

**SANTA FE COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**REGULAR MEETING**  
**February 9, 2021**

Anna T. Hamilton, Vice Chair - District 4  
Rudy Garcia - District 3  
Anna Hansen - District 2  
Hank Hughes - District 5

Henry Roybal, Chair - District 1 [Excused]

**SANTA FE COUNTY**

**REGULAR MEETING**

**BOARD OF COUNTY COMMISSIONERS**

**February 9, 2021**

1. A. This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 2:00 p.m. by Vice Chair Anna Hamilton.

In accordance with the Public Health Emergency Order issued by the State of New Mexico, this meeting was conducted on a platform for video and audio meetings.

[For clarity purposes, repetitive identification and confirmations of those on the phone have been eliminated and/or condensed in this transcript.]

**B. Roll Call**

Roll was called by County Clerk Katharine Clark and indicated the presence of a quorum as follows:

**Members Present:**

Commissioner Anna Hamilton, Vice Chair  
Commissioner Rudy Garcia  
Commissioner Anna Hansen  
Commissioner Hank Hughes

**Members Excused:**

Commissioner Henry Roybal, Chair

**C. Pledge of Allegiance**

**D. State Pledge**

**E. Moment of Reflection**

The Pledge of Allegiance and the State Pledge were led by Vice Chair Hamilton and the Moment of Reflection by Treasurer Jennifer Manzanares.

**F. Approval of Agenda**

COMMISSIONER HAMILTON: Manager Miller, do you have changed to go over?

KATHERINE MILLER (County Manager): Madam Chair, yes. The original agenda was posted on Tuesday, February 2<sup>nd</sup>, and then the amended agenda was posted on Friday, February 5<sup>th</sup> at 5:41 pm. The amendments to the agenda are under item 7. Matters from the County Manager. Item 7. A, that caption was updated. Item 7. B, that item and the contents were added. Item C, that caption was amended and added, along

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with item D, that caption was updated. Most of this is all related to legislative items that are coming forward.

Then just to note item E, that caption is the same and still a resolution but we did upload a modified version of that proposed resolution. And then under item 8, Matters from the County Commissioners, 8. C, Commissioner Roybal has asked that that postponed till he can be present. And those are the changes I have to the agenda.

COMMISSIONER HAMILTON: Excellent. Thank you so much, Manager Miller. Now that we have a modified agenda what's the pleasure of the Board?

COMMISSIONER HANSEN: Madam Chair, I move to approve the agenda with amendments.

COMMISSIONER HAMILTON: Thank you, Commissioner Hansen.

COMMISSIONER HUGHES: And I'll second that.

COMMISSIONER HAMILTON: Thank you, Commissioner Hughes. I'll do a roll call.

**The motion passed by unanimous [4-0] roll call vote.**

**1. G. Approval of Minutes: January 12, 2021**

COMMISSIONER HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: I move to approve the January minutes with no changes. I actually couldn't find any.

COMMISSIONER HAMILTON: It had to happen one time. Fabulous. Write this date down. Do I have a second? I have a motion.

COMMISSIONER HUGHES: And I'll second it.

COMMISSIONER HAMILTON: Thank you. So I have a motion and a second. I'll do a roll call.

**The motion passed by unanimous [4-0] roll call vote.**

**2. CONSENT AGENDA**

**A. Resolution No. 2021-012, a Resolution Requesting a Budget Increase to the GOB Series 2017 Improvement/Refund Fund (356) in the Amount of \$2,500 to Budget Cash for Bond Issuance Costs (Finance Division/Yvonne S. Herrera).**

**B. Resolution No. 2021-013, a Resolution Requesting an Increase/Decrease to the Law Enforcement Operations Fund (246) to Budget two U.S. Department of Justice Grants in the Amounts of \$6,133/\$5,818 (Finance Division/Yvonne S. Herrera)**

COMMISSIONER HAMILTON: Are there any items any Commissioners have questions on or want removed for discussion? And if not, what is the pleasure of the Board? Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, I move to approve the Consent Agenda.

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COMMISSIONER GARCIA: Second.

