SANTA FE

BOARD OF COUNTY COMMISSIONERS

STUDY SESSION

December 13, 2006

Harry Montoya, Chairman
Jack Sullivan

Michael Anaya - absent
Virginia Vigil - absent
Paul Campos – absent

SANTA FE COUNTY

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SPECIAL STUDY SESSION

December 13, 2006

This special study session of the Santa Fe Board of County Commissioners was convened in the absence of a quorum at approximately 1:45 p.m. by Chairman Harry Montoya, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Members Present:
Commissioner Harry Montoya, Chairman
Commissioner Jack Sullivan

Members Absent:
Commissioner Virginia Vigil
Commissioner Paul Campos
Commissioner Mike Anaya

Staff Present:
Roman Abeyta, County Manager
Shelley Cobau, Review Division Director
Robert Martinez, Deputy Public Works Director
Steve Ross, County Attorney
Jack Kolkmeyer, Land Use Administrator

Others Present:
Peter Franklin, County Bond Counsel
Kevin Powers, Financial Advisor
Karl Sommer, Longford Homes
Tracy Murphy, Longford Homes
Clif Walbridge, Longford Homes
Matt Chellis, Longford Homes
Tom Robins, Longford Homes
Bill Vering, Longford Homes

D. Discussion of Turquoise Trail Public Improvement District

ROMAN ABEYTA (County Manager): Thank you, Mr. Chairman. First of all I want to let you know that the staff present with us is Shelley from Land Use, from

Development Review, Robert Martinez from Public Works, and Peter Franklin, who is our bond counsel, and myself and Steve Ross.

The purpose of today's study session is to give a general overview of public improvement districts, go over some pros and cons of public improvement districts, talk specifically about the Turquoise Trail-proposed public improvement district. We've looked at the pros and cons to that, and then we also want to talk to the Commission about alternatives to public improvement districts. Then finally, talk about next steps, like hopefully get some direction as to other options the Commission would want staff to explore between now and before the Board takes action on this. Perhaps there will be another study session before the Board is ready to take action or the Board may be ready to take action in January. With that, Mr. Chairman, we passed out a presentation that I'll be going through briefly and then we'll be ready to have a discussion with the Commission.

Subdivision Development Improvements, the purpose of a public improvement district, first of all it's a method to finance improvements for the construction and maintenance through the issuance of bonds, which is borrowing money and the creation of special levies, which is how you pay that money back. Some development improvements include both construction improvements and maintenance improvements. Construction, we're talking about construction of infrastructure such as roads, sewer, water, drainage, utilities, and amenities - parks, recreational facilities, trails. Then once they're built they've got to be maintained. You still have to maintain the roads, the sewer, water, drainage, etc. and the amenities. The question is who does the maintenance, the County or a homeowners association?

Subdivision development improvements, the construction is going to be paid for one way or another. Usually the developer buys land, makes an improvement and the costs are passed on to the buyers who buy the home and land. Now again, the public improvement district, what it does is it's a method to help finance these improvements for the construction of this infrastructure and maintenance of the infrastructure. But there again, the homeowner still is going to pay for the construction and maintenance. They're either going to pay by borrowing money in their mortgage or pay for it in this case through a special levy or their tax bill, when they pay their tax bill.

The County's role in a public improvement district is that a public improvement district can only be formed with approval by the County. The County sets the maximum levy, which is the tax. The County establishes the composition of a public improvement district governing body. The County collects the levy, and is paid a fee for doing so. The County is not responsible though or liable for the debts, the bonds or the money borrowed. A PID, a public improvement district, will not affect the County's bonding capacity. When we talk about bonding for things like roads and the Buckman Direct Diversion, things like that. So this will have no effect on those bonds.

CHAIRMAN MONTOYA: So then Roman, who's responsible or liable for the debts and bonds?

PETER FRANKLIN (Bond Counsel): Mr. Chairman, the district - PID bonds are an obligation of the district, not the local government that forms the district. The debt service on the bonds is secured by a lien on the real property in the district, which is on a co-equal level with the property taxes. So it's like a GO in the sense that it's the land that's carrying the payment of debt service on the bonds. So if there's a default on the payment the property can ultimately be foreclosed by the district or the trustees of the district bonds.

CHAIRMAN MONTOYA: Okay. Thank you.

MR. ABEYTA: Now, the PID approval process is as follows: A policy is adopted regarding the PID application by the Board, by the Commission. Then the application is filed if it meets the policy, which there are criteria, the policy sets forth criteria and statutory criteria. Then the Board needs to make a decision, the Commissioners need to make a decision whether to form the PID or not, and that's done through a resolution which will set the maximum special levy, the composition of the board, and the district boundaries.

Now, the decision of the Commission needs to – when making a decision the criteria that the Commission needs to take into consideration is whether there is sufficient benefit in forming the PID. When we talk about benefit we're talking about benefit to the homeowner, the County in general, and to the community.

Staff came up with a general list of pros and cons to public improvement districts. The pros are, 1) They provide money for improvement at lower interest rates. 2) Interest rates on the special levy will be lower than what a mortgage interest rate would be. 3) The interest rate for development loans is higher than the PID interest rate. 4) Potential savings could be passed on to the homeowner. 5) There's potential lower down payments and lower home sales price because of that. 6) Then there will be a steady, consistent long-term funding for maintenance. So that could result in stable home/land values, better qualities of life because amenities such as park and trails are maintained. There's an interest dividend. The levy is tax-deductible and the tax is paid only during homeownership.

Now the cons to a public improvement district is that there is no guarantee that the savings are passed onto the homeowner. Second, there is going to be a higher annual tax burden on the homeowner. Third, a PID does not guarantee equal maintenance of communities throughout the county, and fourth, it does not address long-term investment for the County. The County's concern with that is so, in the Community College District, for example, Turquoise Trail may be well maintained but what about Rancho Viejo and Oshara and some of these other developments? What if they're not? So this PID only addresses this specific district so that could be a concern that the County has.

Now, we've talked about other alternatives. Shelley with Land Use has done some research. We've come up with limited improvement district formation could be done. Construction of infrastructure and then conveyance to the buyer, where you just don't do a PID and you charge the buyer more up front. Or there's also impact fees that could be implemented and Shelley will be able to answer specific questions regarding any of these alternatives at the conclusion of the presentation.

The PID for Turquoise Trail specifically, their proposal is that the PID would finance a portion of the roads, sewer, drainage and parks, which would cost $10 million. Then there would be the collection of a levy. In addition to this, a collection of a levy for maintenance reserves for future maintenance and the PID would guarantee that it's 100 percent funded every year.

We talked to the developer about well, what are your infrastructure costs? They represented to us their infrastructure costs for their subdivision is $26 million. So the PID would cover $10 million of that. They would still have to pay $16 million, even with the PID. Their PID is based upon the home value. We started talking about, okay, we asked them and their report sets out what the levy would be, both the special levy and the maintenance levy, and so the total of what that's going to impact the homeowner at. Since it's based on the value of the home, we took a home that's valued at $271,990. That homeowner special levy will be $1709. The maintenance levy is actually $540, for a total of $2, 249. That's what the homeowner would pay if the home was valued at $271,990.

The special levy is fixed for thirty years, so the $1709 would be fixed but the maintenance levy could go up over time because of price changes. So that $540 could increase, that cost.

CHAIRMAN MONTOYA: And the maintenance levy is for roads?

MR. ABEYTA: That's going to be for – and correct me if I'm wrong, Peter, it's for roads and the park.

MR. FRANKLIN: It's for roads, park and the water and sewer infrastructure, which is being dedicated to the City rather than the County.

COMMISSIONER SULLIVAN: It's not for the water. It doesn't cover the water. That's covered in something else.

MR. FRANKLIN: The bulk of it is roads. Excuse me.

MR. ABEYTA: So in making the decision on the Turquoise Trail PID, the Commissioners need to determine whether or not the application complies with the County – first of all, the County PID policy. Peter Franklin has put together a technical evaluation for us regarding that. And then, two, does the Turquoise Trail PID provide sufficient benefits to the homeowner, the County and the community? So we've done a pro and con to the homeowner, specific again to the Turquoise Trail PID, and a lot of them are the same as the PIDs in general.

Specifically, to the Turquoise Trail proposal, the pros are: There's a lower up front purchase price. And what we've heard is that's going to be a savings of $19,000 on every home. There will be a lower interest rate on the money that's financing the portion of the improvements. There will be adequate long-term funding for maintenance of the community's amenities. There will be an organization to take care of the community amenities, so that burden will not be on the County. The levy is tax-deductible. Long-term affordability is being addressed with the affordable homes because they will pay a lower levy rate, and there will be a consistent, guaranteed collection method for maintenance costs.

Now, the cons to this is there's going to be a higher levy, a higher tax bill for these homeowners. The other is there is no guaranteed mechanism of lower home prices, but as Turquoise Trail has told us, there is a cap, a $310,000 cap on their homes, plus they are required – 15 percent of the homes need to meet our affordability requirements.

