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SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL PUBLIC HEARING

January 24, 2006

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

SFC CLERK RECORDED 03/16/2006

MINUTES OF THE
SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
AFFORDABLE HOUSING PUBLIC HEARING

January 24, 2006

This study session on affordable housing of the Santa Fe County Board of Commissioners was called to order on the above-cited date in the Commission Chambers at the County Courthouse at approximately 6:00 p.m., by County Commission Chairman Harry Montoya.

Roll call indicated the presence of a quorum with the following Board members present:

Members Present:

Mike Anaya, Chair
Paul Campos, Commissioner
Harry Montoya, Commissioner
Jack Sullivan, Commissioner
Virginia Vigil, Commissioner

Member(s) Excused:

None

APPROVAL OF AGENDA

MR. GONZALEZ (County Manager): Mr. Chairman, Commissioners, I would just like to ask you to think about a follow-up to the strategic planning retreat that we had this last fall. We're proposing hopefully to try and set something up for the Commission, a special study session, and we're looking from the staff level at Wednesday, February 22nd, Monday, February 20th or possibly Tuesday, February 21st. I just wanted to put that in front of you and see whether you were interested in continuing the process and whether one of those dates would work in the future.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Could you repeat those dates?

MR. GONZALEZ: Wednesday, February 22nd, Monday, February 20th or possibly Tuesday, February 21st and those are all after the session ends.

CHAIRMAN MONTOYA: How about the 22nd?

COMMISSIONER CAMPOS: Wednesday all day.

COMMISSIONER VIGIL: That works for me.

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COMMISSIONER CAMPOS: Starting at what time?

MR. GONZALEZ: Starting at nine.

COMMISSIONER VIGIL: Is that 9 to 4, Gerald?

MR. GONZALEZ: Sure.

CHAIRMAN MONTOYA: Is there anything on the agenda? Can we have a motion.

Commissioner Sullivan moved to approve the agenda as published. His motion was seconded by Commissioner Anaya and passed by unanimous voice vote.

Santa Fe County Ordinance No. 2006-: An Ordinance Requiring Affordable Housing in Projects and Minor Projects Developed within the Central Area of the County, Creating the Position of Affordable Housing Administrator, Providing for Enactment of Affordable Housing Regulations, Providing for Incentives to Ameliorate the Cost of Providing Affordable Housing, Ensuring Long-Term Affordability, Providing for Alternate Means of Compliance and Means to Address hardship Situations, Amending Ordinance Nos. 1996-10, 1997-03, 2000-13, 2001-7, and 2002-1, Repealing Section K of Ordinance no. 2002-12, and Repealing Ordinances No. 1997-02, 1997-10 and 2000-11.

CHAIRMAN MONTOYA: What I'd like to do this evening is take any public testimony and then we'll move onto discussion of the Board and staff at that point. Yes, Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I've been thinking that perhaps one issue that has not been considered is the energy issue for affordable housing and I would like to put that out there as something that anyone can comment on. For example, achieving Energy Star status on the affordable housing units, if anyone here would like to talk about that I would welcome their input.

CHAIRMAN MONTOYA: Okay, thank you, Commissioner. Well noted. So at this point, Mike and then anyone else please come on up.

MIKE LOFTIN: I was just going to comment on the Energy Star issue that Commissioner Campos raised. This is something that the task force discussed, can we support environmentally friendly, energy, water efficient building through this ordinance. We didn't get it into the one draft of the ordinance and there's a recommendation – right now it's in the alternative means of compliance, and I think most of us don't believe that's where it belongs. But the recommendation of the task force was to provide an incentive to do green building so if you build an affordable unit which was for instance Energy Star rated, and the reason a bunch of us like the Energy Star thing is that it's a known thing. It's an EPA standard and there's people – you've got to pay someone to come out and verify, it's a performance standard and you're basically saving 30 percent more energy than what you would under the model energy code, and there's an objective way to evaluate it. If we have an objective standard that way, that if you build an affordable unit that met Energy Star standards you could increase the price of that unit. We're talking somewhere between \$2- or \$3,000. And the logic of that is that if a builder does that then the operating cost of that building decreases so you could afford to pay a little bit more in your mortgage to pay for those up-front costs because you're going to save more than that on your energy cost. So we think it makes a lot of sense and goes to the affordability of homes.

The way we think of it is that affordable homes, the price of a home, what you pay to borrow the money to buy the home and what it costs to operate the home. So I think it's a really good way to address the operating cost of the home because that's an important part of affordability. One suggestion that I had is that we start off with an Energy Star thing because we know what that is and we put that in the ordinance that there are these incentives to provide for energy and water efficiency. The regs say to specify that Energy Star is worth - you can increase the price X amount and that allows the County to come in and say we also want to do the same thing for - to give an incentive, say for solar hot water heat, for instance, and then you could include an incentive that way. So you have a means to do that and as we know more -- I know that we've talked to some of you about what are other ways we can do that and you know the hot water heating one is, well, there's going to be a federal tax credit for some of that stuff too and we're trying to understand how all that is all going to work. I think in six months or so we're going to know more and we want to make sure there is flexibility and the regs can be amended to include other incentives to do those kinds of things. Commissioner Campos, does that get there?

COMMISSIONER CAMPOS: Yes, that sounds about right, thank you.

CHAIRMAN MONTOYA: Anything else that you would like to suggest at this time?

MR. LOFTIN: Can I comment a little later? Will I get a second chance?

CHAIRMAN MONTOYA: Okay. Rosanna.

