then I move that we give a \$.60 raise across the board for all employees and a \$400 lump sum pay-out to all the employees except the employees on probation and we would prorate the individuals that are on probation.

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: Before we get into discussion, Katherine, did you want to add anything before we make a decision here?

KATHERINE MILLER (Finance Director): Mr. Chairman, yes, I'd like to. Mr. Chairman, Commissioners, I just wanted to let you know kind of how we, when we budgeted for this year, we did not have either agreement in place and so we took an estimate of what might come about in the year through the negotiations. And also, there was a request by many of the directors and elected officials that there be a pool of money for merit increases throughout the year. When we did the CWA union contract back in July, we exceeded the amount allotted for that agreement by about some \$90,000. On this agreement we are still within budget for the entire pool.

But I did want to inform you that it would affect what's available in the way of funds between the two agreements for any type of merit pool. And I say merit pool, even funds available for retaining and things like that. I think that the union negotiations team on both sides, the County and the union side, they did an excellent job. It's really difficult and every time that two entities are coming with different positions and budget constraints and concerns it's really hard to meet an agreement that's workable for both sides and I think they did an excellent job with \$.60 an hour. For many employees it will be much more than the three percent cost of living that we anticipated. And less for some at the higher end.

Overall, it will be on a recurring basis within the funds that we had available in that entire pool. But essentially, we will have to look at another source of funds to do some type of merit or build that into next year's budget. I just wanted to add that so that you did understand that when we did budget preparation back in April and May we had to take a guess at some things and without having both agreements in place we didn't know what the ultimate dollar amount would be.

CHAIRMAN DURAN: Thank you, Katherine. Commissioner Campos, you had a comment.

COMMISSIONER CAMPOS: I think it's important that motions not be made

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until after we have all our discussions at the end because oftentimes new discussion can bring in ideas that are important to the motions. A couple of ideas I'd like to suggest to Commissioner Anaya is that the proration begin at six months as opposed to day one. In other words, you have to be here at least six months before you start earning the increase. And the other idea as to the one-time \$400 payment, that it apply to employees making \$40,000 or less, and that we use the entire amount that's being designated for all employees getting \$400 and just saying that the employees under \$40,000 would get all that.

We would get the total number of employees, divide it, maybe get a larger sum. Because I think that's where the County needs to focus as far as money and payment, on the lower scales. So I think that would be fairer and I think it would be something really positive to do.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: I think I want to stay with my original motion.

Thank you.

CHAIRMAN DURAN: Any other suggestions?

COMMISSIONER CAMPOS: Well, I make it a motion then.

CHAIRMAN DURAN: There's already a motion on the floor.

COMMISSIONER CAMPOS: I make a motion to amend the motion.

CHAIRMAN DURAN: Point of order. Can that - Maybe we should have sent you to negotiate this contract.

COMMISSIONER CAMPOS: Maybe you should have. I don't know.

CHAIRMAN DURAN: Point of order. Can Commissioner Campos make another motion when there's a motion on the table?

GERALD GONZALEZ (Assistant County Attorney): You can move to amend the current motion and deal with that before moving on to the original motion. It would require a second of course.

COMMISSIONER ANAYA: Mr. Chairman, I believe he did try to amend it.

COMMISSIONER CAMPOS: No, I suggested an amendment to you. I'm saying now I have the right to make a motion to amend your motion.

CHAIRMAN DURAN: Is that a motion? Is there a second to that motion?

COMMISSIONER SULLIVAN: Second.

CHAIRMAN DURAN: There's a motion and a second. Those in favor of the motion, not to your motion but to the amendment.

COMMISSIONER SULLIVAN: I'd like some discussion. I'd like to clarify the amendment. So the amendment, the differences, first of all, I guess in both motions the word "all" means all eligible employees. Is that what we're talking about?

COMMISSIONER ANAYA: Yes, sir.

COMMISSIONER SULLIVAN: It would be those 287? Is that what the number is, Helen?

MS. QUINTANA: Mr. Chairman, Commissioner Anaya, if I could get

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clarification. Are you referring to all employees?

COMMISSIONER ANAYA: All County employees.

MS. QUINTANA: That would be 387 employees.

COMMISSIONER SULLIVAN: Okay, that's all employees other than the Sheriff's Department.

MS. QUINTANA: Excluding the CWA union employees, yes.

COMMISSIONER SULLIVAN: Okay. So that's how you computed the \$154,000, based on the 387 employees.

MS. QUINTANA: That's correct.

COMMISSIONER SULLIVAN: So that clarifies what the word "all" means to me. It excludes the Sheriff's Department. We've already negotiated with that union. Then Commissioner Campos is proposing that the proration start after six months but that the full amount be prorated between six and twelve months. Is that correct?

COMMISSIONER CAMPOS: Yes.

COMMISSIONER SULLIVAN: So that if you're - it's an incentive to stay on for six months, so to speak. It's an incentive to remain with the County until such point in time as you get to six months. When you get to six months, then what happens? Do you get all the \$400?

COMMISSIONER CAMPOS: Ms. Quintana, what do you think? If we prorate at six months for probationaries, at six months what portion of the \$400 would they get? Half of it?

MS. QUINTANA: If we prorated the \$400 for employees who have six months or more, there were, if I'm not mistaken, there were approximately 30 employees who have six months or more at this point. So it would be only between those employees.

COMMISSIONER SULLIVAN: So the way it works now, Ms. Quintana is that, or the way in the original motion, the proration of the \$400 means that's a one-time payment. If I've worked for the County for three months, I get \$100 period. I don't get any more. I don't get the rest of the \$400.

MS. QUINTANA: That's correct.

COMMISSIONER SULLIVAN: It's just kerplunk, \$100.

MS. QUINTANA: That's correct.

COMMISSIONER SULLIVAN: And I was trying to understand the difference in Commissioner Campos' motion where he suggested prorating after six months. Would they then get the whole \$400? That's what I'm not clear as to how that works.

MS. QUINTANA: We could still prorate it at six months and above and do it by one-sixth of the amount if we needed to do it that way. We could figure that out for those 20 or so people, or 30 people that have six months or more with the County.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: I believe that this was a one-time, correct me, a one-time pay-out. The people that have been with the County for one day to three months

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would get \$100. The people that are there from three months to six months would get \$200. From six months to nine months would get \$400 and anybody over a year would get \$400. That's the way you had mentioned it earlier. Correct?

MS. QUINTANA: What we had mentioned is from nine months to twelve, \$300.

COMMISSIONER ANAYA: Okay.

MS. QUINTANA: From six months to nine months would be \$200.

COMMISSIONER ANAYA: Okay.

MS. QUINTANA: From three months to six months, \$100. Which means from zero to three months it would be anything. Or we could do it one-twelfth as a month and we could do it by one month or 9/12 of the year.

CHAIRMAN DURAN: I think what you ought to do is divide \$400 by 365 days and the number of days they've been here is how much they get. Of the probationary employees. And those that have been here for over a year get the \$400. I think that's a little bit more equitable. I just have a problem with not giving those that have been here 90 days anything. Would that be --

COMMISSIONER ANAYA: What do you mean, 90 days anything?

CHAIRMAN DURAN: Under the last scenario that Helen mentioned, anyone that was here between one month and 90 days wouldn't get anything. So what I was saying is that they would get at least 90 days worth of that \$400. And if you were here for 180 days you get 180 days of that. And that only applies to -- how many probationary people are there?

MS. QUINTANA: Sixty.

MR. KOPELMAN: Excuse me, Mr. Chairman, members of the Commission, it would also apply though to the non-union eligible employees in the same way. So if you have an exempt employee or you've got supervisors and they haven't been here for the whole year it would also apply to them as well.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Mr. Chairman, as I understand the way Commissioner Anaya understood the idea, I think he was thinking, and it's one of the things I want to clarify that from zero to three months you'd get \$100, and from three to six you'd get \$200. From six to nine you'd get \$300, so then essentially, it's not a year; it's nine months. Because from nine months on, you get the same \$400 as someone who's been there over a year. And I think what you clarified was that you backed it down the other way.

MS. QUINTANA: Backed it down.

COMMISSIONER SULLIVAN: And indicated that if you're there from zero to three months you get nothing. Chairman Duran said why not just divide the whole thing by 365.

CHAIRMAN DURAN: Well, if that's what your intent was, I'm fine with that.

COMMISSIONER SULLIVAN: I think that was the intent of Commissioner Anaya's motion was to work with it so it's really on a nine-month probationary period.

CHAIRMAN DURAN: So everybody here would get something.



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COMMISSIONER ANAYA: Yes, sir.

CHAIRMAN DURAN: Okay.

COMMISSIONER SULLIVAN: Then on the amended motion, Commissioner Campos, I'm still trying to understand whether you think that would work okay. Just talking about the bonus part, now, and you had talked about doing it after six months and making the whole pot only apply to employees who make less than \$40,000.

COMMISSIONER CAMPOS: That's the key provision, to make the whole pot available to the employees making less than \$40,000. As far as proration -

COMMISSIONER SULLIVAN: You're okay on the proration part.

COMMISSIONER CAMPOS: Yes, I'm okay with that.

COMMISSIONER SULLIVAN: The zero to three months and so forth. So that part would be okay. You're only difference then in you motion would be that we would take that whole pot of roughly \$154,000 and distribute amongst those employees making less than \$40,000. Okay. I understand now. Thank you.

**Commissioner Campos' amendment to Commissioner Anaya's motion failed by 2-3 with Commissioners Sullivan and Campos voting in favor and Commissioners Duran, Anaya and Montoya voting against.**

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

MR. KOPELMAN: Mr. Chairman, I'd just like to ask the Commission if you would delete the executive session. There's nothing pressing and I think in light of the time constraints it would probably be better to just remove that from the agenda.

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

COMMISSIONER MONTOYA: So moved.

CHAIRMAN DURAN: Second.

**The motion to delete the executive session passed by unanimous [5-0] voice vote.**

### **XIII. Matters From the Commission**

#### **A. Appointment of State Representative District 45**

CHAIRMAN DURAN: Okay, I think the way we're going to handle this is — I think there are 5 — Steve? Five people that are interested in this position?

MR. KOPELMAN: Mr. Chairman, members of the Commission, that's correct.

CHAIRMAN DURAN: And we have all read the resumes that you all sent us. And I think that we'll probably go in alphabetical order and give each of you five

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minutes to expound a little more on why you are qualified. I guess maybe what we should do is let them all address the questions that we gave them. Is that how we want to do it?

COMMISSIONER CAMPOS: I would guess so, in order, and maybe give them more than five minutes. Maybe 5 to 10 minutes. Up to 10 minutes.

CHAIRMAN DURAN: Well, okay, are we going to be asking them questions?

COMMISSIONER CAMPOS: After their -

CHAIRMAN DURAN: After each one speaks? So you want to spend three hours on this?

COMMISSIONER CAMPOS: No, not three hours.

CHAIRMAN DURAN: I don't either.

COMMISSIONER CAMPOS: Give it two hours.

CHAIRMAN DURAN: I don't want you to spend two hours on it.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: I think that we've all done our homework. I think you all have 5 minutes to explain to us why you think you are qualified, and then we'll leave it open for discussion for the Commission until the Commission is through asking questions, since we're the ones who are going to be making the decision. Does that sound

COMMISSIONER ANAYA: Mr. Chairman, Commission, only correct.

CHAIRMAN DURAN: Okay. Do you know who's first in the alphabet? Or you want to just take it as they come in our packet?

COMMISSIONER MONTOYA: Yeah, in the packet, Mr. Chairman.

CHAIRMAN DURAN: Okay, we'll do that. Okay, first individual is Mr. Albert Gallegos. Would you please come forward and state your name and address for the record? Thank you for joining us, and actually, thank you for expressing an interest in this very important position.

ALBERT GALLEGOS: Thank you very much. I guess you chose me because my first name starts with A, which is fine and good. Mr. Chairman, Mr. Paul Duran and fellow county Commissioners, can you hear me?

CHAIRMAN DURAN: You need to speak a little bit more directly into the microphone.

MR. GALLEGOS: Okay. I want to thank the County Commissioners for allowing me to come before you today to apply for the vacancy, the position of Patsy Trujillo-Knauer, State Representative for State District for the County of Santa Fe. I reside at 2211 Brillante here in Santa Fe, and I have lived at this address for the past 22 years. I'm a registered Democrat, and I vote at State Representative District 45. I was born in Logan, New Mexico in Quay County on my family's ranch. After graduating from high school in 1959, I moved to Santa Fe to work and further my education. I married Annabelle Perez of Santa Fe. We have one son, Anthony, a daughter-in-law, Belinda Estrada, and a grandson, who all live in Mesa, Arizona.

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Presently, I'm a partner in a real-estate partnership that owns the Santa Fe Imaging Center, the Santa Fe Southwest Plaza, and am also a stockholder in the Los Alamos National Bank. I am retired from state government. I retired from state government on January 2, 1987. Since my retirement, I've owned an insurance consulting firm which provides services for insurance companies in government, public relations, legislative lobby, insurance policy analysis, retirement, consulting, HMO insurance consulting. Besides owning an insurance consulting firm, I've served on the three different insurance companies' boards of directors, and as a stock holder and board member of InterCargo Insurance Corporation of Illinois.

CHAIRMAN DURAN: Excuse me, Mr. Gallegos, since you're the first, we're really trying to figure out how to make this work.

MR. GALLEGOS: Okay.

CHAIRMAN DURAN: I think what we're going to do is -- we've read your resume, all of us have, so what we'd like to do is kind of get to the questions that we distributed last week. And the first one is how long have you lived in District 45?

MR. GALLEGOS: I have lived in District 45 for 22 years.

CHAIRMAN DURAN: Okay. And the second question is can you tell us about your experiences and qualifications that make you the best candidate for the position? And please provide specific information. Perhaps that question is addressed in the letter that you gave us.

MR. GALLEGOS: I can elaborate on it though, because I've gone in more depth.

CHAIRMAN DURAN: Well, I think we're going to move to question 3 first.

MR. GALLEGOS: Okay.

CHAIRMAN DURAN: What ideas do you have about dealing with the water crisis? The second part of that question is what do we do in the short term, and how would you finance the solution to the crisis?

MR. GALLEGOS: Okay. After doing extensive research, I think the County should study the Southern California Water District Plan, which implements a recycling water distribution system. This unveiled system for recycling water is a step towards an alternative water resource, recognizing that recycled water is essential to a progressive and responsible resource management. Besides studying a recycled water system, the City and the County should continue to build a diversion to take their water directly out of the Rio Grande, and continue to draw their water from the San Juan/Chama water through the Buckman well near the river. We should continue with the water restrictions on both businesses and residences, and encouraging people to change over to desert landscaping. The City and County may need to consider on putting a cap on new property development for the short term, or until the water situation improves.

The City and County have no other alternatives but to go to seek financial assistance from the state and federal government. It is my understanding that several

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foundations have held meetings with representatives from a few non-profits to discuss funding of water-related organizations and projects in New Mexico. Interest in water issues have mushroomed in the past 10 years, and now the foundations have much greater understanding of how complex the issues really are. Foundations have responded to the seriousness of the problems by greatly increasing their funding that goes towards addressing the water issues.

I recommend that we -- pardon me -- we have to remember that we live in a desert state, and we need to always conserve on water. This is a subject that not only the City and Counties need to keep on top of, but also the state and federal government, as well as the Indian governments. Our current water crisis is one of the biggest problems that we have at this time, so we need not only a short-term, but a long-term solution to this problem. Thank you.

CHAIRMAN DURAN: Okay. The fourth question, Mr. Gallegos, is what are the three most important issues that face our state, what ideas do you have for dealing with these issues, and how do you suggest that we pay to finance your proposed solutions?

MR. GALLEGOS: Of course the water problem, in my opinion, is the first biggest problem that we have, and meeting and coping with the demands of our current water crisis is what we should address first. And of course, my answers that I just gave you would give you the answers to what I just indicated.

CHAIRMAN DURAN: You have two other issues that --

MR. GALLEGOS: Yes. We need to keep in mind that Santa Fe -- excuse me just for a second, because you're jumping around and it doesn't follow in sequence with my --

CHAIRMAN DURAN: Oh, did I --

MR. GALLEGOS: Okay. My second issue is to overcome the many complex social ills such as drunk driving. At the present time, New Mexico ranks as one of the highest states in alcohol-related accidents. Over half of the drunk drivers involved in fatal crashes have blood alcohol contents, which we refer to as BAC, of 1.5. The risk of these high-risk BAC drivers being involved in fatal crashes is several hundreds to several thousand times that of a sober driver. High BAC. drivers are individuals who drive with high BACs and who seem to resent to changing their behaviors. The driving skills are directly related to blood alcohol levels. Studies reveal that by the time an individual reaches a blood alcohol level of 0.8, all the necessary drivers' skills, including driving attention, choice, reaction and speed control judgement severely decrease.

The state should adopt a law that provides for enhanced, for escalating penalties for DUI, DWI, based on the offender's BAC level. A law should be passed to require a person who has been charged with an alcohol related offence to carry an identification card which would disclose if the person has been arrested on charges of drunk and/or alcohol abuse. Funding could come by increasing fines of alcohol-related penalties related to alcohol. Increase the tax on alcohol. There are initiatives to adopt such laws in Section 4.10 of the Transportation Equity Law Act that could provide some funding.

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Issue number 3 is meeting the health care needs of the poor, uninsured children and the elderly. The Human Services Department is seeking about 82 million more dollars from general funds from Medicare programs next year, an increase of 24.7 percent of the fiscal year '03 appropriations. Growth in the fiscal year is a result of increase of cost of medical care and enrollment growth in the Medicaid Managed Care Program. Although the legislature over several years have taken steps to expand health care programs under insured children and pregnant women, enrollment growth is strongest in families with incomes below the federal poverty level. The Medicare Reform Tax Committee have disagreed over how to reform and to control growth. The problem in funding the Medicare program is likely to depend on the revenues generated from the next general fund.

CHAIRMAN DURAN: Okay, thank you Mr. Gallegos. We're going to skip number 5 and just move to 6. Number 5 is pretty much found in your resume. What do you propose to do about our state tax system, do you agree with Governor Richardson's proposal to reduce the income tax rate, and if so, what reductions would you propose?

MR. GALLEGOS: I would propose legislation to lower the top marginal rates of personal income tax and adjust income tax brackets. In addition, I would support lowering taxes on capital gains. I do support most of Governor Richardson's proposal to reduce the income tax rate. However, the state's dim revenue outlook will make tax cuts hard to do. But if the legislature and the governor work together, I feel that the state tax system can be improved to reduce taxes. I believe strongly in cutting taxes will lead to new jobs and increased revenues. I support using a portion or any budget surplus to modernize our tax structures and cut taxes, which will in turn grow the economics. We must build New Mexico and share new spending between meeting today's needs for education and healthcare, and building tomorrow's tax base, always with a clear plan for the future.

I would propose reducing income tax rates as follows. Number one, for the first year drop the top marginal rate for the personal income tax from 8.2 percent to 7.7 percent. That change would cost 18 million dollars, lowering the top rate to 5 percent over a 5 year period, and reduce capital gains tax by 50 percent over the same period. Give tax initiatives to businesses, including a new tax credit for businesses that create job payments over average salaries.

CHAIRMAN DURAN: Thank you Mr. Gallegos. Do any of the members of the Commission have any questions they would like to direct to Mr. Gallegos? I have a couple. I'll make them real quick. Governor Richardson has expressed a real interest to work on making the State of New Mexico something a little bit less than the 50<sup>th</sup> state in education.

MR. GALLEGOS: Yes.

CHAIRMAN DURAN: And would you -- my questions are two. Would you be willing to support his efforts, and are you in favor of working with the Teachers' Organization and Union relative to increasing their salaries? Because I really think that the only way we get good education is by making sure that those people that are teaching our children are paid an appropriate amount of money, and a wage that they can -- that will

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provide them a lifestyle that allows them to be happy and teach our kids. It's just a big snowball effect. Would you support all that?

MR. GALLEGOS: Yes, definitely.

CHAIRMAN DURAN: Okay.

COMMISSIONER ANAYA: Mr. Chairman?

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: I'd like to ask Mr. Gallegos -- Mr. Gallegos, thank you for being here, we appreciate it.

MR. GALLEGOS: Thank you.

COMMISSIONER ANAYA: What has been your community activities?

MR. GALLEGOS: My community activities are many. I spend an average of anywhere for four to five to eight hours, sometimes 10 hours a day on volunteering for my community. I have a list of all of the organizations that I -

Presently I am involved with the Caballeros de Vargas. I have been a board member, secretary, and I am now president. I am part of the Truchas Ortega Research Center. I'm a board member. Santa Fe Sister Cities association, I'm on the Executive Board, and member of the Santa Fe Granada Committee, the Parral, Mexico Committee. I'm a member of the New Mexico Genealogists Society, Hispanic Genealogy Research Center, Genealogy Society of Hispanic America. Santa Fe Community Foundation, I spend a lot of time there. I serve on the Executive Board, and was Secretary of the Board. I am a member of the Grants Committee, Chairman of the Benefits Committee, and I am presently serving as Chairman of the Delinquent Tax Grants Committee and the Indian Education Grants Committee. I'm a member of the Friends of the Palace of the Governors, I'm an Elk, I'm on the Santa Fe Fiesta Council. I served five years as Chairman of the Community Involvement Committee, chairman of the Insurance and Risk Management Committee, and I'm co-chairman of the Religious Activities.

I'm a member of the Knights of Columbus, the City of Santa Fe Cuatrocentenario Committee, I'm Chairman. And under that Committee back in 1998, the City of Santa Fe established this committee to celebrate the 400 years of the coming of our first Hispanic settlers to New Mexico. And we were commissioned to have one major event a year. We had 175 during the whole year. So that was a big job, and it was a big success. I am on the Cuatrocentenario Cathedral Park Monument Committee, I'm co-Chairman, and I'm Fundraising Chairman under that committee. In order to renovate Cathedral Park, as a volunteer, I volunteered to raise \$120,000 for that project to match City funds. And I'm glad to say that I have raised through the committee, with the committee's help, we have raised \$120,000, plus Cathedral Park is almost finished. The only thing we're waiting for is rain so that we can plant the sod, then right after the sod we'll put up the monument. It will be a beautiful asset to our city.

I was inducted into the Order of the Merit Civilian Mérito. I was knighted by King Juan Carlos of Spain. And I was given this honor -- excuse me, my mouth is dry -- I was given this honor by the King of Spain for the goodwill that I have showed in promoting not

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only Santa Fe, but New Mexico as well. I was inducted into the Order of the Eucharist Order of the Holy Sepulcher at Jerusalem by the Archbishop, and this is an honor where you receive a knighthood by the Pope. Thank you.

CHAIRMAN DURAN: Thank you Mr. Gallegos. Well, it's obvious we're going to have to abandon the five-minute rule there, to give everybody the opportunity to really speak their mind. So thank you Mr. Gallegos.

MR. GALLEGOS: Thank you.

CHAIRMAN DURAN: Next individual is Mr. Robert Ochoa. And maybe what we could do, Robert, is give you two minutes to maybe tell us a little bit about yourself, and then we will go into the questions that we have. Again, we have read the resume and everything, but take whatever time you think is necessary to let us know who you are.

ROBERT OCHOA: Commissioner Duran, members of the Commission, my name is Robert Ochoa. I live at 2315 Callejon Hermoso, Santa Fe, New Mexico. I've lived there for 24 years, married to Marina, been married for 33 years. I'm involved with the Santa Fe Public Schools, and have been involved since I was, let's see, I guess when I started elementary school. And I got really involved in it in 1982, when my oldest daughter started school. I've been involved in the schools all this time because I feel education is what is needed in this community, and in this state. I have a lot of different ideas, and those of you that know me know that my ideas are sometimes very far out, but I think they're ideas that work for this community.

I've been in Santa Fe most of my adult life, being born in Madrid, Nuevo Mexico. It used to be called Madrid when I knew it, it's Madrid now. But that's where I was born, I went to Santa Fe Public Schools, I joined the Marine Corps in 1961. I served honorably for four years, got out, worked at different odd jobs, and then in 1969 I went to work for the New Mexico State Highway Department. I retired from there, I am retired right now. I work part time when people call me and ask me questions about highway projects that were done 20, 30 years ago, and I still remember them. Most of my spare time is spent working with the Santa Fe Public Schools.

CHAIRMAN DURAN: Thank you, Robert. So the first question you've answered, you've lived in the District 22 years?

MR. OCHOA: 24 years.

CHAIRMAN DURAN: 24. Please tell us about your experiences and qualifications that make you the best candidate for the position, and please provide specific information.

MR. OCHOA: Well, I feel I'm the best qualified candidate for this position because I've got a proven track record of public service. I've been on the school board for 8 years, and with the help of the other board members and the people in public schools, I feel that I've done a good job. I have no problems about late hours, Mr. Montoya can attest to the fact that some of our meetings go longer than County Commission meetings.