COMMISSIONER HAMILTON: Thank you. I have a motion from Commissioner Hansen and a second from Commissioner Garcia.

**The motion passed by unanimous [4-0] roll call vote.**

[Clerk Clark provided resolution numbers throughout the meeting.]

**3. APPOINTMENTS/REAPPOINTMENTS**

**A. Resolution No. 2021-014, a Resolution Appointing One Replacement Member to the Board of Registration**

COMMISSIONER HAMILTON: So apparently from the County Clerk's Office we have Robert Adams.

COMMISSIONER GARCIA: Just really quick, Madam Chair.

COMMISSIONER HAMILTON: Yes.

COMMISSIONER GARCIA: I just want to thank Estrella for doing a good job because I appreciate all the hard work that you do. Thank you.

COMMISSIONER HAMILTON: Thank you, Commissioner Garcia.

ROBERT ADAMS (Bureau of Elections): Madam Chair, members of the Commission, the Santa Fe County Board of Voter Registration had a resignation due to a member not being qualified anymore because she was a candidate in the 2020 election. She represented the Libertarian Party. This current board will serve through June 30<sup>th</sup> of this year and the next couple of months has some pretty important work to do, so we needed to replace her. The local Libertarian Party has recommended David Scott to be appointed to serve through June and we'll be forwarding names for recommendation for the new Board of Voter Registration in July, but right now we need to get Mr. Scott appointed if possible so we can finish our work for this term.

COMMISSIONER HAMILTON: Thank you very much. Are there any comments or questions from the Board?

COMMISSIONER GARCIA: Madam Chair, I have a question.

COMMISSIONER HAMILTON: Yes, Commissioner Garcia.

COMMISSIONER GARCIA: Can you actually explain how this was actually advertised? Did it go out to the general public? Was it in the paper? How did that work?

MR. ADAMS: This particular appointment we did not have time to do advertising to the public. We figured since the board is balanced between the two major political parties the Republican Party and the Democratic Party, the third major party is the Libertarian Party so we felt just to keep it the same through this term we would go with the local Libertarian Party's recommendations. [Inaudible]

COMMISSIONER GARCIA: Thank you, Madam Chair. You got cut off, Mr. Adams, but I just want to make sure that we appoint individuals to the board, that we put out advertisements, so I just want to make sure that we do that. So that's why I asked if there is no problem with that from the Legal Department I'd like to make a motion for approval.

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COMMISSIONER HANSEN: I'll second.

COMMISSIONER HAMILTON: Thank you. So I have a motion and a second and I'll call for a vote.

**The motion passed by unanimous [4-0] roll call vote.**

**4. MISCELLANEOUS ACTION ITEMS**

- A. Request Authorization to Publish Title and General Summary of Ordinance No. 2021-\_\_\_, an Ordinance Amending the Sustainable Land Development Code, Ordinance No. 2016-9, to Amend and Restate Section 7.2 to Include the Latest Adopted Codes and to Amend and Restate Section 7.14 Concerning Energy Efficiency to, Among Other Things, Require New Structures to Comply with Specified Pathways in the 2018 New Mexico Residential Energy Conservation Code and 2018 New Mexico Commercial Energy Conservation Code and Remove the Whole-House Mechanical Ventilation Requirement for Residential Structures**

COMMISSIONER HAMILTON: I'd like to turn it over to Penny Ellis-Green and Robert Griego.

PENNY ELLIS-GREEN (Growth Management Director): Thank you, Madam Chair, Commissioners. In August of last year the State Construction Industries Commission approved including the 2018 International Energy Conservation Code into the statewide building code. The effective date for adherence is March 24<sup>th</sup> of this year. The 2018 IECC provides different compliance pathways for residential and commercial buildings.

On December 15<sup>th</sup> the BCC directed staff to amend the energy efficiency section of the SLDC in light of the State's adoption of the 2018 IECC. At this meeting, the Board requested that staff bring forward an ordinance amending the SLDC to require a minimum HERS 61 rating for residential structures and impose an ASHRAE 90.1 standard for commercial structures. The rationale for these changes being that the energy rating index approach and ASHRAE 90.1 will, on average, achieve higher energy efficiency than if a structure met the minimum requirements of another approach or pathway.