ROSANNA VAZQUEZ: Good evening, Commissioners. I'm here on behalf of several of my clients to request that you reinsert into the ordinance the incentives for service levels 1 and 2. Those incentives that we are requesting be reinserted into those levels are the water, the relief of the development fees, the money for the infrastructure and to keep in the service level 1 and 2 the four tiers of income levels to be applied under that 30 percent. The service level 1 and 2 as it's written in the ordinance, Commissioners, is going to be your high urban growth areas. It's going to be the College District. It's going to be the areas that are governed by your utility. In those areas, like the College District, you cannot benefit from the density bonus at this time, so really the other incentives make up for not being able to have that density bonus in that district.

A question was raised to me as to whether or not this would cause sprawl in the County. Whether by allowing incentives it would cause problems associated with sprawl and I don't think so. I took a look at the ordinances this afternoon on this issue and if you limit your incentives on density bonus to the areas that are governed by your utility system, you're going to be protected by the current ordinances on density and they will be tied to the water system. So I don't think you're going to have sprawl in those areas.

I do think level service 3, 4 and 5 is where you may have some problems with the density bonus and that's where you may have sprawl issues. I would ask you to look at that. I don't believe a density bonus would comply with many of the existing plans for areas that are level service 3, 4, and 5 and I would suggest that for those service levels you apply all the incentives except for the density bonus because I do think it might be a sprawl issue out there. That would be one way to solve that concern of yours.

I wanted to see if we could have some cleanup language as well with regards to the service levels themselves. I spoke a little bit to the County Attorney about this, I don't think that there's five service levels. I think that there's really two: you're either on a utility or you're not. I think those could be simplified a little bit more than they are in the ordinance as written because there really isn't a wastewater system except the city's and I think that we could clean that up and clarify and simplify the ordinance a little bit more.

That's really all I have for you except to say, thank you for working with us. We'd like to continue working. The goal of this is to provide affordable housing and we're trying to come up with ways that the stakeholders and the people that are going to be building that affordable housing can do it. In order to that, we need the incentives in this ordinance and we would respectfully ask you to do that. Your concern about sprawl is well-taken and I think one way to avoid it is to not allow the density bonus in levels 3, 4, and 5. Thank you.

CHAIRMAN MONTOYA: Thank you, Rosanna. Next. Commissioner Duran.

PAUL DURAN: I don't really have much to say but I have a couple of concerns. I was just talking to Mr. Loftin about this, in sectionalized areas of the county where there are no utilities and no infrastructure for imported water I was asking if there was a provision for density bonus because my understanding of the ordinance is that if you're in an area where there is imported water there are density bonuses allowed. But if you go out to other areas where let's say you have a 40-acre tract of land and you were going to do 17 lots, there's no bonuses allowed for that kind of development because there isn't any imported water available. So I was trying to find out if there was any provision in the ordinance that would offer some kind of relief or some other kind of incentive for someone to provide affordable housing. Maybe when Mr. Loftin comes up again he could answer that for us. But I do have some concern that in some areas where there isn't imported water that the individual creating these lots would be penalized, well not penalized, but wouldn't be offered any kind of density bonus.

The other thing is that I hope that when you approve this plan and I'm sure you will and I think it is well needed, that you allow yourself some flexibility in the future for situations that come up that haven't been addressed in the task force. I was talking to someone the other day that had an idea of creating some affordable rental units. As you're all aware of, all the apartment complexes in town have been converted to condominiums and we have a real need for affordable rentals. There could be a way - there should be a way that individuals could meet the affordable housing requirement through affordable rentals. I know that doesn't do anything for Mr. Loftin's program but I think there is a need out there for that.

I guess the bottom line is that I hope when you adopt it there is some flexibility that would allow you to deal with issues that haven't been addressed.

CHAIRMAN MONTOYA: Thank you, Commissioner. Next. Councilor Coss, welcome.

DAVID COSS (City Councilor): Thank you, Commissioner, Mr. Chairman. I just wanted to come tonight to thank you for pursuing this ordinance. I know it was a while ago when the RPA adopted the task force report calling for this kind of an ordinance. The city adopted one late last summer and we're very committed to making it work and we're working on that even now. We're having projects and proposals come in and our affordable housing staff says that they can make all of them work and I think people are getting pretty excited about the idea of having a good supply of affordable housing in our community.

So I just rushed in to commend you on the work you're doing and hope you carry through on this and we look forward to partnering with the county to provide affordable housing to all Santa Feans.

Thank you very much.

CHAIRMAN MONTOYA: Thank you, Councilor. Next.

LYNN CANNING: Hi, I'm Lynn Canning and I was both on the RPA task force and this recent task force. I don't know that I have much to add to the technical things that you have been hearing but I do want to say that I really appreciated this process. I feel

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like it's been a process where we started with the idea and the commitment that we needed this 30 percent affordable housing not just within the city but throughout the County of Santa Fe and I know that was your commitment and what we have been working on over these past months is how to actually make it work. And I feel as though we have had a very good dialogue with members of the development community who feel as though with the incentives that are in it that they are going to be able to make it work and produce the housing which is really what we've all been aiming for. So it's been a process that has had ups and downs but it feels as though it has had a lot of integrity and it feels as though we've reached an ordinance where the balance of what we're asking for and what we're giving – and what I mean by what we're giving is the County's part of this partnership, the community's part of this partnership with the people who are going to provide this housing – is a good balance and a good model.

And I think the process has been a good model. So I want to thank you all for hanging in through it and I've appreciated it and I think we're real close now and look forward to you all moving ahead with this so we can be providing a 30 percent throughout the County and throughout the community for all the people who need it. So thank you all very very much.

CHAIRMAN MONTOYA: Thank you also, Lynn, we appreciate your work.

Next speaker.

