SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

SPECIAL STUDY SESSION

November 3, 2005

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

SANTA FE COUNTY

SPECIAL MEETING

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 10:13 a.m. by Chairman Mike Anaya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Roll was called and indicated the presence of a quorum as follows:

Members Present:
Commissioner Mike Anaya, Chairman
Commissioner Harry Montoya, Vice Chairman
Commissioner Paul Campos
Commissioner Jack Sullivan
Commissioner Virginia Vigil

Members Absent:
[None]

Staff Present:
Steve Ross, County Attorney
Robert Anaya, Housing Authority Director
Diane Quarles, Strategic Planner

Others Present:
Mike Loftin, Affordable Housing Task Force Chair

II. Approval of the Agenda

The agenda was approved by unanimous voice vote.

III. Continued Discussion on the Santa Fe County Affordable Housing Ordinance

DIANE QUARLES (Strategic Planner): Good morning, everyone. Thank you, Commissioners. This is going to follow I think a slightly different format. At the last meeting the task force and the developers, along with staff were directed to conduct a meeting to give the opportunity for the developers, the builders and the real estate community to put forth their ideas, their concerns and allow for some discussion on ways that we could possible address their concerns. That meeting actually occurred on Monday, the 31st, on Halloween and there's been considerable discussion and debate since then. For that reason I do apologize. You don't have an outline in your packet. Instead, what's going to happen I believe today is there's going to be oral presentations from both groups to tell you of that process and what the results have been.

After that then we would expect to stand for questions, all of us, to respond to some of that dialogue. Would that be correct?

CHAIRMAN ANAYA: So we're going to hear from the developers on what they thought came out of the meeting? Between you and the developers.

MIKE LOFTIN: Kind of what some of the proposals that they've –

CHAIRMAN ANAYA: Okay. All right. Who would like to speak first? Rosanna.

ROSANNA VAZQUEZ: Good morning. We met on Halloween and went over the ordinance as it was. I submitted some redlines to the ordinance and then we started doing – we basically debated and talked about what the issues were that were most important to us. We met again with Mike Loftin. We felt that [inaudible] to go over some of the issues that were really important to us. And we've narrowed them down and we hope to have some consensus with all of you with regard to them and I can go over those quickly.

The ordinance calls for a 15 percent density bonus for affordable housing and we met with the task force and explained to them the need for that density bonus to be a little higher. Take into consideration the fact that there are some areas like the College District that really won't be able to benefit from the density bonus. For people outside of there, we agreed with Mike Loftin and the task force to increase that density bonus to 20 percent.

The other issue that many of the stakeholders and the property owners were concerned about was the cost of increased infrastructure. Because there was some amendments to the ordinance about the Affordable Housing Act we started talking numbers that could be contributed by the County for affordable units on infrastructure. And that number that we spoke about and we've agreed to is $10,000 towards infrastructure costs per affordable unit.

CHAIRMAN ANAYA: What was it before?

MS. VAZQUEZ: There was no number attached to it. There was some general language, Commissioner Anaya, about how the Affordable Housing Act allows the County, enables the County to put some money toward infrastructure.

CHAIRMAN ANAYA: So the County would put over $10,000 per unit for affordable housing.

MS. VAZQUEZ: That's correct. For infrastructure. It would be up to $10,000. We would have to demonstrate to you –

CHAIRMAN ANAYA: That we would need the $10,000 for that particular unit. Or less.

MS. VAZQUEZ: That's right. Or less. We would prepare a budget. The County will have to do some enabling legislation on that, and we would prepare a budget and it would be up to $10,000 for affordable units.

CHAIRMAN ANAYA: And prior to this $10,000 there was nothing. It just said there was going to be something but there was no number.

MS. VAZQUEZ: That is correct.

CHAIRMAN ANAYA: Thank you.

MS. VAZQUEZ: We went back and forth on the issue of public improvement districts. It is something that the property owners feel that if we were able to implement them it would make it easier to construct and create 30 percent affordable housing. Because the public improvement issues is bigger than affordable housing, because there needs to be policies that you all need to put together on it, we agreed that if there could be some positive language in the ordinance with regards to the stakeholder being able to request it and some review of a public improvement district by this Commission that would be sufficient for the ordinance. We couldn't mandate it in the ordinance. It was something that we really would like to see happen because it makes it easier to create this affordable housing, but if we could get some positive language in the ordinance with regards to it we would be happy with that.

CHAIRMAN ANAYA: Give me an example, when you say public improvement district.

MS. VAZQUEZ: Right. Do you remember what Rancho Viejo did a few years ago where they created a public improvement district on a portion. They weren't able to go forward with the rest of the development through a public improvement district, but they created the district and that was how they paid for the infrastructure costs.

CHAIRMAN ANAYA: Okay.

MS. VAZQUEZ: And the reason that the stakeholders like to use that mechanism is because it passes the cost of the infrastructure to everybody, not just the affordable units but to the market rate units. So that cost is spread evenly to everybody. And it gets passed not only to the first buyer of that house but to whoever lives in that house until that bond is paid off.

CHAIRMAN ANAYA: So you're saying that if the County develops a public improvement district that we need to spread that money around to develop that?

MS. VAZQUEZ: I'm saying that what's happens in a public improvement district. That cost of infrastructure is spread throughout the area that the public improvement district is created in.

CHAIRMAN ANAYA: And then what's your concern?

MS. VAZQUEZ: We just want positive language in the ordinance that says that we can come forward with it, that it will help with affordable housing, the cost of affordable housing. That's it.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Rosanna, was there any concurrence on the part of the developers that would limit their profits if they had a public improvement district?

MS. VAZQUEZ: Mr. Chairman, Commissioner, we really didn't get that far because the discussion on the public improvement district was really a bigger issue. It was an issue that it was a big policy decision for this Commission. But it's beyond the affordable housing units.

COMMISSIONER SULLIVAN: Okay. I understand that. So if there were positive language in the ordinance, then we could probably also put in positive language that the developers would want to limit, would agree to limit their profits if the County is creating the district. The issue is to share with the public improvement districts and particularly the one that was tried in Rancho Viejo is that it increases the property taxes by 60 percent. So those who are on the district are paying 60 percent more in property taxes than those who aren't, and there are some in Rancho Viejo whose tax bills are $2000 a year and there are some in Rancho Viejo whose tax bills are $1200 a year. And they call up and they say how come there's a big difference? I live right next to this person and the reason is that one home is in the improvement district and the other isn't.

So it's a substantial burden on the individual homeowner and it's a substantial benefit to that particular developer. In other words, that developer can sell all his or her homes cheaper than say Nava Ade or some other developer could because he has. So then the question is is that a reasonable thing to do to have a district that puts the costs over on to the individual homeowners and allows that developer to make a windfall profit and the only way I can see to equalize that situation is if the developer agrees to limit his profit to some certain amount that would apply to everybody, so the benefit would accrue over everyone. And so far that hasn't been agreed to by Rancho Viejo or anyone.

But I agree with Ms. Vazquez that it is a bigger issue. I don't think it belongs anywhere in the affordable housing Ordinance. It's a much larger issue I think if we want to look at public improvement districts we probably need to get a consultant on board to give us some advice on that and set up a strategy for it and set up a quid pro quo. If we're going to do that, what does the County receive in return. It's a much larger issue. I don't think it belongs in the Housing Ordinance and I'd be concerned about so-called positive language or any kind of language that committed the County by ordinance to some action before we knew what we were doing.

CHAIRMAN ANAYA: Okay. Thank you, Commissioner Sullivan. That's similar to a special assessment district where you tax the people more to pay for their improvements.

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

CHAIRMAN ANAYA: Okay. Go ahead, Rosanna.

MS. VAZQUEZ: The next issue that we spoke about and that we've come to some consensus on was including in the 30 percent of affordable housing requirement a fourth tier of 101 to 120 percent of income. We brought this forward for a number of reasons and one of them, primarily was because we believe that there's been a lot of discussion with regards to the workforce housing ordinance, to the programs that have been set up by the state for that. This 101 to 120 percent would capture that workforce housing and we believe would be a good way to provide affordable housing for that market and the affordable housing Task Force is in agreement with us on that.

The next issue that we discussed was –

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Let me have one clarification. I attended a part of the meeting on Halloween and I didn't attend it all. I dressed up as a County Commissioner. And that was really scary. People started heading for the exits. As I understand, and maybe Diane can respond to this, or Mike, we have that fourth tier in there now but it's an optional tier that would give the developer some additional incentives. Is that correct?

MS. QUARLES: That's correct, Commissioner Sullivan. Right now it is voluntary and it's in addition to the 30 percent. I believe what Ms. Vazquez is proposing is that we move that from voluntary and mandate it. We include a fourth income range, 100 to 120 percent, which would change the percentage allocation within each from 10-10-10 to 7.5-7.5-7.5-7.5.

COMMISSIONER SULLIVAN: Okay, so then actually between – and I'm trying to think of comparability with the City's ordinance. In comparing it with the City so we have some parity, we would then actually have 22 – instead of 30 percent affordable housing we would actually have 22.5 percent, 7.5 percent in each bracket.

MS. QUARLES: That's correct. It shifts the allocation of affordability and broadens the range but it reduces the affordability of the target 80 percent median income.

COMMISSIONER SULLIVAN: Right. And what's the income level of someone in 120 percent median income?

MR. LOFTIN: Chairman Anaya, Commissioner, for a family of four it would $79,200 a year. So where this would be a change is that the ordinance would cover people at 50 percent of the median income to 120 percent, all the way up to $79,000. The current thing would cover a household up to $66,000. So it gives you a little bit higher income. That's the result of this change. And then it would be mandatory to fill that.

COMMISSIONER SULLIVAN: Okay. So the question is that the Board would need to consider is whether we want to provide subsidies for families up to $79,000 of income and in so doing reduce the percentage by 7.5 percent of those who are under the 100 percent median income level in order to do that.

MR. LOFTIN: That's right.

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

CHAIRMAN ANAYA: You're welcome. And could you just go over the income ranges, from zero to 65? What income would that be?

MR. LOFTIN: Chairman Anaya, you're putting me on the spot here? We'll see if we can get that.

CHAIRMAN ANAYA: I don't want to put you on the spot. I kind of know. If 101 to 120 percent is $79,200 –

MR. LOFTIN: So basically – well, we'll get the numbers and then come back.

MS. VAZQUEZ: Commissioner, that $79,000 income really is two state workers. The average income of two state workers and that was why we felt like it met the need to be workforce housing ordinance and felt that it was important to include it in that 30 percent.

CHAIRMAN ANAYA: Okay. Any comments? Go ahead.

MS. VAZQUEZ: The other issue that we talked about was water and what we agreed to with regards to that was that when you look at a water budget, actual usage for each home should be looked at. And wasn't there something at the affordable housing Task Force that they could comment specifically on because really water issues are geo-hydro issues. But we just wanted the language to remain that the water could be looked at on actual usage for not just the affordable housing units but for the individual units.

And I'll give you an example. La Pradera, when we came in we got an approved water budget of .126 and we agreed on a banking, we got a water budget approved for each unit. We felt like if we had language in the ordinance with regards to that, that that would be a positive affirmation to get developers to use other water incentives to lower their budget. And it helps the County over all because the County allocates less water per affordable units if we can lower the water budget and it allocates less water to the entire development on the County utility. So we were hoping to have language in the ordinance with regards to that issue.

Now, you might say, well, it doesn't belong in the ordinance. It's not affordable housing and the concern that we had is the way that the language is written right now in the ordinance I didn't want there to be conflict in this ordinance and with the land use ordinance about what you could do with the water budget. So we clarified some language to affirmatively state that you could lower the water budget for actual usage for each home, not just the affordables.

CHAIRMAN ANAYA: Lower the water budget for every home.

MS. VAZQUEZ: Yes.

CHAIRMAN ANAYA: And what is it now? .25?

MS. VAZQUEZ: Right now, when the water utility allocates an average is a .25 plus a 20 percent for line losses, which equals a .33 per dwelling unit, unless you can demonstrate that you can go below that. In La Pradera what we did is we demonstrated the water budget of a .126 and we did some banking to make sure that we could prove that water budget. We don't want any conflicting language in this ordinance that would prohibit us from doing that in the future. Also, during La Pradera we brought forward evidence –

CHAIRMAN ANAYA: Prohibit you from going down to .12 or lower?

MS. VAZQUEZ: Or lower. That's right.

CHAIRMAN ANAYA: Okay.

MS. VAZQUEZ: So that's really the main reason for that language.

CHAIRMAN ANAYA: You want some language in there.

MS. VAZQUEZ: Yes. With regards to that. And with regard to line loss issues because 20 percent is a high number so if developers can demonstrate that the line loss is actually lower than that through engineering methods and accurate data, then we would like the opportunity to go below that 20 percent on the water budget.

CHAIRMAN ANAYA: And you're saying you'd put in better lines and we're not going to have that loss.

MS. VAZQUEZ: That's correct.

CHAIRMAN ANAYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a comment. You indicated that La Pradera has demonstrated .126 acre-feet of budget. La Pradera hasn't been built yet and my recollection is that you estimated that's what it would be and that the water service agreement indicated that you had to actually demonstrate that over a two or three-year period. Is that not correct?

MS. VAZQUEZ: I apologize, Commissioner. I may have used the wrong word. What I meant is that we used actual data to show that the water budget could go to .126. You're correct that there was a condition that we would have to prove it in three years.

COMMISSIONER SULLIVAN: You used data from Rancho Viejo is what you used. Isn't that correct?

MS. VAZQUEZ: That's correct. We used data from the utility.

COMMISSIONER SULLIVAN: So you haven't demonstrated that it's going to be that yet, and in fact La Pradera was restricted on building some of its units, the second phase until that demonstration was proved. Is that not correct?

MS. VAZQUEZ: Chairman Anaya and Commissioner Sullivan, we brought that proposal forward to make the Commission feel comfortable with the water budget. We wanted to try because it saved water.

COMMISSIONER SULLIVAN: My other question, just to clarify that, is there's no one that has demonstrated .126 acre-foot per year is an acceptable number for housing. Rancho Viejo hasn't demonstrated. La Pradera postulated that it might be and they estimated it. They theorized it. But I guess, getting back to the affordable housing Ordinance, as opposed to water service agreements, which I do think is a different issue, wouldn't developers have an incentive as did La Pradera, to reduce the water budget as much as they could, given the cost of water rights? I'm wondering why we have to legislate this, as scarce as water rights are and as expensive as they are, wouldn't every developer want to have the lowest water budget possible so they don't have to buy water rights.

MS. VAZQUEZ: Mr. Chairman, Commissioner, you're absolutely right, Commissioner Sullivan. But we do not want any conflicting language in the ordinance. The way that the affordable housing Ordinance was written right now is that it said that you could lower your water budget for affordable units. That was of concern and of potential conflict with the Land Use Ordinance and the ability to be able to lower your entire water budget for your entire development and that was why that language was cleaned up.