CHAIRMAN MONTOYA: Just on the cons, clarify higher levy on the tax bill. That levy is tax-deductible?

MR. FRANKLIN: Mr. Chairman, the interest portion of that levy is tax-deductible, not the principal portion. So depending on how the bonds are structured, we talked about this a little bit yesterday with the County's GO bonds, depending on whether principal and interest is level throughout or whether the interest is front-loaded, it's going to vary each year what portion of the levy is going to be tax-deductible.

CHAIRMAN MONTOYA: Okay.

MR. FRANKLIN: But there is a substantial interest component in all of these.

CHAIRMAN MONTOYA: Do you know more or less what that might be or what that has been in others?

MR. FRANKLIN: I really don't. Matt might have some thoughts on that.

MATT CHELLIS: We have a principal and interest schedule and the [inaudible] I would also caveat [inaudible]

MR. ABEYTA: Mr. Chairman, we looked at the pros and cons to the homeowner who would be buying in this community. The pros are that there would be a lower up front purchase price. Again, we're hearing it's $19,000 on every home that would be saved. There's a lower interest rate on the money financing a portion of the improvements. There would be adequate long term funding for maintenance of the community's amenities. There's an organization, a PID organization to take care of the community amenities. The interest on the levy is tax deductible. There's long-term affordability which is addressed. The affordable homes will pay the lower levy rate, and there will be a consistent guaranteed collection method for maintenance costs.

Now, the cons are again the higher levy or tax bill, no guaranteed mechanism except the $310,000 cap.

Now, the pros and cons to the County. The pros are it ensures that the community will be maintained to keep up property values and enhance the quality of life, the burden of maintenance will not fall to the County, but at the same time the County will be responsible for control of the PID through the power of appointment because again, the Commissioners appoint the PID board. The cons to the County though are new homeowners may blame the County for higher taxes. Second, administrative responsibility. There's still gong to be an administrative responsibility in the County for handling the money, so there will be an impact to the Assessor, the Treasurer, but there is a fee that we're charging for that.

Another con could be the fact that we are responsible for the control of the PID because we appoint the PID members, the board members, and this does not address long-term investment for the County. Again, the concern is what about the other communities in the county and in this district specifically?

Pros and cons to the community in general, the pros are it provides an avenue to ensure that the communities will be maintained to keep up property values and enhance quality of life. In this specific community there will be a public park that will be maintained and there's a potential to improve affordability in this district.

The cons though to the community are again, new homeowners may blame the County for the higher taxes. Second, like I said, what about the rest of the Community College District? How does the County provide equal maintenance of these other communities in the Community College District? Like I said, you can get a situation where this is a better maintained community than the one right down the difference. And there's a big difference. You can see the difference driving out there.

The critical policy questions again are does the PID application provide sufficient benefit to the homeowner, the County and the community? And the purpose of the study session also is, are there other alternatives out there? Are there other things that we should take a serious look at and consider before we move forward with the approval process in front of the Board? And perhaps another study session is in order based on the discussion we have here today where we could go back, get more information and then come back to the Commissioners again. Because this is the first time we do this, so we're really concerned. We want to make sure that we do it right, and it could set a precedent for not only the Community College District but other communities throughout the county. So we want to proceed cautiously and we want to make sure that the Commission is comfortable with all the information before they're required to make a decision. That concludes the presentation, Mr. Chairman, and we're all available for any questions you may have on this application.

CHAIRMAN MONTOYA: Is there anything that any of you wanted to add, Shelley, Robert, Peter?

MR. FRANKLIN: Mr. Chairman, I was just handed, it looks like sort of a horseback calculation of what the average interest payment would be in year one and in year thirty, and this was declining – basically what happens is as you pay off principal, the interest component of each levy declines. So in year one, the average is $1197 per unit per year, and in year 30 it's just under $88 per unit per year.

CHAIRMAN MONTOYA: So that goes down.

MR. FRANKLIN: Yes. It goes quite a bit down.

CHAIRMAN MONTOYA: Shelley.

MS. COBAU: I'd just like to add several things, I guess. The Community College District was the target growth area for the County. We're planning on more density down in that area and the Turquoise Trail development is in line with that density and with providing affordability. I think it would benefit the County to look at the Community College District as a whole and if we're going to form public improvement districts in that area looking at forming a public improvement district that covers the entire Community College District and addresses the entire roadway network, the entire water network, and the entire sewer and drainage network. That's putting that out maybe as a point if consideration.

On other funding alternatives, as Roman said, Mr. Chairman, I did do some research on other funding alternatives. I think that maybe one of the first things we need to do as a County is prepare master plans for transportation, water, sewer, storm drains and other infrastructure, and assume what our needs are based on full build-out. So if we had an area like the Turquoise Trail Subdivision we're not providing sewer and lift stations, wastewater treatment plant capacity maybe, just for a single subdivision but we're looking at the area as a whole and what those needs are going to be and if we need to upsize the infrastructure that's under the roadway and in portions of the Community College District we should take that into consideration.

This development was brought to the Land Use Department as a standard development. We weren't aware in the initial review process that it was going to be brought forward as a PID, so perhaps a different review eye was put on it than had been had we known it was going to be a PID. Now, that's no fault of the applicant; perhaps that's our own staff's fault that we look at subdivisions individually instead of looking at them as part of maybe a larger puzzle and fitting them all together.

If we identify capital improvement projects and prioritize them then we can assure that the existing neighborhoods are included and that improvements are not limited to just new subdivisions. We could require that all new development provide areas as needed to accommodate our capital improvement projects and capital improvement plan for the entire county. Developer options on the funding, as Roman said, would be – I'm looking at

Turquoise Trail as maybe more of a limited improvement district because it's limited to that specific portion of the Community College District. It's just nomenclature. PID, LID, special limited improvement district, there's all kinds of names and Peter can described the different ways that those different nomenclatures are funded much better than I can.

But in limited improvement district formation the LID is used to fund development-specific improvements, development-specific infrastructure, or it can include regional infrastructure needed to access it such as needed large bridges or arroyo crossings, again, lift stations, wastewater treatment plans, things more regional in nature. Another option, developers can construct infrastructure and convey that cost to the buyer, which results really in an increased per-lot cost to the buyer and the buyer has to fund the home and land and that financing includes the cost of the infrastructure.

Then payment of the impact fees to the County, we don't really have a mechanism in place to collect impact fees right now, other than fire impact fees, and that's maybe something we should think about looking into.

In areas of rapid growth impact fees make sure that new residents and businesses pay for their fair share of the new infrastructure costs that they are driving the need for. Like fire protection facilities, libraries, major streets and bridges, parks, police facilities, solid waste facilities, storm drain facilities, wastewater facilities and potable water facilities. Impact fees help make growth more acceptable to existing residents because new development is paying for itself instead of spreading the burden among everyone in the county.

[inaudible] I'll just read through this as quickly as I can. Where there is existing development, where infrastructure is aging or undersized, the County might utilize the following funding mechanisms. It could conduct bond elections and issue bonds, and with that, no increase to property taxes would be required. The bonds would allow the County to pay for major capital investments like fire stations, libraries, streets, sewers, parks. Bonds would be sold to investors and the dollars used for the capital projects. The bonds would be backed by property tax revenues and as the County collected the property taxes ensure that the bonds would be paid off and bond investors would get their investment returns.

We could increase our property taxes in Santa Fe County to provide funding for improvement costs, but this might mean that property taxes paid in Edgewood would be used for the improvements in Chupadero. I did that kind of tongue in cheek but that's true. We had that discussion at the Commission meeting last night during the PNM hearing about people in one area paying for underground electric in another area and people don't like doing that. But we could increase property tax in specific areas, maybe identify areas where there's increased growth, like the Community College District or other areas in the county that are experiencing larger growth. Increase property tax in that area. But we all know how well that would be received by county residents [inaudible]

We could increase gross sales receipts tax to provide funding for improvement costs. Again, we have the same scenario where this might mean that the gross sales receipts tax that's paid in Edgewood would be used for improvements in Chupadero. But I don't know enough about gross sales receipts tax to know if they could be set up in an area-specific format and could they be set up in a project-specific format, where we could increase – we could have mils that were to fund specifically to road improvements, where the GSRT is raised a specific percentage to just cover roadway improvement. I'm pretty sure that can be done.

That alternative might be used in preference to increased property tax because people only have to pay that tax if they make a purchase. So only people who have enough money to buy something would be subject to that increased tax. We could form neighborhood or special assessment district and use those for neighborhood specific improvement. These are a great thing because they target specific areas of need and are especially well received if improvements or infrastructure in the area is failing.

And then we just talked about the formation of public improvement district, which I think are perceived as a way to fund projects of public benefit over a wider area than a special assessment district or limited special assessment district or even an LID, a limited improvement district.

And then we have access to CDBG funding for specific projects, through HUD, and I don't how successful we've been as a County at getting CDBG funds, but I know in other communities they've been quite successful at funding improvements.