MR. LOFTIN: By the way, I want to thank you all too, just like Lynn has thanked you for all the hard work on this and there has been a lot of work on this. One of the big issues that we talked about is the whole incentive thing. And it's always been from the very beginning commissioners have raised the issue, you know, we like the 30 percent, we're convinced there's a need for 30 percent affordable housing but the thing is we've got to strike the right balance and I think we're really close to striking that right balance. I think one of the things – I was talking to a lot of different people and maybe the right balance is this that between incentives and the requirements that the 30 percent is the requirement, we have four-tiers of pricing that the fourth tier, the new tier, of 100-120 percent is a good addition but that one would not get the incentives. I think people are okay with that. The people in the development community are okay with that, that tier doesn't get the incentive. The fire impact fee is something that I think a lot of people are worried about and it's important that we fund fire departments and waiving that fee may not be appropriate and I think people are okay with that. I think the big issue is – the remaining incentives: do they all apply across all service levels? That's what I think is a big issue and if they apply across all service levels, I think, hopefully and I'm hoping, that this is the compromise on the incentives that will work finally. I think what's going to happen, service levels 1 and 2, mostly service level 1, is where we're going to see the vast majority of affordable housing being developed so it's really important to make it work there.

Another concern – if we do all the incentives, and the only incentive and this goes to Mr. Duran's comment is that – and in fact none of this draft that you've had has a density bonus. It's never had a density bonus in 3, 4, or 5. That was – I think staff was really concerned with how you'd make that work. I know there is concern as to if that would promote sprawl so I think people are fine with that it doesn't work there. One thing that would be an exception – all the incentives across the board to all service levels with the exception of the density bonus because that density at service level at 3, 4, and 5 is really tied to availability of water and causes a lot of issues and makes it difficult to work. So I know that when Diane Quarrels was here she said you just can't do that given the way the hydrological zoning, you know the water-based zoned, makes it really difficult to do that. I think what the ordinance does is anticipates that problem and anticipates Paul Duran's concern on this that the ability for a developer to ask for an exception or a variance to the requirement

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is a lot less of a standard in service levels 3, 4 and 5 – that’s a much different thing. Certain larger developers may not have a problem complying. Other smaller ones may so there needs to be flexibility in the BCC to look at that and I think that when as you exercise that flexibility going forward, I think what will happen is that some policy decisions/options will emerge. Maybe we’ll need to tweak this a little bit and systematize that. We’re going to learn a lot as those proposals come through. We’re confident in terms of service levels 1 and 2 that is something that really works well. We have flexibility in 3, 4 and 5 so we don’t shut down. The purpose of this is not to devalue people’s land or that a developer can’t make a fair profit. The purpose of this is to develop affordable housing and with that flexibility to see have that ability to make sure we have affordable housing in all parts of the county or at least in the central area and I think that’s the main point here.

This process was never perfect and we’ve come up with something that is good enough and I think we’ve got something that is good enough and the main thing here is do we have something that is good enough that is going to continue to provide affordable housing, in other words, are we keeping our eyes on the prize and the prize is affordable housing. And I think we’ve always looked at this as something that the public sector is going to bring stuff to the table and the private sector is going to bring to the table and I think we’ve got the right balance here and I hope I’m not just being optimistic here and I hope – I’m kind of sticking my neck out and saying hopefully I think we got something that might work here. I hope that is true and I really appreciate all the hard work that everyone has done. I mean of all the things – I mean I don’t see it all the time, but I mean people worked very hard, the whole Commission, the staff on this ordinance and there’s been a lot of work. A lot of volunteer time on this and we’re almost there and I really appreciate everybody’s commitment to this issue. Thank you.

CHAIRMAN MONTROYA: Thank you, Mike. Commissioner Vigil.

COMMISSIONER VIGIL: Mike, I do have a question for you and thank you for all the work you’ve put into it. Could you address the issue regarding the distinction as to whether or not sprawl is more likely to occur in levels 1 and 2 or in levels 3, 4 and 5.

MR. LOFTIN: I think my sense of it is that in service levels 1 and 2 you have community water and you already have a commitment and most of that is happening where there is a county policy in terms of where density is going to go through the College District for example, so you tend to have a more compact form of development there. Where in 3, 4 and 5 you don’t necessarily have that and you’re not going to get a lot of density if you don’t have a community water and sewer system. All that does if you allowed the density bonus in 3, 4 and 5 my guess is that you would get more units spread out in those low-density areas, that does – I mean I can understand the consequence to that would be that you contribute to sprawl. I think what this is going to do is that you’re going to see more affordable housing being developed in those growth areas that the county has already selected and prioritized in the Community College district.

I think the balance right now in the ordinance, I think you got the balance that you want. You want to concentrate development in certain areas to reduce sprawl and not provide another incentive to push it out into other parts of the county where there’s not density; does that make sense?

COMMISSIONER VIGIL: Somewhat.

MR. LOFTIN: Other people may be more articulate on this.

CHAIRMAN MONTROYA: Related to this point, yes, go ahead.

MS. VAZQUEZ: An idea that I had is that if you are concerned about sprawl in level service 1 and 2, because those are utility areas, you could create a policy to only

extend your utility area in your high urban growth areas. Because you normally get request for utility service and so unless that development is going to address the issues of sprawl and create a development that uses low water and creates the development that you want, then don't extend the boundaries to those area. Limit it to areas where you can protect it by your ordinances which are your high urban growth areas. That would be another way to limit your concern on sprawl in service levels 1 and 2.

CHAIRMAN MONTOYA: Thank you, Rosanna. Commissioner Vigil.

COMMISSIONER VIGIL: I do have a question and Mike I thought you might be able to answer it but I'm going to throw it out there for anyone who might be able to better answer it and I'm just going to just sort of put Judy on - with regard to service levels 1 and 2, where do you foresee the size of the Community College District that those levels would be applicable in the County within the boundaries that we're looking at? I guess another way of phrasing that, is the Community College District the only area where levels 1 and 2 would be applicable?