I am nationally known for speaking on Hispanic issues on education. I presented at

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various time to the NALEAO, National Association of Latino Elected and Appointed Officials. I've been a presenter a number of times for them. I've presented before the African-American Caucus, and I've been a life-long Democrat. I shouldn't say life-long, I started out life as a Republican a long time ago, before I got smart. My grandfather's still rolling around in his grave over that, but that's one of the things that happens. I've been involved with the Democratic party all my life. I can say I started out with pounding stakes for Bruce King and holding up signs for Tony Anaya, and I went on and on, and worked for the Highway Department.

I feel that I am qualified because my experience on the school board, at the state level and at the national level, gives me the expertise to work with a lot of people and be able to provide District 45, which encompasses the majority of District 1, is the same thing and it encompasses the larger area, but I feel I have represented School District 1 in a very professional way. And I feel that I can represent District 45 in a very professional way and use all my experience that I've had to do right for District 45.

CHAIRMAN DURAN: All right. The third question is what ideas do you have about dealing with the water crisis? What do we do in the short term, and how would you finance the solution to the crisis?

MR. OCHOA: Well, I asked a lot of people about this question, and everybody that I talked to had a different answer on how to solve this problem. But what I was able to gather from everybody that I talked to is that Santa Fe County faces three different issues pertaining to water. We have the northern part of the county, which is an agricultural type situation where they're worried about water for one reason. We have the metropolitan part of the county, which is encompassed in Santa Fe, that has a different water need. We have a Southern part of the county that has a different need. We all, the entire county, in conjunction with the City, has to undertake a really comprehensive water conservation plan. And under this water conservation plan comes a lot of ideas. We need to recycle a lot of our water. We need to work with the State Engineer's Office on a regular basis to see what kind of legislation has to be passed to be able to take care of our water needs. In Commissioner Anaya's district over in Galisteo, they're going to be running out of water pretty soon, but if the City of Santa Fe has water, can we pipe that water out to Galisteo? Can we pipe the water to Pojoaque? It these issues that we have to worry about.

The short-term solution will be to start working developing comprehensive plans in conjunction with the cities, the tribal entities and everybody else that's using the water, and make sure that these things are implemented. As the State Legislator, and as a representative of District 45, I would work with the County and the City to make sure that these things were carried out.

I also believe that it's the County's duty and the State's duty to start buying up all the private water rights we can. We have to take a lot of our communities that have historically been on wells and put them on some kind of a community system. Some of our wells in northern New Mexico are getting polluted because where there was one family that



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lived in a 5-acre plot, now there's 4 or 5 families living there. Their potable water is no longer there because those wells are contaminated. We need to make some kind of an effort -- not an effort, we need to put them on some kind of community water and also bring in some kind of sewage systems for a lot of these communities so we can preserve our water. If we don't get any additional rain, this community, you know, we're all going to be facing it for a long time.

The other thing, long-term solution for water, I think we're going to have to look at importing water from other states and injecting it into our aquifers. It's being done in other states. We have to study that feasibility. Mr. Gallegos talked about the southern California water usage. That's true. We need to look at what other communities are doing, not re-invent the wheel, but look at what other people have done, what they've done in a lot of the Arabian countries, and follow those things, and see what we can do about our water resources, because they are critical.

CHAIRMAN DURAN: The last part of that question is how do you propose we finance this -

MR. OCHOA: The last one you want me to cut taxes on? I think a lot of this thing can be financed through developer's fees, through water usage fees, but the big bulk of it has to come from the federal and state government. They have to bite the bullet and start funding a lot of these issues. This day and age, with the stock market falling the way it is, a lot of the people that were giving out these grants and everything else are no longer doing them. Their money is also tight. So it's going to fall to the state and the federal government to fund a lot of these things. And if the City and the County are working together with the Pueblos, I think we can get the federal funding and the state funding to solve a lot of our water issues.

CHAIRMAN DURAN: Number 5, tell us about your community activity and about -- oh excuse me, I'm sorry. Number 4, what are the three most important issues that face our state, what ideas do you have for dealing with these issues, and how do you suggest we pay to finance your proposed solutions.

MR. OCHOA: Like I said, everybody has a different idea of what the three most important issues are. The ones that I finally settled on were education, health and economic development. And these things, although there's other important issues like water usage that are facing our state, these three, I feel, are the most important issues that face our state.

Our children are leaving the state of New Mexico at an alarming rate. Out of every thousand kids that graduate from New Mexico schools, less than 50 percent of them stay in the state, because they've got to go out and find jobs in other places. And I don't think that needs to happen. We need to educate our kids and make sure they stay here. We need better health plans for our children and our elderly. The people that suffer the most on account of our not having health plans are our children and our elderly. Firsthand knowledge at Payless Pharmacy. You see the elderly walk in and try and get a prescription that's work 90-some dollars, and they only have 40-some dollars, and their Medicare or

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Medicaid won't cover that prescription. That's a crying shame for a country that's willing to go to war for oil that cannot and will not provide medical insurance and prescription insurance for our youth and our elderly. I think it's got to be addressed.

The third item is economic development. We have to do something about economic development. We cannot -- the fact that Santa Fe is a quaint little town where we all hang around the Plaza is long gone. We need to aggressively pursue economic development for the City of Santa Fe and the County of Santa Fe. We need to have jobs for our kids. Education, health and economic development go hand in hand. If we have a healthy, educated community we can get the economic development in here and this has to be done and it has to be done immediately.

We the leaders of today have to provide for the future of the leaders of tomorrow. And if we don't do it now we're going to be a community of nothing but retired people with gray hair like me that won't have anything else to do and we need to address that problem right now. Not in the future, but right now. Today and the next 60 days.

CHAIRMAN DURAN: Tell us about your community activity and about you involvement in politics.

MR. OCHOA: Like I said before, I started pounding stakes for Bruce King a long time ago and I've been involved in the Democratic Party. I've served as ward chair, precinct chair, state central committee member. I've been involved in the schools, like I said since 1982. I was a PTO president, PTA president, PPC president, carnival fund raiser, you name it. Whatever the school needed. Chief janitor for the day that the janitor wasn't there; I did that. That was my involvement with the community because I think I owe it to this community to do something for it. This community has given me an education and has provided me a lot of opportunities.

And I have always been involved in everything that I can. I'm involved with St. John's Church as a eucharistic minister and a commentator. I've been involved in that for the last 27, 28 years since I've lived in Santa Fe. I feel that as a tutor for non-English speaking kids in the Santa Fe district is an involvement that I would like to see everybody do. We have a large number of kids that are limited English. We have a large number of kids that are local kids whose parents have been here for 200, 300 years, whose ancestors have been here for 200, 300 years and these kids need a lot of tutoring. And I have volunteered for that. I've volunteered that on a regular basis. And I do that because I feel that those kids are our future and they need to be protected at all costs.

CHAIRMAN DURAN: Okay. The last question, Mr. Ochoa. What do you propose we do about our state's tax system? Do you agree with Governor Richardson's proposal to reduce the income tax rate and if so, what reductions would you propose?

MR. OCHOA: I think our state tax system has to be reviewed on a regular basis. I think we review it every legislative session but I don't think we go far enough with it. I think that we have to look at what our projected revenues are going to be, what our expenditures are going to be and start working off that. Start setting our budgets before we start lowering taxes or adding more taxes. We have to look at what's going to be coming

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down the road.

Do I agree with Governor Richardson's tax package? I agree with parts of it and parts of I don't agree with. I think that if I was in the legislature one of the things that I would look at very closely is gross receipts tax. I think that if you are going to do something about gross receipts tax you need to look at how it's going to affect the communities. How is the County of Santa Fe going to survive if our gross receipts taxes are cut? We have to look at personal income tax. Although a drop in personal income tax looks really good on paper we can shoot ourselves in the foot by cutting our personal income tax down too low.

I would like to see the personal income tax addressed for the lower income and the elderly. I think those are the people that need the break on the income tax. I think a lot of us who are working or have worked can afford the tax, but I think a lot of our youth and a lot of our elderly cannot afford the tax. I would target, if I had anything to do with it I would target the income tax reductions only for those lower income people that need it. As far as the rest of us, I would have to really study it and like I said, everybody that I talked to has a different idea how this would work. I do know from my experience as a school board member that I alone could not do it. If any income tax reductions were going to be done it would have to be done collaboratively through the entire legislature and I don't know that everybody favors the same tax cuts that I do or would want to implement the same tax cuts that I do.

CHAIRMAN DURAN: Thank you. Any questions of Mr. Ochoa?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Ochoa, one of the issues that was brought up during the last County Commission campaign and the one prior to that as well that Commissioner Campos and I ran in was how could the County be more involved in education. I know you've indicated, your background is very strong in education and I believe I saw a recommendation letter from the NEA for your candidacy as well. The County does some things. We have health programs in the schools, dental programs. We try to get the schools involved in our land use planning and that's sometimes very difficult because it's hard for them to project where population growth will occur and what their capital improvement needs will be, but do you have any ideas as to how we can form more of a team between the legislature and the County Commission to work on this education problem that Commissioner Duran referred to.

MR. OCHOA: Commissioner Duran, Commissioner Sullivan, I have a lot of ideas.

COMMISSIONER SULLIVAN: Twenty-five words or less.

MR. OCHOA: I think one of the most important things that we can do is for school board members to find out who their Commissioners are and who their City Councilors are. And City Councilors and Commissioners find out who their school board members are. A number of years ago under I can't remember who was the superintendent

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at the time, we were having meetings on a regular basis between the school board, the County Commission and the City. And these meetings were starting to bear fruit. We were starting to combine our funding, to be able to do things. I just heard you discussing a while ago about the new complex that was going in at the fairgrounds. There is probably a possibility of the schools being able to work with you on something like this and if this thing was planned out through collaboration between the County Commission, the City Council and the school board, I think we could pool our moneys and come up with a lot of ideas.

The other thing that I strongly recommend is for County Commissioners to visit the schools that fall within their Commission district. I've gotten in trouble, and Harry knows about this. I've gotten in trouble a lot of times because of what I've said. I think that we have forgotten our schools. We have forgotten education in this country. We have the idea that the teacher is either an old maid or an old man that doesn't have a future, that will never have a future and they're going to live with a relative while they teach school. We have to as the school board members, County Commissioners, aggressively lobby the legislature for more funding for the schools so we can make them better schools.

And I think, we have two new Commissioners, we have a number of other people coming into the school board, I think this is the time for everybody to get together and meet on a regular basis and address the needs that we have. And I think it can be done. It's just open dialogue. We have to quit being territorial. You're a County Commissioner, I'm a school board member, we still serve the same people. And we have to remember that. I had quite a few arguments with a City Councilor that used to say "Santa Fe public schools kids." I said, They're Santa Fe public school kids until 3:30 and then they become Santa Fe residents after 3:30. But they're all residents of Santa Fe County and the state of New Mexico and we have to work together to be able to provide for these kids.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any other questions? I just have two quick ones. I don't know what Governor Richard's plans are for education but would you support him in his efforts and are you in favor of collective bargaining for the teachers?

MR. OCHOA: Chairman Duran, I was one of the board members, I believe it was two years ago when the bargaining act had that sunset clause in it. I was one of the board members that pushed for Santa Fe Public Schools to continue bargaining with our employees. I totally support anything that deals with collective bargaining because I think collective bargaining keeps everybody honest. I think we need it for state employees, County employees, school employees and I think everybody else is well served by collective bargaining.

Do I support everything Governor Richardson wants to do for education? No. I read his budget proposal and I'm already at odds with it. I don't think it's going to work for a lot of districts, but I'm willing to work with him to iron those things out.

CHAIRMAN DURAN: Good. Thank you. Okay, the next individual is Mr. Jim Trujillo.

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**JIM TRUJILLO:** Good afternoon, Commissioners. I want to open with this statement. As a representative, I would represent you and my constituents. I think that we have an excellent Commission. We have an excellent team of legislators already in Santa Fe. I would work with the community and with you because I will carry your message and carry you bills and carry you legislation. I have lived at 1901 Morris Place here in Santa Fe since November 1999. I was born and raised in Pojoaque. I come from a very large family and truthfully, we were poor as church mice when we started out. I have 15 siblings, three of them who have passed on but still 12 of us alive. I'm married to Vicky and I think all of you know Vicky. She's always with me. She's probably the better politician in the family. I have three sons. They all attended Santa Fe St. Michael's High School.

I graduated from the College of Santa Fe with a major in elementary education and a minor in English. I have always been aware of the problems that we have in education and I consider myself, because of my education and my background, although I haven't taught in a long time, but I consider myself knowledgeable in all the problems that we're having in education. And as you know, all polls indicate that education is our number one problem in this state. And to that end, I think that you need to work, number one on reducing the class size. I think that would be very imperative.

Because you can imagine, and I have it from experience, in a classroom, when you have 30, 35 kids, you don't even learn their name by the end of the semester much less teach them anything and much less know or establish a relationship with them. So I think that that's one of the most important things, issues in education, is to lower the class. Pay our teachers a lot better than we're paying them, but make them more accountable.

One of the things that I can't forget about education is that in my experience, when I was teaching, a lot of the children had social problems, either because of broken families, or because the parents didn't care. They had a lot of hang-ups. They had a lot of phobias. I think that if we're going to break this cycle in education, we're going to have to really concentrate on the development stages, from kindergarten to sixth and seventh grade. We need to have teachers that are qualified not only as teachers but also as psychologists, to get to the root of the problems that these children have. We need to break the cycle. All we do is keep doing the same thing over and over and over again.

I think the developmental age, which again, is from kindergarten to sixth, seventh grade, is the most important. I've learned also through my volunteering and Little League that it's the same thing in teaching sports. If you don't teach that kid to play baseball by the time he's four, five, six, if you try to teach him at 11 or 12, it's too late. It's hard to break old habits and it's hard to teach them. So my theory is and my philosophy is that you've got to get them when they're young. In education I would propose that we pay teachers better, that we get better qualified teachers and make them more accountable.

I've also been a businessman working for a national concern. I've been a businessman operating my own small business, I think that we talk about economic development and I can tell you I've been there. And I think most of you have been there

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also. When you have to write that payroll check, when you have to go to the bank and borrow money, when you have to work with employees and hire employees and train employees, economics is the basis for everything.

It's very discouraging to me to read in the paper like I read last week that government employment increased by three percent in the state of New Mexico last year while private sector employment decreased. I'm for services. I'm for government. But I think that we need to have economic development. And I think that economic development comes from the private sector that hires people, pays wages, puts money in people's pockets. If a family has money in their pocket you will not have as many social problems. If they're happy, if they're warm, if they've got food, they've got a good home, they will be happy.

So, I'm saying this because I think we've got to emphasize economic development. And economic development will solve a lot of our social problems. I've seen the trend. I've seen the trend, over-regulation, government interference, too much government which is strangling business. It's hard to go into business nowadays. I am very pro-business because of my business experience. Although I've worked for the state after I sold my business. I worked for the state, I've been with the state for eight years and if I am honored with this appointment by you I will resign immediately.

But in my experience with the state I've worked in mostly the fraud unit and I can truthfully tell you that there is a lot of fraud in government. A lot of waste. And that needs to be addressed and I think my experience working for the Office of the Inspector General for the Department of Human Services, which is the biggest department, has taught me that we can control costs.

I am truly bilingual. I write both English and Spanish and speak both English and Spanish and I think that is very important in this district. My volunteer work has been in working with kids. I have a soft spot for kids. I've coached Little League for over 30 years. I really have learned to understand kids, the way you build egos, the way you give them confidence, the way you teach them the spirit of competition, those are important assets that kids have as they go through life. We're missing there. Sometimes we're missing there because most people are so busy that they don't volunteer to help kids. Again, it's about breaking cycles. We need to break cycles. In everything we have to break cycles. In education like I mentioned before but also in poverty and also in dealing with children that create problems later on because maybe they got mistreated by the parents, maybe by the teacher, maybe by a coach. But that's a good avenue and that taught me a lot, coaching and working with kids and my wife Victoria has been very involved with CASA and I've helped her fundraise. That's the children's advocate in the court system.

You can imagine, without that organization what happens to a 12, 13-year old kid that goes before a judge. If they don't have somebody to guide them, to counsel them, it could be the scariest thing in their life. It could ruin them for life.

I fulfilled by military obligation by being in the National Guard for six years. All these experiences have taught me what makes this society go and what we need to do.

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I'll jump right over to question number three.

CHAIRMAN DURAN: Would you agree that you pretty much addressed question number two?

MR. TRUJILLO: Yes.

CHAIRMAN DURAN: Okay. And number one.

MR. TRUJILLO: Plus it's in my resume.

CHAIRMAN DURAN: Okay, so number three is what ideas do you have about dealing with the water crisis? What do we do in the short term and how would you finance the solution to the crisis?

MR. TRUJILLO: In the long term, what I'd like to see is a regional water system. I think that this community, Santa Fe and the outlying areas, is growing so fast, and that we need to have and work towards having a regional water system. That's primarily what we need to work on. I know that we can't get that overnight so the next thing for us to do is to work at it a little at a time - water conservation in terms of water reuse or leasing of Pueblo water rights or short-term solutions. There are short-term solutions that are good. I'm for xeriscaping. I'm for keeping Stage 3 and conserving as much water as we can, but that really doesn't provide new water. We need new water. That's what we need.

So we need to probably plan. And again, the thing that I can tell you is that I will work with you gentlemen in any legislation that you prefer or anything that needs to be done through the legislature because you are the experts. I would be just a consensus builder. And I plan to educate myself in every issue as much as I can. But some times it's not humanly possible to learn everything you need to learn but as long as you have leaders like you folks, it will be easy. And we work as a team and we do the things that need to be done. Like I say, the representative's office is really, truly representative. I represent the County and the County Commission and the City Council and the constituents. That's who I represent. I will do what they want me to do. I will not have my own agenda.

Of course there's all kinds of short-term solutions like the reuse of water and treatment of wastewater and we do that already in the City of Santa Fe. The injection of treated water into the aquifers and now, as for the financing, I know that it costs money and I think that we probably would have to really look into federal grants. I think that this area has enough influence to be able to get federal and state grants, but on top of that we have to have a good water system that kind of pays for itself. I would gladly pay more money if I could have a lawn and if I could have enough water to do everything.

So I think most taxpayers feel the same way. They don't mind paying for water if they get water. I know we're in a desert area but if we can kind of work towards perfecting the system and trying to get more water, whether it be from the San Juan diversion project or by retiring water rights or by condemning water rights or by selling the public on the idea of turning in the water rights. I know that we've had a lot of agricultural water rights in the past. Most of those water rights aren't being used. I don't know if it's a good idea. I know some people in rural communities probably wouldn't like that idea but maybe it's a time where you can negotiate something and retire those water rights.

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I'll go on to question four.

**CHAIRMAN DURAN:** Okay. What are the three most important issues that face our state? What ideas do you have for dealing with these issues and how do you suggest we pay to finance them?

**MR. TRUJILLO:** You know I really gave this a lot of thought and there is no way I could come up with only three. Four it has to be. There's no way that I would leave any of this out. First of all is water, in the whole state of New Mexico. The second one is education. The third one is affordable health care and the last one is economic development. And I've spoken to all of them. Maybe not to health care as much as I should have.

Medicaid, the Medicaid program provides health care for those who qualify for it, especially our children and our elderly. I will work with health providers to make efforts to provide health care to those who do not qualify for Medicaid. I would also make every effort to make prescription drugs affordable. Somebody alluded to the fact that our Medicaid budget is going to be short by \$40 million. One of the things that I, working for Human Services, one of the things that I want to impress on you is that for every dollar that we spend in health care as it relates to Medicaid, the federal government gives us 75 cents. So how can we go wrong?

I know it's our tax money, but I think that we should use that. Can you imagine, for every dollar that we spend, the federal government pays 75 cents of it. So what's wrong with making more health care available to the children and to the elderly? Or even coming up with a prescription drug plan? I think it can be done. I really think it can be done. I would work towards that end. Again, there's a little bit of a conflict there because I know it's our federal tax dollars that we're paying that is being used but we're one of the very, very few states that gets that kind of ratio. So it's a win-win situation for us as far as I'm concerned.

I think I already alluded to my question five, Commissioner Duran, Mr. Chair. I've been involved very actively in – well, I'll start from the top. I served in – in those days it was the City/County Planning Commission in the 70s. In fact the first land use development plan was designed by us or was at that time the chairman of the Planning Commission was former mayor Art Trujillo. And we tried to do our best. I don't think it was ever implemented like we intended it to because the scenario's changed. It's different. The growth has been just phenomenal. And I told you've I've been active in Little League baseball as one of my projects as being a volunteer. I've also been chairman of the church council at Our Lady of Guadalupe. I've participated in a lot of fundraising there and of course I told you about my fundraising activities with CASA.

I have been an active member of the Santa Fe County Democratic Party for over 30 years. I've held the office of ward chair many different times in the County central committee. I don't think that should be enough to qualify anybody to be a representative, but I'll tell you, I have learned a lot and I've made a lot of friends. I've been at the grassroots. I have done the door-to-door. I have expounded the philosophies of the Democratic Party, of the candidates, you people. I have expounded what you stand for and I'm proud of every one of you for being elected. You are truly leaders. And the Democratic Party has done a good job in choosing the ones that represent us. And I'm proud to have done that. And I'm proud to have participated in



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that facet. And like I say, don't get me wrong, I don't think that this in itself is enough to qualify a person to be a legislator but I'm telling you, I've made a lot of friends, including the people that serve in the legislature today. A lot of the officials that serve the County and a lot of officials that serve the City. But the main thing is that I've been there to promote your ideals and to promote your philosophies, and I'm proud of it. That's one area that I'm proud of.

The tax reform, question number six, can I go to that, Commissioner? There's a lot of active discussion on tax reform. What I need to tell you there is that as a representative I would really want the input of the Commission and the City Council before I made any decision as to what I would support. Everybody loves a tax cut. Let's face it. Who doesn't? I'd like to see no tax, but that's not possible. I think that I would favor reducing the income tax and the income tax tables. But I'd like to see it done gradually and see what effect it has on the economy. Hopefully it is like they say it is, that it's going to make the economy grow. We're going to attract new industry because we have lower taxes. And that to me makes sense. So I think that you should consider that.

Now, on the gross receipts tax we need to be very careful because local governments depend a lot on the revenue stream that gross receipts tax produce. And I'm in favor of doing away with the food tax but I don't want to do it and jeopardize the revenue stream that Santa Fe County has, or the City of Santa Fe has, or the Village of Pojoaque or Stanley and those areas. We do not want to jeopardize our revenue stream. We need it. And we can't afford to take a trade that's not going to work. If they tell me we're going to tax cigarettes two dollars so that you can offset two cents gross receipts tax, I'm not going to buy that.

That's basically how I feel. And gentleman, we have in Santa Fe County the best legislative team in the entire state. Today, I humbly ask you to give me the opportunity to serve District 45 in Santa Fe County by appointing me to join this excellent team. I will not disappoint you, I'll guarantee you. I will work with you. Thank you.

CHAIRMAN DURAN: Thank you, Mr. Trujillo. Mr. Trujillo, could you please - we might have a couple more questions. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just one question, Mr. Trujillo. It's good to see so many candidates that we have that have some background and interest in education because that's an item as I indicated previously the County Commission has a great deal of interest in and probably is one of the least things we can do something about in the County Commission although we do what we can. In terms of the last question when we were talking about the state tax and some of Governor Richardson's proposals. Are you familiar with Governor Richardson's proposal to increase the salaries of educators by 6 percent?

MR. TRUJILLO: Yes, I am.

COMMISSIONER SULLIVAN: And I believe as a corollary to that, the proposal was to take 5 percent of that funding from administrative costs within the school districts, or administrative salaries. What are your thoughts on that?

MR. TRUJILLO: Well, I think - I don't want to ride the fence on this, but I'll answer it this way. And I read these figures lately. When I was teaching in Pojoaque, 90 percent of the total budget went into the classroom and 10 percent to administration. I read

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some figures the other day where it's now 30 percent for administration and 70 for the classroom. That tells me that there is a possibility that you can shift some money from administration into the classroom. With today's technology and computer systems you don't have to have ten business managers. If you hire a superintendent, maybe he doesn't need a public relations officer.

I think there's some value to that. I think that maybe we ought to put the money where we need it. Does that answer?

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: Any questions? Thank you. We're going to take a five-minute break.

[The Commission recessed from 4:20 to 4:35.]

CHAIRMAN DURAN: I've been asked by someone in the audience if we can let Virginia Vigil come next. There's a group of people that have come to listen to her make her presentation and they all have to leave at 5:00. So Virginia, we haven't made that decision yet. I'm asking the Commission. So is that okay, or should we stay in the sequence that we decided we were going to pursue earlier?

COMMISSIONER ANAYA: Mr. Chairman, I feel that we should stay in the sequence. There's probably other people that need to leave too, but I feel that we should stay in the sequence.

COMMISSIONER MONTOYA: Mr. Chairman, I would concur with that. I think in fairness to our next candidate, Mr. Valdez we should probably do that.

CHAIRMAN DURAN: I agree. Mr. Valdez, you're next please.

WILLIAM VALDEZ: Mr. Chairman, members of the Commission, it doesn't bother me, it doesn't matter to me if you want Ms. Vigil first, but I'll be glad to proceed if that is your wish. It doesn't matter to me. If you prefer to do that -

CHAIRMAN DURAN: You're next, Mr. Valdez.