The State actually adopted an Energy Rating Index of 61, ERI 61, which is very similar to but different than a HERS 61. Staff had previously been told that the State would accept and enforce a HERS 61 as an alternative; however, during additional discussions with the State, it is now understood that the State will not enforce a HERS 61 rating. Therefore, staff recommends that the Board of County Commissioners adopt the ERI 61 rating by requiring that residential structures follow the energy rating index approach.

Enforcement of energy efficiency standards is important to ensure compliance, but the County does not have building inspectors or even technical reviewers to enforce building standards. Current enforcement relies upon a HERS rater coming back to the

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County to submit their reports after construction. But the County has no way of knowing when a house is completed or inspected for building standards. Using the same standard as the State ensures that the State's building inspectors will enforce these standards and require compliance before a certificate of occupancy is issued on a residential structure.

Although the ERI and HERS Index are very similar, there are some differences. Both are based upon the same underlying standards. For ratings around the 61 level, the two rating systems are comparable. In addition, a HERS rater can still rate for ERI, but ERI does not require you to hire a HERS rater.

Like the HERS 61 rating, an ERI 61 rating would indicate energy use of the house to be about 61 percent of use from a home built in 2006. The 2018 New Mexico Residential Energy Conservation Code now has three main residential compliance pathways. The first is prescriptive, the second would be ERI 61, and the third performance modeling. The SLDC currently requires a HERS 70 or equivalent. The State's ERI 61 pathway is considered to achieve higher energy efficiency than the other two main pathways and HERS 70.

The 2018 New Mexico Commercial Energy Conservation Code now has three commercial compliance pathways: the ASHRAE 90.1, the prescriptive, and performance modeling. The current SLDC requires non-residential structures to be designed to Energy Star Certification Standards. The closest pathway to the current SLDC requirement is considered to be the ASHRAE path.

The existing SLDC also includes a whole-house ventilation requirement that is now not consistent with State codes. The State bases ventilation requirements on the 2015 International Mechanical Code. Because this additional County requirement could create confusion and add costs to residential development, and because the County does not conduct building inspections and could not robustly enforce this requirement with existing staff, it is recommended for deletion.

The BCC direction had also included to ensure that the existing reference to multi-family structures and the requirements for mixed use structures be consistent with the State requirements. The reference was deleted from our code in the draft ordinance, since the 2018 IECC adequately addresses these issues. The draft ordinance is attached in the BoardDocs with a red line version and also a clean version. In the ordinance Section 7.2 is also amended to update the fire code and building code that have not been updated since the 2016 SLDC was initially approved.

In addition Section 7.14 is amended and restated to require residential development to meet the ERI 61 rating pathway, to require all commercial development to meet the ASHRAE 90.1 pathway, to remove reference to multifamily development so this would follow the State requirements under the 2018 IECC, and the whole house ventilation section is deleted.

It is important to note that the revised Section 7.14 would not apply to manufactured homes or to modular homes, nor would it apply to a remodel of homes. If approved, this ordinance would take 30 days to come into effect. The staff requests that this be noticed to allow adoption after one public hearing at Planning Commission and one public hearing at the BCC. Staff recommends approval of this request to publish title and general summary and Sustainability and Planning staff will work together to present

background information and they have presentations that they have prepared as well. I think Robert is about to do that.

ROBERT GRIEGO (Planning Manager): Good afternoon. Thank you, Penny. Good afternoon, Madam Chair, Commissioners. This presentation is intended to provide the Board and the public with some background information in addition to the specific information that Director Ellis Green has provided. The County has resolved its environmental sustainability goals through the Sustainable Growth Management Plan, the Strategic Plan and numerous resolutions to address energy efficiency standards, carbon neutrality, ecological resilience, economic vitality, quality of life and social equity.