We can get grants. There are rural development grant funds available to pay for big federal funding assistance to cover this stuff, and for the existing development where infrastructure is aging, we could figure out a way to assess impact fees also and not just have impact fees also and not just have impact fees for new development. For example, if somebody came in for a change in use on their property, we could assess them with impact fees for a building permit and we could also require that new development provide infrastructure for future needs based on master planning. I think I'll stop there. I have about three more pages, but I'll stop at that.

CHAIRMAN MONTOYA: Okay. Robert. Steve. Commissioner Sullivan, do you have any questions?

COMMISSIONER SULLIVAN: Peter or Roman, if there's a benefit through the maintenance aspect of it, getting a better handle on maintenance of the subdivision than homeowners sometimes provide, could we not just create a maintenance PID and set up the necessary reserves and so forth that associations often don't do very well. Now, I know Rancho Viejo has a reserve study done every year. They're required to, but in terms of Las Campanas and some of the other big subdivisions – the smaller ones, could we just do that and just say, okay, that's a benefit. We want to see these open spaces maintained properly and just set up a maintenance district.

MR. ABEYTA: That's a question for Peter.

CHAIRMAN MONTOYA: The maintenance levy? You're talking about just the maintenance levy and not –

COMMISSIONER SULLIVAN: Yes. We're looking at public benefit, I haven't seen yet too much public benefit in paying $10 of the developer's costs to build roads and sewers and so forth and water. But I can see some benefit to getting a subdivision on the right track as far as maintenance.

CHAIRMAN MONTOYA: I guess the question here, can we develop a maintenance levy only?

MR. FRANKLIN: Mr. Chairman, Commissioner Sullivan, the statute permits an applicant to request a PID for maintenance. So the answer is yes, if that's what the property owners are requesting and that's what the County would like to see, that's do-able.

COMMISSIONER SULLIVAN: So there's a legal mechanism.

MR. FRANKLIN: Correct.

COMMISSIONER SULLIVAN: That seemed to be one component in the discussion the other night that that would be nice to have a little better handle on maintenance so that may be one way of doing it. We could do that without putting an expensive tax burden on the people because, as an example, even if you take out the maintenance charge, you still – your assessment rate is still 113 percent of your tax rate. It's 19 mils. So people are getting assessed 16.5 mils for the taxes and they're paying 19 mils for the assessment district. So that's a big chunk and like I say, Rancho Viejo wanted 10 mils, so it's double the Rancho Viejo one, which we're getting complaints about every week.

So I can see some advantage to that. Now, Mr. Chairman, the disadvantage I can see, and this would apply not just to this one, just any PID – not so much on [inaudible] but other subdivisions, is that the County becomes the whipping boy for any problems in that subdivision. If there's potholes in the road, if there's barking dogs, if the bridge doesn't get any change or if the landscaping isn't trimmed properly – any kind of maintenance issues and there isn't a homeowners association, it's a public improvement district that's under the control of the County so the buck stops with us. So we become what we have not become before which is responsible for covenants. That's a bad thing. We always say, when people say well, the covenants say that you can't have this and that on your property, we say we enforce the Land Use Code but we don't enforce the covenants that you agreed to as a buyer when you bought the property. So we now become enforcers of covenants for the developers that developed this property which we don't participate in.

MR. FRANKLIN: Mr. Chairman, Commissioner Sullivan, I think that's a very astute observation and an important thing to keep in mind. As one mechanism that if the County goes forward with either this request or a similar request is to put into the development agreement with the developer that there needs to be an indemnification of the County for costs that it incurs in enforcing the developer's obligation, or the district's obligations under the development agreement. So that if the district is obligated to maintain the PID improvements, if that's what – if the district is formed to operate and maintain improvements but the County actually has not just the appointment power as Roman noted, but actually a legal and practical remedy against the developer who's really requesting this, to make sure that that happens.

COMMISSIONER SULLIVAN: How do we enforce that once the developer has sold all the lots and gone back to Arizona?

MR. FRANKLIN: You have an agreement which makes that a continuing obligation of the developer.

COMMISSIONER SULLIVAN: So enforcement would be iffy.

MR. FRANKLIN: Enforcement is litigation in the long run no matter what, but yes. It's a legal remedy, it's not a self-help remedy.

COMMISSIONER SULLIVAN: I am interested in Shelley mentioned about the regional improvement districts and that may be tied with impact fees to do that. Certainly someone who lives in the Community College District, such as my family does, if we were to come out and say we're going to increase your taxes in order to pay for development in the Community College District, that's going to go over like a lead balloon as you know. [inaudible] But if we can create regional improvement districts and all of the development improvements in the Community College District, one of the conditions in all of them is that they will participate in a perhaps someday to be formed improvement district. That's what I recall having gone through in at least the last couple years. Isn't that right, Roman.

MR. ABEYTA: Yes.

COMMISSIONER SULLIVAN: But we've never specified what that is. We've been very vague until we know what to do with it. And that's [inaudible] I'm particularly interested in large improvements like bridges- you mentioned that – or water transmission mains, or trunk sewer lines, sewage treatment plants. Things like that. Things that serve a whole area. Because what I see for example happening in Eldorado is that there are a lot of subdivisions that are coming in outside the moratorium area and each one of them is a dead-end subdivision, because that's what sells. This subdivision, the Turquoise Trail is one big dead-end subdivision. That's what sells.

But it doesn't answer our traffic/transportation problems over the long term. You can sell dead-end lots. You're going to make $20,000 more than a lot that's on a street that has through traffic. That's life. So we can't rely on applicants to do our regional planning for us. We've got to do our own regional planning and we've got to say this is going to be a through road and someone's got to build it. The developer can't build it because he can't sell the lots on it, unless it's commercial, a commercial area. So there's some possibility there. Let's look at the regional plan. Let's have public input to the regional plan, which you don't to do once it's starting to be formed [inaudible]

Again, going back to the Eldorado example, nobody wants to take on the burden of somehow connecting 285 with Route 14. Just nobody wants to do that, but some day it's going to happen. Jack Kolkmeyer's in the back there – he's grappled with that problem for years in the Community College District and the Eldorado 285 plan and in the planning that we've done for that area, and we just can't get it. So we've got to fund these overarching problems and they're going to fund the improvements that everyone's going to need out there over the next 20 year, not just this development but others coming behind it. There's going to be a need for water treatment plant or a transmission line or a water storage tank, roads, you name it. Whatever is of a regional nature. I see that as a real good role for improvement districts.

CHAIRMAN MONTOYA: Okay. Un terms of the alternatives that you talked about, Shelley, you mentioned the impact fees. Right now we don't have a method to collect impact fees?

MS. COBAU: The only impact fees we're collecting right now are fire impact fees and we have a PDU based on proximity in different areas in the Two-mile and [inaudible] in the Fire-mile. We have regional areas that are being assessed by our impact fees.

CHAIRMAN MONTOYA: Okay.

MS. COBAU: But as far as other impact fees, we don't have a mechanism.

CHAIRMAN MONTOYA: Nor do we charge them.

MS. COBAU: No. We charge development review fees and that's it.

CHAIRMAN MONTOYA: That's it. And fire impact fees.

MS. COBAU: Mr. Chairman, Commissioner Sullivan, I'd like to just point out that some regional improvements are maybe more well received than others. People get a lot more excited about a regional trail system than they do about a trunk sewer line, for example, so it just depends on what the project is, as far as public response.

COMMISSIONER SULLIVAN: Well, I think [inaudible] coming out for a bond issue. If we have a bond issue that's going to fund a sewer that's going to go from I-25 to Galisteo or something. Everyone's going to say, wait a minute. We don't need a trunk sewer. Who needs a trunk sewer. The developer needs a trunk sewer; let the developer pay for it. It's our responsibility. It's the County's responsibility to make plans. We're not encouraging development; growth is going to come but we've got to make sure the proper facilities are there. We're not relying on wells, we're not relying on septic tanks. [inaudible]

CHAIRMAN MONTOYA: Okay, so then my next question regarding that is administratively, what would we need to do in order to make that a possibility in terms of the collection of impact fees?

MR. ABEYTA: Based on my limited knowledge of them, discussions I've had when we set up my involvement with this fire impact fee is there's a study that needs to be done, and then there's an ordinance that needs to be passed that imposes the fees. But first step would be a study that addresses the fees and what they would used for and then the ordinance follows.

CHAIRMAN MONTOYA: So if we were to look at setting up an impact fee collection for water hookup to our County system we would need to do that?

MR. ABEYTA: Yes. There could be more to it than that.

KARL SOMMER: If I could just add something to the impact fees discussion. It's actually quite limited as a financial tool. Under state law, the impact fee - Roman says you do a study. And what the study does is defines the service area for which the money will be used to make improvements. Now the improvements, after we define that service area you come up with a capital projects analysis as to what you're going to use the fees for. And then you do a per-unit assessment based on that service area as how much each unit is going to pay for the capital impact cost, and they can only be levied against properties that generate the need. They can't be used to pay for infrastructure that's going to serve people who are already there. You've got to use it to serve the future development creating the need.