MR. VALDEZ: Thank you. Mr. Chairman, members of the Commission, thank you for affording me the opportunity to speak with you today of my qualifications to fill the vacant State Representative District 45 position. Let me preface my remarks by congratulating you for opening up this process as you have. You have chosen to carefully weigh each applicant's qualifications and have committed to selecting the best person for the position. Thank you for that.

I am a life-long Santa Fean and have lived in District 45 for over 30 years. I have been married to my wonderful wife Margaret for 35 years and have two grown children, three grandchildren, and one on the way. Certainly, an element of a person's suitability for this position is the person's basic political values. I am pro-labor and am a member of AFSCME, Chapter 18. I believe that there should never be discrimination against anyone for anything. I support a woman's right to chose. I am a life-long Democrat and subscribe to the positions of the Democratic Party. When the time comes, I'd be glad to answer questions on those that I submitted.

My 30 years residency in District 45 has certainly given me an appreciation for the

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problems facing the district. Many of the problems cannot be resolved at the state level, but assistance from the state is a must. The major problem facing us today is water availability. The state must assist the County and the City in their efforts to resolve this crisis. Population driven problems are a challenge for District 45. The high immigration population on the south side of the district creates problems for the public school system that must be resolved. New schools are needed. Special programs are necessary to address the needs of the immigrant families. Programs are needed to combat drop-out rates. Programs are needed to provide early childhood development for families. The state can provide substantial assistance to the public school board to resolve these problems.

My qualifications for the State Representative District 45 position are exactly those that I believe you're looking for. Again, I've lived in the district for over 30 years. I'm the only candidate here today that has run for this position in the past. Eight years ago I was defeated in the Democratic Party primary by the recently resigned Patsy Trujillo-Knauer. With the exception of Mr. Ochoa, I think I'm the only other candidate to have run for any political position.

I retired from the State Tax Department after 25 years of service, the last ten as an exempt employee, was appointed by Governor King and reappointed by Governors Anaya and Carruthers. The knowledge of the tax system that I gained through those 25 years that I worked there is a great asset that I would bring to the State Representative position. During the upcoming legislative session, legislators will consider many tax-related questions. My knowledge of the tax system would be invaluable in that process.

Since my retirement from state government I remain active in the workforce. I own a computer consulting business and have worked with a local CPA firm conducting financial audits of state agencies, cities and school districts. The auditing experience gives me a great insight into the workings of government. I have worked for the State House of Representatives as a chief of staff of the Appropriations and Finance Committee for the last 14 years. During those 14 years I developed strong working relationships with most legislators, lobbyists, and key legislative staff like the Legislative Finance Committee, the Legislative Education Study Committee, and the Legislative Council Service.

During my tenure with House Appropriations, I have participated in at least 20 legislative sessions. Those include special sessions during those 14 years. I have participated in budget and other spending negotiations with the leadership of both the House and the Senate and the three governors that have been in office since I started working there, Carruthers, King and Johnson. As a State Representative, I would have absolutely zero learning curve. There is no candidate before you that possesses the knowledge of the legislative system that I do.

The tax experience, auditing, legislative experience and familiarity with district problems I would bring to the House of Representatives would complement the already excellent representation provided by Speaker Ben Lujan, Legislative Finance Committee Chairman Lucky Varela and House Appropriations Finance Committee Chairman, Max Coll. Mr. Chairman, I believe that my unique combination of district longevity, experience in government, taxation, auditing and business, and especially in the complex intricacies of getting

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things accomplished in the legislative process will enable me to provide immediate, high-quality representation to the district.

Mr. Chairman and members of the Commission, please, don't miss this chance to give Santa Fe and Santa Fe County even better representation. Mr. Chairman, if there are specific things in the questions I can address those at the time question by question however you desire.

CHAIRMAN DURAN: Why don't you address them one by one. You've already addressed number one. I believe you may have addressed two.

MR. VALDEZ: I have, Mr. Chairman.

CHAIRMAN DURAN: Okay, so number three.

MR. VALDEZ: Dealing with the water crisis. You've got these in front of you and I don't really want to read this to you. But I think the first line is really important. Water supply is like money supply; you can't spend more than you have. So we must stay within the recurring amount. The first step is conservation of our existing supply. We need to eliminate bad practices and encourage good practices. Domestic well use, especially those wells that are along stream systems, should be reduced from the current three acre-feet maximum to something less. Might phase into a one acre-foot over a couple years or so forth, or five years, whatever's appropriate. We should meter all water use so that we know what we're using. Desalinization efforts might pay off. As long as we don't rely on more than can be recharged through the system. So we don't want to use more than can come back.

In terms of the City and County of Santa Fe the Buckman plan should be accelerated. We should obtain delivery of the water to the extent of our water rights. If additional water rights are needed, they should be obtained from other uses. On a statewide basis we must obtain a current water inventory and adjudicate the use of our water supply. We have obligations to other states and we must meet those. I think an important point here is multi-county developments should be regulated by the state so that conflicting county water policies might be resolved, so that there is no advantage for one county over the other and there is not a discrepancy between the policies.

Financing is tough. Possibilities: We could dedicate on an annual basis a certain portion of the severance tax bonding capacity to be dedicated for water purposes, either purchasing rights or systems or assisting the counties and the cities in doing what they've got to do. In addition, a constitutional amendment could be passed that would allow local governments to issue water bonds to pay for the various needs dictated by our water policies. We're in this together. It's not a state issue, it's not a County issue, it's not a City issue. It's everybody's issue. Each one has to take care of part of this problem.

Mr. Chairman, if I might proceed to the next item.

CHAIRMAN DURAN: Please.

MR. VALDEZ: The three most important issues facing our state. I agree with Mr. Trujillo; it's hard to say three. And every one he listed, I agree with. I agree with Mr. Ochoa. I agree with those and they're all the same. But you asked for three and basically it's what I've dealt with: water supply and delivery to me is most important at this point in time. Public education right along side it. I can't say one's better than the other. Teachers' salaries

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must be raised so that we retain our teachers. They are the key to a good education system. Administrative costs must be absolutely minimal so that the money appropriated goes into the classroom. So we need to look at those particular administrative costs to see if they're too high. I don't know that they are right now, but it certainly must be looked at.

I believe the public school funding formula needs an adjustment in Santa Fe to account for the high cost of living here in Santa Fe to provide more money to the public schools. Also, and I think one of the questions was previously asked was about the six percent raise for teachers. I certainly agree that that should happen. Whether we can get there or not, I don't know. And please remember, local school boards make that determination. The state may say, "I gave you six percent for raises." But if it doesn't fit, the local school board must make it fit. So it's possible that that six percent might not happen. Just be aware that that's really the situation. Just by saying it's six doesn't necessarily mean it will be.

The only way you're sure of that is you cover all the other costs necessary in the school districts and then give them enough money for six percent. I don't know what we can afford at this point in time, whether we can or not. I am opposed to the various voucher programs that have been proposed over the last several years. I believe it's the public responsibility to educate our children and available money should not be directed anywhere but public education. Private schools have a place in the education system and I respect the right of anyone to use that education system if they so desire. But the state should not be in the business of financing private education.

The third issue I think is quite important is health care and other social issues. We all know that health costs are a big, big part of our budgets, our personal budgets. The state can help by considering a workable single payer plan that would help provide access to medical services by any resident in the state and to reduce the overhead associated with HMOs and other insurance programs. In addition, the gross receipts tax on medical services should be scrutinized so that gross receipts tax paid, if any, is equitable. Various other programs such as domestic violence, mental health, early childhood intervention, AIDS intervention and medication and senior citizen prescription programs should be properly funded. And there are many, many other worthy programs as well.

How do we pay for these? The life-long question. We must live within our means. We cannot allow deficit spending so we just can't fund everything. We must balance our needs with the available revenue. We must set priorities. We do not have enough money to accomplish all that must be accomplished today. Economic development is certainly an activity that should help increase revenues. Changes to the tax system may also help increase revenues, in some areas by reducing taxes in others.

Mr. Chairman, in terms of community activity and involvement, I also have worked with kids for a long time. I was a Little League volunteer for about 20 years. I have worked with junior high school and high school athletics at St. Michael's High School for the last 33 years. I am currently the treasurer of the board of directors of St. Michael's. In that capacity I've obtained an understanding of what it takes to run a school. It's tough, let me tell you. I've been a member of the Elk's Lodge, Eagle's Club, Active 20-30 Club. I do presently serve on

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the finance council of St. John the Baptist Catholic Church. I'm a life-long Democrat. In 1969 I worked in a winning campaign for a candidate for the constitutional convention that year. In the early 70s, I worked on my uncle's successful campaign for City Council and then mayor. He is Joe Valdez.

Eight years ago I ran for the State Representative District 45 position and I mentioned that earlier in my initial comments. I won't go through that any longer. And my House Appropriations and Finance Committee work has certainly involved me in the political situation during the legislature.

Mr. Chairman, our state tax system: Do I agree with Governor Richardson's proposal to reduce income tax? Sure, I agree with it. Can we do it? I'm not sure yet. I think we need to begin to look at everything. We must convene a special task force, a blue ribbon task force is a way of saying it, made up of private citizens, local government representatives such as yourselves because you have a large, large stake in the gross receipts tax. Cities have a little larger than counties but that's a big part of your tax income. So we have to be careful how we deal with that. We must formulate and recommend changes to that tax system. You cannot do that in a single session. Absolutely cannot do that that way. There are certain pieces that you can deal with but you don't reform a tax system in a legislative session unless that's the only subject to be discussed during that session.

And I believe Governor Richardson might even be proposing a special session to deal with the tax issues. We would need to look at the gross receipts tax specifically, the deductions and exemptions that are currently available, to determine whether they're still viable and equitable. The tax treatment of non-profits, we need to look at those. The issue of physicians passing on the gross receipts tax to patients, we need to look at those, and what the HMOs are forbidding some of that from happening today.

We must target tax cuts for economic development. We must issue industrial revenue bonds and income tax rates and other topics certainly must be taken care of in that panel. I believe that when a tax incentive is provided to business, the business should demonstrate the benefit before the actual incentive is authorized. We might hold the money in abeyance until they have proven that indeed what I got the incentive for doing to improve the economy happened. When it happened, then you get a tax break. You don't do it in advance other than that.

The failure of President Reagan's trickle-down theory – reducing taxes will increase economic development, therefore increasing tax collections, that failure should teach us a lesson. I agree in principle in providing relief from the gross receipts tax on food and medical services. As a taxpayer I wholeheartedly support a reduction in my income tax rate. However, as a public servant I would weigh the revenue loss from the spending needs of the state. I would support a bill similar to the bill sponsored by Speaker Ben Lujan and was passed by the legislature last session and vetoed by Governor Johnson that would reduce the top brackets of the income tax which should help with investments and those kinds of things to provide a little bit of economic development, and provide rebates to taxpayers for food taxpaying, rather than cut the food tax out at this point. I would provide rebates until we know exactly how we're

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going to deal with the tax system and how we're going to modify it to provide relief in those particular areas.

The state already provides a partial deduction for medical services to the income tax law. The gross receipts part, I think we need to look at. And according to the Association of Commerce and Industry, the biggest bang for the dollars, it will go out and help the economy is through rebate and not just reduction in rates. With that, Mr. Chairman, I would take any questions.

CHAIRMAN DURAN: Thank you, Mr. Valdez. Are there any questions of Mr. Valdez?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Valdez, than you for your presentation. Having some experience with the legislature, working with the legislature, what suggestions would you have for better, for improving the coordination, the team work, between our legislators and our County officials and County staff? Currently we prepare of course an ICIP list each year which goes to the legislature. We make attempts to keep track of that of course and keep in touch with the legislators as the committees convene. We have a luncheon with the legislators where we twist their arms again on some of these issues.

What other mechanisms, based on your experience, would you suggest that we pursue and would you advocate?

MR. VALDEZ: Mr. Chairman, Commissioner Sullivan, most of what you have talked about is what you need to do. However, it's very important that you're always aware of where a piece of legislation that you're interested in and is part of your agenda, that you know where it is at all times, you know where the sponsor is at all times, you know when the hearings are, and that that sponsor is provided with all the information necessary to do that, to work the bill and to get the information to the rest of the legislature for its passage. And if you do that it's hard work. But that's, in my opinion the best way of getting it done. The things that you are doing are important and you're doing them well.

COMMISSIONER SULLIVAN: Are there any off-session things that we should be doing?

MR. VALDEZ: As you're dealing with the issues I think it's important that you do some future planning so that you're aware that this session we really want to take care of this. Next session we want to address this item, to the extent that you can, some long-range planning, and that you involve the area legislators in those meetings when necessary so that they're aware of where you're headed and the importance of them to the County. I think for the most part they would be aware of them but just the constant communication and involvement would go a long ways towards providing some help for you.

COMMISSIONER SULLIVAN: I guess one of the things that has occurred to me in the last six months to a year is we're making good progress with our Regional Planning Authority which is a group of four County Commissioners and four City Councilors at resolving some issues related to water and related to land use planning and development. It

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appears that that group will be taking a stronger and stronger role in policy recommendations to the Commission and to the City Council, which is I think ideal. Is there some way that our legislators could be or should be working with that organization that you envision?

MR. VALDEZ: If you choose, as a County Commission, and the City Council chooses as a Council that this is their body that sets their policies. I understand it comes back to the Council and the Commission for final approval on anything. That they are the body, then that should be the body that's dealing with the legislators at that point. And it's hard, but you've got to keep after it. Don't just say, well, they know about it. That won't work. They've got to know that you're not giving up. These are your issues. And I do congratulate you, however, on the ability to straighten out what's going on with the City and the County.

COMMISSIONER SULLIVAN: I don't know that we've gone that far.

MR. VALDEZ: I, as a citizen, appreciate that.

COMMISSIONER SULLIVAN: We've made significant steps and the City and the County of course have a mutual enemy in terms of drought and water but it's also a mutual opportunity and we want to involve the legislators in that, not just with our hands out but to involve them in that planning process and I'm trying to hopefully think of a mechanism that does that. Thank you for your suggestions and comments.

CHAIRMAN DURAN: Any other questions of Mr. Valdez? Thank you, Mr. Valdez. Okay, the next individual is Virginia Vigil.

VIRGINIA VIGIL: Mr. Chairman, members of the Board, es un honor y gracias por la oportunidad. I am honored and thank you for this opportunity. I think if you will allow me just to make a few prerequisite comments I would first like to extend my gratitude for this opportunity. I didn't know all of the candidates before us and this opportunity certainly gave me the education and the knowledge of who may be the next representative of District 45.

And also if I may preface, if you'll allow me, I think I can condense my presentation and also answer all of your questions that you have posed to us. I'm a life-long resident of Santa Fe County. I moved into the district in November of last year. However, for the first 14 years of my life I spent much time in the district with my grandparents. I can recall when the only grocery store in the vicinity of about a ten-mile radius is what is currently the Club Alegria. My mother, her family, the large extended families of the Gonzales, the Montañeros and the Montoyas all live in the district. My sister and my brother, my niece and their families all live in the district. My sister-in-law and her first cousin own three thriving businesses in the district that cater to the immigrant population. That's El Paisano and the El Mestizo grocery stores and El Mexicano Restaurant. For 22 years, I have lived on the south side of Santa Fe. My place of worship is in the district, St. Anne's Church, and I am here before you today to let you know that I am the best qualified candidate for this position because I have a history with the district. I understand the people. I respect the diversified values of the people of that district and I know the issues.

My experiences as a teacher, an attorney, a lobbyist and a policy analyst have given me a broad view of the issues. My recent experience with the Santa Fe County Health Policy and Planning Commission and with the Executive Leadership Council have allowed me to focus on



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the three critical issues to this district. They are education, safety and health. And I'll begin with one of the most critical of those issues, education.

The 2000 census places this district with a population of over 26,000 people, 66 percent of that population is Hispanic. This is the third largest Hispanic district in the state. Of the service area of Agua Fria, Sweeney, Cesar Chavez and I believe it's Salazar, 85 percent of children qualify for free and reduced lunch. Fortunately, Agua Fria is now receiving the benefits of the principal of Vicky Sewall who actually brought Salazar Elementary School out of a probationary status. Three of the schools in the district, Cesar Chavez, Agua Fria and I believe it's Sweeney are within the three-year probationary period where the school district is looking at them. It is really apparent to me that the school district needs to pay attention to District 45.

Test scores are low and for the most apparent reason; the district has the highest English as a second language population. I was a bilingual educator. I taught migrant children. I am very familiar with the gaps in our educational system and how those gaps do not address bilingual education. There is a need for well structured and curriculum supported bilingual education. If appointed to this position, I will revisit the distribution formula and look at the equities and the weighted system towards the needs of this district and if in fact the bilingual needs of this district are appropriately being assessed and appropriately being met. Nava School, Salazar, Cesar Chavez and now Ortiz Middle School, fortunately, are parts of the community schools initiative, which I have worked with the Executive Leadership Council for the past four years. This is an initiative that links the community to programs, after-school programs, businesses that promote literacy and health initiatives.

Salazar Elementary in the district has a model program addressing the digital divide. What they do there is they bring in families and children and they assemble the computers and they teach them how to use them. Then once they become efficient in them, a student who achieves a certain GPA is able to take a computer home. We need to build the capacity to address the digital divide issue that's upon us.

The community schools initiative is a 21<sup>st</sup> century grant initiative. That money has been funneled to each one of the state directly from the federal government previously. This year they are funneling that money through the state. Santa Fe Public Schools has the opportunity to receive over \$100,000 to \$150,000 from this community schools initiative and the Executive Leadership Council will become the community based organization that is required to receive that grant. If appointed to this position I will work very hard to make sure that grant is evaluated appropriately and that Santa Fe Public Schools is not overlooked to receive those monies. It also addresses sustainability because this grant is for six years.

Another issue that I have worked with in the district is youth development. I was successful in collaborating with Los Alamos National Labs and Santa Fe County to pay for a grant writer who drafted a grant to the Department of Health and awarded Santa Fe County funding to incorporate the Smart Moves substance abuse prevention program in our Camino de Jacobo and Cesar Chavez Elementary schools. I have worked with the curriculum programs and program promotion with our 4-H Club and the County Extension Service which is in the

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district.

I have also lobbied for funding that has provided monies for us on the Youth Shelter, the Santa Fe La Familia Southside Medical Center, which serves the south part of the district, and also our recreation facility off of Lopez Lane in the district. I've volunteered with New Vistas Program with the developmentally disabled children in the district and I am a mentor with Mentoring, New Mexico and I have a child mentee in Salazar Elementary School who does not speak English.

The other issue in this district is the crime rate that is evidenced by the headlines of today's newspaper, when there was a murder that was committed in Avenida Codorniz, which is just adjacent and intersects the district. This district has one of the highest crime rates in the county and one of the highest police response calls in the county.

As head of Children's Court when I was an attorney I visited with juveniles in the juvenile detention facility in the district. I worked with our juvenile probation office on placing run-aways at what was then known as the youth shelters at the Airport Road. I can recall many children within the criminal justice system who had serious and severe problems that we tried to intervene with. One child ran away 30 times before she was the age of 12. Another child at the age of 16 committed 72 robberies. Youth development is a necessity for this district.

I also discovered as a criminal defense attorney and prosecutor that many of these children come from families with very many problems. One of them, and one that I provide pro bono work for, is domestic violence. In providing pro bono work for domestic violence victims I have also been able to link these victims to the Esperanza Shelter which is also located in the district. Safety is definitely a key issue with crime being one of the highest in the county.

If appointed, I will work towards one of the issues that addresses safety, particularly for our youth and families and that is youth development. And the other issue that I will work for in this district is one that is the strongest national deterrent to crime and that is the Neighborhood Watch Associations which is necessary in this district.

The health indicators in the district are very, very poor. The Healthier Tomorrows van and the dental van do service this district. The La Familia Southside Center and the Women's Health Services are in this district. The Adolescent Committee of the Health Planning and Policy Commission prioritized the Teen Parent Center where the area where Santa Fe County needs to pay attention to and provide assistance to. The district also has one of the finest recreational facilities in the county and that's the Genoveva Chavez. It is my intent to work in this district, to work with building capacity for youth development programs within that center.

I further qualify for this position, and I'll just sort of highlight this because most of the information I have for you is in the packet I presented to you. I can provide a link between the responsibilities and operations of local and state government and I have a proven record with Santa Fe County in doing that. I have testified as your legislative lobbyist before legislative interim and legislative committees during the session. I have testified in protecting the Indigent Fund, the Family Transfer Act, advocated for the elimination of term limits and reimbursement of County mandates. After testimony before the interim Taxation, Revenue and Stabilization Committee, Robert Anaya left that testimony only to learn shortly thereafter that we will be

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receiving \$300,000 on an annual basis for the local liquor excise tax funds.

I also have worked and lobbied for the passage of House Joint Resolution 10 which allows Santa Fe County to lease state pen water rights. I have a long-standing and trusting relationship with the legislators and our New Mexico delegation, so much so that Patsy Trujillo-Knauer approached me to consider replacing her in that district.

In the House of Representatives there are 18 females of the 70 members. In the Senate there are 12 of the 42 members. If appointed to this position, I will be the only female attorney at the New Mexico legislature. I believe the female voice and my legal background, my debate skills, my ability to go before juries for trials will be quite helpful in that process. I work with the legislature not only during the session but throughout the year. Most recently I worked with the legislature and local government and state agencies in linking these entities together to resolve a problem at Cañoncito. Cañoncito's well died. Ultimately after we gathered at several meetings we were able to tap into the Governor's Drought Task Force to assist this community and they are on the road to recovery.

In the packet that I presented to you is a summary of the Capital Outlay projects that Santa Fe County has received since I came on board. I must preface that by saying that prior to my coming on board the records indicate that there was somewhere between \$400,000 and \$800,000 that was received by Santa Fe County for capital projects. My first year of lobbying, we received over \$1 million. My second year, over \$2 million. The third year there was over \$4 million. That was a veto. Last year we received over \$3 million. Also in that packet that I have provided for you are letters of recommendation and a summary of those.

With regard to my community involvement and my involvement in politics, I will start with my involvement in politics. There are those of us who remain silent about their involvement in politics and there are those of us who boast. And I'm going to look at this opportunity as an opportunity to boast. I have hosted political fundraisers and get-acquainted wine and cheese parties for candidates in my home. I've walked districts for candidates. I've written checks and made campaign contributions to candidates. I've been an alternate in the state Democratic convention, prepared food for and served at political rallies. I've stood in front of grocery stores to gather petitions and gone door to door to gather those petitions for candidates. I've held signs, precinct signs for candidates on election day. My services have also been solicited to draft platforms, ads and responses to activists' questionnaires and I've done this gratuitously.

I've done all of these all of my adult life for local, state and national politics since I was in college with the Young Democrats Group and worked with rallies for McGovern. This is going to date me back I'm sure. My community volunteerism, I'll just highlight there, I've been on the board of Big Brothers/Big Sisters. I was instrumental in getting the major Bowl-a-thon fundraiser off the ground, which is also a fundraiser that occurs in the district. I've been chairman of the Big Deal, which is a casino night put on by the Junior Welfare Women's Association and that funding goes to Human Services. I've been a board member and proposal review committee member of United Way. I am an annual volunteer for the Fourth of July pancake. I am a member of the Northern New Mexico State and American Hispanic and

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National Bar Associations. I was an active member of PTA in my children's school and a scout leader. I was a score keeper at my son's Little League games. I made all the frito pies for the concession for the Santa Fe Demon baseball games during my son's tenure there. I was an officer with the Santa Fe Tennis Club and helped develop a program to gather used rackets for underprivileged youth.

I've been an adult volunteer in distributing Christmas gifts for the Santa Fe Boys and Girls Club. I donate to human service agencies, either by mail or request, by attending fundraisers. I've also been asked most recently to represent Santa Fe County in the national and international Peace by Peace movement that is linking women nationally and internationally with women of Afghanistan. And as I mentioned earlier I am a mentor with Mentoring, New Mexico.

The three most important issues that face our state and I'll just briefly summarize those, are education, economic development and water. The most important of these issues is education. Without the appropriate investment in education all other issues are adversely impacted. I support teacher pay increases, lower student/teacher ratios. I support the New Mexico legislator's phase-in program of all-day kindergartens. We need to build capacity with out Head Start programs, close the gap in the digital divide. Having been in-house counsel for the Educational Retirement Board, I am well aware of teachers' sentiments towards their retirement system and the lack of parity. If appointed to this position I will work hard to make sure that parity is closed in the gap, because PERA retirees and the ERA retirees do not have the same formula of distribution and the teachers, again, are not receiving their fair share.

I will link resources between training institutions to develop workforce development. I think in the area of economic development, some of the most basic issues that we've heard about today, we need to provide tax incentives for start-up companies. We need to support projects like the Business Incubator, which is in District 45 and the economic gardening initiative, link the business community and Santa Fe arts and performing communities to our schools. One of the most apparent reasons that the analysis is coming out of the Columbine killings, with the Executive Leadership Council, we had met with the Mott Foundation, and what they said is the analysis for the Columbine killings is that that school was not linked to the community. There was no identity with the community in that school. I will continue to work with the Community Schools Initiative and support that link to the community.