JUDY McGOWAN (Senior Planner): I'll try to answer that. This is tied to the sprawl question I believe. I don't think in itself the affordable housing ordinance is driving sprawl. I think sprawl is being driven by other issues or a confluence of other conditions and where the County extends utilities is one of those most important conditions and then on the other side of that how we handle development where we cannot provide utilities which is a good part of the County even in the central area. And when the Growth Management Plan was adopted we didn't get an either or response from the County Commissioners. They didn't feel comfortable saying we're going to have a total anti-sprawl just growth plan and so we tried to figure out something in the middle. So it focuses on the traditional communities and on communities where you could - where you're starting to get enough compact area where you could start to help out with utilities in those areas, some of them already have some utilities. You have the growth areas which I think there's four or five of them and most of them inside the EZ, and then for large ranches the concept was that those large ranches if they develop should come in and do essentially community plans and cluster their developments and leave open space. We haven't followed that up exactly with a requirement that they do that but I have a feeling that most of them are kind of tending that way anyway. But those large ranches, those developments will probably be on the water and sewer and not necessarily County water and sewer. So we don't have a black and white system. The development is probably happening, obviously the Community College District I was just out there on Friday and I was amazed how much has happened out there - and there are infill developments around the city which may or may not be. Many of them are small and won't be on utilities if it's not offered. Some will be on County water. I have no idea what is happening with sewer. And then you're beginning to see where there is tremendous pressure now on more and more ranches to change from ranching to development and get the money as the property values rise and as it gets less and less economically feasible to ranch. And so far what we've been doing in planning is to try and work with those particular ranchers to get a better development pattern but there isn't - there certainly isn't a prohibition on them developing.

In some ways as far as sprawl is concerned, it's the small developments that are the biggest problem because if you get 6, or 8, or 10 or 20 of those all in one area and now of them have utilities and yet you know have the density that would require it.

CHAIRMAN MONTOYA: Judy, just to clarify then. No, the Community College District is not the only place where service levels 1 and 2 may be applied.

MS. McGOWAN: Well, I have to say that staff would like to look at those service level definitions again because it's not all clear right now and clarify them to make

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sure we understand exactly what they are. But you could have service level 2 certainly outside of the Community College District. And you may indeed in some areas have service level 1.

CHAIRMAN MONTOYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Those are the only questions I have thus far, Mr. Chairman.

CHAIRMAN MONTOYA: Okay. Other discussion? Commissioner Montoya, Commissioner Sullivan.

COMMISSIONER ANAYA: Thank you, Mr. Chairman. Mr. Chairman, all I wanted to say was to thank the affordable housing task force again for all their hard work and the citizens and the developers and the builders that have come forward with their suggestions and I believe now, Mr. Chairman, that staff can go back to the drawing table and work up some more things that they can bring to this Commission so that we can make a decision and pass this or look at passing this affordable housing ordinance. This has been a long time coming and I think it's going to be good for Santa Fe County.

That's all I have to say, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Anaya. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman. Again, I would echo my congratulations to everyone, staff and the public who worked on this.

I have a question and the concern still bothers me and maybe I could ask Mr. Loftin to give me his thoughts on this if he would. My understanding is that if the developer is not going to build affordable housing on the site that is being proposed for the development that they can then go to an alternate location off site and build the units there. The affordable housing only applies, the ordinance will only apply in the so-called central area but my understanding is, in the way it's written now, that the alternate locations could be anywhere in the county; is that the way your understanding of it is now, Mr. Loftin?

MR. LOFTIN: That's the way it's drafted now.

COMMISSIONER SULLIVAN: I'm wondering - I can see the benefits for example to providing affordable housing in Pojoaque, Tesuque and areas like that and I almost think that they should be in the so-called central area or whatever we want to call the area. I'm just wondering if we provide alternate sites in Edgewood is that solving affordable housing problem in Santa Fe. Could you give me your thoughts on that?

MR. LOFTIN: You know we did talk about this in a study session at one point at one of them I can't remember which one, we've had quite a few. You know there's a whole discussion on the task force of what areas this should apply to and there was I think a consensus or agreement that the central area is a good place to start. There is also sentiment that the northern area makes sense in terms of - to start in the central. But there's a lot of support for the northern to make sense as an affordable housing problem up there and that the southern area is very different. The housing market is very different. The economy is different. Much of the southern part of the County is really tied into the Albuquerque in terms of workforce so recognizing that was different. There's never a lot of enthusiasm to cover the southern part of the County under the ordinance. That was just to give you background in terms of what people thought of the area.

Then the issue was raised of where can you build homes offsite given that you have an offsite alternative means of compliance. I think everyone agrees that it makes sense in the central area. There's a demand for affordable housing in the central area and the northern area, but because the cost of housing there and can you build it offsite all the way into the southern end. My personal opinion is that I never liked that because I think we can providing

housing for a workforce that is actually working in Albuquerque but not for the work force that is working in Santa Fe. I know that when we raised this in the study session there is some sentiment among you all that let's keep that option open. So that's what I mean – it's your call, obviously, on that. My worry is that you'll get a bunch of development happening affordable housing development because some of the prices of these homes are going to be market rate homes near Edgewood, right. So you're going to get more – so the homes that are probably going to serve that market anyway are going to satisfy an affordable demand that is created farther north. That's my concern is that – now I don't know if that's actually going to happen but that was my concern that you get some goofiness here. It just felt like a loophole that we need to pay attention to.