So it's a fairly limited tool. For instance you couldn't, in the Community College District define that as a service area to come up with a sewer service plan to serve the entire area now and use impact fees to fund it. It's a fairly limited tool.

CHAIRMAN MONTOYA: For new development, right?

MR. SOMMER: For new development, and you can impose the fee to use for improvements that are newly caused by that new development and not to service existing development.

COMMISSIONER VIGIL: Right.

MR. SOMMER: And Jack knows a lot about this as well. I just want the Commission to know that it's a fairly limited tool for purposes of financing infrastructure, and there are statutory limitations as to what you can use the funds for. So it's not a very broad financial tool.

COMMISSIONER SULLIVAN: That's exactly our problem. We're in a new development area. We need to plan for new development, and if you set up an area that encompassed the areas that we've already outlined in our plan for new development, and levied back fees for these, if in the future, let's say there were existing developments that were going to connect into you could build expansions to sewage treatment plants with other funds that would connect in. The treatment plant itself would have to be built from new back fees. So I think it has - I don't think for us it's limited. In an existing situation, say, using it in Eldorado, to put Eldorado on a sewer system probably wouldn't work because most of Eldorado is built out. We don't have a lot of new development in the actual subdivision of Eldorado to fund it.

We've got raw land in the Community College District all the way from IAIA down to Galisteo and San Marcos. So we've got sections and sections and sections out there.

CHAIRMAN MONTOYA: Jack.

JACK KOLKMEYER (Land Use Administrator): I think in relation to what Karl was talking about I think it's also important to remember that the City did an extensive impact fee study a couple of years ago. It was a major undertaking. They spent lots of dollars. They hired a group out of Texas. I forget exactly who the consultants were. But it also included a look at potential usage for the county, in particular the Community College District. The recommendation of that study, relative to what Karl was saying about limited uses, impact fees for the county would most reasonably used for park and recreation activities and the acquisition of open space. Didn't even talk about infrastructure, for example.

CHAIRMAN MONTOYA: Is that because it would be limited in terms of what we would collect?

MR. KOLKMEYER: In part. And I'll have to go back and look at the study and pull that out but I think it was very significant at that time because it was telling us that impact fees for the County may not be the viable type of infrastructure financing that we're looking for. Again, in looking back at the fiscal impact study that EPS out of Denver did for us, in looking back and some of the things that they discussed that were kind of controversial when we undertook that study, and now, how many years later? That was done in 2004. Several years later I'm looking at this and they hit the nail on the head about a whole lot of things. One being that we had too many village centers and that in the Community College District for example we needed to pull back and relook at that because that was going to push us out too far in the direction that we weren't going to be able to finance.

They also strongly recommended PIDs in their report. In our discussions with them they suggested that we either look at one for the whole Community College District, however that might be able to work, or a serious of them. So do one, test it, see how it works, and then be able to flip that over into other areas in the Community College District. This is work that we've already done and looked at. But we again, because at that time period and other things that were going on, we weren't able to move forward with that concept at that time.

And then a third thing that we're looking at very carefully right now is the assessment districts which allow us to be able to go forward on a project basis, because assessment districts are project-driven. So if we wanted to advance, for example, fix up the crossing issue at Spur Ranch and the railroad, for example. That's one we could consider to be project-driven. We could do any kind of project under an assessment district as I understand from my discussion with our legal staff. It could be infrastructure, it could be just about anything that we would like to look at. The problem with assessment districts is that it requires buy-in from –

CHAIRMAN MONTOYA: Property owners.

MR. KOLKMEYER: From property owners. So there are some issues with that. But it seems like one of the things we really need to look at in reviewing all this are some very specific things like road connections, all of the crossings that are causing huge development problems for us, and then the Community College District, which in fact might be a fiche or a mosaic of things that we need to kind of put together to work on and what the needs are. So I just wanted to throw those things in because we have been looking at some things and some mechanisms for several years but we've never been able to put them into motion until this conversation.

CHAIRMAN MONTOYA: Peter.

MR. FRANKLIN: Mr. Chairman, I want to try to clarify a couple things that have been said here. The concept of a Community College District-wide improvement district – well, I'll start as a PID. Because of the statutory requirements for requesting and then ultimately approving a PID are – the PID statutory requirements are very focused on the property owner bringing the request forward and then approving it by a very substantial supermajority – 75 percent. Or in the case of a developer, while the developer owns all of the property, unanimous consent of the developer.

So the idea of a regional, of a single, regional PID is probably not workable unless you have – if you have very substantial property owner buy-in that would be a possibility but I'm assuming that would be very difficult to achieve. But one thing the County might consider going forward is to – basically, at least for new development is to have a policy that would say if you build your improvements in a way that serves the County's regional needs, if you oversize your water mains and you build your roads not at a subdivision level but at a more regional transportation level, that the County will consider those types of PID proposals to have public benefit. I think you'd still have to do it on a development by development basis, as opposed to creating a giant district where you've got so much multiple ownership.

Now a special assessment district – I hope I'm not getting cross-wise with my friend Steve Ross here – in fact, the types of improvements that are eligible for special assessment financing are actually fairly limited. They may be all the improvements that Mr. Kolkmeyer is thinking of, typically streets, water and sewer. In fact, the things like parks and recreation facilities and – the PID statute actually has a much broader list of infrastructure that can be financed than the special assessment district statute.

The advantage of a special assessment district is that if you use the provisional hearing method – there are two methods. Although you have to have a really quite elaborate set of hearings and get property owner input and have opportunity for protest and so on, it's actually the County's decision whether to form the district or not. That's true of PIDs as well.

CHAIRMAN MONTOYA: We can impose them?

MR. FRANKLIN: You can impose them. One thing about the special assessment district is that as part of the hearing process, the amount of the assessment that can be imposed on any individual parcel can't exceed the maximum special benefit provided by the improvements being financed. So you tend to have a lower ceiling on the amount that each property can legally pay to support the financing.

CHAIRMAN MONTOYA: So I guess then as an alternative and another tool to put in our box then, we should look at impact fees as a potential to fund parks and open space. We're not doing it now so maybe that's something that we need to look at in order to do what's already been summarized for us in this study.

COMMISSIONER SULLIVAN: I would say too that in that study that was done for the Community College District on impact fees - actually it was a study on impact, not so much impact fees as it was impact. Basically, as I recall what they found was - and this is separate from the City's study of impact fees, was that we were essentially paying our way on - or development was paying its way on EMT and law enforcement. And that's because we have these impact fees on EMT and law enforcement. In terms of sewer and water, they made the assumption in the study, which I disagreed with but that was the assumption, that those would pay their way. They never even looked at sewer and water. They just assumed in the study that those would be enterprise funds and they would pay their way. So they were a wash. One way or another, revenues would equal costs.

So the thing that jumps out in the study was roads. Roads jumped out as the big, bottomless pit. And I recall numbers to the effect of about $2000 per built-out unit as the cost of maintaining a series of arterial roads that the County would maintain. Not necessarily interior roads, but just the arterial roads. Homeowners would maintain the interior roads. So I recall that was our big - and that continues to be our - road construction and maintenance just eats us alive. It's a good benefit. It's a nice thing to do because it helps safety and something that can be seen by the public. It's not like the prison or the jail that also eats us alive and nobody thanks us for it. But that was my recollection of that study.

So we can develop a strategy to address just the transportation components of regional planning, where we're laying out the major transportation components. And that can include trails, roads -

CHAIRMAN MONTOYA: Or that could be paid through the impact fee also. The roads.

COMMISSIONER SULLIVAN: I would think so.

CHAIRMAN MONTOYA: They probably said parks because it was probably minimal in terms of cost compared to roads.

MR. KOLKMEYER: In the City's impact fee study. Yes, I remember that.

COMMISSIONER SULLIVAN: They kind of bashed the County, I recall in that study too, because the City's impact fees are quite high and the County's are fairly minimal or zero. So I think one of the purposes of the study was to push the County into doing impact fees.

CHAIRMAN MONTOYA: Increasing our impact fees.

COMMISSIONER SULLIVAN: But the County didn't really participate except at a very minor level in the study. There is some good information in the study. Now, that's a different study. I was talking about the Community College District study. The Community College District study we did as a requirement to determine whether development was paying its way, and what we found was, in a 20-year look roads was going to be the killer, and water and sewer wasn't discussed. It was set aside, saying it was going to pay its own way. We need a strategy that's going to work on regional roads.

CHAIRMAN MONTOYA: If we could maybe, Roman, look at something that - would it be an ordinance that we would need to look at developing for impact fees?

MR. ABEYTA: Right. We would have to define an area and then begin with a study for that area.

CHAIRMAN MONTOYA: It's area by area, project by project?

MR. ABEYTA: Or it could be - service areas. We'd have to identify what area we wanted to look at. Maybe the areas in the Community College District. We can do that once an area is identified.

CHAIRMAN MONTOYA: Okay. Jack.