Providing tax incentives is a really a key issue. We need to link the business community. We need to support one of our strongest industries, that's the tourism industry. We need to promote business parks and development, which I have worked with in Santa Fe County and the State Land Office. And above all, and probably conceptually, we need to link local government with state government in promoting all these initiatives, and the federal government.

With regard to water, we need a comprehensive state water management policy. We need not to only think regionally but we need to think globally and I think with the recent appointment of our County Manager, Estevan Lopez, to the state - I'm not sure what the title is. I'm just losing it right now, that message will get carried since this is his level of expertise.

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We must make the most efficient use of water by protecting existing resources, by diversifying our sources of supply and allowing for creative solutions towards sustainability.

What are some of these creative solutions? We need to pursue aquifer storage and recover and aquifer recharge projects such as the ones we learned from Maricopa County. We need to link current research to project development such as the Los Alamos National Labs' underground flow project. We need to support desalination projects in the state. All water issues in the state must balance current and future municipal and domestic needs with the protection of the acequias and other traditional issues.

I think Santa Fe County is probably doing a better job than what is perceived on these issues. Our recently adopted Water Conservation Ordinance and Utilities Department work in structuring rates, metering, pursuing water rights and line extensions are all steps in the right direction. Water conservation incentives should be an ongoing part of our rate schedule of fees. We need to work closely with the State Engineer and the permitting process and provide some kind of an incentive to conservation to attach to that permitting process.

We need to also work with our tribal governments towards shared resources and resolutions. Perhaps this is an issue that can come out of the tribal summits which I have worked on.

Funding: To the extent that the New Mexico Finance Authority provides funding for water projects, I think it's been echoed by the sentiments of this Commission that we need to work with them on loosening the qualifications for communities to access this funding. I think the legislature must loosen restrictions on local governments and communities towards funding mechanisms similar to the one they did with the quarter percent capital outlay gross receipts tax.

I think water user fees for domestic well users could be used to fund aquifer storage and recovery projects. I think depending on the oil and gas revenues, severance tax monies could be prioritized for water projects. The state must partner with local governments and our congressional delegation to pursue this, to provide funding for experimental wells and projects that promote conservation and sustainability.

With regard to the tax structure, I'm just going to make some general statements because we cannot look at reduced income tax rates without the analysis of the impact. Reduction in tax produces a shift in burden, a shift in burden that all too often falls on the consumer. Streamlining bureaucracy, which is also one of Governor Richardson's proposals is probably the most effective way historically of saving tax dollars. But I caution that this must not be done without the strictest of goals for promoting efficiency. This will be a difficult challenge for the legislature since homeland security is so before us.

We need to look at tobacco settlement dollars and the local liquor excise tax. Imposition of tax on cigarettes should be considered. Lobbying efforts of the industry, of these kinds of industries are so strong that I don't think you can look at increasing taxes in cigarettes or in liquor without addressing campaign reform. There is a strong link to that. In general there are two schools of thought about taxation. That it be done across the board, or that it be done by attaching it to a social policy. I think New Mexico's challenge is to merge these two schools of thought and structure a tax system in a way that equitably is conditioned on socially responsive

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CHAIRMAN DURAN: I think that's a confusing process. I think we should ask if there's anyone that wants to make a motion and move -

COMMISSIONER MONTOYA: Mr. Chairman, I would also like to thank all the candidates for taking the time to not only respond to the questions but get people also to advocate on their behalf. I've known Bill for a number of years. I've known Bob as a fellow school board member. I've known Jim as a fellow resident of the Pojoaque Valley and just recently have gotten to know Virginia through the County.

When we looked at what we were given in terms of the packet that Steven gave is in terms of meeting constitutional requirements for being appointed to this office, they all meet that. There's no question about that. I think the difficulty that we have in terms of this decision and I would have like to have heard one thing from the candidates that's whether or not you are appointed or not whether you would run in two years is going to be the case for the person that is appointed. I think the important thing is that we look at this as a position where a person that is appointed is going to be a voice for all human needs for all human beings regardless of women, men, children, that that is the important thing that I think we need to look at in this appointment.

I'm just going to quote, and this is from one of the letters that I received and it says, "Having effective legislative representation in District 45 is essential to our neighborhood plans and needs. We need a representative that can lobby other legislators to support capital projects for our area. We need a representative who can build relationships with important legislative leaders and committee chairmen. These relationships can benefit Santa Fe County's entire legislative agenda. We need a representative that is fair and just, someone who is willing to listen to all points of view. Whoever you pick needs to give Santa Fe County 110 percent effort. Tell all your candidates that the District 45 representative is not just a ceremonial position. It is a hands-on, meet the public 365 days a year full-time job. And I can attest to that having been in this position for only 14, 15 days now that it's definitely going to be a 365-day position.

And Mr. Chairman, with that I'd like to move that we appoint Jim Trujillo as our State Representative for District 45.

COMMISSIONER CAMPOS: Mr. Chairman, this will be a nomination?

CHAIRMAN DURAN: No, this is a motion.

COMMISSIONER ANAYA: Second.

COMMISSIONER CAMPOS: That's not the way we talked about it last year. Every Commissioner would have an opportunity to make a nomination.

CHAIRMAN DURAN: I think we decided that we're going to make a motion and then move on it. There's a motion and a second. Any further discussion?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: I think it's difficult. We have a number of excellent candidates, some of whom I've known previously and others whom I've gotten to know during this process and that's been real educational for me and I appreciate that

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opportunity. I'd like to bring forward also and suggest the name of Robert Ochoa and I think in particular because of the educational experience that he brings to the issues. Others bring that as well and I'm comfortable with many whom we visited with here. I think Robert has some local knowledge from the district and has the educational background, working with the school boards at the grassroots that I like to see, an understanding of constituencies and how you have to deal with them and how you often have to compromise and how you often have to make decisions, some of which are going to be agreed with some and disagreed with by others.

So I offer that in the discussion, whether you call it a nomination or whether you call it a discussion of the motion, I feel that it's certainly an individual whose name is worthwhile for consideration by the Commission.

COMMISSIONER CAMPOS: Mr. Chairman, I want to nominate someone too.

CHAIRMAN DURAN: Okay.

COMMISSIONER CAMPOS: I'd like to nominate Virginia Vigil. I think she is an outstanding candidate for the position, great experience, work knowledge, educational background. I think her values are outstanding. I would like to place her name in nomination and I think we should stay true to our decision in December and not change it at the last moment. It just doesn't look right.

CHAIRMAN DURAN: I don't know what decision you're talking about but I think what we're doing this evening is totally appropriate. We never talked about everybody being able to make a nomination.

COMMISSIONER CAMPOS: Yes, we did. Specifically, that was my motion, Mr. Chairman, and it was agreed to and it was passed by this Commission.

CHAIRMAN DURAN: Is there any more discussion on the motion? I would just like to say that if I could I would nominate all of you, and for me this is a decision that I'm making, not very lightly, but I am looking at it from a standpoint that who I select or who I vote for is going to bring some solidarity and some unification within our delegation because we have new governor, we have a new vision and I think that it's important that whoever takes, whoever gets this position works with our delegation and with the governor. So if there's no further discussion, those in favor of the motion -

COMMISSIONER CAMPOS: Could we have roll call, Mr. Chairman?

**The motion to appoint Jim Trujillo as State Representative for District 45 passed by unanimous [5-0] voice vote.**

[The Commission recessed from 5:40 to 6:40]

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

MR. KOPELMAN: Mr. Chairman, under Matters from the County Manager, since we're running behind I really have nothing that I need to share with you at this point. We can go right to public hearings.

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CHAIRMAN DURAN: Okay. We'll go ahead and start.

MR. KOPELMAN: Excuse me, Mr. Chairman, if I might, right before you start. I'm not sure if you got a copy, but I was just handed a letter before the break signed by Jim Siebert. This is regarding Land Use Department Case XIII. B. 4. CCDRC Case A/V 02-5350, the Boylan appeal/variance. And the letter I have from James Siebert says with this letter to Roman Abeyta, Land Use Administrator, with this letter I'm asking for withdrawal of the above referenced case. [Exhibit 1]

CHAIRMAN DURAN: So they're not tabling it; they're just taking it off -

MR. KOPELMAN: They're withdrawing it, and that's item XIII. B. 4.

CHAIRMAN DURAN: Okay. So let the record reflect that.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: Mr. Chairman, what does withdrawal mean as opposed to tabling?

MR. KOPELMAN: Mr. Chairman, Commissioner Sullivan, the way I read it is they're basically dropping their variance appeal and it's not coming forward again, so I think it's gone.

COMMISSIONER SULLIVAN: If they want to bring it forward again they just simply get it back on the agenda, is that right?

MR. KOPELMAN: They would have to start from scratch again if they were going to do it.

COMMISSIONER SULLIVAN: Scratch meaning -

MR. KOPELMAN: Meaning they'd have to file their application, go through the committee process.

COMMISSIONER SULLIVAN: Oh, through the committee process.

MR. KOPELMAN: Right.

### **XIII. Public Hearings**

#### **A. Public Works**

- 1. Ordinance No. 2003-1. An ordinance amending Ordinance No. 1994-2, "An ordinance regulating procedures for disturbing and repairing County property and rights-of-way"**

DAN RYDBERG (Traffic Engineer): Hi, Mr. Chairman, Commissioners. I was here last month because it was a public meeting. They were asked to comment and PNM had some comments which I have since addressed and included into the ordinance and had it reviewed a second time by legal and I believe I have everything addressed now that was brought up in the public, and also there was some questions from Commissioner Sullivan last time referencing some of the items in the document and I also made sure that they were included in. So what you have before you in your packet is the completed document now with



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all the changes from public comment and questions from the Board.

CHAIRMAN DURAN: Can you take us to the PNM changes and Commissioner Sullivan's changes?

MR. RYDBERG: I guess Commissioner Sullivan was asking for a clarification on the fee structure. It wasn't included in the original or in the existing ordinance.

CHAIRMAN DURAN: And what page is that on please?

MR. RYDBERG: It's Section 10, page 11. He had asked that the proration, how it was prorated on the permits be spelled out. In the original or in the existing ordinance it says that up to 600 feet will be x amount of dollars and then he asked to include, if it goes beyond 600 how it is prorated so I added that in there. For permits in excess of 600 lineal feet, the feet will be prorated by dividing the length by 600 then multiplying it by the fee, which is going to be \$75. So I actually spelled out how it's come upon. Then he also had a question about the compaction and it's spelled out in here that it's nuclear density -

CHAIRMAN DURAN: And what page and paragraph is that?

MR. RYDBERG: It's on page 8, certified nuclear density test results shall be submitted to the Public Works Department within five working days -

CHAIRMAN DURAN: What paragraph is that please?

MR. RYDBERG: It's the Section 7.

CHAIRMAN DURAN: Oh, I see, Compaction. Okay, I got it. Thank you.

MR. RYDBERG: We included what kind of density tests were required. This is from going over the notes from the last meeting. And those are two concerns I believe that Commissioner Sullivan had. The rest of it was a two-page comment sheet from PNM and it was basically some language changes. They wanted County right-of-way changed to public right-of-way. And they had some definition changes. All of those have been gone through and shown to legal and then also shown back to PNM and I haven't heard any comment back from them.

CHAIRMAN DURAN: So legal's reviewed it?

MR. RYDBERG: Yes.

CHAIRMAN DURAN: Okay. Any other questions of staff?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Anaya.

COMMISSIONER ANAYA: What page - my concern was the small communities, the small villages that own water systems, that they would be exempt from this, from paying the \$75 and I want to know if you have it in here.

MR. RYDBERG: Yes, I did get it in there. I'm going to have to find it.

COMMISSIONER ANAYA: But also it would follow the safety procedures and if they didn't have signs and stuff they could contact you guys and you would help them out with that?

MR. RYDBERG: The way we put the language in here is that the person who is going to come and get a permit needs to be a utility company or a licensed contractor and have insurance and bonding, but we do understand there are some organizations out there that aren't

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set up that way. So I put language in here that says they need to come to Public Works regardless and still fill out the permit that that Public Works would take into consideration would take into consideration that they're not a licensed or bonded contractor and that they would still need to follow this ordinance but also follow direction of Public Works. I'm trying to find that. It's on page 3, it starts on page 3 and goes on to page 4 down at the bottom. Every person desiring to make a road cut or utilize public right-of-way is required to obtain a permit, and the applicant must be licensed and bonded, or the applicant must be a utility company or an agent for the utility company. Extenuating circumstances where the applicant is a private party or not licensed, bonded or a utility company, the applicant shall be required to comply with guidelines established by the Public Works Department. So we've had that situation before.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN DURAN: Any other questions? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, questions. About the fees, Section 10, page 11. You're saying that the fee is \$75 for a permit. Does that cover your costs, the time it takes for staff to do all the work they have to do?

MR. RYDBERG: I believe it does, yes. And actually what I'm doing in this amendment to this ordinance is raising it from \$50 to \$75.

COMMISSIONER CAMPOS: I understand that. But basically, someone has to come in and make an application. Someone has to review it. Right?

MR. RYDBERG: Yes.

COMMISSIONER CAMPOS: And then do you have to send someone to the field to inspect?

MR. RYDBERG: Yes.

COMMISSIONER CAMPOS: And when they're doing work, let's say it disrupts traffic, don't you have to make sure that the disruption and the management of the traffic is done safely.

MR. RYDBERG: Yes.

COMMISSIONER CAMPOS: That could take a lot of time.

MR. RYDBERG: It can, yes. It's done by myself and one of my staff, my engineering technician.

COMMISSIONER CAMPOS: And you have to travel all over the county sometimes.

MR. RYDBERG: Yes.

COMMISSIONER CAMPOS: So it seems to me that \$75 doesn't cover it very much.

MR. RYDBERG: We're basing this on what other agencies in other counties and other municipalities charge.

COMMISSIONER CAMPOS: I'm just -

MR. RYDBERG: We just look at making it reasonable for somebody to be able to do. We couldn't bump up the permits to a certain point where it would be -

COMMISSIONER CAMPOS: I understand that but it seems that there's a lot of work involved in road cuts and to me, \$75 seems a little low. The other issue I have is there's a

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division of the monies – 67 percent shall go to the general fund and 33 percent to the road and maintenance fund. Why? What was that discussion?

MR. RYDBERG: This is something new that is being added in on this amendment. Previously the \$50 would go straight to the general fund. Public Works wouldn't get any of it. And in bumping up the fee we talked to the Finance Department about trying to get some of that money back to Public Works so we can start an account where when we have roads that have multiple cuts on them and need to be resurfaced, in the past, we wouldn't have the funding without going out and getting it appropriated. So we feel that if we put a little bit in, to take a little bit out of the permit fee that we can start a fund for Public Works to be able to have money to buy basecourse and paving to go and do some of the repairs on this road.

COMMISSIONER CAMPOS: Thank you.

COMMISSIONER SULLIVAN: Mr. Chairman.

COMMISSIONER CAMPOS: Commissioner.

COMMISSIONER SULLIVAN: Were there any of the PNM comments that you didn't concur with?

MR. RYDBERG: They had a fee schedule that they use in Rio Arriba County that was kind of custom made to PNM and the type of business that they do, and because this ordinance covers many different types of utilities, cable TV and phone and gas, PNM is gas, but other utilities, the fee schedule didn't really fit and I discussed that with PNM and they decided that they wouldn't propose their fee schedule. But no, basically, Commissioner Sullivan, it was language changes on changing County right-of-way to public right-of-way. They thought that if it went over 600 feet they needed an additional permit. So it was pretty much some comments that were already addressed. It's just that the people that were making the comments weren't really versed in how this works every day in the field. They just didn't have any knowledge of how it works and it's all issues that we've already worked out with them. So, no, to answer your question, no.

COMMISSIONER SULLIVAN: There's also a section, could you point me to it? That indicates that the County does not have to pay a permit fee. Could you show me where that is?

MR. RYDBERG: I believe that will be in that Section 10 under Fees. At the bottom of the paragraph, Section 10. Except for the Public Works Department, which is not required to obtain a permit for any of its projects. All other County departments shall be required to obtain a permit.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Section 17, page 13. New payment fee and penalty. It talks about cuts involving new roads.

MR. RYDBERG: Yes.

COMMISSIONER CAMPOS: You're going to charge a fee for \$200. Is that additional to the \$75?

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MR. RYDBERG: Yes.

COMMISSIONER CAMPOS: It's \$200 additional.

MR. RYDBERG: Yes. That's an additional penalty.

COMMISSIONER CAMPOS: Should we say then charged an additional fee?

Or do you think it's pretty clear?

MR. RYDBERG: I think it's pretty clear.

COMMISSIONER CAMPOS: Okay. Thank you.

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

COMMISSIONER SULLIVAN: Move for approval.

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: There's no amendments? Okay. Any further discussion?

**The motion to approve Ordinance 2003-1 passed unanimously [5-0] by roll call vote with Commissioners Anaya, Campos, Montoya, Sullivan and Duran all voting in the affirmative**

**XIII. B. Land Use Department**

- 1. Resolution No. 2003-4. A resolution amending Resolution 1997-137, the Santa Fe County Growth Management Plan, as amended, to adopt and incorporate the El Valle de Arroyo Seco Highway Corridor Plan (Second public hearing)**

ROBERT GRIEGO (Planner): Mr. Chairman, Commissioners, this is the second of two required public hearings. There's been no changes to the plan since the first public hearing on December 10<sup>th</sup>. Staff recommends adoption of the plan at this time.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Pojoaque Pueblo, what role did they have in this if any?

MR. GRIEGO: There's been no – the Highway Corridor for El Valle de Arroyo Seco –

COMMISSIONER CAMPOS: It doesn't go up that far?

MR. GRIEGO: No. We're initiating a process for the Pojoaque area at this time.

COMMISSIONER CAMPOS: Is the plan in the future to contact the pueblos to have input from them?

MR. GRIEGO: For the El Valle de Arroyo Seco?

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COMMISSIONER CAMPOS: No, for other community plans that come close or where they share a common boundary? You might be right next to them for several miles.

MR. GRIEGO: Yes, Commissioner Campos, we do plan on getting input from the tribes for the planning process that is going on in Pojoaque. We have contacted them and we've initiated a planning process and we're trying to get input but we're also going to be having a tribal summit sometime to get more input.

COMMISSIONER CAMPOS: Okay. What about infrastructure – water and wastewater, was that discussed in this community process?

MR. GRIEGO: The water – there's another process going on which is the Cuatro Villas Mutual Domestic Water Users Association of which the El Valle de Arroyo Seco is a part. So it wasn't necessarily incorporated into this plan. But there is a planning process going on for water.

COMMISSIONER CAMPOS: And wastewater or just water?

MR. GRIEGO: No, there's not a wastewater plan.

COMMISSIONER CAMPOS: There is no wastewater plan. So there was really no discussion about a wastewater solution to the problem?

MR. GRIEGO: There was discussions about wastewater but there's not a wastewater plan. We weren't able to come up with a wastewater plan as a part of this process.

COMMISSIONER CAMPOS: Is it an issue that the County broaches as far as community planning that we do need an infrastructure plan including wastewater, or are you just looking at this as a zoning kind of an issue?

MR. GRIEGO: This plan has mainly been a zoning issue because it is a highway corridor plan. We've considered zoning mainly for this plan, but part of the planning process includes both water and wastewater, addressing the issue and trying to determine what we can do through the community planning process. So there's not a wastewater plan per se here because we didn't have – we weren't able to solve that problem through the community planning process.

COMMISSIONER CAMPOS: What does that mean? You weren't able to solve it?

MR. GRIEGO: Wastewater is a bigger issue than we were able to resolve in this planning process.

COMMISSIONER CAMPOS: Were the members of the community reluctant to address the issue directly?

MR. ROYBAL: Mr. Chairman, if I may, Commissioner Campos. There's a northern New Mexico wastewater project taking place that's looking at northern Santa Fe County all the way up into central Rio Arriba. The Arroyo Seco area is one of the areas that's being considered as part of this overall wastewater project on how they're going to solve the wastewater, the pollution problems that are created by septic tanks in those areas. So there is an initiative taking place and I believe that this Commission also passed a resolution supporting that initiative this summer.

COMMISSIONER CAMPOS: That's right. My concern is that often the

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community planning does not address basic infrastructure issues and I think they should in every case. I think there should be some comment and information as to what is going on there. Because if we don't have infrastructure solutions to water and wastewater, we're spinning our wheels. I think it's critical to community planning. I've said that to staff repeatedly but it seems that we're not getting there.

CHAIRMAN DURAN: Gary, what's the name of the organization that is doing the study up there? It's Barbara Deaux' organization.

MR. ROYBAL: I believe it's called the North Central New Mexico Water and Wastewater project. I can get you - it's through the New Mexico Economic Development -

CHAIRMAN DURAN: If I recall correctly, that organization has taken that task on for all the northern communities. Is that correct?

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

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Yes.

COMMISSIONER CAMPOS: I think the organization is going to approach the County of Santa Fe and the County of Rio Arriba to come together to create maybe some entity where federal money can be funneled so that we can begin addressing the planning and then the construction of a wastewater system in this area. So I think this year, perhaps in the next few months they should be in contact with us to work with them.

CHAIRMAN DURAN: I think the fact of the matter is that we're dealing with a rural community and infrastructure out there relative to wastewater is going to be based on individual systems. There's no infrastructure. We're not capable to require the community to do any kind of community wastewater system because they're in a rural community. I don't understand -

COMMISSIONER CAMPOS: You don't understand?

CHAIRMAN DURAN: Help me understand. How can we require them to do community systems when they're 2.5-acre lots? Any other questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: I do think, by the way, that we need to tie these plans to at least the current state of infrastructure, at least the section that addresses how that might impact the community. The other question I had is on the wireless communications facility, Section 6 on page 18. Do all of those specifications for wireless communications, cell towers, do they jibe with our County ordinance on cell towers?

MR. GRIEGO: We began with the County's cell tower ordinance and we tried to work out some specifics for this area. So I do believe that they are jibe with the ordinance.

COMMISSIONER SULLIVAN: So you say the existing County ordinance for cell towers shall be in effect with the following amendments. So all of the things, the six additional items that you list here are in addition to what we currently require in the County ordinance?

MR. GRIEGO: They are slight amendments to what's already in the County

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ordinance, the cell tower ordinance.

COMMISSIONER SULLIVAN: How about we put in one that says no cell towers on the highway right-of-way? Will that work?

MR. GRIEGO: I think that might work, Commissioner Sullivan, but we may not have jurisdiction along there. We could put it in our plan but we don't have jurisdiction over the State Highway Department.

COMMISSIONER SULLIVAN: Well, I think it should go in the plan. We can duke that out later.

CHAIRMAN DURAN: Why don't we say that no towers are allowed on Pueblo land either?

COMMISSIONER SULLIVAN: Well, let's do that too. Except now we're dealing with federal lands instead of state lands. That's a little different.

MR. GRIEGO: We'll be working some of this out, Commissioner Sullivan, through the ordinance process as well as we're getting ready to enact the policies outlined in this plan.

COMMISSIONER SULLIVAN: It just seems inconsistent that if we have a policy that says that wireless communication facilities must be setback 50 feet from the highway right-of-way that obviously the intent is to move them back from the highway right-of-way so putting one in the right-of-way seems to be directly contradictory to the philosophy of setting them back 50 feet from the right-of-way. I recognize that we've had problems with the Highway Department with locating cell towers but we now have a new administration and perhaps they would be a little more responsive if it were in our plan. I don't know. But if it's not in the plan then it seems to indicate that we don't have a concern for it. That would be my suggestion.

CHAIRMAN DURAN: You don't need to answer that. How about the Commission? Does the Commission have a problem with it?

COMMISSIONER CAMPOS: I don't have a problem with it.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Anaya.

COMMISSIONER ANAYA: Commissioner Sullivan, if that's what you want, make a motion.

COMMISSIONER SULLIVAN: I didn't want to –

CHAIRMAN DURAN: I don't think it's a problem either.

COMMISSIONER SULLIVAN: I don't think it's a problem but I don't want to make a motion until everyone has had an opportunity to speak.

CHAIRMAN DURAN: Okay, if no one has a problem with that when the motion is made, why don't you incorporate that into the motion?

COMMISSIONER SULLIVAN: I'll put that language in. Sure.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Is it something that the planning committee is

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in favor of?

CHAIRMAN DURAN: I think there's the planning committee right there.

COMMISSIONER MONTOYA: There's a number of them here, actually.

Okay.

CHAIRMAN DURAN: So we're not into the public hearing right now, so Robert, let's finish some discussion.

COMMISSIONER SULLIVAN: Can't make a motion until after the public hearing.

COMMISSIONER CAMPOS: One question I have is about the cell towers. How significant are the deviations from the statute that applies generally in the county? Mr. Abeyta, could you address that?

CHAIRMAN DURAN: Are they more restrictive?