COMMISSIONER SULLIVAN: I guess there's two ways to take care of that. One we could just say the affordable housing has to be developed in the quote central area. And then if we felt that we were also dealing with a market north of where we currently have the central area designed we could put a bubble on the area and have it include the northern part of the county as well. Does that --

MR. LOFTIN: Well, there's a second option that got discussed too. So one way is way you just can't do it in the southern part. The other is because there was this concern that was raised to keep that option open. So one of the things – and it just appeared before me – is that there's, you know when this got drafted staff drafted a thing with a bunch of conditions, in terms of alternative means of compliance, what does the developer have to show to qualify for that, right, so that it's not you get it automatically but the County Commission gets to decide whether they're granted alternative means of compliance. So one of those things that staff wrote in here was there that was reasonable connection between the need for affordable housing associated with the sending project which would be the market rate development and the location of the receiving project. So the County has the discretion here to say, XYZ development in the central area its sending project is helping the affordable housing issue here down in Edgewood is not a sufficient connection. The second option, well, one you could just prohibit it and the you could just leave that as an option at the BCC's discretion based on certain criteria and we may be able to make that language there even a little clearer in my opinion so that there's a clear standard for that if you choose to do that. In all the alternative means of compliance it's really important that the Commission is the one that has the discretion to do it and it has to make sense in terms of the objective of the ordinance.

COMMISSIONER SULLIVAN: I recall that language, Mr. Chairman, and I think that does help. My only concern and as you say that maybe it's not specific enough and anybody could hire an economist and say well you know there's a need for affordable housing in Edgewood which I'm sure there is but as you indicated it's on a different tier, a different plane, than the need in the market in Santa Fe. So if we kept it that way maybe we could be a little more specific in terms of meeting income figures or smaller census areas. I'm just concerned because we always seem to get into problems where we leave the language too broad it opens up Commission decisions for lawsuits. If we put in income limits, draw boundaries and do things that are easily definable then everybody knows the rules of the game ahead of time. So that was one area.

And, the other thing, Mr. Chairman, I want to ask Mr. Loftin is that looking again at the task force recommendation the idea I think was to provide affordable housing and to provide it in a mixed community environment. The way I understand that we're doing it now is that we're offering the same incentives to someone who is providing affordable housing within the project area as we are to someone who is providing it let's say in Edgewood if

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Edgewood had water and sewer or whatever to provide. So it seems like we're not really giving enough incentive to meet that goal of affordable housing within a homogenous community environment. And I know that originally that was in the draft that the incentives wouldn't apply and just recently in the draft that we received at the last hearing I saw that that was taken out. Could you give me your thoughts on how that fits in.

MR. LOFTIN: You know, I'm a bit confused on that issue as well and other people's memory may be better than mine on this. But I remember that discussion in a study session of whether it should be in or not because originally there was a draft that you didn't get any incentives if you did alternative 1 and there's a whole discussion among you all on why not and shouldn't you get some incentive and how does that work. And it may not be here but - I need someone to show me where if it is. But I thought there was at some point and maybe you guys can help, that there was some discussion that there was a "may" language in there. That the Commission may grant - it wasn't that you automatically got the incentives and alternatives but that you may be able to get it. And I'm not sure where that all stands right now.

COMMISSIONER SULLIVAN: Mr. Chairman, yes, that was my recollection too, that we went back and forth and I think that Diane or Robert or someone said how about going to the "may" language so that the basic concept was that you didn't have a "right" to the incentive on offsite housing but if you really had just an outstanding plan, an idea that the Commission really liked and really met the needs of the community then within the ordinance you had that flexibility in the "may" to go ahead and provide those incentives. But it was not a right but it was up to the applicant to show that they really had a sterling plan in lieu of including the affordable housing on the -

MR. LOFTIN: Yes, I remember that discussion. I don't remember what the direction you gave on that was. So if someone has a better memory than I do.

COMMISSIONER SULLIVAN: I know in the draft it just came out. It was a little box we have -

MR. LOFTIN: One thing I should point out while we're talking about alternative means of compliance those incentives would only apply not to all alternative means of compliance only the one where you're building onsite clearly - and may, it's your decision in terms of whether they apply to offsite but obviously they don't apply to a land donation or a monetary contribution. So it's only really - the policy issue is to what degree does it apply to the off sites and I don't know if anybody else remembers.

CHAIRMAN MONTOYA: Robert or Lynn?

ROBERT ANAYA: Mr. Chairman, I'm not going to reply from a legal perspective at all. I would just say this, just to backup to an earlier comment that Commissioner Sullivan made relative to an alternative means of compliance, the draft that we're working off of and there's lots of proposals floating around as to what may come forward and what you may discuss as a Commission before you make your final approval but on the alternative means of compliance there is not an automatic provision in there in the draft right now that says you can take a site and move it to another site and get the -- transfer the site. But that's not working off the draft that we have that was published. But that's completely up to the Commission to decide and discuss as to where you wanted to change. As far as where it may apply or not that's my recollection as well that the direction was that to give the Commission the ability to evaluate whether or not the incentives apply or not based on analysis and merit of the project. So my recollection is that.

CHAIRMAN MONTOYA: Are you okay with that, Commissioner Sullivan?

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COMMISSIONER SULLIVAN: I recall it being taken out and I am okay with the fact that we did discuss that middle ground of our intent is to be onsite but – so it's not an automatic incentive benefit but again as I said if the applicant makes a good enough case for a really sterling project then we have the flexibility without providing waivers or variances to the ordinance. And I think that makes sense.

The last thing I just wanted to reiterate what Mr. Loftin said. I think the Blue Star [sic] housing program is a good idea. I think we can tinker with that and work with that and I agree that it's in the wrong place right now. Where it is located now in the ordinance it's under the alternate means of compliance so essentially the way I read it is that if you just do the Blue Star –

CHAIRMAN MONTOYA: Energy Star.