For this presentation, Senior Planner Lucy Foma will provide a brief background in regard to the County's goals and policies regarding environmental sustainability and energy efficiency. County sustainability specialist Jacqueline Beam will then provide a summary of the County's sustainability resolutions and will present additional information regarding the proposed ordinance and their alignment with the State energy code along with information regarding benefits of the proposed ordinance, to include increased energy efficiency and a summary of the costs to achieve these standards. So Lucy Foma.

LUCY FOMA (Planner): Hi, Madam Chair and members of the Board. Thank you for having me. I'll be giving a brief overview of our policy context and how that related to this proposed change. The Sustainable Growth Management Plan, which is the product of extensive public outreach and was adopted as the County's general plan supports sustainability in many different ways, but notably we have made the commitment as the County to move away from reliance on fossil fuels and establish the infrastructure and framework for ourselves as the County government but also for our residents and businesses to adopt renewable energy and use less energy.

Within the SGMP there are multiple goals that relate to this proposed ordinance. We have goals that support efficiency and renewable energy. We have Chapter 8, which specifically talks about developing new houses and buildings and infrastructure with the aim of being more energy efficient, using passive solar, capturing water – all of the things that we're talking about as part of this ordinance change. We also have the goal of complying with the principles of sustainability and with developing these standards for our buildings.

In addition, we have the County strategic plan, which is the Board's document which we revisit multiple times annually. Within the strategic plan we have objective 2.2 to address issues associated with climate change. This is within goal 2, which is to promote sustainable community. We also have the goals to reduce greenhouse gas emissions, to establish health building and energy efficiency guidelines, and also that we will as the County supports all of the State's initiatives in reducing greenhouse gas emissions and improving energy efficiency, both through the Public Regulation Commission and other actions at the State level.

In our next section we have Jacqueline Beam who is going to present the resolutions that are also supporting this proposed change.

JACQUELINE BEAM (Sustainability): Thank you, Lucy. Thank you, Madam Chair and Commissioners for the opportunity to detail this out a little bit more. As is the nature of building codes, there's the granular and there's also the overarching

direction that we're looking at as a County and fortunately we do have some guideposts that have been developed over the years by the County and their approach to energy efficiency and greenhouse gas emissions reduction.

In the County resolutions supporting sustainability in the past, we're looking at 2013-7, which is Lead by Example, as well as a resolution of support for the Paris Agreement, and that agreement requires that we reduce our emissions to net zero by 2015. So by taking up the requirements around our emissions and our permitting and in our focus on energy efficiency we are contributing to helping us reach that goal. And then also in the 2018-124, we're looking at the initiatives and administrative actions to reduce greenhouse gas emissions for energy efficiency. Just recently we passed Resolution 2021-005, which supports legislation for energy efficiency in buildings and sustainability in climate action.

And so in doing this we have the State Energy Code that we have looked at extensively in working with both Planning and other organizations throughout the county, to include Homewise, the Santa Fe Community College as well as the Santa Fe Area Homebuilders Association. The new code will tighten up our requirements considerably. In the past we were at a HERS 70 and now we are looking to going to a 61 in the ERI standards. If we look at the Santa Fe County greenhouse gas emissions, in 2015 buildings comprised 47 percent of our emissions so we do have an opportunity to improve upon those numbers.

In looking at the State requirements they do have several different pathways to choose from, and for a matter of clarity we have chosen the ERI 61 in the past. HERS and ERI were exactly mirrored and the same until January 1<sup>st</sup> of this year, and so we have had to reflect and look at that in our SLDC to see what would be the best avenue to take. Since the State is the issuer of the certificate of occupancy it is upon us to really follow a parallel pathway.

This is a logic model that shows the several different pathways that are available and in looking at the prescriptive, we would not even be able to meet our HERS 70 that we have had in the past as a requirement. And then in the simulated performance, such as LEAD, etc., those certifications can be quite costly, and so we have really settled upon the ERI 61.

And this affects SLDC Section 7.14 in the amendments proposal and it is the staff recommendation that we choose the ERI 61 as the pathway.

In looking at the costs and benefits, there are several attachments in your packet that are referred to in resiliency. One of the references is made to the *Journal of Building Engineering*. It speaks extensively of the need for buildings to tighten up in their energy efficiency and the fact that we are more resilient when we do that. We're going to be facing more extreme temperatures and droughts and floods so it is something that we need to start thinking about for the entire community.