ROMAN ABEYTA (Land Use Administrator): Mr. Chairman, I don't have the specifics, but they are more restrictive. I know that. They're not going to be less. We started at that point, looked at those and then added to it. So it's going to be more restrictive than what's in the County Code.

CHAIRMAN DURAN: I have a legal question. Steve, you know there's a lawsuit in the courts right now. How does adopting more restrictive requirements in this community plan affect that lawsuit? I just don't want to participate more in that lawsuit than we already are and I think that if we adopt more restrictive requirements that we might be helping one side over the other. I just have a concern about that.

MR. KOPELMAN: Mr. Chairman, members of the Commission, I would say because that cell tower is built already, the litigation is up before the court of appeals, it shouldn't have any impact on that because this should be prospective. At this point this is just a plan also. It still would have to come and be adopted as an ordinance. So that's still going to be a while longer. And by that time I have a feeling that case will be over anyway.

CHAIRMAN DURAN: Okay. Any other questions of staff. Okay, this is a public hearing. How many out there are opposed to this ordinance? Nobody's opposed to it. How many are for it?

MR. GRIEGO: Mr. Chairman, if I might. This is a resolution.

CHAIRMAN DURAN: Oh, it's a resolution. Okay. Those who would like to speak to the resolution please step forward. If you - you don't need to come forward. If nobody's opposed to it I think we're probably in favor of it. What's the pleasure of the Board?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: I move for approval with one amendment to paragraph 6, item 5, which currently states WCF must be set back 50 feet from highway right-of-way. I would say, period, No WCF shall be located in the highway right-of-way.

COMMISSIONER CAMPOS: I'll second that.

CHAIRMAN DURAN: Okay. So there's a motion with the amendment as stated by Commissioner Sullivan. Any further discussion?



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**The motion to approve the El Valle de Arroyo Seco Highway Corridor Plan passed by unanimous [5-0] voice vote.**

CHAIRMAN DURAN: Thank you very much, Robert. Thank you all for your hard work. I know it took a long time.

COMMISSIONER CAMPOS: Good luck.

**XIII. B. 2. Ordinance No. 2003-\_\_ . An ordinance amending Ordinance 1996-10, the Santa Fe Land Development Code, Article B, Section 5.2.2.c and 5.2.2.g, to require the submission of water supply, plans and water permits for master plan (Second public hearing)**

MR. ABEYTA: Mr. Chairman, if I may, before we get far into this, items number 2 and 3 both deal with the same thing and that is master plans and what kind of water supply plans. Item number 2 is sponsored by Commissioner Sullivan. Item number 3 was sponsored by Commissioner Varela López. And again, they both deal with the same issue and it was my understanding and I would ask Commissioner Sullivan, that we would be able to withdraw item number 2 and hear item number 3 because it was a compromise between the two ordinances, so I think it would be more appropriate to hear item number 3 than number 2 but I would defer to the sponsoring Commissioner.

CHAIRMAN DURAN: Well, I have a question for you. Item number 2, I thought we voted it down at the last meeting.

MR. ABEYTA: Mr. Chairman, no, that's not correct. What was voted down was a different ordinance that dealt with types of development. We had a first public hearing on number 2 but we never had the second public hearing. Instead of having a second public hearing Commissioner Varela López proposes a substitute ordinance, which is number 3. So technically, we never voted on item number 2.

CHAIRMAN DURAN: So item number 2 is an ordinance that is still representative of the ordinance that Commissioner Sullivan originally proposed that the Commission at that time decided we wanted to replace it with Commissioner Varela López' ordinance.

MR. ABEYTA: Mr. Chairman, some of the Commissioners wanted to but I don't think that it was ever clear direction.

CHAIRMAN DURAN: We never voted on it?

MR. ABEYTA: We never voted on it and that's why they're both still on the agenda.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: As I look at them, these are both identical

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now, aren't they?

CHAIRMAN DURAN: No.

MR. ABEYTA: No, Mr. Chairman, Commissioner Sullivan, there was never specific action taken on number 2 so we left it on the agenda. So we need to officially withdraw it and then deal with number 3. So number 2 is still as was originally proposed.

COMMISSIONER SULLIVAN: Number 2 is just the simple striking out of the word water supply plan, right?

MR. ABEYTA: Right.

COMMISSIONER SULLIVAN: Okay. I understand that. The only thing I don't think we should do is if we withdraw it, that this number 2 is now on its second hearing, so if we have an ordinance here that we like, that the Commission likes, then we should adopt it and then we'll be done with this issue. Because it now takes out the matter of the Type III subdivisions that was subject of a great deal of discussion at the prior meeting. If we don't like this, we can turn it down and then we can still hammer on the other one and make modifications on the other one and make modifications to the other one because the other one is only in the first public hearing. Isn't that right?

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

COMMISSIONER SULLIVAN: See what I'm saying? But the suggested modifications are the same. The compromise which the staff is recommending approval for and which Commissioner Varela López and I worked on - well, I won't take the credit. The staff did the work. But they put it to us for review, is the same for both of these now, right?

MR. ABEYTA: Mr. Chairman, that's correct. However, the noticing was different and so that's why we had to still have the first public hearing for item number 3 on the agenda because there will be a notice - if the Commission decides on number 3 or a version similar to number 3 it cannot be acted on this evening because of the notice.

COMMISSIONER SULLIVAN: Okay. But if the Commission decides on number 2, right now, those are the same.

CHAIRMAN DURAN: No, they're not.

MR. ABEYTA: No, they're not, Mr. Chairman. Number 2 just strikes, there's just a strike-out on number 2 that has to do with -

CHAIRMAN DURAN: Number two that Commissioner Varela López brought forward does not have the paragraph 9 that you want to incorporate that I thought at the last meeting we decided we weren't going to impose included in this ordinance. And that is where you state that they need to bring permits as required - permits. And the second one doesn't have that in there.

COMMISSIONER SULLIVAN: No, my understanding is different. As Mr. Abeyta says, that was a separate ordinance that had to deal with the one acre-foot on commercial and Type III subdivisions. That's the one that was in its second hearing and was turned down. So that one's gone. That one's done away with. We're now back to this one that crossed out the water supply plan.

MR. ABEYTA: Right.

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COMMISSIONER SULLIVAN: But I thought that this, in my book, this other one which is called Exhibit B follows this as your recommendation. Or is that your recommendation on item 2 or item 3?

MR. ABEYTA: Mr. Chairman, I just included that because in my staff report I bring up the fact that the two Commissioners had gotten together and agreed on this other ordinance which is attached as Exhibit B, which we would hear under item number 3, under the agenda. But I just wanted to keep it in the packet for information that this is - so that you have a choice. This was what was originally proposed but in Exhibit B is the next item on the agenda.

CHAIRMAN DURAN: This is a policy issue. Staff is not recommending which policy we should accept. Is that correct?

MR. ABEYTA: No, staff is not. Staff is just bringing forward the proposals.

CHAIRMAN DURAN: It's two ordinances and the policy of this Commission is what will prevail.

MR. ABEYTA: That's correct.

COMMISSIONER SULLIVAN: It says staff recommends approval of the revised ordinance attached as Exhibit B.

CHAIRMAN DURAN: Well, I take issue with staff's recommending policy to us.

COMMISSIONER SULLIVAN: They always recommend policy to us. They don't make policy but they certainly make recommendations.

CHAIRMAN DURAN: So you're saying that the ordinance that has the requirement that, number 9, that .10 acre-feet of water per year. That all non-residential developments proposing to use more than one acre-foot of water per year and all Type I, II, and IV subdivisions, the applicant must submit a water supply plan and water permits as required by Article VII, Section 6 of the Code.

MR. ABEYTA: And Mr. Chairman, that's required now, but it's not required until the development plan stage. All this ordinance would do is require it at master plan. So we're not coming up with a brand new requirement, we're just bringing it earlier in the process. And we're only doing it for the first phase, not the entire development, not the entire master plan.

COMMISSIONER SULLIVAN: That's the point I was trying to make, Mr. Chairman, is that it's only for the first phase. It just simply answers the question, when a first phase comes into a master plan, do you have the ability to provide water, not to the whole master plan, but just to the first sustainable phase.

CHAIRMAN DURAN: And in the second ordinance it doesn't require that. It's pretty much status quo.

MR. ABEYTA: Mr. Chairman, the second ordinance would not have number 9 in there. It would require the language having to do with a preliminary water supply plan and liquid waste plan. It would have language regarding the master plan that it does not confer a vested development right.

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CHAIRMAN DURAN: So it's really not status quo. It does add another additional requirement and address some of the concerns.

MR. ABEYTA: Right. More detail, basically.

COMMISSIONER SULLIVAN: When you say the second - now you've got me lost.

MR. ABEYTA: Mr. Chairman, I'm referring to item number 3 on the agenda. There's two versions. So staff would recommend, if there's concurrence that item 2 be withdrawn and we'll just deal with item 3, two versions.

COMMISSIONER SULLIVAN: Just deal with item 3 and there's two versions of item 3, one with paragraph 9 and -

MR. ABEYTA: And one without.

COMMISSIONER SULLIVAN: I understand. But what we're withdrawing in 2 is simply the Exhibit A.

MR. ABEYTA: The Exhibit A. Right.

COMMISSIONER SULLIVAN: Which struck out -

MR. ABEYTA: Right. And for the record, we'll withdraw that from the agenda and then we'll start with the first public hearing on item number 3.

COMMISSIONER SULLIVAN: And the reason we can't hear the alternate here is because it wasn't noticed correctly?

MR. ABEYTA: Because it wasn't noticed for the second public - there was never a first public hearing on it.

COMMISSIONER SULLIVAN: I see. Okay. So we can -

MR. ABEYTA: But you have to take formal action on the first one.

COMMISSIONER SULLIVAN: On the first one and then we can arm wrestle over the second one.

CHAIRMAN DURAN: Well, let me ask, would the Commission be willing to remove XIII. B. 2 from the agenda? And if so, would someone like to make that motion?

COMMISSIONER MONTROYA: So moved, Mr. Chairman.

COMMISSIONER ANAYA: Second.

CHAIRMAN DURAN: Okay. There's a motion and a second. So that's with the understanding that number 3 on the agenda, XII. B. 3 is more reflective of what we had discussed at the last meeting concerning the desire of the Commission at that time.

MR. ABEYTA: Yes, that's correct. But there's two versions and we'll have that discussion.

CHAIRMAN DURAN: Is there any other discussion on the motion?

**The motion to remove XIII. B.2 from the agenda passed by unanimous [5-0] voice vote.**

2352208

**XIII. B. 3. Ordinance No. 2003-\_\_ . An ordinance amending Ordinance 1996-10, the Santa Fe County Land Development Code, Article V, Section 5.2, Master Plan Procedures to require the submission of a preliminary water and liquid waste disposal plan with master plan application and include language that clarifies that a master plan approval does not confer a vested development right (First public hearing)**

CHAIRMAN DURAN: You need to walk us through this pretty good there, Roman, okay? So we don't confused, any further than I am. The difference in the two that you're going to bring to us, can you just specify that for me? I think I'm clear about everything else except that.

MR. ABEYTA: Mr. Chairman, the difference between the two, they're going to be an extra section in Exhibit B, which is going to be on page 2 of Exhibit B, which is a Section number 9. And that number 9 states that in addition to the requirements listed above, for all non-residential developments proposing to use more than one acre-foot of water per year, and all Type I, II and IV subdivisions, the applicant must submit a water supply plan and water permits as required by Article VII, Section 6 of the Code for the first sustainable phase of development. And Mr. Chairman, under the current Code, this is not required until a development plan comes in. What this amendment would do is require this information at the time of master plan but not for the entire master plan, just for the first phase.

CHAIRMAN DURAN: Excuse me. So then the other one is Exhibit A?

MR. ABEYTA: The other one is Exhibit A and it does not have that language.

CHAIRMAN DURAN: Okay. I got it.

MR. ABEYTA: So Exhibit A would not require that information until the development plan came in. It would not require it at master plan.

CHAIRMAN DURAN: Okay, any questions of staff?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: Roman, could you go over what Type I, II, and IV subdivisions are again?

MR. ABEYTA: Yes, Mr. Chairman, Commissioner Anaya. A Type I subdivision is a subdivision that has 500 or more parcels with one or more less than 10 acres in size. So 500 or more parcels, one or more smaller than ten acres.

A Type II subdivision is a subdivision with 25 to 499 lots, one of which or any can be less than ten acres in size.

A Type IV subdivision is 25 or more lots and they're all larger than 10 acres in size. So generally we're talking about subdivisions that have 25 or more lots.

CHAIRMAN DURAN: So tell us why number III was omitted. Explain what a Type III is.

MR. ABEYTA: A Type III subdivision is 2 to 24 lots, and right now under

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current Code, a Type III does not require a master plan. So master plans aren't required for subdivisions of 24 lots or less. And so it's automatically excluded from the existing Code.

CHAIRMAN DURAN: The master plan isn't approved but they still have to go through the review process.

MR. ABEYTA: Right. They still have to come back with their development plans for each phase.

CHAIRMAN DURAN: Do you have any more questions?

COMMISSIONER ANAYA: No. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: Looking at Exhibit B, Section 5.2.2.g.8, we don't talk about a conservation plan or a liquid waste disposal reuse plan. Is that something we might want to have in that section?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, we may want to have that in the section. However, I don't know if state law right now allows for a reuse plan. So I think it will take a lot more study and background before we start talking about a reuse plan. But the conservation we can definitely build in there.

COMMISSIONER CAMPOS: I think that has to be a prominent feature of any water plan is a conservation plan. When we talk about water, liquid waste reuse, are you talking about graywater or any other uses?

MR. ABEYTA: I think we're talking about any use, whether it's graywater, blackwater, I don't think we have -

COMMISSIONER CAMPOS: State law does not permit us to address the reuse of liquid waste?

MR. ABEYTA: Let me refer to the County Hydrologist. She has more information than I do on that.

KATHERINE YUHAS (County Hydrologist): Mr. Chairman, Commissioner Campos, there are right now ways in which both graywater and blackwater could be reused in a development. Right now, as you know you haven't see a lot of them. It's quite an expensive undertaking to do that so we haven't seen a lot of that come forward. But it is permittable under state law right now.

COMMISSIONER CAMPOS: Would it be wise or unwise to include it in the subsection 8?

MS. YUHAS: Mr. Chairman, Commissioner Campos, to require it I think might be a lot for us to do right now. I would like to see people examining it as a way to deal with their water rights issue, definitely in considering it, but right now it's so expensive that I would feel uncomfortable saying that you had to have a reuse program.

COMMISSIONER CAMPOS: What about a conservation plan?

MS. YUHAS: Clearly that's necessary.

COMMISSIONER CAMPOS: That should be included. Okay. Mr. Kopelman, do you have a comment?

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MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I was just going to mention I think we're going to see some movement on the state side with graywater plans so this may be something that we may be able to add to the Code later as state law changes and maybe in the Code rewrite we can examine that a little more.

COMMISSIONER CAMPOS: The other question I had, Mr. Chairman, is about the limitation in paragraph 9. There was a lot of discussion recently about the one acre-foot of water per year for non-residential requiring that they bring water rights if they're going to use more than one acre-foot. Apparently staff is recommending this to us at this point?

MR. ABEYTA: Mr. Chairman, that ordinance did not pass for Type III or commercial developments. This does not propose that either. It just says if your development is going to use two acre-feet you don't need water rights but you need to do a hydro for the first phase.

COMMISSIONER CAMPOS: Explain to me what subparagraph 9 means. I had assumed that they would be required to bring in water rights.

CHAIRMAN DURAN: We voted that down at the last meeting.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, what item 9 means is if you have – the intent of item 9 is if you have a larger development, which is several phases and you bring forward your master plan you need to show the Commission that you at least have water for your first phase. So that's the intent. And the way we judge that or the limitation we put on that was one acre-foot. If you're going to use more than one acre-foot for non-residential, then you're probably considered a larger development. That's why we picked one acre-foot. At the subdivisions, I, II and IV are all larger subdivisions.

COMMISSIONER CAMPOS: It says the applicant must submit a water supply plan and water permits. Does a water permit mean a water right?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, yes, that means water rights. If you go to the section of the Code that's in there now, that's what it refers to as water rights. A water right permit, that means water rights.

COMMISSIONER CAMPOS: So you're saying you're really not requiring them to bring a permit at this point.

MR. ABEYTA: For commercial. Because this is going to kick you into Article VII, Section 6 and that's going to tell you what requires water rights or not. And right now, Article VII, Section 6 does not require it for commercial.

COMMISSIONER CAMPOS: But now it will if you use more than one acre.

MR. ABEYTA: No, that still won't. You'll just have to, if you're going to use more than one acre you'll just have to do the hydrology test up front for the – right, the geo-hydro for the first phase.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: That doesn't sound too bad. Any other questions of staff?

COMMISSIONER CAMPOS: The last question. For Mr. Kopelman or Mr. Gonzalez, the master plan approval section, 5.2.4, page 2, it talks about prior approvals not

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conferring a development right. Page 2 of Exhibit B. If we adopt this at this time, is someone going to be able to argue that because we adopted this at this point that anything that was approved prior does have a vested right? And if so, do we need additional language to clarify that, to make sure that doesn't happen?

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, I think the idea behind this provision was to just clarify, to make abundantly clear to the public that this is the law. The law is that there is no vested rights on a master plan. The idea was to actually put the language in the Code so that when people are reading it they understand that. So I think the intention was really to recite what is currently the law in the state of New Mexico now, but it makes it clear so when people read it, they say, Oh, okay, I understand that. That if I get master plan or my neighbor gets master plan, that doesn't mean that their development is necessarily going to happen, unless other things happen, for example, the geo-hydrology test proves out or they get water rights and bring that in later. I think that was the intention.

COMMISSIONER CAMPOS: Because I know, maybe last year or the year before there was a lot of discussion from developer attorneys that they did have vested rights. I know there was a disagreement but they were pretty adamant about it and I don't think the dispute was ever settled.

MR. KOPELMAN: Mr. Chairman, Commissioner Campos, as far as I'm concerned, my reading of case law is pretty clear that there are no vested rights on a master plan.

COMMISSIONER CAMPOS: Okay. Thank you.

CHAIRMAN DURAN: So what you're saying is that this ordinance would be retroactive to those people that have received master plan approval?

MR. KOPELMAN: No, Mr. Chairman, all we're saying is this subsection now, 5.2.4.c is the law now anyway. And the idea behind putting it in here is so people understand that and it's up front. So people understand that because the Commission approves a master plan that doesn't mean that the property owner is guaranteed to get that development down the road. They don't have an absolute legal right to go forward with it. They still have to meet all the conditions that were imposed before they can move forward.

CHAIRMAN DURAN: So in between master plan approval and final plan approval, if we adopt ordinances that are more restrictive than what we had approved, that those changes would apply?

MR. KOPELMAN: Mr. Chairman, I don't think this gets into that. It doesn't go into that detail. I think all it's saying is the intention is, if you get a master plan that requires you to bring five acre-feet to the table, until you bring the five acre-feet, you're stuck. You don't have any right to move forward at all.

CHAIRMAN DURAN: If somebody came up that had already received master plan approval and they were using more than one acre-foot of water, and we approved this ordinance, would they have to come forward and show us that they have the two acre-feet that they need?

MR. KOPELMAN: Mr. Chairman, not at master plan. No, they'd have to



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show –

CHAIRMAN DURAN: But when they went to final?

MR. KOPELMAN: At final they'd have to have it, but that's what the Code provides now. This provision does not add any addition burden to an applicant at all. It just clarifies what the law is.

CHAIRMAN DURAN: Okay.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Commissioner Sullivan, does this ordinance meet the intent of what you were looking at in terms of the ordinance that you had?

COMMISSIONER SULLIVAN: Mr. Chairman, Commissioner Montoya, it's, how shall I say, watered down from my original ordinance. My original ordinance addressed two things and one was the Type III subdivisions, which are the most common types of subdivisions, up to 24 lots. And in those types of subdivisions, in the county we still allow domestic wells to be the way of serving those subdivisions.

COMMISSIONER MONTOYA: In the Type II?

COMMISSIONER SULLIVAN: In the Type III. My feeling was we're now at a point where we should stop using domestic wells for 24-lot subdivisions. That was debated at great length and the Commission disagreed with me as occasionally they do.

CHAIRMAN DURAN: Not a lot.

COMMISSIONER SULLIVAN: But only occasionally. And the second element of the ordinance had to do with using domestic wells for commercial uses beyond one acre-foot. Because one acre-foot could provide just about any commercial use you would see out in the county such as an Allsup's or a feed store or anything like that. But when you go beyond that you're using an awful lot of water on a domestic well for something like a shopping center or something like that. When you get to that point you should have other resources.

That was my feeling on that. The Commission disagreed with that as well. That was the second part of the ordinance. So this ordinance as Roman has indicated, just does the third thing, which moves this issue forward to the master plan phase for discussion and only requires that they show they have water rights for the first sustainable phase and the reason we say sustainable is we don't want them to come in and say, Well, the first phase is one unit. It's got to be a sustainable phase that they truly intend to build and could stand on its own alone if no other phase was ever built. So it has all the required roads and that type of thing. And then further requires as Mr. Abeyta says, when they go over one acre-foot commercial, that they do a geo-hydro test. Most of them have been doing that. The one in Eldorado did that. They did a geo-hydro test. They're running a shopping center off a domestic well, but they're staying under three acre-feet. So it doesn't affect that, is my understanding. Correct me if I'm wrong, Roman.

MR. ABEYTA: Mr. Chairman, that's correct. You would just need to do the hydro. It's not going to add a water right requirement.

COMMISSIONER SULLIVAN: So it's a long answer to your question and if

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you and I'd like to get together and bring back some of that language I'd like to discuss it with you but for right now, it does at least one thing which I think is very important, so it has some benefit, in addition to the vested development right thing, which by the way, I think we've had some concern over being clear on that. And that is typically residents say, Why are you approving this development when the developer has no water, no water and no water rights. And the response has always been, Well, if he doesn't get the water or the water rights, the development, it won't go any further. He has to have it for the development plan phase.

My thinking was, Well, why should he come in at all if he doesn't have it, at least for the first phase he ought to have his ducks in a row so we don't go through these hearings. We don't get the public involved and go through all the staff time necessary to review these if this is just basically a master plan with no water.

CHAIRMAN DURAN: I think that's a different issue.

COMMISSIONER SULLIVAN: That's essentially the only thing that's left in the ordinance is bringing that part of it forward and, as Roman said also, it only applies to large developments. It does not apply to Type III subdivisions. So there's no change to the zero to 24 lots. They can still go their way. They can still drill domestic well and still be supplied by multiple domestic wells. In this ordinance there's no change to that.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman, Commissioner Sullivan.

COMMISSIONER SULLIVAN: That may have been a little long but that was kind of the genesis of it.

CHAIRMAN DURAN: One thing I do like about you is you never give up.

COMMISSIONER SULLIVAN: Well, when God's on your side.

CHAIRMAN DURAN: Any other questions of staff? Okay, it's a public hearing. Is there anyone out there that would like to address the issue? Commissioner Varela López, would you like to comment a little bit? Maybe give us a little bit of insight.

MR. VARELA LOPEZ: Sure. Basically, when I brought this forward the intent was not to go as far as Commissioner Sullivan was wanting to go as far as getting water rights and everything else. The intent was to address concerns from the citizens that had been calling me saying that we did not address water in the Code. And that's why I brought that forward, is to address their concerns that yes, water was important for all these developments and liquid waste was also an additional thing that was added, so that the County would have better information at the onset without being onerous on the developer, by having to spend all kinds of bucks up front without knowing that they were going to even get master plan approval. I didn't want that.

I didn't think that that was correct. So it is definitely a watered down version from what Commissioner Sullivan is saying but that was not the intent. The intent was to add language so that people could understand the Code and add a few additional things so that the County would be aware of where this liquid waste was going, if it could function and be attached to the County system down the line so it would be treated and the County could get more water for return flow credits of for doing other projects that the County would want to do, and also have

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applications comes at the master plan level. That's where the crowds come because that's the first they've heard of it and beyond that point the attendance dwindles dramatically. And I feel that the master plan has really become a more important step and what happens is we then get into issues of amendments and variances to the Code later on after the crowd is gone. And I know the Commission, the former Commission disagreed with me on that as well. Or some of the members did.

I just wanted to provide for your consideration some information that I asked the staff to put together where we addressed situations like that and I just asked them to go back in the last six years and research the number of times that we had done variances to the water requirements of the Code and just for your information and not to point the fingers at anybody, between January of 1996 and the present, there were a total of 79 variances of the density requirements of the Code without providing adequate water supply. Of those, 40 were for additional dwelling units and 39 for land subdivisions and the Board of County Commissioners denied just six of these cases.

So what often happens is when we get further on in the development approval process and a developer finds that he or she can't obtain water as the master plan would have them do, then they've put a lot of money into planning and lawyers, and then we get the variances. And then we get the amendments to the Code and the requests for variances, 79 of them. So for that reason, I think this is a reasonable compromise. If a developer, and bearing again in mind that even that it does cost \$25,000 for a geo-hydro, you're talking about 500 lot subdivisions here - well, 25 to 500 lots. We're not talking about the smaller subdivisions. We're talking about larger subdivisions. Larger commercial. So we're not targeting the mom and pop developer. And I think the environmental impact that those subdivisions have and the water impact, we need to have that water information up front.