COMMISSIONER SULLIVAN: Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Okay, continue.

MS. VAZQUEZ: Okay. The other issue that we raised was that under alternate means of compliance, there was language that said no incentive. None of the incentives could be applied to an alternate means of compliance. A project not on the property that was going to build affordable housing. And we are requesting that the incentives be allowed to be used on projects that are off-site and that will be producing affordable housing.

CHAIRMAN ANAYA: Give me an example.

MS. VAZQUEZ: An example: You own a piece of property over in Commissioner Montoya's district and the neighbors don't want a density bonus. They don't want affordable housing. So you do a proposal to put together – to buy another piece of property and create affordable housing. Right now under the ordinance, the ordinance says that you would not be allowed to get any of the incentives, the density bonus, the water allocation, any of the incentives set forth and we are requesting that you allow that those incentives be allowed to alternate means of compliance when you're creating affordable housing on another area.

CHAIRMAN ANAYA: Outside of the central area.

MS. VAZQUEZ: Outside of your project.

CHAIRMAN ANAYA: Project area.

MS. VAZQUEZ: Yes.

CHAIRMAN ANAYA: To give you the same incentives, possibly, to that particular area that you did in this area.

MS. VAZQUEZ: That's correct. And Commissioner, the rationale is that you're creating affordable housing. You're still creating the affordable housing. We didn't object to any of the additional language with regards to the 30 percent onsite, but we thought if you're going to create affordable housing, because of the cost of affordable housing, regardless of where it is, you need the incentives to create that affordable housing.

CHAIRMAN ANAYA: Okay.

MS. VAZQUEZ: The issue of where alternate means of compliance could be, right now, the ordinance says that it can only be in an area where the Board of County Commissioners has full jurisdiction, and we're requesting that that be allowed – that alternate means of compliance be allowed in the Extraterritorial Zoning area. The rationale with that, Mr. Chairman, is the Extraterritorial Zoning area has got the City sewer, it's got bus lines. It has services for development. It's an ideal place to put some affordable housing units and it shouldn't be excluded. And the last –

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Just a quick comment on that as we go through and I'm sure other Commissioners will have more detailed comments and staff will as well on these issues, but the issue is just the same as when we enacted the Community College District ordinance. The County Commission only had the ability to enact the ordinance within the area under the jurisdiction of the County Commission. So that portion of the Community College District Ordinance that pertains to the Extraterritorial Zoning Authority had to go to the EZA for approval. So there were in fact two ordinances and in fact they met as joint boards and it was quite a complicated undertaking but nonetheless, I think the legal language that I've seen in the ordinance is that we only have jurisdiction over land, developments in our area of jurisdiction.

CHAIRMAN ANAYA: That are strictly ours.

COMMISSIONER SULLIVAN: That are ours. Correct. So that we couldn't say to a developer who proposed to build an affordable housing project or an alternate project instead of onsite, instead of providing housing onsite, we couldn't say, okay, we're going to approve this in the City of Santa Fe. We don't have jurisdiction in the City of Santa Fe particularly at such and such a density and such and such a water use and all these criteria. We just absolutely don't have jurisdiction there. And we just wouldn't have jurisdiction in the EZA either.

CHAIRMAN ANAYA: But if they went to the EZA –

COMMISSIONER SULLIVAN: If they went to the EZA separately, they would. And in order to enable them to do that, once this ordinance is finalized it should also go to the EZA. And the EZA will have to act on it. And once that happened, then they would have the same rights to undertake an affordable project in the EZA as they do in the Commission area.

CHAIRMAN ANAYA: Okay.

MS. VAZQUEZ: Mr. Chairman, the Commissioner is correct and that is one of the issues Diane and Mike Loftin raised. I think there's two ways to solve Commissioner Sullivan's concern. One of them is to condition approval by the EZA on the plan and to adopt simultaneously, like the College District Ordinance was, an ordinance with the EZ. And that's how it was adopted in the College District. The Commission and the EZA adopted it simultaneously.

The last issue that we discussed and that we found some agreement with was the idea that the regulations should be adopted for the affordable housing as this ordinance. And in speaking to Steve Ross this afternoon he told me that that was being done and that was the goal. We want to make sure that we're able to, once this ordinance is adopted to come and start working with it immediately. And that was why we wanted to have the regs adopted at the same time.

CHAIRMAN ANAYA: Okay.

MS. VAZQUEZ: With that, Commissioners, I just want to say thank you for allowing us the opportunity to get together with the affordable housing Task Force. I thank the task force, Diane, Mike, all of its members, because we came in here as a group not with the intention to fight this ordinance. We came in here with the intention to see how it is that we could work with you and the task force to put together an ordinance that would work for the stakeholders. We've made some agreements with regards to this with the task force. We would request that you consider them seriously and adopt them and we would be looking forward and agree to continue working with the task force with the language that's needed or anything else that's needed to get these ordinances adopted.

CHAIRMAN ANAYA: Okay. Thank you, Rosanna and thank you all for sitting down with the task force. My next questions are going to go over each one of these if that's okay with the Commission, with the task force and see how they feel about what they proposed. So who would like to answer the first – Jim, did you have a question? Why don't you come forward? Was it pertaining –

JIM BORREGO: The issues that I would like to bring forward and this was kind of an expansion on Rosanna's. This goes to the situation of where the developments are much larger and in the nature of 2.5 acres and 5 acres. And it goes to the issue of the alternative means. I would like to suggest that if the development is large enough, there is an allowance for clustering of affordable housing on the project rather than a proportionate dispersal throughout the project. I understand that there is a provision in there for a reduction in the size of lots. However, Section 13 states that it is still dispersed throughout the project. I would like a consideration that if the developer comes in with a clustering or a village concept where we can group some of the affordable housing, it would be much more realistic with regards to infrastructure costs and associations where we can possibly group them around daycare centers or some of these other situations.

CHAIRMAN ANAYA: Okay. Was that it Jim? Thank you for your comments. I appreciate that. Okay, then if that's okay with the Commission we'll start from the top on Rosanna's, then we'll go into Jim's. And that is a 15 percent density bonus to the 20 percent increase. How does the task force feel about that?

MR. LOFTIN: I took notes on this so I'll try to respond to all the things that Rosanna brought up and Jim Borrego. The 15 to 20 percent thing, let me give you some background too. Many of the task force members started with the RPA task force that's been meeting for two years. So some of these issues got discussed many months ago and sometimes multiple times. Like really multiple times. So I'm going to do my best to represent what all those discussions have been.

CHAIRMAN ANAYA: Do you want to do that or do you just want to tell us do you agree with it or not?

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: I would like to get more context than yes or no. I don't think I got sufficient context from –

MR. LOFTIN: I'll keep it brief, Mr. Chairman. I'm not a rambler. So the 15 to 20 percent, one of the things we talked about, the task force was always very clear that the density bonus was one of the most key incentives under the program. The City ordinance has a density bonus incentive; it's very clear that that's an important one. The other thing that I think there was general consensus on the task force that giving a one-to-one density bonus, meaning that for 30 percent affordable you get 30 percent density bonus was too high. We settled into about well, what about half of it, for a 15 percent density bonus. The 20 percent is not out of line with the spirit of that whole discussion. Personally, I feel good about it. I don't know if all the task force has gotten a chance to discuss 15 versus 20 specifically, but it seems to me that it's definitely within what those discussions have been.

Clearly the density bonus is very important. It's a policy discussion that the BCC is going to have to decide. I don't think that the task force is going to have any – the 15 to 20, that just seems that's reasonable. There's some task force members here too and we can here from them but I think that's within the spirit of all the discussions on the task force that we need a density bonus that is real. There wasn't anything magical about 15 percent, so it's not like it has to be that. I think 20 percent is not an unreasonable –

CHAIRMAN ANAYA: So I guess what I'm hearing is the developers met with the task force but the task force didn't have a chance to sit down and talk about what they felt about what their ideas were?

MR. LOFTIN: Well, and I'd say too that the task force, you're seeing dwindling participation on the task force. It's running out of gas. This process has gone on – for several years it's been a rush process but some of it's gone on for a very long time. So I think that given at the last task force meeting on Halloween. I had a cold but the majority of the task force wasn't represented at that meeting. So I don't want over – obviously, I'm cautious here, but I don't want to overstate. My sense of this is – I don't want to say that this is definitively what everybody is saying but what I am willing to say is that I think that density bonus thing has been discussed at length on many different occasions. Everyone agreed that the density bonus was important. Going from 15 to 20 percent to me does not seem out of line. And one more comment from the task force, I'm glad we can talk more about it but that seems like a reasonable compromise.

CHAIRMAN ANAYA: Okay. Does anybody else want to comment? Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Loftin, could you just give us an example in an average project what the difference in numbers will be between 15 and 20 percent?

MR. LOFTIN: For percentage, use 100. That's works. Instead of 115 allowed lots you'd have 120. You'd have five extra units.

COMMISSIONER CAMPOS: Okay. A question for Legal.

CHAIRMAN ANAYA: Explain that scenario again. If you had 100 –

MR. LOFTIN: Say right now your zoning entitles you to 100 lots. Under the 15 percent density bonus you would be entitled to 115. Under this proposal, at 20 percent you'd be entitled to five additional lots, which would be 120.

MS. VAZQUEZ: And you would provide 30 affordable units on a 100-lot subdivision.

COMMISSIONER CAMPOS: Now, Mr. Ross, this density discussion, how does it affect density generally as far as zoning generally in the county. Does it affect – is it a special exception to zoning generally? How does that work? When you say that we're going to create a special exception for affordable housing, how does that affect other zoning situations?

MR. ROSS: Mr. Chairman, Commissioner Campos, this ordinance would have to amend certain parts of the Land Development Code to provide for an exception for increased zoning in these areas, because it's not otherwise permitted. We have our hydrologic zoning based on water that's under the ground, based on hydrologic zoning. So this would be obviously an exception from that in some cases, so we'd have to make it clear that these provisions superceded contrary positions in the Land Development Code. Once the document gets to the point that it's looking like a final document, we're going to take a stab at identifying those provisions in the Land Development Code that need to be called out specially in here and repealed or superceded for purposes of the affordable housing ordinance.

COMMISSIONER CAMPOS: So it's going to require a broad amendment to the zoning code.

MR. ROSS: But one good thing is that we don't have zoning – we don't do zoning by map here, so we're not going to have to revise a bunch of maps since we basically zone broad areas. But it will require some amendments to our existing zoning ordinance. That's correct.

COMMISSIONER CAMPOS: And it's going to be fairly broad. And it's going to require notice to a lot of people in the county.

MR. ROSS: Well, we're still looking at the notice issue. There are – and I won't go into the technicalities of the notice issue but there is an issue whether we have to give individualized notice to individual persons affected by this ordinance or whether we can do a more generalized notice approach. We're still looking at that.

COMMISSIONER CAMPOS: Thank you.

CHAIRMAN ANAYA: Okay. Is there any questions from the Commission in terms of the 15 or 20? Commissioner Sullivan.

COMMISSIONER SULLIVAN: Again, looking at compatibility. What is the percentage that the City used in its ordinance?

MR. LOFTIN: The percentage in the city is 15 percent. One thing that I do think where there bears some justification for having something different here is that the city's density tends to be higher already. So that you're adding more density to an already higher density situation and the county density tends to be a lot lower so there's less of an impact in terms of the units.

COMMISSIONER SULLIVAN: Thank you.

MS. QUARLES: If I could add a point of clarification just so everyone is aware, the density bonus only applies to service level one and two. It doesn't change the geo-hydrologic zoning because that's performance based and you can't necessarily change the performance. So I just want to make sure that everyone understands that it's on central utility where you can do density bonuses without a negative geo-hydrologic effect.

CHAIRMAN ANAYA: Do you all want a yes or no answer from the Commission right now or is this something that's going to be 15 percent or 20 percent and then we decide on it? Robert.

ROBERT ANAYA (Housing Director): Mr. Chairman, Commissioners, I think with a presentation like this I just want to let the Commission know that staff will have some perspectives for the Commission to consider, some of which may be contrary to some of the things that have been brought up for your consideration, the items for consideration. So I would just suggest that you give staff an opportunity to make some comments on the discussion that we're having as well.

CHAIRMAN ANAYA: That's what I'm wanting to get at. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, I agree with Mr. Anaya. I think we should wait till the end and look at this as a package because it's all going to work together. I don't think we need to commit ourselves to 1, 2, and 3 and so on. Let's hear from Mr. Loftin and Ms. Quarles as they respond and then I think County staff would like to also comment on all these points.

CHAIRMAN ANAYA: Are these the only issues that we're talking about today?

COMMISSIONER CAMPOS: That's my understanding. Unless there's something else that staff wants to bring up.

MS. QUARLES: Commissioner Anaya, one other thing I wanted to go over is the long-term affordability lien which is on a separate piece of paper *[Exhibit 1]* That was not part of the discussion but that was something left over from the last study session.

CHAIRMAN ANAYA: Okay. So then what we'll do is we'll go over real briefly your comment and then we'll take it to staff so we're on the same subject, and we'll go down those nine items, and then we'll go take it to what Diane just mentioned. So Robert, do you want to comment? Are you done with yours.

MR. LOFTIN: On density bonus? Yes.

CHAIRMAN ANAYA: Okay, Robert. Go for it.

MR. ANAYA: Mr. Chairman, I would refer to Ms. Quarles on the density issue. From my perspective I don't think it's more of a land use, zoning issue and from our perspective if it makes sense to do it from that perspective I don't have any other comments to make on that particular item.

CHAIRMAN ANAYA: Okay. Diane.

MS. QUARLES: Commissioner, again, I tend to agree with Robert. I think it's truly a policy decision. It only applies to service level one and two where you have utilities that you can serve the increased density. You're not getting into the hydrologic issues. One think I do want to draw your attention, and this goes back to what you said, Commissioner Campos. These are all interrelated. If you do allow the 100 to 120 percent to be included in the 30 percent, you're going to give a density bonus on market rate units. I just want to make sure that you understand that, because you're still saying 30 percent but right now it stands at 30 percent affordable under 100 percent median income. If you include the market rate, then you'll be giving market rate units for market rate housing. To get back to the interrelated. So I just wanted to give you a little bit of a warning on that, how those two would work together.

CHAIRMAN ANAYA: Did you have a quick comment.

OUIDA MCGREGOR: I'm Ouida McGregor and I'm a member of the task force. I am concerned as we break these into pieces and you're looking at the pieces that we forget that I think there's a very basic question that the task force talked about and that was what is, first of all, the base line contribution you expect of each developer. And are your incentives going to be revenue neutral? In other words, they would get as much value from you as they would spend on affordable housing, or do you expect a certain percentage of contribution from them, or do you expect them to make money by providing affordable housing?