COMMISSIONER SULLIVAN: Energy Star housing that you've met all the requirements for alternative compliance and I don't think that was the intent. I think the intent was that through the regulations that you got a break on the home price as Mike said maybe a couple thousand bucks maybe, because the resident would save that much over a period of three to five years and again I think that makes sense and give some encouragement to the applicant.

CHAIRMAN MONTOYA: So you'd like to see that incorporated somewhere?

COMMISSIONER SULLIVAN: I'd like to see it incorporated definitely but not just under the section that says alternative means of compliance. That's all, thank you. Good ordinance.

CHAIRMAN MONTOYA: Okay, thank you. Commissioner Campos.

COMMISSIONER CAMPOS: Nothing right now, Mr. Chairman.

CHAIRMAN MONTOYA: I have a couple of questions. One is where are we in terms of development of the regulations because it's my understanding that we would like to see the ordinance and the regulations come kind of simultaneously so that we have the regs to implement the ordinance.

MR. GONZALEZ: Mr. Chairman, Commissioners, we have several skeleton drafts circulating internally and with some of the participants of the task force but we were waiting for some decisions coming out of the hearing tonight to move forward with finalizing those. The hope was that if we could get some decisions then we could begin to put clearer words to the regulations and bring them forward at the same time we bring from the staff level our recommended suggestions of what we think you could adopt based on the hearing tonight and the discussion that we've had.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN MONTOYA: Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Gonzalez, do you have a series of questions to ask the Commission to focus our attention on the issues that are outstanding in the committee's mind or staff's mind?

MR. GONZALEZ: I believe you've probably focused on the principle issues that we've been discussing at the staff level. One question is do you want us to re-examine the service levels to see if they can and should be consolidated. I know there has been a suggestion that two service levels are appropriate and we've also had some internal discussion at staff level indicating that we may only have four service levels even if you sort of extrapolate out the definitions that we have currently. That's in part a product of the fact that some of the language in the draft ordinance doesn't perfectly parallel what we have in the Land Use Code so we've had to go back and revisit some of that so I think that some of the comments made here tonight have picked up on that as well.

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I guess what we'd like at the staff level is first of all to know whether you what us to take a look at that and see if we can do that consolidation. The incentive issue is clearly the one that we are concerned about where you see the incentives as applying especially the density bonus that we discussed this evening. And I think that those are the principle issues still laying out there by the way not only the regulations, but we have a map that has to go with this as well so we want to make sure that the applicable areas defined or at least you give us direction about that. Do we stick with the central area or do we do central plus the northern area and I don't know if any of the other staff members have additional - Robert, you may have some and Judy may have some questions.

MR. ANAYA: Mr. Chairman, Commissioners, following the same line as Mr. Gonzalez, I would just add that we have several comments from the last public hearing as well as this public hearing and the Commission has clearly expressed that you did in fact want us to bring forward the regulations in conjunction with the actual ordinance itself. And I believe based on the request at the last meeting, if staff is given the opportunity now to take the compilation of the two public hearings and put those together associated with the comments that we've already started to incorporate in regulations and then bring those to this discussion that, it was my understanding, that you were going to as a Commission, to weigh what those issues are and what has been on the table, what has been brought forth in the two, to then make a decision and that would then give us an opportunity to make sure that there's clarity on the part of the Commission, on the part of staff and that we have those two documents in place for the Commission to be able to act on.

CHAIRMAN MONTOYA: Okay, Mr. Chairman, oh, I am the chair. I'm addressing myself - Gerald, the other question I have is regarding the \$2 million infrastructure, what is being done with that or is that intended to be used for infrastructure should I say. The \$2 million we've had in the bank from Las Campanas for the last I don't know how many years.

MR. GONZALEZ: Some of that I know has been used in the past and Robert may have some of that history. Obviously, it is a fund that is available but one of the concerns that we've had during internal discussion at the staff level is that making sure that in support of providing home buyer ownership of affordable housing that we don't give short shrift to the rental market here in the area. That's sort of a big concern from our level. So obviously it's Commission discretion but as you look at that fund one of the concerns I hope you'll think about is, is there some additional use that we can put those monies to use for that would address the approximately 1,800 families that are currently applying for rental housing in the Santa Fe area.

I don't know if Robert has any additional thoughts but -

CHAIRMAN MONTOYA: So that's being used for rental housing right now?

MR. GONZALEZ: No, but it was sort of generated for - I don't understand fully the history of how the portion of it was used in the past, but I know there was some use for either affordable housing or rentals. Robert.

MR. ANAYA: Mr. Chairman, Commissioners, two separate funds. You have home proceeds fund that comes from the sales of public housing units that are built, constructed for public housing residents and resources to hopefully produce new additional units to offset the rental and then the Las Campanas fund that you referred to. Early on in the funds inception roughly \$1 million was taken out of the fund and provided to various projects many of which of the people are sitting in this room right now for HomeWise, Neighborhood Housing Services at the time, Santa Fe Community Housing Trust and those proceeds were used for developments throughout the City of Santa Fe and some resources were used in the

County. It's the Commission's prerogative to do whatever they feel is appropriate relative with those resources therein for infrastructure or whatever it is you choose is appropriate.

CHAIRMAN MONTOYA: Okay, so that is available for infrastructure then.

MR. ANAYA: Mr. Chairman, Commissioners, it's available for infrastructure and the Las Campanas resources type of affordable housing – providing affordable housing opportunities I believe is the language in the affordable housing agreement between Las Campanas and Santa Fe County.

CHAIRMAN MONTOYA: And I am referring to utilization of those funds for this particular ordinance should we as a Commission so wish to do so.

What I've heard this evening in terms of – what I hear in terms of what I hear going on before we come forward with regulations is some direction and unless there's a strong objection to what I heard tonight we would like to look at service levels 1 and 2 being included for all of the – as 3 and 4 and 5 are currently – for incentives. Then the review on an annual basis is still in there; correct?