CHAIRMAN DURAN: I think that your smoke and mirrors description of the 75 ordinances that the Commission in the past years have granted is such a broad-brush description of what we did. It took nothing into consideration, the merits of the case. Never, in that six months was there a 24-lot subdivision approved, or 24 or above subdivision approved that was based on a variance to that requirement. So although I like your persistence, I think you should try to characterize the situation a little bit more fairly and to say the Commission in the past just granted variances with no regard to the water availability is so unfair.

COMMISSIONER SULLIVAN: Well, Mr. Chairman, just let me include in this that it indicates in the staff report that during the same time period there were four cases requesting a variance of Article VII, Section 6, which is the one we're talking about here, for onsite wells, pump tests of water rights, the County Commission has denied just one of those cases.

CHAIRMAN DURAN: But you don't have the merits of the case there. How can you make that kind of statement?

COMMISSIONER SULLIVAN: I'm not addressing the merits. The question is how many -

CHAIRMAN DURAN: So what you're saying is that the case had no merits.

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COMMISSIONER SULLIVAN: No. What I'm saying is that at the prior County Commission meeting, and this was with the prior County Commission, the statement was made by you, by Commissioner Trujillo, that you had never ever given a waiver to the requirement for water, for variances to the water requirements of the Code.

CHAIRMAN DURAN: On a large-scale -

COMMISSIONER SULLIVAN: On anything.

CHAIRMAN DURAN: I'm saying the large-scale.

COMMISSIONER SULLIVAN: And I'm saying you've done it 79 times.

That's just the facts.

CHAIRMAN DURAN: Those are the facts as you represent them.

COMMISSIONER SULLIVAN: No. I didn't represent them at all. I just requested.

CHAIRMAN DURAN: You just represented them.

COMMISSIONER SULLIVAN: I just asked the Land Use Department to prepare the facts. And you're welcome to -

CHAIRMAN DURAN: Why don't you ask the Land Use Department to bring all the merits of the cases up why we granted the variances.

COMMISSIONER SULLIVAN: I was just responding to -

CHAIRMAN DURAN: Because you just wanted to pick on these variances to make a point.

COMMISSIONER SULLIVAN: I want to make a point that we need a better review process than we've had in the past.

CHAIRMAN DURAN: You know what? I think that a reconnaissance study at master plan approval is plenty adequate.

COMMISSIONER SULLIVAN: I'd hate to base a 500-unit subdivision on a reconnaissance study. I think that that's irresponsible.

CHAIRMAN DURAN: You even say right here in the ordinance that it's not a final approval. And you're entitled to your opinion as well as I am. Is there anyone out there that would like to address the Commission concerning this issue? It's the first public hearing. We'll have the next one next time.

COMMISSIONER CAMPOS: Mr. Chairman, just for the next public hearing, I would ask staff to consider adding to Exhibit B, Section 8, page 1, line 37, a conservation plan, and perhaps a water harvesting concept for consideration.

CHAIRMAN DURAN: Okay.

COMMISSIONER CAMPOS: If it makes sense I'd like to have your input on those two issues. Okay? Thank you.

CHAIRMAN DURAN: Thank you.

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- XIII. B. 5. CDRC Case #V 02-5380. Armando Jurado Variance. Armando Jurado, applicant, requests a variance of Article III, Section 10 (Lot size requirements) to the Land Development Code to allow a land division of 1.83 acres into two lots; one lot consisting of 0.885 acres and one lot consisting of 0.971 acres. The property is located in the Village of La Bajada, within Section 12, Township 15 North, Range 6 East and Section 7, Township 15 North, Range 7 East**

WAYNE DALTON (Review Specialist): Thank you, Mr. Chairman. The property is located within the Village of La Bajada within the Homestead Hydrologic Zone. Article III, Section 10 of the Land Development Code states the minimum lot size in this area is 160 acres. Lot size may be reduced to 40 acres if the applicant signs and records water restrictions. There are currently four homes and two septic systems on the property. The property is served by a community water system. The applicant claims that three of the homes were on the property when he purchased it in 1982.

The applicant has proven that one of the four homes is permitted. The applicant states that he and a family friend purchased the property 15 years ago. The applicant's main intent for this request is to have property available for his children to have at a later date.

Recommendation: Staff's recommendation, staff recommends that the request for a variance be denied. The intent of the Code is to set minimum lot size in this area at 160 acres. Staff also recommends the applicant be required to remove three homes from his property.

On August 29, 2002, the CDRC met and acted on this case. The decision of the CDRC was to recommend approval of a variance of Article III, Section 10 of the Land Development Code to allow a land division of 1.83 acres into two lots, subject to the following conditions. Mr. Chairman, may I enter those into the record?

CHAIRMAN DURAN: Yes.

[The conditions are as follows:]

1. Water use shall be restricted to a 0.25 acre-foot per year per lot. A water meter shall be installed for both lots; this shall be noted on the plat. Annual water meter readings shall be submitted to the County Hydrologist by August 31<sup>st</sup> of each year. Water restrictions shall be recorded in the County Clerk's Office.
2. No further division of this land shall be permitted. This shall be noted on the plat.
3. No additional dwelling units shall be placed on the property.
4. A plat of survey meeting all other County Code requirements shall be submitted to the Land Use Department for review and approval.
5. Failure to comply with all conditions shall result in administrative revocation of the variance.
6. The applicant shall submit a revised liquid waste permit from the Environmental Department showing correct lot size and correct number of dwellings.

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CHAIRMAN DURAN: Wayne, I have a question. Of the improvements that are existing, are they stick-built homes?

MR. DALTON: Mr. Chairman, two of them are stick-built. Two are mobile homes.

CHAIRMAN DURAN: Okay. Are they on permanent foundations?

MR. DALTON: Mr. Chairman, no, they are not. The mobile homes aren't on permanent foundations.

CHAIRMAN DURAN: And how are they situated on the lots that are proposed? Is it in our packet?

MR. DALTON: Mr. Chairman, that's Exhibit E in your packet.

CHAIRMAN DURAN: Okay. Commissioner.

COMMISSIONER CAMPOS: Your recommendation, page 2, recommends that the applicant be required to move three homes from this property?

MR. DALTON: Mr. Chairman, Commissioner Campos, that's correct.

COMMISSIONER CAMPOS: So there's four homes, two stick-built, two mobiles, and you want the mobiles out, plus you want them to remove one of the stick-builts?

MR. DALTON: That's staff recommendation, yes.

COMMISSIONER CAMPOS: Okay.

CHAIRMAN DURAN: How do you remove that stick-built house?

MR. DALTON: Mr. Chairman, I believe one of the stick-built homes is not used for a dwelling now. I think the applicant is using it for storage, so if he can somehow prove that he is just using it for storage, I believe that would not be considered a dwelling unit.

CHAIRMAN DURAN: How did you determine that it was a dwelling?

MR. DALTON: Mr. Chairman, the applicant has said that his employees, some of his employees reside in that home.

CHAIRMAN DURAN: Does it have a kitchen and a bath?

MR. DALTON: Mr. Chairman, I can't answer that. I haven't been out and done an inspection on the home.

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: Wayne, how long have those homes been on that property? Those four homes?

MR. DALTON: Mr. Chairman, Commissioner Anaya, the applicant states that three of the homes were on the property when he purchased it in 1982. The home the applicant resides in now is permitted. He actually did get a permit from Santa Fe County.

COMMISSIONER ANAYA: And when did he get that one?

MR. DALTON: I believe that was in 1983, 1984, somewhere in that area.

COMMISSIONER ANAYA: So those four homes have been there since 1983, 1984?

MR. DALTON: That's correct.

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COMMISSIONER ANAYA: Okay.

CHAIRMAN DURAN: So when he was issued the permit for the stick-built house there was already three homes on it?

MR. DALTON: Mr. Chairman, that's correct. At the time back then, Santa Fe County didn't conduct site visits so the applicant could have come in and said the property is vacant and we would have issued him a permit.

CHAIRMAN DURAN: We don't know what he said, right?

MR. DALTON: That's correct. We don't know what he said.

CHAIRMAN DURAN: You just don't know.

MR. DALTON: Right.

MR. ABEYTA: Mr. Chairman, if I might add, if the applicant prove that they were there since before, actually it would be before '81 or if there was some kind of acknowledgement when the permit was issued in '83 that they were there then we would consider them legal non-conforming and grandfathered in. So I think we probably need to just clarify for the record that we need to do that research before we make him pull them off because I don't think we have the legal authority to have him remove those homes if indeed they are legal non-conforming.

CHAIRMAN DURAN: And did he buy it in '82?

MR. ABEYTA: So it's pretty close. The Code went into effect in 1981, so I think we still need to research the matter before we tell him he needs to remove them.

CHAIRMAN DURAN: What proof would we need?

MR. ABEYTA: There are several things we can do. We can see if he's had meters on that property, meter readings, electrical meters since before '82. Or the Tax Assessor's office, we can see what kind of records they have. We can look at aerial photographs. Aerial photographs might show -

CHAIRMAN DURAN: This thing's been on the agenda for four months. We haven't done that work yet?

MR. ABEYTA: Mr. Chairman, it's my understanding we've been working with the applicant to try to prove that. I'm not recommending that you don't act on this. I'm just recommending that before you impose that kind of condition, you allow us to do research because I would hate for the Board to impose a condition -

CHAIRMAN DURAN: The condition to remove.

MR. ABEYTA: Right. That's all I'm saying. Let us do more research before that condition is actually imposed.

CHAIRMAN DURAN: Any other questions of staff? Is the applicant here. Please come forward, state your name for the record, you address. Let the Clerk swear you in.

ARMANDO JURADO: My name is Armando Jurado.

[Duly sworn, Armando Jurado testified as follows:]

MR. JURADO: I purchased that land in, around 1982. And when I purchased the land there was two trailers on the property before I buy the land. So when I buy the land we already had septic tank and everything for the two mobile homes. And then a house, they

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started a house and then they were finished. So on one side of the property there is two mobile homes. On the other side it's a 1200 square feet house and the little house is only 400 square feet. It's not like actually two big houses. It's only 1200 square feet and the other little area is only 400 square feet.

CHAIRMAN DURAN: Is the 400 the one that's your studio?

MR. JURADO: Yes, it was like a shop and I put a little kitchen and a bathroom on it. It's only 400 square feet. It's not a big house. In the Village of La Bajada, in the Village of La Bajada there's only ten residents, so we have plenty of water. We have community water. There's only 10 residents in that place so we have plenty of water. We have meters. We installed meters not too long ago. About a year ago because we really want to preserve some water. We don't want to just waste it. But like I say, there are only ten residents on it.

Like I say, we've been paying for this property for almost 20 years. We pay \$250 a month and we just finished paying for that property and that's why me and my friend, we buy the property. We wanted to subdivide it. When we buy the property, we say you can park your mobile home there and I can build a little house on the side. At that time I don't have enough money to buy the property myself so we shared. We decide to buy the property in between me and him. And like I say, water, we have plenty of water there. And one time there was more residents that what we have right now. A lot of people used to live in that area.

CHAIRMAN DURAN: So when you split the property, you're going to end up with half of it?

MR. JURADO: Yes, that's absolutely what we wanted to do because right now, like I say, I come to a meeting, I've been trying to subdivide the property for a year because like a year ago is when we finished paying the property. Right now, like I say, we're just starting to make everything legal.

CHAIRMAN DURAN: So you would have two houses on each lot?

MR. JURADO: Yes. Two mobile homes and the house, they're already there.

CHAIRMAN DURAN: Two mobile homes on one lot, then the house that you built and the 400 square foot structure on the other one.

MR. JURADO: Yes. And we're not intending to build anything. All I wanted to do is just subdivide the property so he can have his part and me my part and that's it.

CHAIRMAN DURAN: Do you have people living in all four of those structures?

MR. JURADO: Yes.

COMMISSIONER MONTOYA: Mr. Chairman, on that point.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: How many people?

MR. JURADO: Just, like I say, a family of three. That's it.

COMMISSIONER MONTOYA: Three in each dwelling?

MR. JURADO: Yes.

COMMISSIONER MONTOYA: So a total of 12?

MR. JURADO: Yes. It's not a big - two houses means I say, 2400 square feet



houses. This one is just a 1200 square feet house and the other one is only 400 square feet. Actually, the little one I'm lending to one of my workers.

CHAIRMAN DURAN: And you're all on one well?

MR. JURADO: No. We don't got no wells there. It's a community water.

CHAIRMAN DURAN: Oh, a community well.

MR. JURADO: No. We don't put no wells there. We just -

CHAIRMAN DURAN: And the community water system services all four houses?

MR. JURADO: Yes. The community water serves all the ten families there. Like I say, we have water to feed 50 families there. We have a lot of water there.

CHAIRMAN DURAN: Well, let's hope you don't do that.

MR. JURADO: We have a lot of water.

CHAIRMAN DURAN: What about septic?

MR. JURADO: Septic tank, we have one for each - I have one septic tank for-

CHAIRMAN DURAN: For one lot and one for the other?

MR. JURADO: Yes, sir. And the existence of the septic tank, they've been there for years and years, because when I buy the property -

CHAIRMAN DURAN: The two septic tanks have been there forever, I mean for a long time?

MR. JURADO: No, one of the septic tanks, where the mobile homes are.

CHAIRMAN DURAN: And when you got the other one, the EID approved it?

MR. JURADO: Yes, sir. I have a permit for that for one of the houses. And like I say, the biggest piece of property in the Village of La Bajada, it's only eight acres. So actually the properties they run from like  $\frac{3}{4}$  of an acre to 8 acres, is the biggest piece of property there. I just want to make it legal and give him his part and then take my part. It's not going to be more busy going on there. We just want to keep it separate. That's it.

CHAIRMAN DURAN: Any questions of the applicant?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Mr. Jurado, regarding the comment that you made on the water, is that knowledge that you have that's part of the geo-hydro study that was requested by our hydrologist back in August or how -

MR. JURADO: This, the water we have there, that used to belong to a railroad. It's actually the water we have. We have the water rights. After the railroad leave, they bought the water rights. So it's actually the water, the one we've been using, it's in the stream. It comes from the canyon and that's it. We have a lot of water. It's a six-inch pipe. We've just been using one-eighth of the water that we have there. And like I say, we really want to preserve the water. That's why we put some meters last year, so we can check and make sure that the families, they're not using too much water. We have meters for each family in the property. In all the properties. In all the village actually.

COMMISSIONER MONTOYA: So I guess my question is was that geo-hydro study still a requirement then, Mr. Abeyta, Mr. Chairman.

MR. ABEYTA: Mr. Chairman, Commissioner Montoya, it wouldn't be a requirement because of the age of the water system, I don't believe. I don't know if the hydrologist is still with us, but I think that's an older system and I don't know what information the County has on that system.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any other questions of the applicant? Okay. Thank you. Is there anyone out there that would like to address the Commission concerning this case? You must be for it, right?

[Duly sworn, Eloy Montoya testified as follows:]

ELOY MONTOYA: I'm 80-some years old and I've lived in La Bajada all my life. I was born and raised there. He said that they're supposed to be buildings there. I tell you what, I've seen buildings there before he come over. Before Armando bought the place. There was a house and there was a well. He don't even know he had a well there. I've seen the well, but they abandoned it. Really, La Bajada it's been there for years and we've got plenty of water. They did have a survey on the water. I don't know how it came out but I tell you what, we even had water rights. We had the water rights [inaudible] I know there was a man, in fact it was my in-law, had a station below the hill on the road that goes up there. He didn't have no water rights so they used to pay La Bajada. He had to buy the La Bajada rights from that river. See, in other words, that's land that belonged to us but it now belongs to the Indians, belongs to the Forest Service. That's a - what do you call it?

CHAIRMAN DURAN: A land grant?

MR. MONTOYA: Yes, it was a land grant, and we belong there. We've been there all our lives. That's another thing. Water rights. We've got plenty of water rights. Also, the water rights for irrigation. So I don't think, I haven't got no problem with it and I don't think nobody else around me does either that I know about. That's all I want to say.

CHAIRMAN DURAN: Thank you, Mr. Montoya. Anyone else out there either for or against this?

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: Hearing none, I heard this case in the CDRC. I think I made the motion to approve it. This is a question for staff. Do I still have to make the motion for the appeal first and then the variance, or just one motion covers everything?

MR. ABEYTA: Mr. Chairman, Commissioner Anaya, it's just one motion for a variance.

COMMISSIONER ANAYA: Do we still use CDRC Case and the same numbers?

MR. ABEYTA: Yes, Mr. Chairman, Commissioner Anaya.

COMMISSIONER ANAYA: Thank you. Mr. Chairman, I make a motion that we approve CDRC Case #A/V 02-5380 and they do have a water system there, a community

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water system and they all have water meter and I'm not about to throw anybody out of their house and make them tear their home down. Thank you.

CHAIRMAN DURAN: I second that.

MR. ABEYTA: Mr. Chairman, does that include the conditions, 1 through 6?

COMMISSIONER ANAYA: Yes.

COMMISSIONER MONTOYA: CDRC recommendations?

MR. ABEYTA: Yes. And that was part of CDRC's recommendation, those six conditions.

COMMISSIONER ANAYA: Yes, sir.

CHAIRMAN DURAN: Any further discussion?

**The motion to approve CDRC Case #A/V 02-5380 passed by majority [4-1] voice vote, with Commissioner Sullivan voting against.**

CHAIRMAN DURAN: You have you variance. Sorry it took you so long to get here. I know you got delayed for Christmas and who knows what else.

**XIII. B. 8. EZ Case #DL 02-4370. Aragon Family Transfer. Leroy and Mary Jean Aragon, applicants, request plat approval to divide 4.8106 acres into three lots for the purpose of family transfer. The lots will be known as Lot 2-A (+ 1.250 acres), Lot 2-B (+1.250) and Lot 2-C (+2.30 acres). The property is located within the Arroyo Hondo West Subdivision off Hondo West, within Section 15, Township 16 North, Range 9 East (Two-mile EZ District)**

VICENTE ARCHULETA: Thank you, Mr. Chairman. The subject property is located within the Arroyo Hondo West Subdivision. This subdivision was approved by the BCC in December 1986 as a Type III subdivision. Since then the subdivision has grown from 24 to 32 lots. If the applicant's request is granted, the lot density in the subdivision will increase from the original 24 lots to 34 lots. The applicants have owned this property since 1986 and are proposing to divide their lot into the following sizes: Lot 2-A, 1.25 acres. That has a dwelling unit to be retained by the applicants. Lot 2-B, 1.25 acres, with a 1250 square foot dwelling unit to be transferred to the owners' daughter. Lot 2-C, 2.3 acres is vacant, to be transferred to the owners' son and daughter.

On September 12, 2002 the EZC granted approval subject to the conditions. The decision of the – staff recommends denial of this request since the subdivision's present infrastructure fails to meet the performance standards for protection of health and safety and the level of existing service required for a Type II subdivision. The decision of the EZC on September 12, 2002 was to grant approval subject to the conditions. May I enter the conditions into the record?

CHAIRMAN DURAN: Please.

[The conditions are as follows:]

- 1) Compliance with the requirements from the following:
  - a) County Fire Marshal; and
  - b) County Hydrologist.
- 2) Compliance with the "La Cienega Watershed Conditions" which include:
  - a) Connection to county water utility when service becomes available within 200 feet of the property line of the land being divided. The 200 ft. shall be measured along platted easements to the nearest property line.
  - b) At the time a line extension is made pursuant to paragraph a) above, the distribution system within the land divided shall be designed to meet the minimum fire flow requirements of the Santa Fe County Water Utility, exclusive of any reservoir capacity.
  - c) At the time the connection is made to the Santa Fe County Water Utility, lot owners, their heirs, successors and assignees, agree to disconnect any domestic wells created under NMSA Section 72-12-1 NMSA 1978 and to discontinue of said wells except in emergency circumstances.
  - d) Lot owners shall dedicate a 15-foot wide utility easement along all property lines for the installation of infrastructure and water distribution lines for the county utility system.
  - e) A shared well agreement, approved by the County, must be executed prior to plat recordation.
- 3) As per Section 3.6.2.F of the ESR, if and when the property becomes connected to the county water utility, and public sewer lines become available to the property, the on-site liquid waste should be abandoned in order to protect the potential for future return flow credits. The lot owners should locate easements for future mains and laterals on the plat. Connection to the public sewer system line shall be made at the lot owners' expense, within 120 days following that a public sewer line is within 200 ft. of the affected property. The City, County or sanitation district shall give at least 90 days notice to the property owner stating the estimated date when a sewer line will be extended and the date when the required sewer connection shall be made. This condition should also be noted on the plat.
- 4) The applicants must obtain approval from NMED for the proposed septic tank and leach field for Lot 2-C prior to plat recordation if the result of the groundwater analysis for nitrate, nitrite, ammonia, and total Kjeldahl is negative. Otherwise, as per Section 3.6.2. "Liquid Waste Disposal" of the ESR, the applicants need to install an alternative system, which will not result in groundwater contamination.
- 5) In case the result of the well infrastructure evaluation is unfavorable, the applicants should be responsible for all the expenses involved in upgrading the system.
- 6) The applicants must record water restrictive covenants simultaneously with the plat of survey imposing 0.25-acre feet per year per lot. Water meters must be installed on the

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- water line to each dwelling unit and proof of installation shall be provided prior to plat recordation. Water meter readings must be submitted to the County Hydrologist annually by August 30th of each year.
- 7) The applicants must file an affidavit with the County Clerk containing the following, which will be a condition of approval for a development permit for Lot 2-C:
    - a) Legal description of the property being transferred.
    - b) A statement that the applicants have not made any transfers of any other lots to the same person under the family transfer provisions of the ESR or the zoning ordinance in effect for the location.
  - 8) Deeds transferring Lots 2-B and 2-C to family members must be recorded at the time the family transfer plat is filed.
  - 9) The applicants are required to contact Rural Addressing for assignment of address for Lot 2-C. Rural addresses for all 3 newly created lots must be written on the plat.
  - 10) As per Extraterritorial Subdivision Regulation Section 3.6.4 "Solid Waste", a fee-in-lieu of land for solid waste disposal site of \$39.16 per lot must be paid prior to plat recordation.
  - 11) As per Section 3.5.2.F.3.c of the ESR, a common access roadway for Lots 2-A and 2-C should be provided. Common access roadway has 2 ten-foot driving lanes with a six-inch thickness of crushed gravel base course material. It has at least 1 four-foot utility corridor adjacent to the roadway and drainage shall be provided for in ditches, swales or culverts; the remainder of the easement or right-of-way may be unimproved with natural vegetation. In addition, the minimum right-of-way or easement required is 38 ft. Please refer to Exhibit K, for "Common Access Roadway" specifications.
  - 12) Building and utility permits and certification of occupancy will be required for Lot 2-C.
  - 13) A retention pond, which should be shown on the survey plat, must be constructed for Lot 2-C in accordance with EZO's Section 12.1.C.5 "Storm Drainage".
  - 14) All redline comments by the County Subdivision engineer shown on the plat of survey must be addressed and resubmitted with the 24" x 36" mylar prior to plat recordation. The plat with redline comments must be returned to the Staff.

CHAIRMAN DURAN: Vicente, I have a quick question. The owner of the property was not the original developer, right?

MR. ARCHULETA: Mr. Chairman, that's correct.

CHAIRMAN DURAN: Okay. So they're not creating a subdivision of more than 24 lots. They're just asking for a division of their property into lots that are similar in size to what was approved when the approved the 24-lot subdivision?

MR. ARCHULETA: Mr. Chairman, the approval for the subdivision was eight lots of five acres and 16 lots of 2.5 acres. And that was done in -

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CHAIRMAN DURAN: Okay. So they're not all the same, but similar in size. Some of them.

MR. ARCHULETA: That's correct.

CHAIRMAN DURAN: Okay. Any questions of Vicente?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Vicente, what's the minimum lot size in this subdivision?

MR. ARCHULETA: Right now, there are lots of 1.25 acres in that subdivision and that's due to family transfers.

COMMISSIONER SULLIVAN: Okay. So without a family transfer the minimum lot size is 2.5 acres?

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

COMMISSIONER SULLIVAN: So they're requesting that it be broken down into two 1.25-acre lots and a third one of 2.3 acres and some time in the future that one could be further subdivided. Is that right or not?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, that doesn't meet the minimum lot size to be subdividable. They would need 2.5 acres.

COMMISSIONER SULLIVAN: Okay. So that couldn't be subdivided. So we have, we had a Type III subdivision which has no community water or community sewer service and now that's grown from 24 lots to 32 lots. Is that correct?

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

COMMISSIONER SULLIVAN: And this division of one lot into three would grow it into 34 lots. Are there other lots that could be subdivided in the subdivision?

MR. ARCHULETA: Mr. Chairman, Commissioner Sullivan, I believe there are still a few more lots that could be subdivided. From the Assessor's plat it looks like there may be one or two more lots that could be subdivided.