And I think that what you have to look at is what I've been calling and I kind of think of two things. It's a Chinese menu. You've got a base line of what you expect from them and then you offer these incentives. If the incentives add up to more than what they're contributing, you don't want to get in that position. So I think you need to set a value of each one of these contribution. How much is the water worth? How much are the lots worth? How much are the permit values worth? How much is an infrastructure subsidy worth? And when you get to that, if the developer is actually contributing $150,000 over all, and you're giving him $250,000 worth of bonus, then you're in a situation where you are actually subsidizing his profit.

So I think that all of these things that Rosanna mentioned, and that Mike talks about, you need to keep in mind that it's this big menu and certain things can be selected. The developer can't selected all of the above. You've got $10.95 for lunch at the buffet and you can select these items. But you can't get fettuccini on a Chinese menu, and you can't get a steak and you can't get carne adovada. So that would be -- other things and I guess my caution is think about where you want the developer to end up. Revenue neutral? A percentage of contribution? Or making a profit by providing affordable housing?

CHAIRMAN ANAYA: Okay. Thank you. That's a good comment. Thank you very much. Okay, we want to go onto the next item if we're done with that.

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: Could we have comments from Mr. Loftin and Ms. Quarles on what was just said by Ms. McGregor? How do we do this? It's going to be a lot of accounting. Isn't it going to involve a tremendous amount of accounting to come up and resolve some of these issues raised by Ms. McGregor?

MS. QUARLES: Commissioner Campos, yes. We generally know what these incentive values are. Some of them are difficult; some of them we have a pretty firm understanding. I tend to agree with Ouida that if you cumulatively added all of them - the $10,000, the cost - and one of the greatest "benefits" that can be received is the density bonus. We're all pretty clear about that. If you were to add them all together and someone was able to take advantage of all incentives, you might find that you have created a revenue generation for the developer, if they all added up. Like for instance if you added PID with the $10,000, you've already said we're going to do up-front costs with the bond through taxes and we're going to give you an additional $10,000 underwrite, and a density bonus, if you looked at all of it together you could find yourself providing a revenue generation.

And we do have a sense of what those are. So I tend to agree with her.

COMMISSIONER CAMPOS: And it makes a lot of sense that we have to be very careful how we do this and how we limit. I don't know if our goal's going to be revenue neutral for the developer or what position the developer is taking. Are they saying we want to be revenue neutral or we want to contribute something to affordable housing by reducing their profit margin a little bit? That's something I think we need to talk about a little bit. Thank you, Mr. Chairman.

CHAIRMAN ANAYA: Thank you. Okay, we'll go onto item 2, infrastructure. Go ahead.

MR. LOFTIN: On the infrastructure cost, the idea of up to a $10,000 contribution towards the cost of the infrastructure for the affordable housing, I think is a good direction, given that one of the differences between this and the city is that in the city the impact fees and permit fees are waived. Proposed in the county too, the difference is with the impact fees in the city are much, much greater than the county so in terms of getting some parity there a $10,000 contribution would help equalize that. Because right now the forgiveness of basically the only fee that gets forgiven in the County proposal right now in the County ordinance is the fire impact fee and it's probably less than $1000 per affordable home. It's a lot lower than what the offset would be in the city.

So I think trying to figure out a way to equalize that makes sense. It seems like – and the County staff will have more information on this but there is some money available now for that as a way to ensure that there's money into the future for those kinds of contributions and also there's the lien issue that Diane brought up again is an important one to the extent that those liens get paid off back to the County to provide an economic engine to continue to help provide infrastructure, that that would be the way we would see the incentive going forward. This is something – the other thing that's consistent with the RPA task force recommendation that said that – recommended both the City and the County take a look at making contributions to infrastructure for affordable housing so that it's in line with that recommendation as well. Diane?

MS. QUARLES: Commissioners, my sense is we need to be careful with this one. The $10,000 is going to be subject to the money that we have in the housing trust fund. That's going to have a direct relationship on how the liens are retired, how much fee-in-lieu you generate through alternative means of compliance. So I would caution the Commission, you can't just guarantee a $10,000 per unit up front. There has to be qualifying language that says "subject to the funds that are available in the housing trust fund." In addition to that, there's very specific language in the affordable housing Act and in the regulations that have been adopted by NMFA, how you do these grants, because this is basically a grant that would be subject to state statute.

Our thoughts were, rather than putting it in this ordinance, where it doesn't necessarily belong, there's already enabling language under Section 15 that sets up for this. The dollar amount is not included but the intent is to create this fund and do these subsidies. In addition to this ordinance, we're going to have to create an Affordable Housing Trust Fund Ordinance. And we already said that we're going to do that separate from this ordinance. In that we will create the mechanisms for creating annual an annual budget process for that trust fund, and then we will create an annual allocation based on the estimated number of units we would be subsidizing, and list or create a mechanism for qualifying those grantors. [sic] We have to get that approved by NMFA according to their rules and you have to file those annual budgets.

So there will be a rather rigorous process. It's not cumbersome but we'll have to go through a process with NMFA to set up for these grants.

CHAIRMAN ANAYA: Okay, so right now it's not in there. It's in there but it doesn't have an amount.

MS. QUARLES: That's correct.

CHAIRMAN ANAYA: Robert.

MR. ANAYA: Mr. Chairman, Commissioners, ditto with what Diane said. A recurring requirement for money requires a recurring pot of revenue. We don't have it. We have some allocation of revenue that could be allocated but once you expend that down we need some filtering money back in the system. Just FYI, we've had one unit turn in the Community College District in the three-plus years, so that was roughly $70,000 on the Community College District site. So I ditto what Diane said.

CHAIRMAN ANAYA: Okay. Thank you. Let's go to item –

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner. For Ms. Vazquez, why the $10,000? And then you said you would demonstrate the need up to – could you just briefly flesh that out a little bit?

MS. VAZQUEZ: Sure, and again, if I can give you some background on the whole idea between this amount and this idea, is that we were looking at this affordable housing Ordinance not in an way that this will make a work, in a way to create a partnership and the developers to put together affordable housing in the best way possible. When the affordable housing Act was passed last year, I spoke, Steve and I had several conversations with regards to how we could implement it. The $10,000 amount came up in discussions with staff and some of the task force members. And idea was it would be a cap of up to $10,000. We understood there would need to be some ordinances drafted by the County and there was a budget being prepared.

We were looking at the $2 million that the affordable housing group has that could be donated towards infrastructure costs, and we thought it was a way to put an incentive in that would be able to make this ordinance happen. When we were looking at this ordinance we felt we want to work with the County on the creation of incentives to make sure that we can create this affordable housing for the County. And that was really the rationale behind it. The $10,000 came from staff. The idea would be that we'd put in, like we always do for our infrastructure costs, total cost of infrastructure, total cost per affordable unit and it would be up to $10,000. The infrastructure on a per-lot basis are much higher than $10,000 per lot and so that was why – that's why we have that language in there and that was the rationale for it.

CHAIRMAN ANAYA: Okay. Thank you. Let's go on to item 3, public improvement district, positive language in the ordinance.

MR. LOFTIN: Mr. Chairman, I just want to mention real quickly is the City right now is providing capital improvement program money for infrastructure for affordable housing so this isn't like – the infrastructure thing is aligned with not just the impact fee waiver thing but I neglected to mention that earlier. They appropriate about a half a million dollars a year in CIP money for infrastructure improvements for affordable housing right now.

On the PID issue, this is not an issue that I think – I would certainly not say I'm a financial expert on it at all. It's not something – I think it's a new concept introduced to the task force. It's – and as Commissioner Sullivan pointed out, this is a much broader policy issue. Where it does tie into the RPA task force recommendation is that the RPA didn't mention PIDs, I didn't think we were aware of them at the time, but it did mention asking local government to look at ways to invest and use their ability to finance projects as a way to reduce the cost of affordable housing, either for infrastructure or other things.

One of the recommendations was looking at could you use general obligation bonds financing to help reduce the cost of financing affordable homes. It's consistent now that it's like looking like – the public sector can finance – their cost of borrowing is the cheapest of anyone. That was the idea of the RPA Task Force. We looked at can you use some of that ability to borrow money much more cheaply to help reduce the cost of the housing. The particulars of the PID I don't think are going to be very helpful on. It's a broader issue. But anyway, financing is a huge part of the cost of housing so the degree to which you can reduce those costs, that's a good thing. I understand from the discussion earlier and other discussions of this that this is a much more complicated thing. I think we just urge the Commission to look at not just PIDs but other ways that might contribute to reducing the cost of housing in general.

CHAIRMAN ANAYA: Thank you, Mike. Diane.

MS. QUARLES: Commissioners, in some of the discussions that we actually had at the retreat one of the things that I think we kicked off was in strategic planning we need to look at new sources of revenue for the County. PIDs is obviously one way and it is a larger issues. These PIDs are typically one way that you use to pay for growth in general. Our sentiment is we do need to start that process. The County needs to undertake looking at all revenue generators, all initiatives, including the use of impact fees, PIDs, special fees, special taxes, including the transfer taxes and other ways of doing this. But we do consider PIDs to be a much larger issue, because it can represent a double taxation if it's used improperly and really create a burden on the residents in the area that you're taxing.

So our feeling is, and we feel fairly strongly about it. I don't usually say that. Because it doesn't have a direct relationship to the provision of affordable housing it really belongs in another venue, but I do think that the Commission needs to begin looking at the use of revenue streams, revenue generators, including the use of the PID to fund growth.

CHAIRMAN ANAYA: Thank you. Robert.

MR. ANAYA: Mr. Chairman, Commissioners, my next few comments are going to come off of a discussion that we had at our retreat as well relative to a comment Commissioner Campos made to me at the retreat about us being candid and straightforward with thoughts from a staff perspective. And I think this is a good opportunity to put forward some – not recommendations, not decisions, just comments on where we're at relative to this process. Because I appreciate, for one, that we've had the opportunity to have the community involved, to have the private sector involved, and to bring forward what we've brought forward to this point on this particular ordinance.

One comment that I would have is the question somebody asked me very early on in this process as Commissioner Sullivan was asking that this be put forward and let's get it moving and let's get it done. And the question that came before me was, Robert, what do you think of the 30 percent requirement. And I said, you know, the 30 percent requirement really to me doesn't really mean a whole lot when you say 30 percent requirement. And the one question that we got from everybody, non-profit, the private sector – you're seeing it here today, was well, how do we do that and how do we get there? And that was my response at that time.

And it's not about the 30 percent requirement; it's what's going to happen as a result of the 30 percent requirement and what do we get for doing the 30 percent? And I think in a lot of ways we've kind of put ourselves in a box of 30 percent. So the private sector, the comments that Ms. Vazquez has made and others, has gone back and said, well, what would it mean for us to do the 30 percent? So they brought forward these things. Ten thousand dollars, increased density, water allocation. So we're in a process that we've evolved to where we had a 15 percent requirement in the Community College District where the County didn't provide a lot. We provided a lot in the overall Community College District structure, and we got 15 percent, and now we took it to 30 percent. Ms. McGregor hit it right on the head. She said now you have this whole shopping cart of things that you and the Commission are having to consider, of which I will just make a few notations as to kind of where we're at.

We've gone from 15 to 30. We've reduced the size of the house, which helps to keep the cost down, to give people an opportunity to get in the house. We've increased the price range as Commissioner Sullivan and others have noted to also offset some of that difference in cost. We've considered, you've asked us to consider based on task force recommendations and other discussions, an increase of the 100 percent to 120 percent range, which would offset the cost. We're talking today again about not only existing density but an additional density requirement which would in turn offset the cost. And all of these things have been discussed about why. Because we want an opportunity to get more affordable housing. But we continually have put ourselves in the box of well, how do we make it work in the 30 percent?

So on this particular item, and item 4 after this, and on all the other items before the Commission has to make the ultimate decision on policy, those are important things to keep in mind. One other one is the one Commissioner Sullivan also noted, and that's relative to if you stretch the 30 percent to the range of 100 to 120, it seems to make sense from the perspective of there's a need out there for people from 100 to 120, then you also are reducing the requirement that you have below 80 percent, those people that are the most strapped, people that I deal with on a regular basis, have less opportunity to get a house.

So you've got this huge array of things that you're taking into consideration and I think that I would just comment that as you do it and as we look at it, that we take into consideration what we were and what we gave for what we got, being what we got in the Community

College District. And then how much do we give to get to the 30 percent, because when you peal everything aside, when you get right down to the bottom line, it's how much is the County Commission willing to give to get that additional 30 percent. And I think at this point you've already begun to give quite a bit in water, in density, in those other things. As you get the rest of the grocery list as I would call it, and you've looked at it for reasonable consideration, it's not a simple item and it's not a simple fact.

And that would be my comment on the improvement district. That's another tax. It's a tax. Let's be honest. It's another tax that would offset the cost even more while getting it done. And I don't say these comments adverse to the private sector. The private sector's trying to figure out if it's 30 percent or 40 percent or 50 percent or whatever percentage, then what do I have to do to still make my margins and still make a profit and also assist in getting affordable housing done?

Those are my comments on kind of where we're and how we got to this point.

CHAIRMAN ANAYA: Thank you, Robert. Rosanna.

MS. VAZQUEZ: Mr. Chairman, I briefly just want to say, when we started this project the stakeholders went through numbers. We didn't come up here with numbers and go into a great length discussion as to what the cost of that 30 was going to be. I can assure you that they were looked at. I can also assure you that when we started talking to the task force with regards to a $10,000 infrastructure cost and income level that was increased, it was not for the purpose of making it even, making us break even because there is a cost. The question is how is that cost going to be spread and who's going to pay for it? And there's been some evidence brought forward to you by some people at the last task force meeting that market rate homes are going to have to increase at some point.

The ideas that we brought forward and that we talked to the task force about were a way to not only create the affordable housing but to keep the market rate homes from going up as high as they could potentially go up. And that was a concern. Again, we did not come in with a bunch of numbers to go through evidence as to what it was going to be because we did not think that that was an exercise that would really get us anywhere. We came in here with the intent of trying to create this ordinance, work with you on the incentives, not to come out ahead but just to be able to create this affordable housing and not put a huge drain on the market rate homes.

CHAIRMAN ANAYA: Okay. Thank you. Thank you all for your comments. Let's move on to item 4 if the Commission doesn't have any questions.

MR. LOFTIN: Okay, this is the 100 to 120 percent tier, do we add this? This is from the task force several months ago talked about in several meetings of what should be the ranges and the fourth range is the one that was talked about the most. Should we do that? At that time we said, well, that may be a range that we do want to add at some point. We may want to make it mandatory. Originally we said why don't we figure out a way to make it a voluntary thing and I think Diane came up with some wording that would make it a voluntary thing and I think Diane came up with some wording that would make it a voluntary thing and it would have some incentives. The incentives though are completely at the discretion of the BCC in terms of encouraging that.

At the time, when the first task force was talking about this, there was this issue, do we make it mandatory? Do we make it voluntary? How do we do this? But knowing that at some point you might make that mandatory. What I think this suggestion is doing is saying, okay, rather than do the wait and see that the task force originally talked about is what if you just made it mandatory now. There's clearly a need in that price range for people. This is really the range in the low $200,000 range. The ordinance, the existing proposal, really addresses stuff below $200,000. This would – that low $200,000 range is what this would address.