MR. KOLKMEYER: Mr. Chairman, I just wanted to make two other comments relative to two other words that were used here. One, the strategy is extremely important, because that was the whole idea of the Community College District when we went into it, that we would develop a strategy for all these things - governance, financing, development patterns, and everything. So we're just sort of on the surface and we have three or four fairly good projects coming forward. But the overall strategy is something that probably really needs to be relooked at as to what will be the strategy for financing in the future in the Community College District? But to really take a look at all of these things in relationship to roads may be funded one way, parks and trails may be another way.

Consistently in the discussions we had with EPS and when we did the growth management plan, when we wrote the Community College District Plan, the other thing that keeps coming up and it's also part of the impact fee process is the development of a capital improvements program. Now, we have - we're so locked into ICIP, that is our strategy for asking the state government for funding, that we have never developed a capital improvements program, which is actually a budget for how we want to look at funding needs and problems and issues into the future ourselves.

So if we have a service area, a potential service area like the Community College District that's already been set up, we know what some of the problems and the issues are, maybe one way for us to start moving in this direction is to really look at developing a capital improvement program for the Community College District. Again, as part of the step for us to think about how we move forward towards developing these kinds of strategies, because if we look at impact fees anyway, Mr. Chairman, CIP has to be part of that process, as I understand it. Maybe Peter or Karl, you could correct me again if I'm not right, but I do believe a CIP program or pro forma is part of that strategy for impact fees as well.

So it seems that there are a lot of things that are being put in front of us that are forcing us to make decisions in one direction or another, but we need to put it into some kind of strategic movement forward so that we're not just picking straws here or picking something here and I think that's the thing that for staff raised the issue with the Turquoise Trail PID. Not that it's a bad idea or it's not well thought out, but why don't we just pick one thing and then kind of see what happens with it and maybe take another, when in fact the strategy is really what's at issue here in many respects. Thank you, Mr. Chairman.

CHAIRMAN MONTOYA: We're being a little reactionary as opposed to pro-active. Regarding the costs that are outlined here, did you give these costs to us, Karl, from the developer in terms of the $26 million that's been paid for the roads and all those costs.

MR. SOMMER: Yes. We did.

CHAIRMAN MONTOYA: That's what's been paid? Roads, sewers, drainage and parks.

MR. SOMMER: Yes, and we have [inaudible] this is the total cost. This is what would be PID funded and this is developer.

CHAIRMAN MONTOYA: Do you need this back? I probably have one. Is it in one of these packets that you gave us? Okay. So those have been – Thank you.

You mentioned, Shelley, the gross sales receipts tax, how can something like that be implemented if it was just going to be in this PID or in this area?

MS. COBAU: Mr. Chairman, I don't know the exact way that you would do that. I used to work for a special district in Las Vegas, Nevada that was funded by gross sales receipts tax. We were taxed for flood control for the entire Las Vegas Valley and our entire organization and all the improvements that we did provided construction and maintenance funds for all of Clark County in Nevada. I don't know the specifics of how that mechanism worked but it worked very well. It was very successful. One thing that I didn't mention was an acquisition district, where the developer would pay for the construction of the improvements and then the County would purchase them once they were completed with bonds. That might be a nice way to do things also but I think Jack had a really good point that it's not going to be one type of funding mechanism that's going to solve everything. It's going to have to be a combination.

CHAIRMAN MONTOYA: Peter or Kevin.

MR. FRANKLIN: Mr. Chairman and Commissioner Sullivan, the state recently enacted a tax increment financing statute which would enable the creation of a tax increment district in a defined area, where you could use a portion of the growth in gross receipts tax. In other words, you'd establish a base, and if it's a commercial area you'd have a recurring stream of increased gross receipts taxes resulting from developing a set of commercial uses where you didn't have that before. I don't think that would work very well in a residential district. You have gross receipts being generated from construction but its basically non-recurring. Kevin can speak to that expertly.

KEVIN POWERS: There are cases out of the state where we use gross receipts taxes in specific areas, such as hospital districts, transportation districts now, and I don't think there's any reason why you couldn't get legislation that would allow you to impose a gross receipts tax in a particular area and have the proceeds from that tax be used in that particular area. It just doesn't exist at this point in time under state law.

CHAIRMAN MONTOYA: Okay. That was what I thought. And then in terms of the materials that we have received, probably about two months ago now, we had received the County of Santa Fe review team's report and recommendations. Have the majority of these issues been addressed by the reserve study?

MR. FRANKLIN: Mr. Chairman, I think the answer to that is a general yes. Robert, I believe, had the most specific concerns about the reserve study and correct me if I'm wrong, I think he had a meeting with the applicant to discuss the specific issues and he probably ought to speak to that.

CHAIRMAN MONTOYA: Because one of these things is the budget line item for road maintenance. It includes median maintenance but it's unclear what's designated for the maintenance of the road versus the median. These sorts of -

ROBERT MARTINEZ (Deputy Public Works Director): Mr. Chairman, that's correct. We did have some concerns about inadequate budget for certain line items and also the life expectancy for their asphalt. We did meet I guess about a month ago with a representative from the applicant and we did address those issues. We resolved the issues like the life expectancy and we were told that they would bump up the budget in those areas for maintenance.

CHAIRMAN MONTOYA: Okay. For the road maintenance as opposed to the median.

MR. MARTINEZ: That's correct.

CHAIRMAN MONTOYA: And then there was a concern about the long-term affordability in terms of the occupants of these units may not have sufficient financial means to meet additional levy on their residences. How was that addressed?

MR. SOMMER: We are, in our proposal, are going to limit the - say, your average home pays x. We're going to have the affordable houses pay just a percentage of - we've addressed the affordability for those people. Tracy can be more specific but I think we're at 80 percent. Is it 80 percent? Or did we bump it down to - just to be specific, what we're going to do for the affordable houses, as you recall, they are assessed on the basis of the home price, so they're at the affordable price. What we're going to do is reduce that further by 20 percent what they would ordinarily pay under the levy. So to address the affordability issue, affordable houses - I'm sorry.

CHAIRMAN MONTOYA: Long term affordability?

COMMISSIONER SULLIVAN: For all of them. Not just affordable.

MR. SOMMER: Tracy, why don't you explain?

CHAIRMAN MONTOYA: Just so that I'm clear, it's about long-term affordability was the concern, not just affordable housing.

MR. SOMMER: Well, I think in response, this subdivision addresses long-term affordability in the county in the following way: One is to bring a lot of housing on the market in a moderate to lower level of pricing in significant numbers. The second thing is there a cap on what the houses can be sold for by the developer or $310,000, which is today's market is well below Santa Fe's median income. And then of the total, there's 15 percent that are permanently marked for affordability.

So in terms of affordability I think this is among the subdivisions in Santa Fe that are meeting - which has an overall effect on the market in Santa Fe in the area of keeping prices down in the lower echelons of housing costs.

TRACY MURPHY: Excuse me, Commissioner, I'd rather elaborate on Karl's comment about the levy amount. That is a levy amount that is over the 30 years for the term of the bond. That amount does not increase the levy over 30 years. So if a buyer purchases their home today, the long-term affordability is addressed by that levy amount for that sales price does not go up.

CHAIRMAN MONTOYA: What if that person sells it? Does that amount go up to the new buyer?

MS. MURPHY: No, no. It remains the same over the 30-year time of the bond.

CHAIRMAN MONTOYA: Regardless of who owns the house.

MS. MURPHY: Yes. In addition, to address the affordable issue on the long-term affordability for the affordable buyers, we have taken into account the lower sales price, which is on the 15 percent of the homes that are affordable, and we've assessed that levy in proportion to the sales price. So the affordable buyers do not pay the same amount as a market price buyer.

CHAIRMAN MONTOYA: Say that again, please.

MS. MURPHY: The affordable buyers, on the levy, that doesn't change for 30 years, they pay less than what a market price buyer would pay, which makes sense in that the market price buyer pays a higher sales price and they pay a higher long-term levy over their 30 years. Well, the affordable buyer pays a lower price and they pay a lower levy over the 30 years. And that helps address not only the issue of long-term affordability for everyone, but long-term affordability to the affordable buyers in our community.

MR. POWERS: I see one way to look at the PID as a whole, I think you have to look at the mortgage payment that somebody would pay on the home at that price, versus the mortgage payment somebody else might pay elsewhere in the county on a home that's of a higher price. Then you add to that mortgage payment the regular property taxes of the County, and then the special levy within the PID. There wouldn't be a special levy outside the PID. You have to add all that together and compare those side by side to get a look.

I think the point they make about the special levy being a fixed levy that doesn't change over time is important because with property taxes, even though the property tax rate may not change over time, let's say over a ten-year period, the property tax rate doesn't change in the county, but the values go up by just the maximum allowable, which is three percent a year. Over ten years you're going to have a three percent increase in property taxes annually and this levy is going to stay absolutely the same. And that's one of the beauties of the special levy in that you know exactly what that's going to be over time.

Now, if this was being done as an ad valorem GO the amount you need to collect each year would stay the same. The actual levy rate would go down as property values went up. So I guess the net effect is the same. But nonetheless at least you know in this case that fixed levy is going to stay constant over time.

CHAIRMAN MONTOYA: Okay.