COMMISSIONER SULLIVAN: Could increase it.

MR. ARCHULETA: Could increase it by two.

COMMISSIONER SULLIVAN: So it could continue to increase from 34 up to some other number.

MR. ARCHULETA: That's correct.

COMMISSIONER SULLIVAN: And what's the difference in the requirements for a Type II and a Type III subdivision which this was previously? The most critical ones, the basic ones.

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, the most critical one would be the water right requirement. Water rights are required for Type II subdivisions and not required for Type III. That would be the most critical.

COMMISSIONER SULLIVAN: Okay. So having community water is not required for a Type II subdivision?

MR. ABEYTA: Community water I believe would be required also along

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with the water rights. But it may depend on the size of lots. So I'm not exactly sure but it could be also community water system.

COMMISSIONER SULLIVAN: Okay, my concern is we're just growing this Type III subdivision, not just one lot beyond a Type II subdivision but ultimately it sounds like at least 50 percent or so more than a Type II subdivision as opposed to a minor - 50 percent more. If you take 50 percent of 24 that would be 12, that would be 36 lots.

CHAIRMAN DURAN: Oh, yes. I forgot you use that process to really make it sound bad.

COMMISSIONER SULLIVAN: I'm not making it hopefully, sound any worse than it is. It is what it is. If it has 36 lots it will be 50 percent larger than a Type III subdivision, which is what it was originally approved. That's my concern. What is the hardship here that the applicant has?

MR. ABEYTA: Mr. Chairman, Commissioner Sullivan, it's not a hardship. It's meets minimum lot size but because they're in a subdivision that was previously approved by the Board, you need to come back to the Board to ask to redivide within that subdivision.

COMMISSIONER SULLIVAN: I see. Okay. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: In your recommendation you state that the subdivision's present infrastructure fails to meet the performance standards for protection of public health and safety. What would have to be done in order to bring this up to Code at this point?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, the subdivision right now would have to be brought up. Community water would need to be brought it, fire protection. There is fire protection in the subdivision right now but it doesn't meet current standards and there's also a drainage crossing issue that would need to be addressed.

COMMISSIONER CAMPOS: Mr. Archuleta, so you feel that these are substantial, significant public safety issues?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, yes.

COMMISSIONER CAMPOS: This is somewhat like Piñon Hills, the Piñon Hills situation, where we haven't approved certain lot splits because they don't have the necessary infrastructure?

MR. ARCHULETA: Mr. Chairman, Commissioner Campos, that's correct.

MR. ABEYTA: Mr. Chairman, but I would add though, I think this subdivision does have some form of fire protection. Do they have draft systems, Vicente?

MR. ARCHULETA: Yes, they do.

MR. ABEYTA: So they do have hydrants, draft hydrants out there, and I don't believe the access is as severe. They don't cross a 100-year flood plain that would need box culverts or a bridge. In Piñon Hills they have those two. So I think the situation

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is a lot worse in Piñon Hills than in this area.

COMMISSIONER CAMPOS: But it's bad enough here for your staff to feel that it shouldn't be approved.

MR. ABEYTA: Mr. Chairman, Commissioner Campos, our staff is going to look at the number of lots in the current Code requirement for those number of lots. So based on the number of lots it doesn't meet the requirements of the Code.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: That is, staff never recommends approval for anything that doesn't meet the Code. To box them into making a statement that is it your recommendation that it's not appropriate is not a fair question to ask staff because they always say that if it doesn't meet Code, they don't approve it. I think that's a subjective question to ask staff and it's totally unfair.

COMMISSIONER CAMPOS: Mr. Chairman, I think it's unfair what you're doing. Basically advocating the opposite position. It says very explicitly it fails to meet the performance standards for protection of health and safety. Those are two very important words.

CHAIRMAN DURAN: Right.

COMMISSIONER CAMPOS: Health and safety. Something you shouldn't be ignoring.

CHAIRMAN DURAN: I'm not ignoring it. I'm making a point that staff is not going to recommend approval for this because the Code specifies that it doesn't meet the health and safety standards. Not that he feels that it's not appropriate. It doesn't meet the Code. And you asked him if it was appropriate.

COMMISSIONER CAMPOS: Do you want to ask them if that's what they really feel or how do you want to do this?

CHAIRMAN DURAN: No, I think the question - it's obvious. You always try to ask them - I'm not going to talk about it any more. I'm sorry. Any other questions of staff? Is the applicant here?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: I'm sorry. In all that excitement I forgot my question. It's so exciting.

COMMISSIONER SULLIVAN: It gets better at 10:00. Wait till you get to ten.

COMMISSIONER CAMPOS: You ain't seen anything yet.

COMMISSIONER MONTOYA: The Late Night Show starts.

CHAIRMAN DURAN: That's when we don't put gloves on.

COMMISSIONER MONTOYA: Mr. Chairman, regarding any water or septic problems with this type of a split, are there any in this subdivision?

MR. ABEYTA: Mr. Chairman, Commissioner Montoya, that was a concern that was raised at the EZC regarding liquid waste and the water system. There was a



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hydrology report that was done when the subdivision was originally approved. Our hydrologist looked at that and stated that they do have enough water to support these additional lots. Also, the Environment Department, correct me if I'm wrong, Vicente, but I believe they looked into the – they do have permits for septic tanks and the lot sizes are larger than the one-acre or  $\frac{3}{4}$ -acre Code requirement. So as far as liquid waste and water supply there are no problems in this subdivision.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Any other questions of staff. Is the applicant here? Please step forward and state your name for the record. Let the Clerk swear you in.

[Duly sworn, Leroy Aragon testified as follows:]

LEROY ARAGON: My name is Leroy Aragon.

CHAIRMAN DURAN: Do you have anything to add to the record, Mr. Aragon, or any clarifications you might want to make?

MR. ARAGON: Initially, when we bought the land we had three children and at the time we bought it it was included that we could subdivide and it was allowed to subdivide. We waited and waited and a lot was changed. Now that they became available we applied for it.

CHAIRMAN DURAN: How long have you lived on the property?

MR. ARAGON: Seventeen years.

CHAIRMAN DURAN: Do you plan on selling any of the property?

MR. ARAGON: No.

CHAIRMAN DURAN: How many structures do you have on it right now?

MR. ARAGON: We have two and we had thought that it could be divided, five acres could be divided in four because we have three children, but we don't intend to sell the property.

CHAIRMAN DURAN: So you'd have a structure on two of the lots and then one would be vacant.

MR. ARAGON: Right. For affordable homes for the other two children, for our children.

CHAIRMAN DURAN: Any questions of Mr. Aragon?

COMMISSIONER SULLIVAN: Mr. Chairman, did you say you bought it 17 years ago?

MR. ARAGON: We've lived in it 17 years. We bought it like 18, 19 years ago. From Mr. Stamm, the developer.

COMMISSIONER SULLIVAN: Roman, does that qualify them to be grandfathered or is this subdivision pre-Code or post-Code?

MR. ABAYTA: Mr. Chairman, this subdivision is post-Code. It was 1986, I believe, when it was created.

CHAIRMAN DURAN: Are you through, Commissioner?

COMMISSIONER SULLIVAN: Yes, thank you.

CHAIRMAN DURAN: Commissioner Campos.

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COMMISSIONER CAMPOS: Commissioner Sullivan, it didn't seem that the size of the lot is at issue here; it's just the number of lots. In the opinion from staff it seems that the infrastructure is inadequate. I certainly would like to hear more from staff. Hearing from Mr. Abeyta saying the water is adequate. There's no water pollution issue. I'm just concerned to know specifically to know what the deficiencies are. The more I hear the less of a good case it seems that staff is making. I'd like for you guys to tell me really, lay it out, what are you saying?

MR. ABEYTA: Mr. Chairman, Commissioner Campos, for a Type II subdivision which this now becomes, the Code requires water rights right now. But we took a look at what was done in 1986 as far as the geo-hydro and they proved enough water.

COMMISSIONER CAMPOS: In 1986.

MR. ABEYTA: In 1986. But we looked at it now again, based on the new numbers, the total number of lots, and they do have water available to support it.

COMMISSIONER CAMPOS: New data or the same data?

MR. ABEYTA: The same data, our hydrologist looked at it and felt – and then other data that she's received in that area, she feels that there's adequate water for this subdivision. However, the Code does say Type II subdivisions need water rights.

COMMISSIONER CAMPOS: Is that your major concern?

MR. ABEYTA: That's what the Code says and that's staff's major concern, but because our hydrologist looked at it, we feel that it could be, if the Board decides to grant this approval we could support it, because you wouldn't be approving something where they wouldn't have water available to them.

COMMISSIONER CAMPOS: You could support either side, denial or approval.

MR. ABEYTA: We could support either side, because on one side the Code, the technical writing of the Code says water rights, but we looked at the existing conditions and there is water available. And again, it's not a variance either. If there was a variance involved, then we would definitely not support it.

COMMISSIONER CAMPOS: There's no variance of the lot size, right?

MR. ABEYTA: That's right.

CHAIRMAN DURAN: I think if you look at the site location, the property lies right at the fringe of the Arroyo Hondo where wells produce 45 and in some cases higher gallons per minute. So this is definitely not a State Road 14 situation. There's plenty of water in that aquifer which runs all the way down to where the Hagerman well is which produces a ton of water.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: Move for approval with staff conditions.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion? Is there anyone out there

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either for or against this case? Okay.

**The motion to approve EZ Case #DL 02-4370 passed by unanimous [5-0] voice vote.**

CHAIRMAN DURAN: Congratulations. I hope your kids have a nice time out there.

COMMISSIONER SULLIVAN: Don't drink much water.

- XIII. B. 9. EZ CASE # S 02-4501 Altshuler LLC. Subdivision: Altshuler LLC., (Donald Altshuler, Manager) applicant, Gorman & Associates, agent, request Final Plat and Development Plan approval for a 21-lot residential subdivision on 80.22 acres, with the potential of having guesthouses on 10 of the lots for a total of 31 residential units. The property is located off Tano Road West (County Road 85-A), within Sections 3 & 4, Township 17 North, Range 9 East within 2-Mile EZ District**

JOE CATANACH (Review Specialist): Thank you, Mr. Chairman, Commissioners. I'll give a summary background of this. The EZC did recommend approval on December 12<sup>th</sup> and the minutes of the EZC are in the packet. This is a 21-lot subdivision on 80 acres. This area is within the Basin Zone, which allows 2.5-acre lots. There is currently no development on the site. Access to this property is off of Tano Road West or otherwise County Road 85. The applicant has submitted a geo-hydrologic report demonstrating adequate water to support the subdivision for a 100-year period with water restrictions on the lots.

I would only point out then that this is a 21-lot subdivision. However, ten of the lots will have a guesthouse. So the lots with a single house will have a .25 water restriction and the lots with the house and guesthouse will have a .49 water restriction. The fire protection is a 60,000 gallon water storage tank and draft hydrant which is water storage for fire protection for this development as well as adjacent subdivision called Heartstone. And we have not received any review comments from the Fire Marshal. Mr. Chairman, I would expect though that the applicant has met and consulted with the Fire Marshal regarding the existing 60,000 gallon water storage tank to serve this subdivision as well as the adjacent Heartstone.

Liquid and solid waste – individual tanks are proposed and solid waste, each individual owner will have to contract with a solid waste service for garbage disposal. Staff report addresses terrain management, which includes drainage, slope, and slope on the property. The subdivision includes 24 acres of common open space area. The submittals include a traffic report which addresses traffic as to whether the existing County roads have adequate capacity for the subdivision. The County Public Works has reviewed that traffic report and is agreement that the County roads are adequate for the proposed traffic generation. Archeological report was

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submitted as well and the basic understanding of the archeological is that there are two, there would be two significant archeological sites on the property that would be preserved within protective easements.

The recommendation is this application is in accordance with the subdivision regulations. Staff recommends approval. The EZC recommended approval subject to the list of conditions and staff would request to enter those conditions. Thank you, Mr. Chairman.

CHAIRMAN DURAN: That's fine.

[The conditions are as follows:]

1. The Final Development plan & plat with appropriate signatures shall be recorded with the County Clerk's office.
2. All redline comments shall be addressed.
3. Shared well agreements shall be submitted prior to plat recordation for review and approval by Santa Fe County. The plat must indicate shared well easements.
4. Each single residence lot will be limited to an annual water usage of .25 acre-feet per year and each two residence lot will be limited to an annual water usage of .49 acre feet per year for a total annual water usage for the entire subdivision of 7.65 acre feet per year. This is the maximum water use supported by the current geo-hydro report. The water budget for the 2.5 acre lots may be raised to .33 acre-feet per year if a new geo-hydro report is submitted that supports the increase.
5. Each residence shall install a water meter and report meter readings to the County hydrologist annually by 9/30 each year.
6. All wells used to supply the subdivision must be drilled to a depth of at least 860 feet.
7. The applicant has committed to conducting water quality testing prior to recordation of the final plat. If any constituents exceed standards, those constituents must be listed in the disclosure statement and if they pose a threat to public health a treatment method may also be required.
8. The applicant shall designate an area of open space for park/recreational facilities on the plat, or agree to pay a fee in lieu of park dedication prior to plat recordation.
9. Road names and addresses shall be approved by Rural Addressing
10. All utilities shall be underground.
11. All storm water management improvements shall be designed and constructed in accordance with the requirements of Santa Fe County.
12. The developer shall work closely with the District Five Traffic Engineer to verify if the recommended mitigation measures will be acceptable and to address any special concerns as appropriate. The Highway Department shall issue a letter of approval prior to plat recordation.
13. Association by-laws and Articles of Incorporation shall be submitted prior to Plat recordation.
14. Compliance with applicable review comments from the following:
  - a) State Engineer

- b) State Environment Department
- c) Soil & Water District
- d) State Highway Department
- e) County Hydrologist
- f) Development Review Director
- g) County Fire Marshal
- h) County Public Works
- i) County Archaeologist
- j) State Historic Preservation Office
- k) County Technical Review Division

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CHAIRMAN DURAN: Joe, I have a quick question. What is the reason for restricting the five-acre lots to .49 acre-feet per year?

MR. CATANACH: Mr. Chairman, the intent there was that the five-acre lots will have a house and guesthouse and the full allocation of .50, in other words, .25 would have set the guesthouse up as a full-time permanent residence and again, the intent is that the second unit on ten of these lots is intended as a guesthouse for part-time temporary occupancy, not full-time.

CHAIRMAN DURAN: And that was a commitment the applicant agreed to?

MR. CATANACH: My understanding is yes. And also, the .49 would be distributed between the main house, the guesthouse and I believe for watering horses. But the applicant may want to address that. But that was mainly it. Not to give the guesthouse a full allocation of .25 because it's not intended to be a full-time occupancy.

CHAIRMAN DURAN: I read in the report that that particular scenario actually uses all the water justified by the geo-hydro. There's no excess.

MR. CATANACH: That would be my understanding as well. Actually, as I was looking through the submittal, it indicates that in fact if there is a new geo-hydro report that it's possible that it might prove or demonstrate that there would be at least .33 acre-feet for the 2.5 acre-lots. So on condition number 3, this applicant would still have the option of preparing a geo-hydrological report that would demonstrate, to increase the water allocation for the 2.5-acre lots to .33. But at this point it's at .25 and at .49.

CHAIRMAN DURAN: Any questions of staff?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Mr. Catanach, on page 2 of the report under water, the first paragraph says the applicant is proposing to utilize individual wells on each lot. And the second paragraph it says the applicant is proposing to use shared wells. Could you clarify that please?

MR. CATANACH: Yes, Mr. Chairman and Commissioner Sullivan. I did note that and the proposal is for shared wells and that would be consistent with the condition number 3. I understand that that may have caused some confusion but the proposal is for shared wells

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and that would be based on condition 3 from the County Hydrologist for shared wells.

COMMISSIONER SULLIVAN: The only other comment that I would have is on condition 4, we've dealt with other subdivisions where we've imposed on everyone, regardless of what the geo-hydro shows, provided there's sufficient water, a quarter acre-foot limitation where there's no guesthouse and that seems to be a pretty standard procedure. I'd be reluctant to encourage the applicant to go out and do more geo-hydrological testing which Mr. Siebert said is prohibitively expensive just to increase that amount to .33. I think in general, have we not recommended and tried to set as a reasonable amount for a home a quarter acre-foot?

MR. CATANACH: Yes, Mr. Chairman, Commissioner Sullivan, I believe the applicant may want to address that as far as leaving their options open. I think that discussion was initiated by the applicant in trying to leave their options open to increase the allocation of water in being able to have the option to increase the allocation of water for the 2.5-acre lots.

COMMISSIONER SULLIVAN: If they did a new geo-hydrological reports, could they then increase the .49 acre-foot above .5?

MR. CATANACH: I believe that condition 4 would prohibit that, because again, the intention of the .49 was to accommodate a main house and a guesthouse. And we did not want to give a full .50 for the main house and the guesthouse because that would give a full .25 allocation for the guesthouse which was not the intention. The intention of the guesthouse is just that. Part-time, temporary residency.

COMMISSIONER SULLIVAN: Because if they were to do that then they would end up as a Type II subdivision. If they were to go to .5 and if those lots currently designated the ten for guesthouses were divided, you'd have 21 plus five more potential, which would be 26 and you'd actually have a Type II subdivision, wouldn't you?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, in fact that discussion came up and what came out of that is if the second unit on ten of those lots is not regulated as a guesthouse then it should be included in the calculation for gross density. So yes, it does go to what you're saying there that it would be included in the gross density which would change the classification of the subdivision.

COMMISSIONER SULLIVAN: It would be a Type II subdivision. In order to stay as a Type III subdivision, the houses are guesthouses and the staff condition is that the water usage can't exceed .49 acre-feet per year.

MR. CATANACH: There are some other things that would regulate the second unit on ten of those lots, the guesthouses. The covenants will state that the guesthouse cannot be rented out separately from the main house. I believe the covenants would state that no further subdivision can occur within this subdivision as well. So we would not change the total number of lots and also the guesthouses remain as guesthouses.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Catanach, how big are the guesthouses?  
How many square feet?

MR. CATANACH: Commissioner Campos, I don't have that information right off. I think we would need to refer to the applicant.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Correct me if I'm wrong, Joe. There's no limit on guesthouse size.

MR. CATANACH: Mr. Chairman, we also talked about whether that was something that we wanted to do as part of the covenants again to make sure that those second units on the ten lots would remain as guesthouses but no, we did not take that step to regulate the size of the guesthouse at this point.

CHAIRMAN DURAN: But the Code doesn't require a specific size for a guesthouse.

MR. CATANACH: The Code doesn't address guesthouses at all, really. That's correct, Mr. Chairman.

CHAIRMAN DURAN: So if you impose that on them, wouldn't that have to be an ordinance change? How could you impose a requirement that's not part of the ordinance?

MR. ABEYTA: Mr. Chairman, it should be an ordinance requirement before you impose it.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER SULLIVAN: One other question of staff. Could you help me understand, in the applicant's report, page 5, under water availability, it says - this is their disclosure statement to the purchasers. It says each 2.5-acre lot is limited to .33 acre-feet of water and each five-acre lot is limited to .64 acre-feet of water use per year.

CHAIRMAN DURAN: What page are you on?

COMMISSIONER SULLIVAN: Page 5 of the disclosure statement.

COMMISSIONER CAMPOS: Can you hold on for one sec so we can all get there.

COMMISSIONER SULLIVAN: Sure. It's after the maps. It's Exhibit E.

COMMISSIONER CAMPOS: Paragraph 17? Water availability?

COMMISSIONER SULLIVAN: Correct. Could you give me some clarification on that?

MR. CATANACH: Yes, Mr. Chairman. That was the applicant's initial proposal. They have not changed their disclosure state at this time consistent with the conditions that are listed on the staff report. They have not changed the disclosure statement yet.

COMMISSIONER SULLIVAN: So approval of this request would not indicate approval of this disclosure statement?

CHAIRMAN DURAN: They would have to amend the disclosure statement to reflect the approval, right?

COMMISSIONER SULLIVAN: Well, that's another way of saying it.

MR. CATANACH: The staff has the responsibility of making sure that all submittals are consistent with the conditions and the approvals. Staff will review all submittals

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including the disclosure statement to make sure they are consistent with the approvals and the conditions.

COMMISSIONER SULLIVAN: So at this point they're requesting final development plan and plat approval. So this is the last time the County Commission sees this. Correct?

MR. CATANACH: Yes, Commissioner Sullivan. That's correct.

COMMISSIONER SULLIVAN: So are there any other deviations in the disclosure statement that you or the applicant are aware of from the staff conditions?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, the entire disclosure statement needs to reflect compliance with the approvals and the conditions. The entire disclosure statement needs to be redone.

COMMISSIONER SULLIVAN: And you review that in-house? You do that with staff review?

MR. CATANACH: Yes, Commissioner.

COMMISSIONER SULLIVAN: So, getting back to my question. We're not acting on the disclosure statement here. We're acting on the final development plat and plan?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, the disclosure is part of the subdivision submittals. In fact, again, any approval of this subdivision, the disclosure statement will have to be in compliance.

COMMISSIONER SULLIVAN: Thank you.

CHAIRMAN DURAN: So that's a No, right?

MR. CATANACH: The answer is that the disclosure statement is part of the submittals and yes, in fact it is -

COMMISSIONER SULLIVAN: It's defective.

MR. CATANACH: The disclosure statement needs to be redone, yes.

CHAIRMAN DURAN: Any other questions of staff?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Mr. Catanach, has the water been proven in terms of the availability for this development?

MR. CATANACH: Yes, Commissioner Montoya, the applicant has submitted a water availability report and it has been reviewed by the County Hydrologist and the State Engineer as well. And the water report does demonstrate adequate water to support the subdivision with the water restrictions. I do want to point out there are, I believe there's conditions and the submittals would still need to include water quality. So I don't want to mislead you that all aspects of water have been addressed. Water quality would still need to be submitted in compliance.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman.

CHAIRMAN DURAN: Commissioner Campos.

COMMISSIONER CAMPOS: The proposal is to use septic tanks for all these homes?



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MR. CATANACH: Yes, Commissioner Campos.

COMMISSIONER CAMPOS: Is there any other alternative solution to that, sharing of septic tanks or advanced septic systems or anything like that?

MR. CATANACH: Based on the number and size of the lots in the subdivision, the County does not require a community sewer system. To try and answer your question, the letter from the Environment Department indicates that the disclosure statement would have to indicate that in the event that soils are not adequate – for the most part, the soils are adequate for conventional septic tanks, but in the event that one of the lots comes in and the soils are not adequate, it would have to be clearly disclosed that the lot owner may have to spend more money on an advanced alternative septic system.

COMMISSIONER CAMPOS: Are there lots surrounding this piece of land?

MR. CATANACH: Yes, Commissioner Campos.

COMMISSIONER CAMPOS: There's substantial development here.

MR. CATANACH: Yes, there is already substantial development that the Environment Department has a fair idea that in fact the soils can accommodate conventional septic systems.

COMMISSIONER CAMPOS: Mr. Catanach, you said that the ordinance does not mention anything about guesthomes?

MR. CATANACH: Mr. Chairman, Commissioner Campos, the County Code does not address guesthomes, no.

COMMISSIONER CAMPOS: So what authority do we have to allow guesthomes if we have to have everything in the Code?

MR. CATANACH: The authority is the proposal is still within the density. The zoning that regulates density is still being met.

COMMISSIONER CAMPOS: But what's a guesthome? If it can be any size, anything, it's just another home.

MR. CATANACH: It's a second residential unit. However, in trying to work with this issue, without it being specifically being addressed, we feel that if there's going to be guesthomes on these lots they need to be regulated as guesthomes, through the covenants and specifically that it's not a full-time permanent occupancy.

COMMISSIONER CAMPOS: That's very difficult to enforce. Don't you agree? Most of these guesthomes become permanent rentals.

CHAIRMAN DURAN: No they don't.

MR. CATANACH: Mr. Chairman, Commissioner, I think that certainly on the surface it would be difficult to enforce but the County staff, by incorporating it into the covenants and restricting the amount of water, staff is comfortable that these homes can be regulated as guesthouses.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN DURAN: Mr. Catanach, in the Basin Hydrological Zone, is it not correct that if you have a five-acre lot you can have two dwellings? Meaning, if you had a main house and you had a guesthouse you would meet the density requirement for the Basin

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Hydrological Zone.

MR. CATANACH: Yes, Chairman Duran. That's correct.

CHAIRMAN DURAN: And that's the reason they're asking for a guesthouse on five acres is because it meets the Code.

MR. CATANACH: It meets the zoning for density, yes.

CHAIRMAN DURAN: And they're not asking for a guesthouse on the 2.5-acre lots.

MR. CATANACH: That's correct. They would only be asking for the guesthouse on the larger.

CHAIRMAN DURAN: Okay. Thank you. Why don't we move into the public hearing process. Unless someone really has a question for Mr. Catanach. A burning question. Is the applicant here? Please state your name and address for the record. Let the Clerk swear you in.