There's clearly a need for that range and I think the policy issue is – it was just the right balance for you all to decide. In the task force there is consensus that is a range that we want to address in some way, making it mandatory like this is one way to do it. It also has the benefit of because those prices would be a little bit higher than the other ones then it works better financially from the developers' point of view. But it's clearly addressing a need that we see out there in the market and for that reason, it's in the realm of discussion what the task force is talking about.

CHAIRMAN ANAYA: Okay, we've got 45 minutes left so the Commissioners all have their meetings for lunch. So, Diane, your comments.

MS. QUARLES: Personally, I think this enhances the ordinance. I think it removes a lot of the arguments about the need for workforce housing. What's going to happen to that entry level market rate? Personally, I think this is a good enhancement.

CHAIRMAN ANAYA: Okay. Commissioner Sullivan.

COMMISSIONER SULLIVAN: Why don't we do this? We have it voluntary now for an extra 10 percent. Why don't we just make that mandatory. My concern is reducing the area where the severe need is and that's 100 percent and below. So why don't we just consider keeping the 10-10-10 and then making the extra 100 to 120 mandatory at the same ten percent. So then we've essentially thrown in a workforce housing component into the affordable housing. I'm just concerned about subsidizing someone at $79,000 income, reducing homes for someone who's on a $30,000 a year income in order to do that. That doesn't seem to be what we were trying to do in the affordable housing Ordinance. So what about that? Diane, does that work?

MS. QUARLES: Commissioner, I know that that was one of the things that was discussed at the task force some time ago, is creating a 40 percent with a 10 percent tier in that range. One of the concerns, I believe, was when you get to 100 to 120 percent median income, can you really mandate it? Because it's not necessarily a special needs group. And it's not necessarily identified in the study, so does it still meet the rational nexus? That was really, as I recall, the only concern about adding that particular ten percent.

So I don't necessarily know that goes away in either scenario but it's strictly a policy decision.

COMMISSIONER SULLIVAN: So there's a need to hear that. The only question is how do we address that need. Do we take it away from those that have half income in order to address that need, or do we make it mandatory, an additional bracket of ten percent, or do we keep it voluntary so that each developer can come forward and say I think I have a market that I can match here. Will you buy into this and will you give me the incentives? Because if we mandate it we're also going to mandate giving them the incentives as well in that bracket. So it's not without benefits to the developers.

I'm just concerned, as I said before, Mr. Chairman, with reducing the benefits that we're providing in those lower brackets which are really the hard ones. If we're going to spend any money on infrastructure costs I really want to spend them on costs for people who are in that 80 percent and below, because 80 percent is actually the federal definition for affordable housing. It's not 100 percent. So we – that 80 and below is the real needed – is the area of real need.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Let me just ask a question with regard to this. Those who are in the lower income brackets, under 100 percent, currently, within our community we have programs in place that provide a process for them to become homeowners. And my understanding for the reason for the 100 to 120 percent is those are the prospective homeowners where there's a gap, where they don't qualify with the current programs. Is that correct?

MR. LOFTIN: Commissioner Vigil, I'd say there's a gap for everybody, because even below the 80 percent of the median you have some federal programs, there's federal money that you might be able to use that you can't use for people above 80 percent, which was I think a big breakthrough in the Community College District Ordinance is the really good contribution that the County had which was let's create a tier of 80 to 100. Because those are the people between a rock and a hard place. They made too little money to buy on their own but they weren't eligible for any assistance. I think the unfortunate thing, given the housing market in the Santa Fe area is that even people – if you were making some $60,000 in Albuquerque, buying a home would not be a question. Is Santa Fe it is a question.

So we have a different set of needs here. Some of it's related to what federal money you're eligible for. The affordable housing problem is affecting a larger and larger section of the middle class, right? It's not just the working class anymore. Now it's professions. Professionals making okay money. So there's clearly a need, Commissioner Sullivan, for the 100 to 120. This is one of the hardest things I think policy makers have to do is – but those people below 80 percent of the median have a big need too. If you're a school teacher making $30,000 a year you ain't buying a house in Santa Fe unless you get this kind of help.

They're in the lowest tier. They're not in the upper tier; they're in the lowest tier. So there's a huge need there. And I think we need to address this. There's also a need for people making more than that. Balancing that range of needs is the really hard thing because it's a hard decision to make. How do you decide who needs the help more than others? They all need help. The question is do you have the right balance? Does that answer your question?

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

CHAIRMAN ANAYA: Any other comments or questions? Let's move on to the water usage.

MR. LOFTIN: I don't have any opinions on the line losses.

CHAIRMAN ANAYA: I know you commented on number four. Did you have any other comments on that?

MR. ANAYA: I agree with Commissioner Sullivan's comments that we have to be conscious of the highest [inaudible]. As the Housing Authority Director that deals with people most in need, below 80 percent of the median income with waiting lists as long as we have, I think it's an area we have to be conscious of as you make your decision. But the other items that are being provided to developers may be, as the attorney just pointed out, a lot of the things in the ordinance to this point are not given. You don't automatically get A, B, and C. There is some consideration that takes place in staff's review as the local project based on the ordinance and I think that review of what they get in that process and how they get it is going to be very important.

CHAIRMAN ANAYA: Thank you. Let's go to the water use issue.

MR. LOFTIN: In terms of line losses and how you calculate that, we weren't the water task force. I think we're going to have to feed all those questions to staff who know water better than we do.

CHAIRMAN ANAYA: Diane.

MS. QUARLES: Commissioners, there already is provisions in the ordinance to deal in water budget reduction in service levels 3, 4, and 5. You can reduce the water budget down to actuals for a water right transfer requirements provided that the State Engineer will allow that. So that is actually already an incentive. My understanding from what Rosanna was saying was she wants to include that for all levels and include it project-wide. Is that correct?

MS. VAZQUEZ: I don't want any conflicting language and if we just made it available to just lower the water budget for the entire development. Because this is very specific to lowering the water budget to the affordable units.

MS. QUARLES: Okay.

MS. VAZQUEZ: That was all.

MS. QUARLES: As far as in service levels 3, 4, and 5 that may be a possibility because it's not on the utility. Again, that would be a utility call. But as far as doing it for areas that we serve and on utility I wouldn't suggest it, because again, it doesn't belong in the affordable housing issue. That really is over on the water utility policies and connection issues.

CHAIRMAN ANAYA: Robert.

MR. ANAYA: I don't have any comments.

CHAIRMAN ANAYA: Commissioners. Move on to item 6. Incentives outside the controlled area.

MR. LOFTIN: I think the big issue on the alternative means of compliance in terms of offsite construction is really – the concern we've had is that how do you know if there's an offsite project that's going to provide the affordable housing? You don't want the main development agreed to on the understanding that that's going to happen some other time. I've talked to Diane about this issue and I think there's some language to try to correct that which is to the degree that offsite construction is allowed that it has to be – that the other project, the affordable offsite project, would have to be approved prior to or simultaneously with the main project so that you know you've got a bird in the hand and it seems to me there's no problem with that being in the EZ if as long as you know you've got a deal and you're not agreeing to something that you can't – what you're trying to avoid is the main project gets approved and the affordable project doesn't and so you never really get the affordable housing.

So our concern is to the degree you're going to allow – the ordinance allows offsite construction is to make sure that that offsite construction actually happens.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: My understanding and why I haven't been uncomfortable with this is that that would be proposed at the master plan level. Is that accurate?

MS. QUARLES: Or prior to?

COMMISSIONER VIGIL: Or prior to, so that at master plan we'd actually have the opportunity to evaluate the offsite. Okay.

MS. QUARLES: That's correct. One of the issues that became pretty apparent with the original language was exactly what you say. You propose the offsite project. The projects are really joined, but the affordable project never actually develops so we never get the units. So we went the other direction because the BCC can't pledge a project in another's jurisdiction. There were problems with linking those projects together because you don't have full authority to approve it. One way to get around that or to deal with it is to say you can bring in a concept approval, if you're doing alternative means of compliance, I'm going to bring in a concept. I'm going to do an alternative means offsite in another jurisdiction. And the BCC would approve it in concept.

But that project would have to go through the full approval process in that other jurisdiction and comply with all the requirements subject to that jurisdiction at the time, and bring it forward and say I have my approval and then bring it forward as an alternative means of compliance. One of the things I think needs to be clarified in the ordinance though is when you do the offsite construction, you cannot use it to reduce the affordability requirement. So if you're sending, say, 50 offsite units to another project, that project alone would have generated x-number, 30 percent affordability within itself. So that project now has a load of 60 percent affordability when you combine the two projects together.

What we don't want to see happening if you use alternative means of compliance is that you're using it reduce your overall compliance.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: And I think the problem we have here is two fold. One is if we're giving equal incentives to have offsite housing as we are for onsite affordable housing then we're promoting these 60 percent affordable housing projects, so to speak, which is kind of getting similar to the City's HOP Ordinance where everything's affordable housing and I think that's getting away from our goal of trying to have a generally homogeneous and mixed community. I think that we want these, and the goal of the Affordable

Housing Task Force and going all the way back three years ago to the Affordable Housing Summit, and none of this is new - that was October of 2002, was to provide these opportunities countywide.

If we're saying I think the incentive we want to give is to provide the housing on that site. It goes more quickly. It's more reasonable. If we're looking at the alternative sites and we have to juggle these two projects, I don't think we should make equal incentives to do that. Thank you.

CHAIRMAN ANAYA: Thank you. Robert, do you have a comment on that?

MR. ANAYA: Mr. Chairman, Commissioner Montoya, I brought up at the last two sessions a question about - the ordinance still only applies to the central area, but I believe your question was if somebody wanted to do an alternative means and do it in the north, for example, would that be possible? I just want to raise that question for consideration by the Commission because I did bring it up a couple times and that still isn't clear to us especially as it relates to the incentive piece. But the ordinance [inaudible]

MS. QUARLES: That's correct, but right now the ordinance allows you to do alternative means of compliance wherever the BCC has jurisdiction. So it could be in the north or south, it just has to be within their jurisdiction.

MR. ANAYA: And the incentives would apply whatever area?

MS. QUARLES: Currently, the way the ordinance reads is that you forego incentives when you use alternative means of compliance. One thing I believe that we were instructed at the last session is to allow for incentives where they're onsite, but for offsite, you forego the incentives so that you still get "rewarded" if you're building them within the project. The language hasn't been changed but that's kind of where we left it last time.

MR. ANAYA: My comment then following that, ours would be that if you're going to allow for a shift and a simultaneous group of projects to come forward, then they shouldn't have consideration for the incentives.

CHAIRMAN ANAYA: Thank you. Let's move on to item 7. Is that similar to item 6? So let's just pass 7 and go to 8.

MR. LOFTIN: I think that's adopting the regulations at the same time. I think there's agreement on that, that that's an appropriate thing.

MS. QUARLES: I believe the way the language was proposed right is that we present the housing regulations at the time of consideration. So it's actually not very different. It doesn't say you have to actually adopt it at the same time but we can always change it. It just means that you'll have to have a series of sessions or some discussion period on the housing regulations prior to the actual adoption, but you can do it either way.

CHAIRMAN ANAYA: Okay. Robert, did you have a comment on that one?

MR. ANAYA: No, Mr. Chairman.

COMMISSIONER VIGIL: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Just a quick question, Diane. Where are we with regard to the drafting of those regulations?

MS. QUARLES: We've already started to draft the regulations but there was the cart and the horse analogy. We have to know what horses we're hitching the cart to to be able to finish it, so until we kind of get this firmed up and we do title and general summary we can't actually really delve into it to any degree, but we can write it fairly quickly. The only thing is are we going to have a similar process to this where we discuss the regulations?

CHAIRMAN ANAYA: Okay, then let's move on to the cluster that Mr. Borrego brought up, the clustering of affordable housing.

MS. QUARLES: That actually – I believe that's kind of a new presentation that wasn't presented on the October 31st meeting. Right now, we actually encourage clustering of units. We want them to be clustered. The ordinance does require that the be dispersed at each phase, so you could do clustering at each phase. I believe what Mr. Borrego – and Jim, you can correct me. I think what he's asking for is to be able to cluster them within one phase?

[Mr. Borrego's response made away from the microphone]

MS. QUARLES: I guess I'll respond to that sort of on the fly. One of the benefits of allowing them to be dispersed throughout the project is you don't want to create an over-concentration of affordable units within any one phase. But if it's good design, it's integrative, it's flexible, there's a possibility of allowing that, but the problem is you don't want to delay the affordable units to the very end of the project.

CHAIRMAN ANAYA: Right.

MS. QUARLES: So that is the main reason to have them dispersed throughout each section. I guess you could do it as discretionary and you could review it and if the project looks good – but again, I caution you because you don't want those units to be at the end of the project.

CHAIRMAN ANAYA: Right. Thank you. Go ahead.

COMMISSIONER CAMPOS: Mr. Chairman, thank you. I'm not sure if I understand Mr. Borrego, but I think he's saying that he wants to do the affordable housing at every phase but cluster all affordable housing together. Is that not what –

MS. QUARLES: Commissioner Campos, right now, that's the way the ordinance treats it and reads.

COMMISSIONER CAMPOS: So affordable housing within a phase is not dispersed throughout the development but it's all clustered together?

MS. QUARLES: It depends. If there's environmental concerns like septic, you actually have to disperse the units because of the environmental concerns. But if you're on utility, you can cluster the units like for instance condominiums.

COMMISSIONER CAMPOS: No, I understand clustering is okay. But clustering of affordable units. In other words, separating the other type of market rate units from the affordable units. Is that what Mr. Borrego is suggesting?

CHAIRMAN ANAYA: Do you understand what his question is?

MS. QUARLES: Yes, I do, and I'm trying to – I think you could do it either way right now in the ordinance, as long as it's done in good design, good housing mix. You could cluster the units together. That really is like a town center or village center, if you could use that as an example. That's a very appropriate use of where to place affordable units and that isn't a problem. The main thing is that you just don't want to have a large block of affordable units only in one phase, in one particular location. It's a delicate balance but the ordinance actually encourages what we're describing right now, to cluster them appropriately, but in each phase so that they're allocated fairly equally within the development.

CHAIRMAN ANAYA: Okay. Robert, did you want to comment on that?

MR. ANAYA: Mr. Chairman, I think [inaudible] Rancho Viejo, for example, does an excellent job in the neighborhoods as far as incorporating and innovating. There's a land use process that you have in place with Land Use staff and housing staff are involved [inaudible] I think you should leave it alone and allow latitude [inaudible]

COMMISSIONER CAMPOS: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: The draft ordinance does say that the affordable units should be reasonably dispersed within the project. In other words, not putting them all in one corner. I think that's what Mr. Borrego is asking. He wants us to have the authority to just put them in one place, one corner, one whatever is proposed. Which I'm concerned about. We can talk about that later.