MR. POWERS: I think the real key here is you have to make the assumption that the sales price of these homes are going to be less than the sales prices of comparable homes elsewhere in the county that's not subject to the special levy.

COMMISSIONER SULLIVAN: And that's the assumption, Mr. Chairman, that I've had difficulty confirming and staff mentions that as one of the cons, that we don't have any way of assuring that those savings are going to go to the homeowner rather than into the developer's pocket. The only way I can think to do that is to say, well, we'll see what you think of this, is having the applicant agree to limit their profit. Everyone has agreed – everyone is targeting a development that's going to make a certain return on its investment. That's why you undertake the project. So how would a strategy be where we say, look, we have no way of telling where this money, this savings is going to go. I feel the gut reaction is you're going to keep the prices pretty close to the market, because that's what sells.

If I'm selling a used car I'm going to sell it for as much as I can get for it on the market and the same way for a house. So the only way we would have to know that some of these savings are going back to the homeowner would be to say, okay, well we agree ahead of time that x-amount of profit is a reasonable rate of return for this development. We're reducing your risk here by $10 million. We're giving you a benefit. We're giving you an edge over every other – every other developer in the area. Nava Ade, Rancho Viejo, La Pradera – you name it. Every single one.

So we don't want you to make a windfall gain on this. We want you to make a reasonable profit consistent with your risk and your investment. How does that sound?

MR. SOMMER: Mr. Chairman, Commissioner Sullivan, there are a couple of reasons why limiting our profit as a matter of agreement – it doesn't work. First of all, just as a general principle, there is no guarantee that this development is going to make any money. It is a huge risk to take on, period. And saying to a developer that we're going to limit the profit you can make but we're not going to guarantee you any profit – the upside is what we can sell these houses for right now. So it's just simply unacceptable to be in a market where you might have other rising costs. For instance, let's say concrete does the same thing it did over the last two years, and we've agreed to limit our costs –

COMMISSIONER SULLIVAN: No, no, no. I didn't say limit your costs.

MR. SOMMER: Limit our profits. Right.

COMMISSIONER SULLIVAN: If concrete costs go up, that's a cost. But your profit is above the costs.

MR. SOMMER: No, I understand that. But what I'm saying is we have a top-end price here of $310,000 that we can sell our product for. That's the top end and obviously, we're not going to sell every house at $310,000 because they're not built for $310,000 value. But if you have a max on what you're going to be able to charge in this and you have rising fixed costs, what you've done to the developer then is you have already limited the profit in this detail. So to say that we're going to guarantee that we won't make x-amount of money more is just simply unacceptable.

COMMISSIONER SULLIVAN: Let me just stop at that point right there. But then what you're saying conversely is that if you get into that crunch situation, we're subsidizing you.

MR. SOMMER: No.

COMMISSIONER SULLIVAN: If you're getting into the crunch where you're reaching that $310,000. You've made some bad investment decisions and the costs are more than you think, what you looking to the County to do with $10 million is to subsidize you for that. I don't think that's a public benefit either.

MR. SOMMER: I think that what I would say in response to that and probably the more overriding principle is this. In a free market, to the degree that we have a free market in housing, you have a product that is priced a certain way, and it is comparable to every other house like that on the market elsewhere. And if our costs are higher than the market, because we've added, as you're suggesting we will do, which is to take the money, pocket it and raise the prices, our product will be above the market.

COMMISSIONER SULLIVAN: No, no, no. You misunderstand me. What I said is the alternative is you would take the $10 million and pocket it and you would be able to lower the price of your houses so they would be more marketable. I'm not saying you would be adding it to it.

MR. SOMMER: I think the implication is that you're saying that the $19,000 that we've represented is elusory.

COMMISSIONER SULLIVAN: I'm not saying anything. You're using the terms. I'm simply asking how I'm throwing out a suggestion of one way that the County could have some comfort level that the money it is declaring as a public benefit is in fact a public benefit going into the buyers pocket and not the developer's pocket and I'm not hearing anything to counter that other than you are taking risks. But when you are coming into the public sector, you're now going – we're eliminating $10 million of that risk if we're approving a PID. So we now become partners. We want some equity in this deal. We want some – not cash out of the deal. But we want some assurance that our $10 million investment is going into Santa Fe County residents' pockets. How do we do that?

MR. SOMMER: If I could just get through the answer. My answer is –

COMMISSIONER SULLIVAN: If you could limit it to half an hour.

CHAIRMAN MONTOYA: Jack, let's let him answer. Go ahead.

MR. SOMMER: If I could just get through the answer, and that is if we have a product on the market at $200,000 and we're representing to you that because of the PID it's going to be $20,000 less – I'm using hypotheticals here of course. And the same product is worth $200,000 on the market, and we're selling it at a price $20,000 less. If there's a PID on top of that, the market will tell us, and tells us very clearly that if we move that, as you're suggesting, move the price up that we're charging for the house and thereby just pocketing the money and then charging again for it, then we will be above the market and we won't be selling houses at the product price, what the market says.

So there is a built-in mechanism in the free market to make sure that we do not exceed the market value of a house, and that's the market price. We're passing on the savings immediately so that we can get in and out of the market as quickly as possible. If prices go up they go up across the board for everybody. Now, we're limited at $310,000 and that's a risk for us. So I think that the market has in it the very guarantee that you are looking for, and we're telling you that our houses today, without the PID, are going to cost $19,000 at the outset for people now. With the PID they'll be $19,000 less. Now we think that is a substantial savings.

Now if we tell you they're $19,000 less and they have the PID payment and then we go out and market them for more than $19,000 then the market will tell us we're not going to sell these houses, because that's what they're valued at in the market. That's what we can get for them.

MS. MURPHY: And the question about limiting our profits by agreeing to the $310,605, which was agreed to as the maximum sales price, that's limiting our profits.

In addition to what Karl said, the free market society limits our profit. There's a market price you can sell the homes for; there's a market price you can't. Those two factors have already met your goals to limit our profits because we cannot raise the price over the $310,000 and we've already agreed to that.

COMMISSIONER SULLIVAN: That's a deal that you made with the City. You're coming to the County for an assessment district here or a PID. You made a deal with the City in order to get water service. And water is a really scarce commodity here. So you guys came out pretty well in that deal with the City. You got City water out there and that's a pretty sweet deal. So whatever arrangements you made with the City to limit your profit aren't the County's. Now, I can't understand if you have a $19,000 advantage over developer-X over here, you're able to price your homes $19,000 less. This is what you're saying you're doing, and what I'm saying is we don't have any way of confirming that, of auditing that, of knowing that. You could split the difference. You could say, we're going to save $19,000. We're going to charge $8,000 less than the market. That puts us in a market advantage in a fast sell-out, and we'll take the $11,000 in extra profit. You're asking the County to be your partner here to the tune of $10 million. And I'm saying how do we know, how do we audit, how do we confirm, how do we know that this investment that we're making is going where we want it to go?

MR. SOMMER: And if I may respond by simply saying that when we say our prices will be $19,000 less without the PID, I am not saying that the buyer isn't going to pay that $19,000. The market price for the house, the sales price, which is $19,000 less than what we would otherwise be charging, is not the full cost that the buyer is paying. The buyer is going to pay for the infrastructure one way or the other. The question is, are they going to pay the $19,000 to us up front, or are they going to pay the $19,000 over time in the PID? That's the simple question. They're going to pay the $19,000 because that's what the market price of the house. And if we say to somebody, who's a buyer, we say your house is priced at $19,000 lower and there's this other increment you're going to pay, the buyer say, oh, so I am paying an additional amount? The answer is yes and it's up to a certain market price for the house. So the implication that we'll lower the price for the house and it's just a free-for-all – the buyer is going to look at it and say, well, what's my total value? I'm paying $19,000 less to Longford Homes, but in the long term I am paying the $19,000. The answer is I've got to pay the $19,000 anyway, so the question is is the house worth Longford's price, plus the $19,000 I'm going to finance over the life of the PID? That's the simple question for the buyer.

If we raise our houses by $4,000, $5,000, then the buyer is going to say, well, I'm paying them $15,000 less, but I'm actually paying higher than the market price, the buyer's not going to buy the house. That's the point I'm making, is that the $19,000 gets paid in the market by the buyer one way or the other.

CHAIRMAN MONTOYA: Okay. Let me just finish up with my questions here. This is for staff? Does this application meet with the County PID?

MS. COBAU: The PID ordinance that we have?

CHAIRMAN MONTOYA: Yes. The PID policy?

MS. COBAU: Do you want to address that, Peter?

MR. FRANKLIN: Sure. Mr. Chairman, if it –

CHAIRMAN MONTOYA: And then before you answer, what's the Franklin report? This is it?

MR. FRANKLIN: Let me clarify. There is no Franklin report. Roman, which I meant to discuss with him, what he's referring to is I took on the task of drafting a draft report which was then circulated a number of times to the rest of the County review staff, and the report reflects my comments, Kevin's comments, Robert's comments, Shelley's comments, Duncan Sill's comments, Steve Ross' editing and comments, and I think – did I leave anyone out? Paul Olafson's comments. But this is what the misnamed Franklin report is.