RICHARD GORMAN: Mr. Chairman, my name is Richard Gorman. My address is P.O. Box 8841, Santa Fe, New Mexico.

[Duly sworn, Richard Gorman testified as follows:]

MR. GORMAN: Mr. Chairman, members of the Commission, I'll quickly address a few of the issues that were raised. With regard to the 2.5-acre lots and actually the entire subdivision, this is intended to be a horse owners subdivision. So the .33 acre-feet that we're hoping to secure for the 2.5-acre lots is to sustain a house and two horses. That's the intent of why it's not .25 acre-feet for the 2.5-acre residents.

With regard to the five-acre tracts, we demonstrated with the geo-hydrologic report that we presented that we had adequate water for .64 acre-feet for virtually all of the lots, be it 2.5-acre or five-acre. As a result of our discussions with staff they made it clear that they did not want us to have two dwellings, full time dwellings, even on a five-acre tract. The presentation that Joe mentioned is correct; we do meet the Code requirements for two full-time residences. We have more than five acres and we demonstrated that we have more water than a half acre-foot. But their desire is not to have two full time residences that could be rented. So we agreed. The intent for the second residence on the larger lots is really for caretakers to watch those horses when someone who is living in the primary house wanted to travel elsewhere, they would have somebody that could maintain their horses for them. So we have no problem saying that a house and only a guesthouse would be allowed on the five-acre lots and that we limit the water usage to .49 acre-feet and that we put restrictions, a whole series of restrictions that first off, .49, no further subdivision of those tracts and we have to put information in both the disclosure statement, the disclosure statement has to be changed and our restrictive covenants have to be modified that that second home cannot be lived in full time. We have no problems with that because the intent was to have that second house so that there could be caretakers for the horses.

The disclosure statement, Commissioner Sullivan, as you stated, it's the one that we turned it. It's the result of our discussions with staff that needs to be changed to reflect the approval. So the disclosure statement and our restrictive covenants for that matter have to be,

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and we are committing to make them consistent with the approvals of this Board.

The final issue I guess I would address is the liquid waste system question that was raised.

COMMISSIONER CAMPOS: And also the size of the expected – are there any limitations on the guesthomes?

MR. GORMAN: Yes. As was stated, there's nothing in terms of the Code, but I can tell you what our intent is and what's reflected in the restrictive covenants. The main houses are going to be limited to no more than 3,900 square foot, for the main houses. And the guesthouses, which are only allowed on the five-acre lots, may be no more than 50 percent of the size of the main houses.

COMMISSIONER CAMPOS: Fifty percent?

MR. GORMAN: Fifty percent. The intent is truly for caretakers' purposes.

COMMISSIONER CAMPOS: 1800 square feet?

MR. GORMAN: Yes. That's what it comes to. Yes.

COMMISSIONER CAMPOS: That's pretty big.

MR. GORMAN: That's the limitation. We didn't want it to be excessively restrictive and then regret it later. Most of them would probably be lower. But that's the way our restrictive covenants have been structured.

The liquid waste question, the soils out there are not problematic for septic systems. We did look at the possibility of some kind of centralized system, clustering septic tanks. The real problem was is that the average lot size on this project is something like 3.4 acres and the land is flat. To get any kind of centralized system we were going to land up having a whole series of pump stations just to move the sewage to an area where you could have a centralized system, and then have to pressurize that water to get it back to any place that we would use it for, let's say, irrigation.

The bottom line is because of the large nature of the lot sizes and the flatness of the terrain, it was just impractical to any type of centralized system. But more importantly, in terms of environmental considerations, the soils are all alluvial materials and the water table is very deep. It's very deep. So the possibility of contamination is low. I'm available to answer any questions which you may have.

CHAIRMAN DURAN: Any questions of Mr. Gorman?

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN DURAN: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Richard, how far is the subdivision from the County water system?

MR. GORMAN: Boy, nothing less than 10 miles. The closest that I'm aware of to the County system would be over near –

CHAIRMAN DURAN: La Serena. That subdivision Hurlocker and –

MR. GORMAN: That's right. That's right. So that's maybe not quite ten miles.

COMMISSIONER SULLIVAN: Several miles.

MR. GORMAN: Yes, miles.

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CHAIRMAN DURAN: Three and a half.

COMMISSIONER SULLIVAN: Okay. Thank you.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER CAMPOS: What about the Fire Marshal report? Have you addressed that?

MR. GORMAN: I don't have a copy -

COMMISSIONER CAMPOS: There's not one, apparently.

MR. GORMAN: Oh, no, we did meet with Hank Blackwell to discuss the fire issues. The 60,000-gallon tank is located on this subdivision. The Board of County Commission approved the use of that tank for an adjoining subdivision called Heartstone Subdivision which Mr. Altshuler agreed to allow them to have access for fire purposes only. But the 60,000 gallon storage capacity is onsite. We met with Hank to make sure. The way it's sized is the ability to respond to a single house fire, the way they sized that tank. So they don't anticipate multiple fire. I think that's the way they come up with it. But we do meet their requirements.

COMMISSIONER CAMPOS: Okay. Thank you.

COMMISSIONER ANAYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER ANAYA: Mr. Gorman, you said you were going to have horses? On which lots? All of them?

MR. GORMAN: All lots. Horses will be permitted on all lots. The two-acre lots will be limited to no more than two horses on a 2.5-acre lot. And on the lots that are larger than five acres, they'll be allowed to have up to four horses on the five-acre lots.

COMMISSIONER ANAYA: Two and half acres -

MR. GORMAN: No free roaming, by the way. They won't be allowed to free roam.

COMMISSIONER ANAYA: So the .25 acre-feet of water is enough to handle two horses?

MR. GORMAN: Absolutely not. That's the reason why we have already done a geo-hydrologic report that demonstrates that we have much more water available to us. And that's why we asked to be able to increase our allocation to .33 on the 2.5-acre lots to have enough water for the horses and the house.

COMMISSIONER ANAYA: Okay. Thank you.

CHAIRMAN DURAN: Okay, it's a public hearing. Is there anyone out there that would like to speak for or against this project? If not, what's the pleasure of the Board?

COMMISSIONER SULLIVAN: I have another question, Mr. Chairman. On the 2.5-acre lots, Mr. Gorman, which is awful small for horses, the applicant then also needs to construct a barn, right? The owner of the 2.5-acre lot and house.

MR. GORMAN: I wouldn't say a barn, but perhaps - would you like to -

COMMISSIONER SULLIVAN: Someplace, well, you don't leave the horses outside all year.

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MR. GORMAN: Corrals.

COMMISSIONER SULLIVAN: They get snowed on.

CHAIRMAN DURAN: Like a dog house. They do a horse house.

COMMISSIONER SULLIVAN: So you have to – how do your conditions, what do your covenants anticipate with regard to that?

[Previously sworn, Don Altshuler testified as follows:]

DON ALTSHULER: Well, we require the barn to be a minimum of 125 feet from the property line, which on 2.5-acre lots does restrict a lot. We don't expect too many of the 2.5-acre lots to have horses. We hope mostly in the five acres. But we had a few people that really wanted to, friends that wanted to keep the price somewhat down. They wanted two horses so we said yes.

COMMISSIONER SULLIVAN: While you're there, let me ask Roman. On the 2.5-acre lot, is there any restriction on the barn? Or I can ask Mr. Catanach. Is there any restriction on the size of the outbuildings?

MR. CATANACH: Mr. Chairman, Commissioner Sullivan, anything over 2,000 square would have to come before the EZC and EZA as a special exception. There are lot coverage requirements but lot coverage for building area on 2.5 acres is going to be quite substantial. But there are lot coverage requirements and anything over 2,000 square would have to come before the EZC and the EZA for a special exception.

COMMISSIONER SULLIVAN: Okay, so obviously then there'll be some covenants regarding outbuildings. Is that correct, Mr. Altshuler?

MR. GORMAN: We really hadn't gotten into great detail in terms of limiting any large structures that they may have beyond what the County was limiting, which is 2,000 square feet. As Mr. Altshuler said, we don't anticipate barns on every lot.

COMMISSIONER SULLIVAN: I'm just – I live on a 2.5-acre lot is the reason I'm visualizing how much – a corral, a barn, a house, a drive, a studio.

MR. GORMAN: No studios.

COMMISSIONER SULLIVAN: No studios.

CHAIRMAN DURAN: No studios are allowed?

MR. GORMAN: No, no. The house is all that's allowed on the 2.5-acre, one house, period.

COMMISSIONER SULLIVAN: In a 2.5-acre lot, when you compute the – the 2.5-acre lots are computed to the center lines of the road. Is that correct?

MR. GORMAN: That's correct.

COMMISSIONER SULLIVAN: And your roads are what in right-of-way? Fifty feet?

MR. GORMAN: Thirty-eight feet.

COMMISSIONER SULLIVAN: Thirty-eight feet. The right-of-way?

MR. GORMAN: Fifty feet.

COMMISSIONER SULLIVAN: Fifty-foot right-of-way. So the roads subtract from the lot size.

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MR. GORMAN: Correct.

COMMISSIONER SULLIVAN: And that varies from lot to lot of course. So your 2.5-acre lots are 2.5 gross acres and they're diminished by whatever roads front on them, that right-of-way. So you have somewhat less than 2.5 acres. So you feel that that's still appropriate for a 3,900 square foot house, a 2,000 square foot barn and a corral and a drive, one next to the other?

MR. GORMAN: Sure.

COMMISSIONER SULLIVAN: Two horses times two horses times two horses. These are real horse lovers. These are real horse lovers.

MR. ALTSHULER: I don't know if this is allowed.

COMMISSIONER SULLIVAN: As long as it's not obscene.

MR. ALTSHULER: I would like to explain really what I want to do there and then try and fit it into the Code somewhere. I tend to agree with you on the 2.5 acres. What I was really upset about was the 4.9 acres on the five acres, and I have it fixed so that they never could be sold and be smaller and it might be smaller than 50 percent. It might be 50 percent up to some smaller number. But I do want them as houses for a staff person to be there for the horses. What has happened because of the 4.9 acres, we can't put permanent staff. We have to get the seasonal staff there. But I really don't want to rent it out as a separate thing.

I would like to somehow get exactly what I want if I could, get it where there was a restriction against a separate house, allow so we don't have to have just temporary staff in the barn. I want to see if I can tie the thing together. And it wouldn't do that to also put a restriction that no horses are on the 2.5-acre lots because I'm going to live there. I had the same feeling you had about the 2.5 acres but I was just trying to, sometimes people would combine the lots of something but I would like to agree to limit no horses on the 2.5 acres, which takes a lot of the horses out.

CHAIRMAN DURAN: You want to do some horse trading.

MR. ALTSHULER: I want to do some horse trading.

COMMISSIONER SULLIVAN: You understand that doing that puts you into a Type II subdivision, which requires a centralized water system.

MR. ALTSHULER: Well, apparently there are a lot of subdivisions, a lot of guesthouses, as long as you can never be subdivided. I'm advised that in itself, as long as you agree it's never going to be subdivided. The water restriction is a new concept. I'm agreeing - I could have taken and sold the whole section out and just done smaller lots. I didn't want to do that. I'm trying to design the lots according to the land. But I would like to have, I know myself, we do travel. We love horses. We have a trainer there and we told the trainer that you can't live there permanently. Part of the year you're going to have to go to Florida or - well, they like to. But I wish I didn't have that restriction. If it was some way of restricting that house so truly not a house that would never be sold, separated, that would be lived in by anyone other than someone that's working for us I would like to do that, but I hate having to tell the staff that they can't be there on a full-time basis.

COMMISSIONER SULLIVAN: That's certainly your decision whether or not

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you want to have horses on the 2.5-acre lot. I just was trying to clarify with staff what all could go on that lot. If you don't want to include horses in your restrictive covenants that's okay. I just wanted to clarify that we could or you could have a lot of things on that lot.

MR. GORMAN: Unfortunately, as you mentioned, I don't think Don fully understood that if he gave up the horses on the 2.5 and accomplished what he asked for he'd be a Type II subdivision and would require a central water system and we don't want to go there. Which is the whole reason we structured the subdivision in a different way and accepted the conditions that staff has recommended.

COMMISSIONER SULLIVAN: I think that would be perfectly acceptable. I'd rather see a Type II subdivision. I'd rather see a central water system and I'd be willing to give you your guesthouses.

MR. GORMAN: We'll leave the application as it is, thank you.

COMMISSIONER SULLIVAN: All right. It's entirely up to you, obviously. I'm horse trading here and I'm not getting anywhere. That's all the questions I had, Mr. Chairman.

CHAIRMAN DURAN: Is there a motion? Did I ask if there was anyone out there that wants to speak to the issue? What's the pleasure of the Board? I'll make a motion that we approve EZ Case #S 02-5401 with staff recommendations.

COMMISSIONER MONTOYA: Second.

CHAIRMAN DURAN: Any further discussion?

**The motion to approve EZ Case #S 02-5401 passed by unanimous [5-0] voice vote.**

- XIII. B. 11. EZ Case #01-4631. Santo Niño de Felipe. Ray and Yolanda Reynolds (Jim Siebert, agent) applicant is requesting an extension of the final plat/development plan approval previously granted for a mixed use subdivision (residential, commercial) consisting of 20 residential lots and two commercial tracts on 7.8 acres. The property is located Airport Road within the two-mile Extraterritorial District, Sections 6 and 7, Township 16 North, Range 8 East**

MR. CATANACH: Thank you, Mr. Chairman, Commissioners. Ray and Yolanda Reynolds, Jim Siebert is the agent are requesting an extension of the final plat/development plan approval previously granted for a mixed use subdivision. That would be a residential and commercial subdivision consisting of 20 residential lots and two commercial tracts on 10 acres. The property is located along Airport Road. August 8, 2000, the BCC granted final plat/development plan approval of the referenced subdivision. On January 8, 2002 granted a one-year extension which will expire on January 8, 2003. The Subdivision Regulations require subdivision plats to be recorded within 18 months from the date of final

approval by the BCC or the approval becomes null and void unless an extension is granted by the BCC for good cause as demonstrated by the applicant.

The Subdivision Regulations do not address how many extensions may be granted by the BCC. The applicant has submitted a letter requesting an extension and indicating the reasons for the requested extension and the recommended action is as follows. The general criteria used by staff to evaluate extensions of subdivision approvals includes the following: status of progress regarding compliance with conditions of approval, if any new community plans or ordinances have come into effect that would cause this proposed development to be non-conforming, and status of current land use conditions, infrastructure or public services relevant to compatibility, capacity and impacts.

The applicant has indicated that the City representations and commitments are not conclusive regarding the use of City services for water and sewer. The general procedure, and I did include a letter in your packet indicates that in fact the City wants information on approved subdivisions that haven't been built out and that the City is going to submit that information I believe to their public utilities Commission but there is still a process going on with the City to determine if in fact, that subdivisions that have been granted approval but haven't been built out, if they're still going to recognize their commitment for water service because certainly there was a commitment and representation for water service at the time the subdivision was approved by the Board back in 2000.

The general procedure for establishing reliance and protecting an entitlement is to obtain City approval of the water and sewer plans and to submit a financial surety as accepted by the City. Again, that's where this process is. My understanding is that the City staff has put this subdivision on hold. It has not signed off on the subdivision plans at this point because of the process I just mentioned that the City is going through when you have a subdivision that's been approved but has not built out. So in fact the City staff has been instructed not to sign off on the subdivision at this time until they go through that process.

Staff recommends that the applicant specify to the BCC why the City's representations and commitments are not conclusive regarding the use of City services for water and sewer. And I believe this applicant is going to have this same discussion that I just indicated to you that in fact the City staff has been directed not to sign off on the subdivision plans at this time because there's still a process going on of water commitments by the City. Thank you, Mr. Chairman.

COMMISSIONER SULLIVAN: Mr. Catanach, refresh my memory. This is the same subdivision that came up based on our minutes of January 8, 2002, just a year ago. The applicant requested a 12-month extension at that time which I believe was granted. At that time the applicant said water was available and apparently since then has had bad news from the City or uncertain news. Also, the issue was brought up at that time about the layout of the subdivision itself and one of the reasons for the request for extension was to make it fit better with the Southwest Area Plan. When I look at the subdivision map it looks the same to me and maybe this is a better question for the applicant, but have you and the applicant have any discussions about that plan and how it fits in with the Southwest Area Plan?



MR. CATANACH: Mr. Chairman, Commissioner Sullivan, my understanding is that the applicant has looked into how this subdivision fits into this Southwest Area Plan but I think, again, I can't answer that question specifically. I think that the applicant would need to address that.

COMMISSIONER SULLIVAN: Okay. I'm just looking at the minutes for that meeting and Mr. Siebert indicates the one thing that the Southwest Area Plan has recommended for this area is more commercial type uses, especially live-work type uses. So one possibility would be to take this mundane subdivision and turn it into, instead of a purely residential, turn it into live-work. But we couldn't do that until the present Southwest Area Plan has been adopted. And for a long time I think we thought it would never come to fruition but actually they're in their final hearing process now.

So I was hopeful and I'm still hopeful that we may have a somewhat more compatible plan with the Southwest Area Plan.

MR. CATANACH: Mr. Chairman, like I say, Commissioner, I can't address that specifically but my understanding is that that Southwest Area Plan is encouraging this type of mixed-use subdivisions, residential and commercial. Now, you mentioned live-work and that in itself is a form of mixed use as is this subdivision.

COMMISSIONER SULLIVAN: Okay. We can have Mr. Siebert discuss that. Mr. Chairman, back to you.

CHAIRMAN DURAN: Go ahead. Oh, this is my swan song. Is the applicant here? You guys don't want to change your mind, do you? There's plenty to change up here.

[Duly sworn, Jim Siebert testified as follows:]

JIM SIEBERT: My name is Jim Siebert. My address is 915 Mercer. The issue, and I think it's not only going to apply to this particular development but other developments in the future that are on City water is whether the City is going to provide water to this development or not. We did have a water availability statement at one time. The water availability statements are good for a year. That time period has lapsed. We have asked for a renewal of that. The present policy is they do not, whether you're inside or outside the city limits, they no longer provide water availability statements. The article I handed out [Exhibit 2] and I guess the question is if Joe is saying perhaps I can provide a more definitive statement why the City is not providing water to this development or other developments in the Extraterritorial area. And the answer is I don't have one. What you do is you submit you mylars and the mylars just sit there and when you ask a question about well, what is the reason? What is the rationale? We've provided you data on our project, are you going to get back to us and notify us whether we receive water or not?

The answer is there is a committee but they don't tell you who the committee is, who's on the committee or when they're actually going to be making their decision. So I think we're asking for an extension of time. The reason is that we just simply can't satisfy the criteria of having Sangre de Cristo sign off on the plan.

CHAIRMAN DURAN: Any questions of Jim?

COMMISSIONER SULLIVAN: Mr. Siebert, to follow up on that question I

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had of Mr. Catanach, are you also looking at some modifications to the plan or is this the way you and the applicant envision the plan will be?

MR. SIEBERT: We have not modified the plan. We're not saying that that still isn't a possibility when the Southwest Area Plan is adopted. This is now kind of sandwiched between a commercial project on the front and an office project behind it. So something like a live-work unit probably makes a lot of sense but without having water, you don't have a project and at this point we don't get any kind of direction from the City whether they're going to provide water or not, or under what condition.

COMMISSIONER SULLIVAN: My last question then is, one of the things that the staff looks at when they look at extensions is whether by granting any extension you would in essence get around any new ordinances. Is that happening at all in this extension request?

MR. SIEBERT: Well, I think Joe did an evaluation – that's one of the criteria is if something changes in the interim, you have to comply with those new standards and I think Joe's evaluation is that there really has been no change of circumstance from the Code.

COMMISSIONER SULLIVAN: Is that correct, Mr. Catanach.

MR. CATANACH: Yes sir.

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

CHAIRMAN DURAN: Any other questions of Jim?

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Mr. Siebert, essentially this has expired then already in terms of the extension from the County?

MR. SIEBERT: Well, the application was actually made in December but I think the desire was to put it on in January to avoid the Christmas meeting.

COMMISSIONER MONTOYA: And there's still no guarantee that a year from now we may be granting another extension.

MR. SIEBERT: There's not. If the City says we're going to put these projects on hold until we have a definitive water supply and that may be anywhere from three to seven years, I don't know what we'd do at that point. Whether there's a Code amendment that would be similar to what was adopted in Eldorado that the projects would be valid – because in essence what they've done is they've placed a moratorium on these projects. The projects would be valid for the same length of time that the moratorium was placed by the City.

CHAIRMAN DURAN: Is that what we did in Eldorado?

MR. SIEBERT: Yes.

COMMISSIONER MONTOYA: Thank you, Mr. Chairman. Thank you, Mr. Siebert.

MR. SIEBERT: Thank you.

CHAIRMAN DURAN: Okay. Is there anyone out there that would like to address the Commission concerning this issue? What's the pleasure of the Board?

COMMISSIONER MONTOYA: Mr. Chairman.

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CHAIRMAN DURAN: Commissioner.

COMMISSIONER MONTOYA: Move for approval of EZ Case #S 01-4631.

COMMISSIONER CAMPOS: Second.

CHAIRMAN DURAN: Any further discussion?

COMMISSIONER SULLIVAN: Are there conditions to this extension?

COMMISSIONER MONTOYA: Yes. Well, recommended action, right, Mr.

Catanach?

MR. CATANACH: The prior conditions that were adopted by the Board would still apply. What I did want to clarify though is that any consideration for an extension would be for a one-year period.

CHAIRMAN DURAN: Okay. Any further discussion?

**The motion to grant an extension for EZ Case #S 01-4631 passed by unanimous [5-0] voice vote.**

CHAIRMAN DURAN: Well, gentlemen, I want to thank you all for allowing me to be your chairman for the last couple years and Commissioner Campos, you won't have me around to beat up anymore.

COMMISSIONER MONTOYA: I'm going to miss it.

**ADJOURNMENT**

Chairman Duran declared this meeting adjourned at approximately 9:15 p.m.

Approved by:

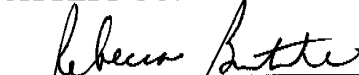


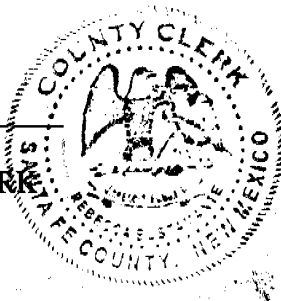
Board of County Commissioners  
Paul Duran, Chairman

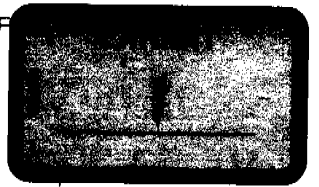
Respectfully submitted:

  
Karen Farrell, Commission Reporter

ATTEST TO:

  
REBECCA BUSTAMANTE  
SANTA FE COUNTY CLERK





**JAMES W. SIEBERT  
AND ASSOCIATES, INC.**

**2352248**

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915 MERCER STREET \* SANTA FE, NEW MEXICO 87505  
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jwsiebert@newmexico.com

January 14, 2003


Roman Abeyta  
Land Use Administrator  
P.O. Box 276  
Santa Fe, New Mexico 87504

Re: Case # CCDRC-A\V02-5350, Zena Boylan Variance

Dear Mr. Abeyta:

With this letter I am asking for withdrawal of the above referenced case.

Sincerely,



James W. Siebert  
JWS/lis

Xc: Zena Boylan

# Future of water, development

By TOM SHARPE  
The New Mexican

Santa Fe city officials don't know or won't say how much water has been promised to future developments, both inside and outside the city, four months after the City Council asked for an accounting.

"We have asked for that list to be generated," Councilor Karen Heldmeyer said last week. "It has been discussed by a subcommittee in

executive session because of the legal issues involved.

"There will be a public hearing on it at some point, probably in February, but how much of it is under attorney-client work product and how much isn't, I'm not sure," she said. "There's a list of these letters and agreements between all these different developers and the city."

Councilor Rebecca Wurzburger said that for months she has been asking for "what I call 'promises made' and, of course, we're trying

to define what that means.

Last September, when the City Council passed an ordinance linking new water hookups to retrofitting existing buildings with low-flow toilets, Councilor Matthew Ortiz sponsored a resolution asking the Water Division for an accounting of water claims by November. The resolution asked for the list to go to the council before being made public.

Ortiz said at the time that developer David Thornburg misled the public by telling the Santa Fe County

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## remains unclear

Commission that the city Water Division had pledged to provide water through county pipes to his proposed development — 297 to 742 houses and 1.15 million to 4 million square feet of commercial space — along N.M. 14. Thornburg has not responded to messages for comment.

Dale Doremus, environmental projects coordinator for the city Water Division, said she knows nothing about the list but believes Reed Liming of the city Planning and Land Use Department is work-

ing on it. Liming was not available for comment. City Media Relations Director Juan Rios also was not available for comment Friday.

Councilor David Pfeiffer said the council "deferred the presentation of the water company data, the water promises and the water status of supply and demand (until February)," though there might be discussion of the subject during the Public Utilities Committee meeting at 5:15 p.m. Wednesday in City Council Chambers.

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