CHAIRMAN ANAYA: I'll let you comment. Go ahead and talk and then I want to stop, we'll quit this discussion and move on.

MR. BORREGO: I would be opposed to creating a grouping which is excessive in size and creates a little –

CHAIRMAN ANAYA: Village of its own.

MR. BORREGO: Yes. A little barrio. I would rather have a cluster, say, like a cluster of eight or a percentage within the overall project. Not necessarily just putting them all in one corner and making them a little barrio.

CHAIRMAN ANAYA: Thank you for clearing that up. Okay. Let's move on. Thank you very much, Rosanna and the task force, or the developers for meeting with the task force. We'll take those into consideration. Robert.

MR. ANAYA: Mr. Chairman, in answer to your earlier question, for a family of four, 60 and below is a salary of $39,600. 80 is $52,800. 100 is $66,000. And the $79,00 is from 100 to 120.

CHAIRMAN ANAYA: What was 80 to 100?

MR. ANAYA: $66,000. And that's a family of four. So as you go down in family size, total family size, those number will go down.

CHAIRMAN ANAYA: Okay. Thank you. Diane.

MS. QUARLES: I'll try to go through the affordability lien rather quickly. It's actually on an independent page I passed out. *[Exhibit 1]* The one in your packet I have typos and apparently I have typos in this one too, so I apologize. What we're looking at now for the approach for long-term affordability. The process would include two liens. At this point they're probably mortgages. It will be filed at the time of initial sale. The affordability lien would track for 15 years, and then the resale restriction lien would go through year seven.

During the resale restriction period, that first seven years, the County would be in a position to exercise the right of first refusal if the house were to sell within the first 120 days to find an eligible buyer to keep the unit within the affordable market. The appreciation on the affordability lien would go to the County during the first seven-year period. But the seller would recapture their initial investment and any gain between the new affordable selling price and the original purchase. If the unit were sold as affordable the liens would be reissued and adjusted according to the year of sale.

After that seven years, when the resale restrictions are retired, then there would be a gain of proportionate share of appreciation up to year 15. Although the resale restriction is again lifted, the liens are retired and the unit is no longer "restricted". The buyer could recapture all appreciation on the unit but the County would receive the proceeds from the initial affordability lien.

If the County cannot find an eligible buyer within that 120 days, and does not exercise its right of first refusal, the unit may be sold at market rate and the appreciation share would be according to the formula in that year of sale. So if it occurs before, in year one through seven, there would be no appreciation that would go to the homebuyer on that part of the lien. And then from year eight through 15 it would be proportionate. After year 15 the unit is no longer restricted in any way.

So I want to add a couple of considerations. In the terms for both liens, if you do feel that they're too long, they can be reduced to a five-year resale restriction and a ten-year affordability lien. In this particular scenario we feel like the three objectives are met. One, the unit is held affordable for a set period of time. The County would generate revenue for the affordable housing trust fund through the appreciation, and the homeowner participates in appreciation of the lien from year eight to 15.

CHAIRMAN ANAYA: I know that the banking industry had some concerns, especially Wayne Miller, and I didn't get a chance to meet with him. But Robert, you sat down with him. What was Wayne Miller's concerns?

MR. ANAYA: Mr. Chairman, Commissioners, it's not only Mr. Miller's. I think Ms. Welsh from the trust and even myself at varying points have had these similar comments, but Mr. Miller did express that his concern was that not giving a first-time buyer – and I'm going to try and use his exact words – not giving a first-time homebuyer any appreciation until year seven is like treating them as a first-time tenant. He feels strongly that they should have an ability to get a stake in their home and have some appreciation if need be to use that appreciation for buying up or providing money for their kids for school. But it just feels like we would be treating them more as a tenant than a homebuyer.

The turnover ratio, in his mind, based on his 25+ year experience in mortgages was such that first time homebuyers won't turn as fast as he feels has been put forth in some of the discussions. He says, I meet families all the time from Santa Fe that were first-time homebuyers that are still in the same house. So me brings those comments forth. And I agree with him on the perspective that I think some percentage of appreciation is a good thing and I don't think it will force them to flip the house and I don't think they'll rush out and flip it. That's a perspective that he asked be raised and I agree with it.

CHAIRMAN ANAYA: So what item are we talking about? Item 1?

MR. ANAYA: It would be pretty much talking about the whole thing. And I think, Mike, you had some comments as well?

MR. LOFTIN: I share Robert's concern of that – you go for a whole seven-year period there's no appreciation going to the homebuyer. I've always thought and you've heard me say this before that probably the fairest, cleanest, easiest system is to just have a very simple appreciation share/recapture where you have the lien and the difference recorded by the County where you give them five percent credit off of the appraised value at the beginning so that they have some equity going in. So it's based on 95 percent of appraised value, the difference between that and what they paid for it as a lien. When they go to resell, if it's in year one, they sell it because they need to sell it the next year, there's no incentive to sell because they don't have enough equity or appreciation in it to flip it. They may need to sell for whatever reason, family hardship or whatever, but they're getting, on their portion of investment, if they pay $150,000 for that house, they're going to get appreciation on $150,000 of the house, plus the five percent bump at the beginning. So they're actually getting more appreciation than they would in the regular market, but the County's lien is keeping up with the real estate inflation as well, so in terms of looking these liens as helping fund affordable housing programs including infrastructure into the future, having the County's lien keep pace with inflation I think is important.

So to me it's fair because they're getting the same appreciation on their investment as they would in the open market. From the homebuyer's perspective it's no different. They're getting the same appreciation. What you've done is taken away an incentive to flip the property. It seems to me that would be a simpler, fairer compromise. The seven-year thing worries me because if somebody has to sell and it's a pretty much all or nothing thing, if someone has to sell in year six, they don't get any appreciation. If someone sells in year seven plus a month, then they get a bunch of appreciation.

So it seems like if you just had this thing that tracked with inflation in the real estate market and the homebuyer benefited from appreciation and the County did as well, that would be the fairest combination.

COMMISSIONER VIGIL: Mr. Chairman, could I condense that, because I want to get a really clear understanding of this. The benefit that the first-time homeowner has through this program is they're purchasing a house for $150,000 that's actually valued at $200,000. So when they actually go into the home, they're getting that additional value right up front. So the opportunity to hold the lien and maintain the track of affordable housing exists throughout the current seven years that's proposed. I guess, my understanding of that, the next question I would have is it would seem to me that seven years might be too long and five years is probably far more appropriate because one of the issues that we've tried to address here is many of our residents going to purchase those affordable homes out in Rio Rancho or Los Lunas or surrounding areas, and probably one of the most attractive features of that is that they can turn around and sell it in two years.

If they are given the restriction of seven years, and I'm envisioning a young couple whose family increases within seven years, that wouldn't be unusual and if they're in a one or two-bedroom home or they have a need for three bedrooms, and they can't move out of it without getting more of a return to expand the square footage that they're in, it seems to me that the seven year would really hurt us more than help us because I would think those young couples who were trying to start up are going to go to Rio Rancho for those purposes, because they want a growing family.

CHAIRMAN ANAYA: What would staff's recommendation be on that? Is there a recommendation? What did Mr. Miller say? Did he not want to put a number down there or one year?

MR. ANAYA: Mr. Chairman, I think Mr. Miller just – kind of what Mike was saying. Whatever their share is that they put into the house, that they not be restricted on not selling. That they would only get back the appreciation based on what they put in. But anything more than that, in his mind was basically like telling them you don't have any benefits so you'll stay five years because you have to stay five years in order to get an equity benefit. That's basically what you're putting forth. It's stay, whatever term it is, seven, six, five, four, three, and then you're kind of off the hook. And his perspective was things happen and there's other needs that shift and change.

CHAIRMAN ANAYA: So maybe if we could put some language together and bring it to the Commission again on that particular issue.

MR. ANAYA: Mr. Chairman, Commissioners, I don't know if you are – unless Diane, you are – but I'm still not sure where the whole Commission is.

MS. QUARLES: I believe the language that's in the ordinance now is pretty much what you just described. There are no resale restrictions. It allows you to sell the unit any time, any place and receive the appreciation. We would retire the soft second and we would gain those proceeds. It's a fairly unrestricted process, meaning the market would make those determinations so someone could sell in year two and the unit would go market. You would just have to be able to pay off that affordability lien, which we'd be able to do anyway because the appraised value is already set at that.

So that's a very kind of unrestricted process. The only difference is right now, in our ordinance, we're giving the homebuyer ten percent equity up front. They get ten percent equity between the difference in the market rate and the initial sale up front. So you say they're getting no appreciation. They got ten percent equity up front. And what's being proposed is to reduce that down to five percent and use that as a mechanism to try to keep the unit affordable.

CHAIRMAN ANAYA: Okay, so I guess if it's okay we'll leave it like that but we'll still talk about it if the other Commissioners have concerns about it. Or leave it as it is.

MR. LOFTIN: Mr. Chairman, if you want Robert and I to get together to try to figure this thing that we're just talking about and take William Miller's comment, and come up with a proposal.

CHAIRMAN ANAYA: That would be good.

COMMISSIONER SULLIVAN: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Sullivan.

COMMISSIONER SULLIVAN: Plus I think isn't the intent that most of that will be in the regulations?

MS. QUARLES: Actually Commissioners, this language would be in the ordinance. And this has been one of the most, probably the most difficult part of the ordinance. We can't seem to come to consensus. The task force couldn't come to consensus. We've done many scenarios on this and we just can't seem to get there.

COMMISSIONER SULLIVAN: I think, Mr. Chairman, in terms of where we go from here, my suggestion to the Commission would be that we move forward with title and general summary. We have two hearings that will come after that. Of all of these items that are proposed here, some we're already taking care of, like the regulations being adopted. The clustering, a certain level of clustering is already permitted within the proposed ordinance. We can't commit the EZA to approve units; we know that. But we can encourage that the EZA move along with us quickly in adopting a similar ordinance.

I've said what I felt about the incentives. I think we should continue to have incentives for onsite development. Water I think needs to be dealt with separately. The key one – and the PIDs need to be dealt with separately. I think it boils down to three key items and one is do we like the tier system and the percentage system, which was the fourth issue brought up. Do we feel we should make some commitment to a dollar amount that we would contribute as opposed to saying that contributions were allowed but this would be specific? I believe the staff recommended against that for a number of reasons. And should we alter the density bonus, which staff seems to feel is a good incentive and still within the ordinance.

I'd like to, at this point, in terms of the tiers, not change them. I think they should stay where they are with the fourth tier being voluntary. I would like to leave the voluntary or the language that we can make a contribution. We're authorized to do that, but we not commit to $10,000 or any other number. And again, this could continue to be discussed during the hearing process. Personally, I would certainly accept the recommendations of the staff to move the density bonus from 15 to 20 percent. I think that would provide the accommodation for the fact that in the City, the City relieved the impact fees and we really don't have impact fees so we are giving another chunk of money there. If you look at the value of what that density amounts to from the papers that staff handed us out last session, that density bonus, per dwelling unit, the staff has estimate is worth $7,800 to $15,600 per unit.

So if you can look at that, if you get an extra five units of density, you ultimately could have as much as $75,000 in benefits from that. So my suggestion, and again if the Commission feels so inclined, would be to move forward with the ordinance as it's drafted, make only one change on the draft, being the 15 to the 20 percent and leave these other issues up for discussion, including the refinement of the lien process as we've discussed.

CHAIRMAN ANAYA: Okay, there's been a motion by Commissioner Sullivan and I think it was fairly clear. Is there a second? I'll second it for discussion.

COMMISSIONER CAMPOS: Mr. Chairman, I have a question for staff. What's your position on this going immediately to notice towards ordinance?

MS. QUARLES: Actually, I would defer to Steve Ross on this one.

MR. ROSS: Mr. Chairman, members of the Commission, is the next meeting on the 8th? Am I remembering that right? I think it's important to have a draft that we can take to the Clerk's office and leave that ordinance on file down there for people to inspect. It's going to take a couple days to put that together. I think we probably ought to put this on the 8th and do it then, to authorize title and general summary. That would be my preference, because I'm still not clear on a couple things here. Although if we can get some clarity in the next few minutes maybe I'll understand it enough, but the copy of the ordinance I have has got a lot of scribbling on it.

CHAIRMAN ANAYA: Okay. So there's been a motion and a second. Discussion. Commissioner Sullivan.

COMMISSIONER SULLIVAN: My thought was to take the draft that we have and in five years, this has been the most crafted ordinance that we've taken to title and general summary that I've every had. We've taken theories to title and general summary and we've got language down to the nth degree. I was suggesting we take the language as it is, and the only substitution being made that we can file now with the Clerk's office would be the 20 percent for the 15 percent. At this point in time. Would that make it, in your judgment with enough specificity that people could understand it?

MR. ROSS: Mr. Chairman, Commissioner Sullivan, the one area that we still have to do some more work on is the long-term affordability, but we could make some assumptions I suppose.

COMMISSIONER SULLIVAN: The long-term affordability? You mean the lien?

MR. ROSS: The liens. What we just talked about.

COMMISSIONER SULLIVAN: Well, the idea here was, Diane said the language that's in there now is I guess similar to the Community College District. You can sell any time.

MS. QUARLES: That's correct. The only real difference between what Mike just described and what's in here is 90 versus 95. If you want to change it to 95 it's fairly similar to what Mike just described.

COMMISSIONER SULLIVAN: So my suggestion, and in going to the meeting last Monday, there seems to be a need for more dialogue just on that issue. My suggestion was to leave it the way it is in the ordinance now, with the 95 versus the 90, and continue to discuss that lien issue part of it, but leave it the way it is now, which is reasonably similar to the Community College District. That's my thought.

CHAIRMAN ANAYA: Thank you. And I guess under discussion, since we've waited this long I think we can wait until the 8th, a little longer, just to get it right.

The motion to authorize publication of title and summary of an affordable housing ordinance as discussed above failed by a 1-4 voice vote with Commissioner Sullivan casting the sole aye vote.

CHAIRMAN ANAYA: Is there another motion?

COMMISSIONER SULLIVAN: Mr. Chairman, I'll make another motion. I would move that this ordinance as we've discussed today with that one change, the 20 percent changed, be placed on the next BCC Commission agenda for consideration for publication of title and general summary.

COMMISSIONER CAMPOS: It's a study session, is it on the agenda?

COMMISSIONER SULLIVAN: It's on the agenda. We can do this. Yes.

COMMISSIONER VIGIL: Could you restate that motion, Commissioner Sullivan.

COMMISSIONER SULLIVAN: Sure. I think. I was moving that this ordinance as currently proposed to us with the change from 15 to 20 percent be placed on the agenda for the next BCC meeting for consideration of publication of title and general summary. For consideration.

CHAIRMAN ANAYA: There's a motion. Is there a second?

COMMISSIONER CAMPOS: The question is for legal is whether we have authority to make that motion. The agenda states we can give direction.