CHAIRMAN MONTOYA: Okay. So based on your evaluation, your feedback and everything, it does comply with our PID.

MR. FRANKLIN: It does, which means the application is complete and the items that the PID policy says are needed to be addressed are all addressed. I think it's fair to say the applicant has worked hard over a year to address the various things which have come up along the way. There is still the basic benefit question that they are answering in the way they think it should be answered but you all need to – that's something that this report doesn't try to address.

CHAIRMAN MONTOYA: Okay. So really, there are no recommendations in terms of the overall, I guess benefit to the community, to the County or to anyone that we're talking about. To the homeowner.

MR. FRANKLIN: Mr. Chairman, there are not, and –

CHAIRMAN MONTOYA: Other than the pros and cons.

MR. FRANKLIN: Right. My way of thinking about it is that's not – that's above my pay grade to do that,

COMMISSIONER SULLIVAN: We'll up your pay.

MR. FRANKLIN: I'm not going to go near that. What we did try to do was lay out how we think the BCC should try to analyze whether there is benefit and whether the benefit justifies the amount of the levy. We've taken a bunch of different cuts at that issue and ultimately, I think it comes down to the way you all feel about it.

CHAIRMAN MONTOYA: Okay. I think in terms of what's been brought up already a number of times is we need – and I had mentioned this quite a few years ago. Not that long. Two, three years ago, that we really need to look at, when we're doing these sorts of PIDs or assessment districts or whatever that we look at it at a regional – even when we're putting in water lines and sewer lines and all that stuff because right now it's going in – each individual project is doing their each individual thing as opposed to looking at it as a regional system.

I think we need to look at that in terms of long term, how are we going to continue to fund the improvements at Rancho Viejo, within the Community College District, and then even bring it all together? How can we bring it together in terms of looking at the big picture so that there is a coordinated way, in regards to what you talking about also, Jack, in terms of how we're going to fund these things with a long-term capital improvement plan. This addresses a neighborhood, a district. It doesn't address the big picture in terms of how we need to be looking at things. So as far as my suggestion, I think we do need to look at the other alternatives that have been expressed in terms of looking at how that may fit into this PID. And I think it would be beneficial, and unfortunately we don't have but two of us here. Or fortunately. I don't know. But have another study session, probably, I don't know, maybe January some time to try to get at least the other Commissioners here and maybe in the meantime, at least bring them up to speed as to where we were at here today with these discussions.

Was there anything else that anyone else wanted to add?

COMMISSIONER SULLIVAN: Mr. Chairman, I had just a quick technical question. On the example that was given to the Commission about the $19,000 that's become sacred here. It says it's based on 516 units, minus 77 affordable, minus 61 sold equals 378. So have you already sold 61 units?

TOM ROBINS: Yes.

MR. SOMMER: They're under contract.

MR. ROBINS: And we've closed some.

COMMISSIONER SULLIVAN: And you've closed some too. So these folks that have already been sold units, they had to sign this document that said you might get hit for $17,009.

MR. ROBINS: I'd like to address just a couple of those points of Commissioner Sullivan if I may. We go to great lengths to disclose in our sales contracts and disclosure statements to all our buyers up front, before they sign the contract, what this public improvement district will cost them. Those numbers are disclosed. The only floating number we've had in this whole discussion, and we've been trying to sell houses for a year, is the maintenance number. And then we've redisclosed that to people who have signed the contracts and give them an opportunity to rescind or get out of the deal and we refund their money.

And let's go back to your concern about us raising prices. It's a valid concern. I can see what you're saying. We're going to give you $10 million and then tomorrow morning we're going to raise the prices $5,000 across the board and still beat the market. People are voting on our public improvement district everyday when they walk in our sales office, and they look at those numbers. They look at the monthly numbers they've got to pay as a family. They vote on it every day. We are very cognizant of that.

Our company for years has been an entry-level market home seller. That's what we do. That's what we do best. When we came into this. We're brand new. It's a first for the County; it's a first for us. When we refer to the developer, it's a husband and wife who own the company. They employ over 100 people and 75 in this state. And we take it very seriously when our integrity is questioned. We are not a big company. We're striving to do something for the community. Yes. Do we get a bit of it? You bet. We do. Indirectly we do. But you're not our partner. Everybody that buys our home is our partner because they're in the public improvement district and they pay for it. Not you, not anybody outside of this district. And when we've had meetings with your staff, one of the issues that came up was we would like to see larger districts.

We agree with you. We'll share the wealth; we'll share the cost. But you and many other governmental entities that have the opportunity to use public improvement district have taken the stance of we want 100 percent approval within a public improvement district before we will even consider it. How do you get 100 percent approval of all the landowners within a district unless you're the only one in there. So ipso facto, you have an ordinance on the books that will not satisfy some of Shelley's concerns or some of the other concerns because it's going to be impossible to get a larger district.

It only satisfies our homebuyers. The improvements were putting in are directed for those homebuyers, for those people in the community. And I share your concern up the upsized roads, the upsized sewers, the upsized water for people downstream and those types of things and those would be something Peter would have to address on whether a public improvement district can even assess for those, because it doesn't directly benefit that district. And that's a question for Peter. But when we talk about our public improvement district and when you go back to the $19,000 number or whatever it might be, we're tied in and committed to the people who bought from us. They come into our sales office every day and they cast their ballot for this district.

COMMISSIONER SULLIVAN: I appreciate that, and let me say I'm not at all questioning your integrity, because there is nothing illegal, immoral or fattening about making the best profit you can. That's the American way and we don't have any ordinances against that. And you should, and we want you to make all the profit you can make. So maximizing profit is not illegal, at least in Santa Fe County, that I'm aware of. Maybe in the City of Santa Fe. So it's not a matter of integrity; it's a matter of maximizing profit. I'm a businessman myself and I do the same thing. But the issue is simply one of we're determining some benefit, we're trying to assess to whom that benefit is going.

Now, for example, in your example you've sold 61, you've also subtracted 77 affordable housing units for a total of 378. You took the total improvement cost and divided it by 378. You didn't divide it by 516. So dividing it by 378 you come up with a $19,000 savings that you're proposing. But if you divide it by 516 units you come up with about a $14,000 or $13,000 savings. So my question to you is if everyone is going to be paying this assessment, why did you do it only by 378 and not by 516?

MR. ROBINS: Because I'd be in breach of 61 contracts. I can't [inaudible]

COMMISSIONER SULLIVAN: They're going to be paying the assessment, right?

MR. ROBINS: They have signed contracts that indicate at their purchase price that they would take on the responsibility for the improvement district.

COMMISSIONER SULLIVAN: Okay, so they need to be part of the numbers.

MR. ROBINS: No, you're missing the point. If you don't approve the public improvement district, those people have bought their homes. I can't go back and as a developer now assess them for the cost of those improvements. They've bought their house. I've got to spread that cost out on the remaining buyers, excluding my affordable housing people. So that's the example we're giving. The reality is is that the monthly maintenance and the maintenance of all this infrastructure will be paid. It will be paid through a public improvement district and quite frankly, doing it through a public improvement district was my idea. Two years ago [inaudible] because they had seen too many homeowners associations fail, eight, nine, ten years out. So that monthly assessment, that $50 or $45 – whatever the number might be, that will be paid by the homeowners whether you approve it or not, because I'm ready. I have an association ready to be created and recorded, that his been disclosed by the buyers that they will have to pay the freight for their community in improvements over the long haul. That's going to be a requirement of the County. That's the way it's going to be.

So let's go back to $19,000. I can't change the purchase prices of the 61 people who have bought my homes so they're home clear. The only way they participate in this is if the public improvement district is approved. Otherwise they don't have to pay for any of the infrastructure. They will pay for maintenance down the road but they won't pay for the infrastructure.

COMMISSIONER SULLIVAN: And why did you subtract the 77 affordable homes? Have you already sold those?

MR. ROBINS: Because they need to be affordable.

COMMISSIONER SULLIVAN: Well, the testimony was just that they would be charged 80 percent of the rate of the others.

MS. MURPHY: No. The piece that you're looking at was in response to a question, what would the effect be on the sales prices without a public improvement district. It's simple math. $7.5 million of improvements for this public improvement district, you cannot raise the prices on the 77 affordable people so there wouldn't be an effect on the 77 affordable people's sales price because we wouldn't be able to add the $19,000 onto their sales price. We took those out of the 516, and then we took out the contracts we've already entered, which is the 61 – because we can't go back. We entered a contract with those buyers. We've been working on this for a year and a half. We can't raise their sales prices $20,000. We're in a contract.

So if you subtract those out, then you divide the $7.5 million by the total number of homeowners to whom you can increase the sales price by $20,000, and that's how we got that number. That was in response to a question on what's the effect.

COMMISSIONER SULLIVAN: So in essence, the 378 are subsidizing the ones that have already been sold.

MR. ROBINS: If you don't approve it. That's correct. That would be your choice.