MS. MCGOWAN: Yes.

CHAIRMAN MONTOYA: Okay, that addresses that issue there. And then the other not necessarily needing to provide incentive for income range 4 which is 101-120 percent range, we would retain the fire impact fees as opposed to waive those and I guess those are the main issues that I heard this evening. Does anyone have any others? Commissioner Vigil?

COMMISSIONER VIGIL: I think one of the other questions was whether or not this ordinance should stay within the central or extend it to the northern and I think you're looking for direction on that. I would just say that I think the growth area does extend to the northern part of Santa Fe County and it's probably more economically feasible to be inclusive of that area. I recognize that some of the statements that Mike Loftin said that the southern part of the County particularly the Edgewood area is probably tied more to the economy of Bernalillo County but I think the northern Santa Fe County is tied more into the economics of Santa Fe County so extending it to the northern part is something that I would not object to.

CHAIRMAN MONTOYA: Nor would I. Commissioner Campos.

COMMISSIONER CAMPOS: I think our focus should be the central but I think having the option to do the north would be fine because I think the cost of real estate is very high up there. But we have to keep in mind that to have these incentives up there we're going to have to have growth areas up there too. And I'm not sure that we do because we'd have to have both central water, wastewater et cetera and I think our growth areas are around the central metro area so we'd have to create growth areas that we don't have right now.

CHAIRMAN MONTOYA: Commissioner Sullivan, your thoughts.

COMMISSIONER SULLIVAN: I agree. I think quite frankly we need to extend the boundaries to some reasonable area in the north and of course part of the growth in the north is from Española and there are subdivisions that will be coming about on the periphery of Española that will be in Santa Fe County and may be served by Española water and sewer facilities particularly if the regional water and wastewater plan goes forward up there. So in the not to far distant future I think we will see growth areas there. But Commissioner Campos is right, they're not designated right now. I think it makes sense and if you do that then at the same time you can say that maybe on the alternative locations we've got a better handle because we've widened the area a little bit.

I'm not quite – the only other thing is on the service levels. Could someone remind me on 1 and 2, 1 is county sewer and water and 2 is county water; is that correct?

COMMISSIONER VIGIL: Yes, Service level 1 is a community water system and community liquid waste disposal system, water service is provided by Santa Fe County.

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Service level 2 is centralized water and wastewater where water service is provided by a public utility other than Santa Fe County water resource department.

COMMISSIONER SULLIVAN: Okay. The only comment I would make on the service levels is that I think it's important to keep a service level that has centralized water even though you may not at that time have waste water, because centralized water is always the first thing that is developed. It's less expensive than wastewater and it's the first step in protecting the aquifer is to have a central water system. So, whatever we do we want to keep our incentives where we can for centralized water systems even though for the time being they may not have sewer. So I think other than that, that would be my comments, Mr. Chairman.

CHAIRMAN MONTROYA: Commissioner Campos.

COMMISSIONER CAMPOS: As far as the service level discussion, we've had this same pattern, these categories, we've had them for awhile and now you're suggesting that we need to change them somehow refine them. Certainly if staff wants to explore that, I'm fine with that. I agree with Commissioner Sullivan that growth service levels 1 and 2, we're looking at water and wastewater systems and that's where we want growth to occur and so long as those are the parameters, I have no problem.

On the second issue of incentives, I agree that they should apply to all the categories except density. Density should not apply to 3, 4, and 5. As far as the map, if you want to go up to northern Santa Fe County, it's fine because we have expensive land up there but we don't have growth areas. I agree with income range, adding a fourth and that the fire impact fee should not be waived.

I'm very strong on Energy Star. I think we need to really look at Energy Star so that we can make affordable housing truly affordable because if our energy cost continue to rise we don't have efficient homes, we're not going to have affordable housing. People won't be able to live in these homes. I'm strong on that point.

CHAIRMAN MONTROYA: Commissioner Sullivan has expressed his wanting to have Energy Star as part of it and I would echo that as well. Commissioner Vigil.

COMMISSIONER VIGIL: I will underscore that also. I do believe a policy statement that will take us in a direction that we try to go.

With regard to incentives, I agree that they should be applied across the board and what I would be looking at and I'm not too sure the ordinance really leads me this direction, but it makes sense to me, really practical sense and reasonable sense that when you create affordable housing you don't want to stick with the same pattern that we have in the past and that it is through our Federal programs and HUD programs that we've created affordable ghettos. So to get away from that, one of the clearest ways to get away from that is to integrate affordable housing within a development to be inclusive of affordable housing to make it be a part of the fabric of a community system and I am not sure that whether the way the incentives are set up that we will be able to provide that and encourage that because I do think that that's something that we can encourage. My fear is that as this ordinance is set and we get developments brought before us that the offsite and the alternative means of compliance are going to be much more of the application that we receive than those that will integrate affordable housing in a development which I think is a very empowering tool for a community when you incorporate that. I think we've had some success. I think Rancho Viejo has been quite successful with that. I think Aldea has been successful with that. Of course, Aldea has also been able to create the cluster component of it. I am so open to integrating affordable housing within a fabric of a community rather than isolating it. Again, underscoring some of my fears that as some of these applications come before us, I represent the northwest quadrant which is a high growth area and some of the projects that I discussed up until now include the

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alternative means of compliance and the Agua Fria area. Agua Fria is a community that has been ignored for many, many years and I've said before that you just need to drive up Agua Fria where you see a castle-like structure next to a sand and gravel, next to a historical home, next to a river that has high significance historically. Agua Fria now is fortunately in the process of doing their own community planning and that's an empowering process for them too. But within the availability of land, Agua Fria is trying to address through its own growth plan those areas and set the limitations on that growth that doesn't mean that there isn't quite a bit of land available there, there is. I don't want to see this community continue their history of development not really being thought out and concentrated there because the community wants to maintain a high level of the integrity of their historic significance in Santa Fe County.