MR. ROSS: Mr. Chairman, for what it's worth, I think we've heard that and we will do that. That's the only plan we've heard today so we can draft the final ordinance, put that on the agenda as Commissioner Sullivan just described and avoid any kind of due process issues. We'd be happy to do that. That's the only direction we've heard.

COMMISSIONER MONTOYA: Mr. Chairman.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Mr. Chairman, Diane, how much was incorporated in terms of the changes that were suggested into what we received today? Did we see, or did I see a reflection of changes that were recommended by the meeting that occurred on Monday?

MS. QUARLES: Commissioner Montoya, this is the old draft that you discussed last time. There have been no substantive changes from that. What we were waiting to see was what the discussion was here, how many of those changes or recommendations you wished to incorporate in the draft, or we would make those revisions and actually bring it forward at the 8th. That was where we were headed. At this point I'm getting a little confused but what I hear is we're going to change it to 20 percent on the density bonus, make those revisions, bring it forward on the 8th for consideration of authorization to publish.

CHAIRMAN ANAYA: Any more discussion?

COMMISSIONER MONTOYA: I guess what I would like to see is what are some of the other recommended changes that were made on Monday into the draft that we have. I did get a copy from some of the suggested changes that were not in our packet. So none of it's reflected on what I reviewed that's in our packet. And I think it addressed some of these. Because I would like to see some of these other things in draft. I personally like the 100 to 120 percent being included. I like the way the draft of the long-term affordability reads. Those are some of the things that I see that I would like to see incorporated into the draft as well, prior to taking action on this, to see how much of it is going to meld together.

MS. QUARLES: Commissioner, let me see if I understand. These particular items, there were a number of things that were put on the table on the 31st. There was then discussion between the task force and the developers to sort of pare down where the consensus would be and they brought that forward. There were other issues that fell out of the picture, if you will, based on the discussions that happened between there and that's what was presented today. We could create a second draft if that's the wishes of the Commission that incorporate these so you can see what these look like, what the changes would look like. We can do an original draft with the change of the 20 percent. There's many different ways we can do it. We're just kind of trying to get direction at this point.

COMMISSIONER MONTOYA: That's what I would like to see. The change with the draft of the recommended changes, along with, well, the 20 percent was part of the recommended change. So that's what I would like.

CHAIRMAN ANAYA: So Commissioner Montoya would like to see more of the changes incorporated than just the 20 percent. Right?

COMMISSIONER MONTOYA: Right.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: And maybe I'm taking a step back here but I would like for the deliberation between this Commission on each one of these issues because each one of them brought up questions for me that I don't think we have the appropriate time to bring up at this particular time. I think we need to deliberate on each one of these proposed issues because actually what we'll be doing otherwise is just having the option of one ordinance with proposed changes and one without, and without full deliberation, I'm not sure – I want to know how each Commissioner feels and the pros and cons from your representative perspective from each one of these proposals. So my recommendation is that we continue a study session. I don't know if that means the discussion will go on at the BCC meeting. I'm happy to discuss this at the BCC meeting, but I do believe we need further deliberation.

CHAIRMAN ANAYA: Commissioner Campos.

COMMISSIONER CAMPOS: BCC meeting is not going to allow us enough time to go into the detailed discussion that you're proposing, I don't believe. I agree, I think we have to keep it simple. I don't want to have too many drafts floating out there. It doesn't achieve our goal of giving some sort of notice. By the time we get to the legislative process we'll be able to make changes, broad changes, actually. This is just about notice. This doesn't mean that we're stuck. This is it, it's in stone. We're still going to go through a legislative process.

MR. ANAYA: Mr. Chairman, Commissioners, I find that these discussions today and all to this point were productive. And I think that given the information we have to this point that we can bring back some changes and modifications for further discussion if that's what you choose, at a BCC meeting or other study session. But I think you're further along at this meeting than you were and I think we have some differing perspectives. It doesn't mean we're done, it doesn't mean it's complete but I think staff can come back with an adoption list that gives you clear direction, or not direction, clear options to choose from as you go forward.

I just feel it may be a little more productive. I think it was a productive meeting. We have some things as staff that we can utilize based on this discussion to bring back to you for further consideration.

CHAIRMAN ANAYA: Okay, so clear direction would be to staff, go back and work with the task force to come back to the Commissioners at a special meeting, not during the BCC meeting, to give us an update or to talk more about it so that we can move forward.

COMMISSIONER CAMPOS: Mr. Chairman, are you talking about going back to the task force again? I don't think we discussed that.

CHAIRMAN ANAYA: Do you not want to go back to the task force?

COMMISSIONER CAMPOS: I don't think so.

CHAIRMAN ANAYA: Okay. Staff needs to go and give us some clarity, look at these issues that we brought up and bring it back to us at another date on another special housing meeting. Is that okay with the Commission?

COMMISSIONER VIGIL: That's good.

COMMISSIONER SULLIVAN: I think that's okay. I think we can have two, three, four, as many meetings as we feel is necessary. I still feel we have more than ample material in this ordinance, in this draft ordinance to go to title and general summary. And there's nothing that limits us to two hearings; we can have three hearings. We can have work sessions in between the hearings. I think if we've worn out the task force, quite frankly, and it has been going on for three years, and I think that this sets the step. All of these issues can be considered. We don't even have to put the 20 percent if you don't want. Just take the ordinance as it is right now. All of these issues are still open.

Or Commissioner Montoya, we could put in Commissioner Montoya's 120 percent thing, just to get an ordinance out there and get it started through the process. I feel we need to indicate that we're at least that close to doing an ordinance.

CHAIRMAN ANAYA: Okay, an ordinance, we'll move this thing forward. How does the Commission feel for exactly what I said?

COMMISSIONER CAMPOS: Mr. Chairman, I agree that we could have another study session and Commissioner Sullivan is proposing that we, on November 8th authorize publication of title and general summary. We could do both things, right? Is that what you're proposing?

CHAIRMAN ANAYA: That's not my proposal.

COMMISSIONER CAMPOS: Your proposal is to stick to the study session.

CHAIRMAN ANAYA: Stick to the study session. Let's get it ironed out and then bring it up when we get it fixed. This proposal is to put it on the agenda and to continue moving forward.

COMMISSIONER SULLIVAN: Plus having whatever study session.

CHAIRMAN ANAYA: Plus having the study session. What direction do you want to give staff?

COMMISSIONER CAMPOS: I'll go with Commissioner Sullivan, unless – I think we can do that. That will put more pressure on us to move forward, that's what that does, what Commissioner Sullivan is proposing. It puts pressure on us to move forward.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: You're okay with that additional pressure?

COMMISSIONER CAMPOS: I think so. We've been thinking about this for a long time.

COMMISSIONER VIGIL: There are some really critical questions.

COMMISSIONER CAMPOS: Does the staff feel ready to move forward? They're the ones that are doing all the work. Diane, Robert. That's a question that we should pose to you.

MS. QUARLES: I'm good at splitting the baby.

COMMISSIONER CAMPOS: Don't split the baby.

MS. QUARLES: Commissioners, any of these suggested changes can be put in the ordinance without too much difficulty. We can modify, we can change, we can do anything we need to with respect to your goals and wishes. It isn't a problem for us.

CHAIRMAN ANAYA: Do you want to put it on to publish title and general summary on the 8th or not?

COMMISSIONER VIGIL: I would like to have a study session prior to that, but I'm okay including it in the agenda should we need to. I have the really significant question, so I'm splitting the baby so to speak. The issue that Ouida McGregor brought up is really critical to this and one of the proposals we have it to make the 101 to 120 percent a mandatory component of this. And when I look at that, I think how are we going to be able to make the policy decision that shares the responsibility for this. Are developers wanting this to be revenue neutral? I think revenue neutral would be something that we'd all have a goal for but I'm not sure whether or not that mandatory proposal would make it revenue neutral, because that would be the one area where I think if all the incentives were provided, it might be that we are – we're actually subsidizing the developer's gain in this.

Those are questions that I'm not comfortable with. I don't have a sense of the answer. I want some more questions answered. So even before I would vote on a title and general summary I'd want those questions answered. That's why it's of concern to me that we deliberate on these particular issue.

CHAIRMAN ANAYA: It's on the agenda and you might not vote for it anyway. Commissioner Montoya.

COMMISSIONER MONTOYA: I agree with Commissioner Vigil.

CHAIRMAN ANAYA: Okay. Go ahead.

LYNN CANNING: My sense is that it is time to get it in front of a broader public and I think that you can do both, you can get it published and you can keep working on the details. But again, I think you need to be hearing from more than just us who keep coming into these rooms. Not that we're not fabulous. And I am really proud of everybody and all the work that has been done, with the development community, the task force members that are left, you guys and the staff. But I think that there's a point at which we need to begin to bring this to the broader public and that's the point I think of publishing it and starting having the public hearings.

Maybe some of these questions aren't bad to actually ask a broader public about. Nevertheless, I think that some of the questions that you have raised are important. What are the implications of the 120? Going for the 100 to 120. And what does this package of incentives actually mean in terms of the revenue neutral issues. But I think we should be moving ahead while we're still being careful. Va piano, va sano. Go slow to go whole, like my mama said, but let's get it into the process officially so we can begin to notice the public to some of these things. Can we have a study session and publish it?

CHAIRMAN ANAYA: Does that change your mind?

COMMISSIONER VIGIL: I think she's saying what I was recommending. I would like some more questions answered and I don't mind keeping it on the agenda. I don't know how the other Commissioners feel. I have questions and I can directly go to staff and come to my own conclusion but for example, I think I heard today the proposal that when you go to offsite alternatives of compliance, that perhaps we need to look at the incentives. Do we provide the same incentives for offsites or not? And I don't have an answer to that.

CHAIRMAN ANAYA: Commissioner Vigil, do you want it on the agenda or not?

COMMISSIONER VIGIL: I want it on the agenda.

CHAIRMAN ANAYA: We're going to put it on the agenda for the 8th and staff will come back with their recommendation so we can move this forward. Commissioner Campos.

COMMISSIONER CAMPOS: Mr. Chairman, if we're going to go back to study session I think we need to have our material at least a week before and we need some comment from legal. I think for every item, I think we would understand this and move forward a lot in an easier way if we had a context and a rationale explicit. We've talked about it before but we've come in here cold again. We haven't had a packet for today. We need to have that rationale, that context, for all these major issues and you're not going to be able to have it by the 8th. I'm sure you're not.

So I want to give you enough time to have a presentation that really sets out the context, the rationale, what we're really weighing, and that way it's easier to make a decision but you can't do that in a few days.

CHAIRMAN ANAYA: So you're changing your mind?

COMMISSIONER CAMPOS: No. I'm just saying if we're going to go back to study session that's what I want at the next study session. I'm thinking that Tuesday we may not vote to publish general title. We'll consider it again.

CHAIRMAN ANAYA: Okay. Robert.

MR. ANAYA: Mr. Chairman, from the staff perspective, if we put it on the agenda, like we can, like Diane said we can, it sounds to me like there's going to be a determination that we need to have the study session first. I just want to make sure, do you expect us to have the study session – going to Commissioner Campos' comments, before the 8th, because I don't think that's –

COMMISSIONER VIGIL: That's not possible.

MR. ANAYA: I don't think that reasonable or possible from a staff perspective. Mr. Chairman, you have a plaque on your wall in your office that says do it right the first time. That comes to my mind right now at this point. Yes, we could publish it and yes, you could authorize it but if you want us to do a study session, I think it would be helpful if you told us what day you want to do that, regardless of what you decide on the 8th. That way we could have some time. And I would just for some consideration of giving us a little time to be able to do it right. I'm not saying months or anything, I'm just saying if you could give us a little time, that would be appreciated.

CHAIRMAN ANAYA: Okay.

COMMISSIONER SULLIVAN: Let me suggest that we continue to move forward. Put it on the agenda for publishing title and general summary. I don't think the intent was that we have all of these questions answered by the 8th. I think the intent was we just have this ordinance that legal is comfortable with, and that it's filed so we have a working document, a platform to start from. And I agree with Commissioner Campos that we need probably at least three weeks, perhaps a month, before the next working session, so that we can get the documents at least a week ahead of time. Today is the 3rd of November so we're probably looking at the next study session to happen after early December. I would just throw out any days that you like. Those that are on the Buckman Board, there's a 4:00 meeting December 1st. We could hold a study session before that. December 1st, a Thursday from 2:00 to 4:00 or 1:00 to 4:00. No?

COMMISSIONER CAMPOS: What about December 6th, Tuesday? That's a non-BCC meeting day.

COMMISSIONER SULLIVAN: That's okay too.

COMMISSIONER VIGIL: We do have RPA.

COMMISSIONER CAMPOS: On the 6th?

COMMISSIONER SULLIVAN: You can't be there on the 6th?

COMMISSIONER CAMPOS: I don't have that.

COMMISSIONER SULLIVAN: No good on the 6th. How about December 8th? You'll be gone? Let's move forward a little bit. We're getting quite a ways. How about – November 29th is a Commission meeting. Is that right?

COMMISSIONER VIGIL: Right.

COMMISSIONER SULLIVAN: How about the 30th of November?

COMMISSIONER VIGIL: Okay.

CHAIRMAN ANAYA: That will work.

COMMISSIONER SULLIVAN: That will work? Morning or afternoon.

COMMISSIONER CAMPOS: I'll be out of town.

COMMISSIONER SULLIVAN: You'll be out of town. It doesn't work. Okay. And the 1st was no good for Commissioner Anaya. Who wasn't it good for?

COMMISSIONER VIGIL: You eliminated it.

COMMISSIONER SULLIVAN: I did? I didn't.

COMMISSIONER CAMPOS: There's a Buckman Board. You suggested –

COMMISSIONER SULLIVAN: No, I was suggesting I would be fine with the Buckman Board?

COMMISSIONER CAMPOS: What time is the Buckman Board?

COMMISSIONER SULLIVAN: Four o'clock.

COMMISSIONER CAMPOS: We're going to need more than two hours.

COMMISSIONER SULLIVAN: Okay, so start at 1:00.

COMMISSIONER MONTOYA: I thought Buckman was at 3:00.

COMMISSIONER SULLIVAN: Is it at 3:00? I had 4:00. Is it at 3:00? Okay. Then start at 1:00 anyway and get as far as we can.

COMMISSIONER MONTOYA: I won't be here. NACo Board meeting.

COMMISSIONER SULLIVAN: Okay, how about December 5th.

CHAIRMAN ANAYA: I'll be gone.

COMMISSIONER SULLIVAN: You'll be gone the first week of December, the whole week? The whole week. Okay. The 21st of November? Is three weeks enough time?

COMMISSIONER VIGIL: Diane Quarles won't be here the 21st.

MS. QUARLES: I might be here Monday.

COMMISSIONER SULLIVAN: How about the 22nd? The 22nd is not a Commission meeting.

COMMISSIONER MONTOYA: The 29th doesn't work? Before the BCC?

COMMISSIONER CAMPOS: We've got a 10:00 BCC.