COMMISSIONER SULLIVAN: That's not my choice. You've already sold them.

MR. ROBINS: Yes, but I sold them subject to the approval of the public improvement district which this Board will consider.

MR. SOMMER: I guess the point that I keep coming back to is there is $7 million in costs that are going to get paid by buyers, no matter what we do here. So they're going to pay it one way or the other because that's what they pay their house for. They pay for the cost of the land, the infrastructure and everything that goes into it. The question is are they going to pay it in the purchase price plus the PID or are they just going to pay it in the purchase price? Nonetheless, they're going to pay it so the only remaining houses to spread those costs are the ones that they've described, so with each remaining –

COMMISSIONER SULLIVAN: We've heard that discussion before. The last question I had, Mr. Chairman is what control does the County have over the procurement process? When we do an assessment district or any other County tax district, we go through the procurement process, we get the lowest bidder, we follow the procurement code and there are controls in terms of we know from other bids what the price of asphalt is, what the price of water lines, the price of sewer lines. You are constructing or have already constructed these facilities. So now how do we know that these facilities are in fact at this value?

MR. ROBINS: I'm not in procurement in my company, but I like to think we have a sharp pencil as a private developer. Peter raised his hand.

MR. FRANKLIN: Well, just as a legal matter, Mr. Chairman, Commissioner Sullivan, the legislature, in its wisdom, decided that the procurement code need not apply to PID constructed improvements. And one of the reasons for that, quite frankly, is that the homebuilders made a persuasive argument during the legislative process that it was costly.

COMMISSIONER SULLIVAN: The procurement code is costly?

MR. FRANKLIN: Procurement code compliance is costly. And having said that, I'm not sure how that would apply to Turquoise Trail because I think they've actually constructed most of the improvements –

COMMISSIONER SULLIVAN: Over half.

MR. FRANKLIN: – that we're talking about here. But the development agreement is a vehicle that can provide for oversight by the County of those costs.

MR. ROBINS: We're tickled to save money where we can.

MS. MURPHY: [inaudible] County representatives pay for it.

MR. FRANKLIN: True, but if –

COMMISSIONER SULLIVAN: These things are already built. I understand if you set up a PID board and you go through the process. You have you plans reviewed by Mr. Martinez in terms of the roads. He's confident that they're the right thickness. He's confident that you have the right maintenance assessments. But we're now coming to a point where the development is essentially constructed. Sixty-one homes have been sold and we're quite a ways down the road. So it's a little bit different situation. We're having to take what's in the ground and we can't see it anymore. We can't see the water lines. We can't see the sewer lines. We can't see what's underneath the asphalt. It's a little scary.

CHAIRMAN MONTOYA: Shelley. Then I'm going to need to go and you've got them all to yourself.

MS. COBAU: I just think that it's important to find out that you are entering a contract with Longford and with the PID as a County. The County's going to be tasked with maintaining the assessment roles on those properties for the 30-year life of the PID. When the property changes hands, the County Assessor is going to have to track the property ownership, going to have to reassess to account for increased maintenance costs, so in that respect the County is involved with this PID and tasked with the management, the tax levy and maintenance levy. So I just wanted to make sure and make that point to you because I think that that's an important one to get on the table.

COMMISSIONER SULLIVAN: We're not just getting our feet wet here. We're jumping in full.

CHAIRMAN MONTOYA: And we are partners.

MR. ROBINS: The district does pay a fee to the County for those services, and we've worked with Mr. Franklin over the last year on what he thought up front costs were going to be in terms of his office or someone like him assisting the Assessor's office, and those costs have been built in to the cost of the public improvement district to reimburse the County.

MR. SOMMER: And I may add one last thing on a final note. On a personal level I'd like to say to the Commission and particularly to Commissioner Sullivan. He and I butt heads quite often in public and it raises the temperature of the room and I would just like to say to the Commission and to Commissioner Sullivan, though we contend with one another quite often, I mean no disrespect to the Commission or to you individually, Commissioner and I apologize if at any time I've come across as being disrespectful. That's not something I want to be perceived as and I certainly do not intend it and while I don't always relish contending with you, I certainly mean no disrespect towards you.

COMMISSIONER SULLIVAN: Well, I enjoy it.

CHAIRMAN MONTOYA: None taken. From the sidelines it's a great show. So have we got direction, Roman, where we're going next?

MR. ABEYTA: Yes.

CHAIRMAN MONTOYA: Thank you all. Appreciate it.

E. ADJOURNMENT

Chairman Montoya declared this meeting adjourned at approximately 3:35 p.m.

Approved by:

Not Needed

Board of County Commissioners
Harry Montoya

Respectfully submitted:

Karen Farrell, Wordswork
227 E. Palace Avenue
Santa Fe, NM 87501

ATTEST TO:

Valerie Espinoza

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Construction

1. Infrastructure
   -Roads
   -Sewer
   -Water
   -Drainage
   -Utilities

2. Amenities
   -Parks
   -Recreational Facilities
   -Trails

Maintenance

1. Infrastructure

-Roads	County/HOA
-Sewer	County/HOA
-Water	City/HOA
-Drainage	County/HOA
-Utilities	County/HOA

2. Amenities

-Parks	County/HOA
-Recreational Facilites	County/HOA
-Trails	County/HOA

(Construction)- has to be paid for by:

<u>Developer</u>
Buys land/makes improvements

↓

<u>Buyers</u>
Buy homes/land

What is it?

-A method to finance improvements for the construction and maintenance through the issuance of bonds (borrowing money) and the creation of special levy's (paying it back).

* **Homeowner pays for construction/maintenance by borrowing money in their mortgage or pay for it in the special levy (tax bill).**

A PID can only be formed with approval by County.

County sets a maximum levy (tax)

County establishes the composition of PID Governing body

County collects the levy and is paid a fee for doing so.

County is <u>not</u> responsible, or liable for the debts (bonds/ money borrowed)

* **PID does not affect County's bonding capacity (BDD, GO Bonds, etc.)**

-Policy regarding PID application

-Application filed, if meets approved PID

policy (criteria/statutory criteria)

-Decision whether to form PID

Resolution**

-Maximum special levy

-Board composition

-District boundaries

Whether there is sufficient benefit in forming PID

- to homeowners?
- to County?
- to community?

Pro's:

- Provide money for improvements at lower interest rates
- Interest rate on special levy is lower then mortgage
- Interest rate for development loans $ higher than PID interest rates
- Potential savings passed on to home owners
- Potential lower down payments/ lower sales price
- A steady consistent long term funding for maintenance
  - -Stable home/land values
  - -Better qualities of life because amenities maintained
  - -Interest dividend
  - -Levy is tax deductible
  - -Tax paid only during home ownership

Con's:

- No guarantee that savings are passed onto homeowner
- annual tax burden
- Does not guarantee equal maintenance of Communities throughout the County
- Does not address long term Investment for the County

Limited Improvement District Formation

Construction of Infrastructure and conveyance to buyer

Payment of Impact Fees to County

Proposal:

Finance a portion of:

1.) Roads
2.) Sewer — Cost:
3.) Drainage — $10 million
4.) Parks

Collect levy maintenance/reserves
100% funded every year

Developer paid:

$26 mil
- 10 mil (PID)
16 mil

E.G. Home Value of $271,990.00

Special levy	$ 1,709.00
Maintenance Levy	+ 540 years
Total:	$ 2,249.00

*Special Levy fixed for 30 years (interest/principal)

** Maintenance Levy varies with inflation or price changes

1. Does the application comply with County PID Policy?

   -Staff technical evaluation (Franklin Report)

2. Does Turquoise Trail PID provide sufficient benefits to:
   - homeowner
   - County
   - community

Pro's

- Lower up front purchase price
  E.G. $19,000.00 on every home
- Lower interest rate on money financing portion of improvements
- Adequate long term funding for maintenance of the communities amenities
- There's an organization (PID) to take care of community amenities
- Levy is tax deductible
- Long term affordability addressed/affordable homes pay lower levy rates
- Consistent guaranteed collection method for maintenance costs

Con's

- Higher levy (tax bill)
- No guaranteed mechanism of lower home prices
- Except for $310,000.00 cap. And 15% affordability requirements

Pro's

- Ensures that this community will be maintained to keep up property values and enhance the quality of life
- Burden of maintenance does not fall to county
- Responsible for the control of
- PID thru power of appointment

Con's

- New homeowners may blame the County for higher taxes
- Administrative responsibility for handling the money
- Responsible for the control of PID thru power of appointment
- Does not address long term investment for the county

Pro's

- Provides an avenue to ensure that communities will be maintained to keep up property values and enhance quality of life
- A public park will be maintained
- Potential to improve affordability

Con's

- Now homeowners may blame the County for higher taxes
- What about the rest of the community?
- How does the County provide equal maintenance of communities/developments?
- Does not address long term investment for the County

Does the PID application provide sufficient benefit to the homeowner, County, and the community?

Should any of the other alternatives listed be explored?

Next Steps:

- another study session
- proceed with BCC approval