At some level as I review developments that come before us I really will give a high priority to those developments who creatively integrate affordable housing in their own developments. And, of course, that doesn't mean that I would personally disregard alternative means because I think it's a necessary component, we do have to share the burden of affordable housing. It's the community's problem and I think if I'm really proud of anything about this ordinance it's the fact that the burden is being shared as much as possible and we'll see how it unfolds. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: Thank you, Commissioner Vigil. I'd like to enter into a discussion in terms of a time schedule. Gerald.

MR. GONZALEZ: Mr. Chairman and members of the Commission, we're currently advertised for January 14th, I mean February 14th. The legislature came too soon didn't it. February 14th so we can use that as a target date.

CHAIRMAN MONTOYA: Are the regulations going to be done at that time?

MR. GONZALEZ: That's a concern that we have. My thought would be that we can shoot for that as a target date and if for some reason we run into problems because we do have to generate the map as they indicated and do some other massaging then we can let the Commission know and try and set a separate date for that.

CHAIRMAN MONTOYA: It is published and we would be able to take action if we have everything that we need?

MR. GONZALEZ: That's correct.

CHAIRMAN MONTOYA: Okay.

MR. GONZALEZ: And, we would continue to stay in dialogue with you. We might even publish some extra dates just as backup just to make sure in case we hit a problem or snag or something like that. But we'd like to do something right around that date.

CHAIRMAN MONTOYA: Any discussion from the Commission on that? Commissioner Campos.

COMMISSIONER CAMPOS: When will your next draft be available for the public for review and review of the regs also? I think we should have those out so that when we have the hearing, they've had an opportunity to review the ordinance and it didn't come up at the last moment, so they have an opportunity to review the ordinance and the regs. I think that's a time issue that is important.

MR. GONZALEZ: That's probably the slowest part given the work load that we're wrestling with right now. I guess what I would say is that if we don't have a draft available five days before the 14th, that then we look at extending the date.

CHAIRMAN MONTOYA: To the next meeting?

MR. GONZALEZ: Right, the 28th.

CHAIRMAN MONTOYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Maybe we could call on Mr. Loftin again, we hate to keep getting all this free service that we're getting out of it, I just wonder if we might ask Mr. Loftin and his group to help with those regulations. We do, of course, have affordable housing regulations in the community college district and we went through about four years ago a complete revision of them or an updating of them. So, if we could impose on Mr. Loftin's group and any others that work in that same field to help out the staff, I think it might speed it along and get us a draft out. If we're not comfortable with the draft by the 14th then we'll push it back but at least give ourselves a deadline to put something in front of us and if it needs more massaging than so be.

CHAIRMAN MONTOYA: Are you okay in imposing on Mr. Loftin -

COMMISSIONER VIGIL: I'm okay with that.

COMMISSIONER SULLIVAN: We don't mind imposing on the affordable housing task force. We've been imposing on them for more than two years and we might as well impose on them some more. Again, I think Commissioner Campos's point is well taken. We need to see the final markup not only of the ordinance but the draft of the regs and if it's three weeks until the 14th and if we can shoot for two weeks and then see what comes out. If it's not ready, then it's not ready.

CHAIRMAN MONTOYA: Commissioner Campos, do you have thoughts on that?

COMMISSIONER CAMPOS: Mr. Chairman, I think that staff should take the lead as they represent the County. If they would like to ask for help, it's up to them. I don't think we should direct it. I think it should be up to staff to make that call.

MR. ANAYA: Mr. Chairman, I think that we'd be grateful to have their help. I think that would be welcome and we will work on that in conjunction with Mr. Loftin and anybody else willing to help us. I think his help would be helpful.

CHAIRMAN MONTOYA: Okay. So we'll ask you for your help. Thank you all.

We've got a schedule. We've got a plan. Any other discussion on the ordinance.

MR. GONZALEZ: Just one comment, Mr. Chairman, I just wanted to echo the comments of Commissioner Sullivan and Commissioner Campos, if Aamodt does settle we probably will need to address the issue of growth areas in the northern part of the County and hopefully that's one of the issues we can talk about when we come together for that study session on the 22nd.

COMMISSIONER VIGIL: Mr. Chairman, Gerald, does that need us giving direction to extend this ordinance to the northern area is something that is desirable based on the potential of settlement?

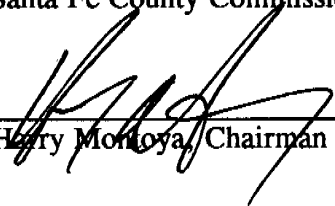
MR. GONZALEZ: Yes, from looking down the road and looking at the future kind of standpoint, yes, I think so.

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ADJOURNMENT


Upon motion by Commissioner Sullivan and second by Commissioner Campos, this meeting adjourned at approximately 7:15 p.m.

Approved by:
Santa Fe County Commission



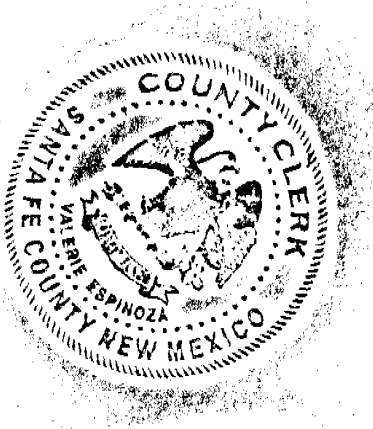
Harry Montoya, Chairman

Respectfully submitted,


Karen Farrell, Wordswork

ATTEST TO:


VALERIE ESPINOZA
SANTA FE COUNTY CLERK



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