COMMISSIONER SULLIVAN: We've got a 10:00, plus the housing meeting.

COMMISSIONER MONTOYA: Oh, we do have a housing.

COMMISSIONER SULLIVAN: I don't know about the housing; we have indigent.

MR. ANAYA: You don't have a housing meeting.

COMMISSIONER SULLIVAN: No housing, just the indigent board at 9:00. What about Tuesday the 22nd?

COMMISSIONER VIGIL: Will you be here?

MS. QUARLES: Only in the morning.

COMMISSIONER CAMPOS: I'll be out of town.

COMMISSIONER SULLIVAN: You'll be out of town Tuesday. Did we already do Wednesday the 23rd.

COMMISSIONER VIGIL: Diane Quarles will be out of town.

CHAIRMAN ANAYA: I'll be here the second week in December.

COMMISSIONER VIGIL: Can we look at Monday, the 21st of November? Did we eliminate that?

COMMISSIONER CAMPOS: It's close to Christmas. What about the 13th? There's a BCC meeting at 3:00. We could maybe start this meeting at 10:00 to 12:00. Continue in the afternoon until about 2:30, take a break, come back to our BCC meeting. Make the 13th a BCC day.

COMMISSIONER SULLIVAN: Thirteen of December. That would be a Tuesday.

COMMISSIONER CAMPOS: Starting at say 10:00, working to noon, breaking. We're going to need two to four hours, I'm guessing. These issues are complex.

COMMISSIONER SULLIVAN: Well, and this is a working session. It's not a hearing.

COMMISSIONER CAMPOS: It's going to be the study session.

COMMISSIONER SULLIVAN: I'm okay with that.

CHAIRMAN ANAYA: Thirteen of December. What time? 10:00?

COMMISSIONER CAMPOS: Ten to twelve, maybe go in after lunch if we have to.

COMMISSIONER SULLIVAN: And that will be a work session and then we'll also then put title and general summary on the 8th. I guess the only question, Mr. Chairman, I'd have then. Should we make any changes? I had suggested making it 20 percent. I don't know that that matters particularly for title and general summary.

COMMISSIONER CAMPOS: Let's not worry about that.

COMMISSIONER SULLIVAN: Let's not worry about that at this point. Just do it the way we have it in our packets. We've got a usable document and then we can fine-tune it over the next couple months.

CHAIRMAN ANAYA: So is that what you want?

COMMISSIONER CAMPOS: I agree with the 13th.

CHAIRMAN ANAYA: But in terms of what Commissioner Sullivan – in terms of title and general summary on the 8th.

COMMISSIONER CAMPOS: I may vote for it or not.

CHAIRMAN ANAYA: Okay. Put it on there.

COMMISSIONER VIGIL: We should have it on the agenda. And I'm really underscoring that because of Lynn's comments. That there may be some people out there who may want to come and comment on it and I think that this is an opportunity to do that.

CHAIRMAN ANAYA: Okay, we're going to adjourn this hearing pretty quick.

MS. VAZQUEZ: Mr. Chairman, I just want to make sure that my change to the ordinance that were submitted to the task force on Monday be made part of the record. They weren't in the packet here but I would like them to be part of the record. *[Exhibit 2]*

CHAIRMAN ANAYA: Sure.

COMMISSIONER SULLIVAN: And then on the 13th we could – that would be a land use meeting, so after our hearing we could – it would be the first public hearing so we could listen to comments.

COMMISSIONER CAMPOS: It could be a long hearing too, Mr. Chairman.

COMMISSIONER SULLIVAN: Well, it's an important topic.

COMMISSIONER CAMPOS: Let's look at the agenda.

COMMISSIONER SULLIVAN: It's an important topic. Thank you, Mr. Chairman.

V. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at approximately 12:25 p.m.

Approved by:

Michael Anaya

Board of County Commissioners
Mike Anaya, Chairman

Respectfully submitted:

Karen Farrell

Karen Farrell, Commission Reporter

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Affordable Housing Study Session #4
November 3, 2005

Approach for the long-term affordability:

1. Process—The two liens [mortgages] is filed at the time of initial sale. The affordability lien would track for 15 years with resale restriction lien occurring through year 7.
2. During the resale-restricted period, the County would exercise its right of first refusal within 120 days to find an eligible buyer that would keep the unit within the affordable market. Appreciation on the affordability lien would go to the County during the first 7-year period, but the seller would recapture their initial investment and any gain between the new affordable selling price and their original purchase. If the unit were sold as affordable, the liens would be reissued and adjusted according to the year of sale.
3. After the resale restriction is retired in year 8, they would then gain a proportionate share of appreciation up to year 15. Although the resale restriction is lifted at the end of year 7, the affordability lien will allocate appreciation share through year 15. In year 15, the liens are retired and the unit is not longer restricted. The buyer would capture all appreciation on the unit, but the County would receive the proceeds from the initial affordability lien.
4. If the County cannot find an eligible buyer within the 120 days and does not exercise its right of first refusal, the unit may be sold at market rate and the appreciation share would occur according to the formula for that year of sale. The unit is then no longer considered affordable.

Considerations:

- If the terms for both liens are considered too long, they can be reduced to a 5-year resale restriction and 10-year affordability lien.
- In this scenario, three objectives are met: The unit is held affordable for a set period of time, the County generates "revenue" for the affhsg trust fund and the homeowner participates in the appreciation of the lien.

Stakeholder's amendments are in double strikeouts and bold italics. All other changes are made by the County Staff

SANTA FE COUNTY ORDINANCE NO. 2005-____

AN ORDINANCE REQUIRING AFFORDABLE HOUSING IN PROJECTS AND MINOR PROJECTS DEVELOPED WITHIN THE CENTRAL AREA OF THE COUNTY, CREATING THE POSITION OF AFFORDABLE HOUSING ADMINSTRATOR, PROVIDING FOR ENACTMENT OF AFFORDABLE HOUSING REGULATIONS, PROVIDING FOR INCENTIVES TO AMELIORATE THE COST OF PROVIDING AFFORDABLE HOUSING, ENSURING LONG-TERM AFFORDABILITY, PROVIDING FOR ALTERNATE MEANS OF COMPLIANCE AND MEANS TO ADDRESS HARDSHIP SITUATIONS, AMENDING ORDINANCES NO. ____, AND REPEALING ORDINANCES NO. ____.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY:

Section One. Purpose and Intent. The purpose of this Ordinance is to provide increased housing opportunities within a broad range of incomes for current and future residents of Santa Fe County. The intent is to encourage new development to achieve a reasonable balance between market rate housing and Affordable Housing through the use of incentives and other means to help offset potential costs.

Section Two. Applicability. This Ordinance shall apply to each ***housing*** Project ***of twenty-four(24) lots or more,*** and Minor Project within the unincorporated areas of central Santa Fe County shown in Attachment A not governed by the Santa Fe County Exterritorial Zoning Ordinance, Ordinance No. ____-___, and the Santa Fe County Extraterritorial Subdivision Regulations. This Ordinance shall apply to existing approved master plans, ~~preliminary development plans or preliminary plats~~, and shall apply to applications for approval of master plans, preliminary development plans or preliminary plats submitted for review after the effective date of this Ordinance. This Ordinance shall not apply to ***preliminary and*** final development plans and ***preliminary*** final plats that have received approval prior to the effective date of this Ordinance. ***This Ordinance shall not apply if the County cannot provide water for the affordable housing units.***

Section Three. Definitions. For purposes of this Ordinance, the following definitions shall apply:

A. "Affordable Housing" means an Eligible Housing Type or Unit that is sold at or below the Maximum Target Housing Price to an Eligible Buyer, where the Eligible Housing Unit is occupied by the Eligible Buyer as a primary residence.

B. "Affordable Housing Administrator" means the County employee charged with administering this Ordinance, making recommendations and taking other actions as set forth in this Ordinance.

C. "Affordable Housing Plan" means a written plan that describes how an applicant intends to comply with the Affordable Housing requirements of this Ordinance, and which specifies the general location, number and types of Affordable Housing Units that will be built.

D. "Affordable Housing Regulations" refers to regulations developed and updated periodically by the Board of County Commissioners to govern implementation and administration of this Ordinance.

E. "Affordable Rental Unit" means an Affordable Housing Unit that is developed for rental purposes only.

F. "Affordable Unit" means an Affordable Housing unit.

G. "Area Median Income" means the median income of the Santa Fe Metropolitan Statistical Area, adjusted for various household sizes, published by the United States Department of Housing and Urban Development and amended annually pursuant to data published by the United States Department of Housing and Urban Development.

H. "Code Administrator" means the Santa Fe County Land Use Director, or his/her designee.

I. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

J. "Eligible Buyer" means the buyer of an Eligible Housing Unit whose Annual Gross Income is one hundred percent (100%) or less than the Area Median Income.

K. "Eligible Housing Type" or "Unit" means a housing unit, attached or detached, that is constructed in compliance with applicable codes. Design standards for an Eligible Housing Type or Unit shall be further categorized within the Affordable Housing Regulations according to housing type, number of bedrooms, number of bathrooms and minimum square footages of heated residential area.

L. "Income Range" means the income range used to determine the Maximum Target Home Price for each Eligible Housing Type. For purposes of this Ordinance, the Income Ranges are as follows:

1. Income Range 1: 0% to 65% of the Area Median Income.
2. Income Range 2: 66% to 80% of the Area Median Income.
3. Income Range 3: 81% to 100% of the Area Median Income.
4. Income Range 4: 101% to 120% of the Area Medium Income.

M. "Maximum Target Housing Price" means the highest price at which an Eligible Housing Type or Unit may be sold to an Eligible Buyer in the appropriate Income Range and otherwise satisfy the affordable housing requirements of this

Ordinance. The Maximum Target Housing Prices for each Eligible Housing Type and Income Range shall be included in the Affordable Housing Regulations, and the Maximum Target Housing Prices shall be amended from time to time as the Area Median Income, interest rates, or other appropriate indices change. The Maximum Target Housing Price shall not include any options, lot premiums or upgrades chosen by the Eligible Buyer so long as the options, premiums and upgrades are published by the seller in advance as part of its marketing efforts and so long as the options are reasonably comparable to those offered to other buyers of the same housing type and do not exceed the sum of $2,000 in total.

N. "Minor Project" ~~means~~ subdivision of a parcel or parcels into between five (5) and up to ten (10) ~~lots or parcels~~ for ~~purpose of~~ sale, lease or other conveyance of one or more single family residences.

O. "Service Level" means the type of water and wastewater system proposed to serve a Project or Minor Project. Service types are further categorized as centralized (public or publicly-regulated integrated water distribution and/or wastewater collection systems), or non-centralized (private water and/or wastewater systems provided on-site). Categories of Service Levels are as follows:

1. Service Level I: Community Water System and Community Liquid Waste Disposal System; water service provided by the Santa Fe County Water Resources Department;

2. Service Level II: Centralized water and wastewater; water service is provided by a public utility other than Santa Fe County Water Resources Department;

3. Service Level III: Centralized water and non-centralized wastewater;

4. Service Level IV: Community wells and non-centralized wastewater; and

5. Service level V: Individual or shared wells and non-centralized wastewater.

P. "Project" means any division of property into ten or more parcels for purpose of sale, lease or other conveyance of one or more single-family residences.

Section Four. Affordable Housing Requirements.

A. Of the total housing permitted in any Project, no less than thirty percent (30%) shall be Affordable Housing as defined herein.

B. The Affordable Housing provided in connection with a Project shall be provided equally to Eligible Buyers in Income Range 1 (~~10~~ *7.5*%), Income Range 2 (~~10~~ *7.5*%), ~~and~~ Income Range 3 (~~10~~ *7.5%) **and Income Range 4 (7.5%).***

C. If a fractional portion of an Affordable Unit remains when determining the required number of Units, the following requirements apply:

1. Where the fractional remainder is greater than 0.5, an additional unit shall be required.

2. Where the fractional remainder is 0.5 or less, a residual fee shall be required in accordance with the Housing Regulations.

~~C~~D. Affordable Housing shall be integrated into the overall design and layout of the Project, and the Affordable Units shall be reasonably dispersed within the Project. An appropriate mix of housing types and sizes may be included in the Project so long as it otherwise complies with this Ordinance. At a minimum, the general location, total number of units, a description as to the type and design of those units, the general pricing structure, and the proposed phasing of the Affordable Housing shall be identified in the Affordable Housing Plan and the exact location of the Affordable Units shall be identified in the Affordable Housing Agreement.

~~D~~E. Affordable Housing shall be provided in phases if the Project is otherwise to be phased, but the proportion of Affordable Housing Units offered for sale within any phase must not be less than the proportion of the total number of lots to be developed within all phases of the Project and the total number of Affordable Housing Units to be offered within all phases of the Project.

~~E~~F. An applicant shall submit an Affordable Housing Plan as a part of the application for approval of a Project. The Affordable Housing Plan shall describe, in detail, how the applicant intends to comply with the Affordable Housing requirements of this Ordinance, and shall specify whether alternative means of compliance or hardship conditions will be claimed and, if so, the grounds for doing so. The Affordable Housing Plan shall be submitted at the earliest phase of the review process and shall be included as a part of the development review for that development. The Affordable Housing Administrator may request additional information from the applicant, or reject or require amendments to a proposed Affordable Housing Plan if the proposed Affordable Housing Plan fails to meet the requirements of this Ordinance or the Affordable Housing Regulations. The Affordable Housing Plan will be incorporated into the Affordable Housing Agreement that shall be filed and recorded with a final development plan or a final plat, whichever instrument is the first to be recorded.

~~F~~G. A final plat shall not be recorded until the applicant has entered into an Affordable Housing Agreement with the County.

Section Five. Affordable Housing Requirements for Minor Development. The Affordable Housing provided in connection with a Minor Project shall be provided, as follows:

A. For a Minor Project that creates five (5) or six (6) housing units, one (1) Affordable Unit within Income Range 2 shall be provided.

B. For a Minor Project that creates between seven (7) housing units and ten (10) housing units, two Affordable Units shall be provided including one (1) Affordable Unit in Income Range 1 and one (1) Affordable Unit in Income Range 2.

Section Six. Affordable Housing Regulations.

A. ~~Within ninety (90)~~ ~~thirty (30) days of the effective date adoption of this Ordinance, t~~The Affordable Housing Administrator shall recommend and present to the Board of County Commissioners proposed Affordable Housing Regulations at the time of consideration and review of this Ordinance~~. The BCC may extend this term by an additional thirty (30) days if it determines that more time is necessary for adequate review and consideration.~~

B. The Affordable Housing Regulations ultimately adopted by the Board of County Commissioners shall include, at a minimum, the following:

1. The application submittal requirements necessary to reasonably evaluate compliance with this Ordinance, the requirements governing the Affordable Housing Plan and Affordable Housing Agreement.

2. The form of the Affordable Housing Agreement including standard terms and conditions for providing Affordable Housing within the Project or within a Minor Project, and to ensure compliance with the terms of this Ordinance. The Affordable Housing Regulations shall specify that the Affordable Housing Agreement describe the location, housing type(s) and size(s) and the Maximum Target Housing Price(s) of the proposed Affordable Units, and shall describe how Affordable Units will be marketed and sold to eligible buyers, and shall specify that the Affordable Housing Agreement shall be filed and recorded with the Final Plat;

3. A reasonable process for certifying Eligible Buyers by the County or its agent that, to the extent possible, takes no more than fifteen (15) business days from the date a potential buyer applies for certification;

4. Reasonable fees to be charged for certification of Eligible Buyers;

5. The form of the Certificate of Compliance to be issued upon compliance with the terms of this Ordinance;

6. A Maximum Target Housing Price for each income range;

7. Minimum design requirements including the number of bathrooms and the minimum residential square footages of heated area according to the number of bedrooms;

8. Green building standards, adjusted Maximum Target Housing Prices for green building Affordable Units, and green building certification requirements;

~~8.~~9. The method used to determine and periodically adjust the Maximum Target Housing Price, including the methodology to be used to determine the initial market price for each Eligible Housing Type and a means to discount the market price by the same percentages to determine the price for each category of Eligible Housing Type and for each Income Range; and

~~9.~~10. Method for determining fees associated with this Ordinance, including cash payments as an alternative means of compliance and residual fees: and

11. Any other matter deemed necessary by the Board of County Commissioners.

C. The Affordable Housing Regulations shall be adopted by resolution of the Board of County Commissioners, and shall be amended from time to time as deemed necessary and to account for changes in indices used to make calculations required by this Ordinance and the Affordable Housing Regulations.

Section Seven. Rental of Affordable Units. An Eligible Buyer shall not lease an Affordable Housing Unit provided pursuant to this Ordinance unless the proposed tenant is an immediate family member of the Eligible Buyer, the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, and the proposed lease of the premises is approved in writing by the Affordable Housing Administrator.

Section Eight. Water for Affordable Housing. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe Land Development Code and Ordinance No. 2005-____ (Master Plan Procedures), or any Resolution governing operations of the Santa Fe County Water Resources Department, a Project that provides Service Level I shall not be required to transfer water rights to the County for up to thirty percent (30%) of the Affordable Units provided within the Project pursuant to this Ordinance, and may not be required to transfer water rights to the County for up to an additional ten percent (10%) of any Affordable Housing provided in Income Range IV, so long as at the time of application the County holds adequate water rights to supply the Affordable Units, and is otherwise capable of supplying the Affordable Units.

Section Nine. Density Bonus for Affordable Housing.

A. A Project that provides Service Level I or II may receive increased density to accommodate the Affordable Units provided pursuant to the requirements contained within this Ordinance, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of fifteen ~~fifteen~~-percent attributable to the Project in total.

B. A Project that provides additional Affordable Housing Units within Income Range 4 amounting to an increase of ten percent (10%) more than the Project would otherwise have to provide, may receive an additional five percent (5%) density bonus, not to exceed an increase of fifty percent (50%) of the density otherwise permitted by application of the Land Development Code, and not to exceed an increase of twenty percent (20%) attributable to the Project as a whole.

C. The affordability requirements for a Project shall be determined prior to applying any density bonus.

D. Density bonuses of more than twenty percent (20%) attributable to the Project as a whole may be approved by the Board of County Commissioners on a case-by-case basis, so long as the Project remains compatible with surrounding uses and the impacts to adjacent areas are minimal.

Section Ten. Relief from Fire Impact Fees. Notwithstanding the provisions of Article ___, Section ___ of the Ordinance No. _____-___, the Santa Fe County Land Development Code and Article ___ Section ____ of the Santa Fe County Fire Code, a Project or ~~Minor Project~~ that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay fire impact fees for each Affordable Unit provided within the Project.

Section Eleven. Relief From Development Fees. Notwithstanding the provisions of Article ___, Section ___ of the Santa Fe County Land Development Code, a Project or ~~Minor~~ ~~Project~~ that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay development fees for each Affordable Unit provided within the Project.

Section Twelve. Relief From Additional Santa Fe County Water Utility Connection Charges. Notwithstanding the provisions of Article ___, Section ___ of Resolution No. ____-___, a Project that provides Affordable Housing as required by this Ordinance shall be relieved of the obligation to pay additional water connection charges that exceed the cost of the water meter.

Section Thirteen. Reduction of Lot Size for Affordable Units. A Project that provides Service Level III, IV or V, or a Minor Project that is not eligible for a ~~water~~ ~~rights transfer~~ waiver (Section ____, herein) or a water ~~allocation~~ or density bonus (Section ____, herein), may reduce the lot area for each Affordable Unit to the minimum permitted by applicable Regulations of the New Mexico Environmental Department, so long as the Affordable Units whose lot sizes are reduced pursuant to this Section are reasonably dispersed throughout the Project. The reduction in lot size shall not alter the hydrologic standards set forth in the Santa Fe County Land Development Code."

Section Fourteen. Water Rights Transfer Reduction. A Project that provides Service Level III, IV or IV, ~~or a Minor Project~~ that is not eligible for a water rights transfer waiver pursuant to Section ____ herein or a density bonus pursuant to Section ____, herein may nevertheless be eligible to reduce the ***amount of water for each affordable housing unit and overall*** water budget for the Affordable Housing Units ~~within~~ the Project to the estimated actual usage attributable ***to each unit*** ~~the Affordable Units,~~ notwithstanding the provisions of Article ___, Section ___ of the Land Development Code. ***The development shall be allowed to begin the water budget analysis with an assumption of .20 acre feet per year vs .25 acre feet per year.***

A project shall be allowed to reduce the total amount of water allotted by the County for fire and line loss (normally 20%) to the estimated calculated amount attributable to the project's water budget.

Section Fifteen. Other Incentives Authorized by Article 27, New Mexico Affordable Housing Act. The County may donate land for construction of affordable housing or an existing building for conversion or renovation into affordable housing or may provide or pay the costs of infrastructure necessary to support affordable housing projects if enacted by separate ordinance pursuant to the requirements set forth in NMSA 1978, Section 6-27-1 et seq., ***up to $10,000.00 per affordable unit.***

Section . Public Improvement Districts

At the developer's discretion, the developer shall submit application for the creation of a Public Improvement Districts. Understanding the County's commitment to affordable housing, the County shall proceed in a timely and positive manner for the creation and implementation of a Public Improvement Districts wherever there is public infrastructure or infrastructure to be dedicated for public use and ownership.

Section ~~Fifteen~~ Sixteen. Alternate Means of Compliance.

A. A Project or a Minor Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

1. providing Affordable Units outside the Project but within the unincorporated areas of Santa Fe County where the Board of County Commissioners has exclusive zoning and platting jurisdiction to consider such ***alternatives or the Extra Territorial Zoning Authority wherein city services and infrastructure are available;***

2. making a cash payment of equal or greater value than would be required if the Project had constructed or created Affordable Units as provided in this Ordinance; ~~(in the not EZ?)~~

3. dedicating property suitable for construction of Affordable Units within the unincorporated areas of Santa Fe County where the Board of County Commissioners has exclusive zoning and platting jurisdiction to consider such ***or the Extra Territorial Zoning Authority wherein city services and infrastructure are available*** alternatives whose value is equivalent or of greater value than would be otherwise be required if the Project had constructed or created Affordable Units as provided in this Ordinance; or ~~(to broaden more opportunity but limited)~~

4. a maximum five percent (5%) ~~reduction~~ adjusted Maximum Target Housing Prices for each Income Range ~~in the total number of Affordable Units (where a thirty percent (30%) affordability is required), which is to be distributed equally among each of the~~ three Income Ranges, ~~for~~ Complying with the Green Building Construction Standards as it applies to the entire Project shall allow for an adjusted Maximum Target Housing Prices for each Income Range as set forth in the Affordable Housing Regulations.

5. improvements to public infrastructure that assists the health and welfare of the county.

6. creation and implementation of work force housing in conjunction with the New Mexico Mortgage and Finance Authority or other not for profit organization specializing in work force housing.

7. donation, implementation or creation of community services, ie shelters, youth or elderly centers, fire stations or donation of fire equipment.

B. Review of a proposal to use an alternative means of compliance provided by this Section shall be conducted during the review of application for approval (-each independent 30% req. 2 separate projects original and additional) of the master plan, preliminary plat or development plan, as appropriate. Alternatively, a person desiring to develop a Project may apply for approval of a proposed Affordable Housing Plan prior to applying for approval of a Project, in which case the application shall be processed in the same manner as an application for a [master plan] is processed. Concept approval of an alternative means of compliance does not imply nor commit to an approval for future development. An alternative means of compliance shall receive final approval as it is considered and approved under the Housing Plan as part of the normal development review process specific to that project. If off-site construction is proposed as an alternative means of compliance, the sending and receiving projects must be considered together in order to determine overall compliance with this Ordinance. ***The Board of County Commissioner shall hear and decide such conceptual plan within thirty days of submittal of such plan***

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C. In deciding whether to accept a proposed alternative means of compliance for off-site construction or land dedications with the requirements of this Ordinance, the County shall consider the following where applicable:

1. whether implementation of a proposed alternative means of compliance would overly concentrate Affordable Units in an area or within the proposed project where such a concentration would be inappropriate given present or future conditions;

2. if the proposal involves providing Affordable Units outside the Project area, whether there is adequate existing infrastructure, including water systems, liquid waste facilities and transportation systems to support the Affordable Units in the {proposed location so long as it is demonstrated by a service agreement that such infrastructure for water and liquid waste disposal systems can and shall serve the proposed alternative site or project; } *The City no longer issues notice of intent to serve on projects before the EZ, until engineering plans are done and a contract is obtained from the city. can't get at concept approval*

3. if the proposal involves providing Affordable Units outside the Project area, whether there is a specific need or market for Affordable Units in the location where proposed; or

4. if the proposal involves providing Affordable Units outside the Project area, whether the property where the Affordable Units are proposed to be located is suitable for residential use and residential development; and

5. if the proposal involves providing an overall higher public benefit than if the Affordable Units er constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

D. In deciding whether to accept a proposed alternative means of compliance for cash payment in lieu of on-site construction, the county shall consider the following where applicable;

1. The cash payment shall be, at a minimum, commensurate with the total value equal to or greater than the cost to construct comparable Affordable Units within the Project or Minor Project;

2. A cash payment shall not create a substantial surplus of funds within the dedicated housing fund or trust specific to that purpose; and

3. The cash payment shall provide an overall higher public benefit than if the Affordable Units were constructed within the Project or Minor Project that would have otherwise provided for mixed-income development.

4. If the Board of County Commissioners determines that the proposal is in the best interest of the County and is necessary for the health and welfare of the citizens of the county.

~~D~~E. The method for determining the whether a cash payment proposed as an alternative means of compliance pursuant to this Section is sufficient shall be established in the Affordable Housing Regulations."

~~F. Affordable housing incentives provided under Sections Eight through Fourteen shall not apply where an alternative means of compliance is used to meet the obligations of this Ordinance.~~ ~~**(Does not take into consideration grey, can you take incentives)**~~

Section ~~Sixteen~~ Seventeen. Hardship Conditions.

A. The Board of County Commissioners or, if a Board of Adjustment is created by the Board of County Commissioners of Santa Fe County, then the Board of Adjustment, may waive one or more of the requirements set forth in this Ordinance if a condition of hardship exists as set forth in this Section.

B. A condition of hardship shall exist for purposes of this Section, as follows:

1. For a Project providing Service Level I or II, a condition of hardship exists where the Project fails to qualify for any incentive set forth herein, where the Project fails to demonstrate eligibility for an alternative means of compliance, where application of the provisions of this Ordinance would result in economic infeasibility of the Project, and where complying with the requirements of this Ordinance would deprive a property owner of substantially all economically viable use of the subject property taken as a whole contrary to the Constitution of the United States or the Constitution of the State of New Mexico.

2. For a Project providing Service Level III, IV or V, ~~or~~ for Minor ~~Projects~~, a condition of hardship exists when an Affordable Unit (or lot created for an Affordable Unit) cannot be sold within a reasonable period of time without causing a loss on the Project or Minor Project taken as a whole."

Section ~~Seventeen~~ Eighteen. Long-term Affordability.

A. Each Affordable Housing Agreement shall include a form of deed restriction, restrictive covenant or other legal instrument that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument will create a lien in favor of the County in the amount of the difference between the Maximum Target Housing Price and ninety percent of the appraised value of the Affordable Unit. The form of the instrument and the methodology for determining initial market value of the Affordable Unit shall be specified in the Affordable Housing Regulations.

B. The proceeds of the liens imposed in the previous paragraph shall be deposited into a fund created in the County treasury or separate trust whose sole purpose shall be to support Affordable Housing within Santa Fe County or be transferred to Santa Fe County Housing Services Division to support Affordable Housing within Santa Fe County. The fund or trust ~~shall~~ may be governed by rules and requirements ~~set forth~~ in be used to support affordable housing within Santa Fe County separate Ordinance enacted pursuant to NMSA 1978, Section 6-27-1 et seq.

C. Upon resale of an Affordable Unit, the affordability lien may be assumed by another Eligible Buyer and avoid application of the provisions of this Section.

D. Where the Eligible Buyer is under duress by reason of unemployment, family medical emergency, is unable to sell the Affordable Unit for an amount equal to or greater than the original sale price or other unique circumstances of hardship, the Unearned Appreciation may be accelerated or the affordability lien may be released.

Section Eighteen Nineteen. Affordable Housing Administrator. The position of Affordable Housing Administrator is established within the Housing Department. The Affordable Housing Administrator shall administer the Affordable Housing Ordinance, manage the fund or trust established pursuant to Section 17(B) of this Ordinance, act as an ombudsman to the development review process, and have other responsibilities set forth in this Ordinance. The salary and benefits of the Affordable Housing Administrator shall be paid from proceeds collected pursuant to Paragraph 17(B) of this Ordinance, to the extent permitted by law.

Section ~~Nineteen~~ Twenty. Affordable Housing Ordinance Review. The Affordable Housing Administrator shall prepare an Affordable Housing Report and present it to the Board of County Commissioners by the first anniversary of the effective date of this Ordinance. The purpose of the report is to measure the overall effectiveness of the Ordinance and to identify any deficiencies. In the report, the Affordable Housing

Administrator shall recommend any amendments necessary to rectify those deficiencies. A similar report shall be developed and presented ~~every three years~~ annually thereafter. If, at a future date, the provisions contained herein no longer meet the purpose and intent provided in Section One of this Ordinance, the Board of County Commissioners may consider appropriate amendments to this Ordinance or may repeal this Ordinance in whole or in part.

PASSED AND ENACTED THIS ____ DAY OF _____, 2005.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY, NEW MEXICO**

By
Michael D. Anaya, Chair

ATTEST:

Valerie Espinoza, County Clerk