In looking at the subtle costs, the options that are presented in the ERI 61, it can be very complex and complicated because it might depend upon your orientation, how many windows you have, how large is your floor space. And so in gathering this information from all the organizations – HERS raters as well as the Santa Fe Area Homebuilders Association, it was recommended that we look at this as mechanical, item by item type of thing instead of the myriad menu. And so if we were to just think about



one or more of the following in this list then you can trade off and lower your score as a result.

Certainly, in the sample data that was provided by the Santa Fe Area Homebuilders Association, they were pleased to provide a sample data that showed five to 16 percent decreased energy use in five homes that are also in your packets, and energy bills as well, five to 16 percent reduction. And the CO<sub>2</sub> emissions were actually five to 15 percent, but it is significant enough to consider that the minimal cost that you're putting forth in creating a home that does reach the 61 rating, you will receive that money back within the first year, year and a half to two years.

And then in addressing the commercial energy conservation codes, currently we have the Energy Star design report for Energy Star requirements certification, and the ASHRAE 95.1-2016 is the closest to that requirement that we have now. Again, if we go with prescriptive we're stepping backwards in our missions, and then the performance modeling once again is often a little out of reach because the certification process is so expensive.

This is a very complicated logic model but if you'll just stay focused on the right side, it's really looking at energy costs and budget method and thinking about the overall performance of the building as opposed to the tiny little details, because it really is looking at a building as a whole, rather than all the bits and pieces.

And in the commercial compliance, that would be changing SLDC Section 7.14 And it is the staff's recommendation to ASHRAE 95.1-2016, and that is about two percent actually improved upon Energy Star rating that's required now.

This just sums up the staff's recommendation for Energy Star certification to move to ASHRAE and then also again for the residential to move to ERI 61. I will pass the torch back to Robert and stand by for any questions.

COMMISSIONER HAMILTON: Thank you. Mr. Griego, do you have further on this before I go to the Commissioners?

MR. GRIEGO: Madam Chair, Commissioners, we'll stand for questions, if you have any questions and we will be able to respond.

COMMISSIONER HAMILTON: Thank you very much. Are there Board members who have questions or comments? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you very much. I want to thank staff, Penny, Jacqueline, Robert, Paul, everyone who worked on this. I really appreciate your hard work in record time getting this all done. I know this was a bit of a heavy lift and I really, truly, truly appreciate it. Thank you for your explanation of a number of things. I think it was incredibly clear and precise. With that I would like to make a motion to publish title and general summary. Of course there can be more discussion once someone seconds this but I will make a motion.

COMMISSIONER HAMILTON: Thank you. Commissioner Hughes.

COMMISSIONER HUGHES: I'd like to second that motion and also to add that I think this is a very important step for fighting climate change as well as helping people have more energy efficient homes, which does benefit the homeowner. I think it was very important that Jacqueline in her presentation that after a year or two you would be basically getting back the money that you had invested in any extra additions to the home to make it more energy efficient. I also think this is kind of the first of many steps

that we may want to take over the next few years to not only make the County operations more energy efficient and less impactful on our climate but also to make the whole county impactful on the climate. Thank you very much.

COMMISSIONER HAMILTON: Thank you. So we have a motion and a second. Under discussion, Commissioner Garcia.

COMMISSIONER GARCIA: Yes, just a couple questions. I totally agree with it. I just would like for people that are listening, turned on the radio or don't have a packet, can you tell what ERI 61 is and what that will require for an individual or a young couple that's going to build a 500 square foot home or a 2,000 square foot home. What does that mean for those two? How much more is it going to cost? And also these are goals and policies, correct? So those are my first two questions.

MS. ELLIS-GREEN: Madam Chair, Commissioners, Jacqueline will have a little more detail. But in general the HERS price ranges and builders, the additional cost would be for a high efficiency boiler and/or a high efficiency water heater to get from a 70 now in the HERS rating down to a 61. But every single home is different and if you start looking at the home orientation, window size, the design of your home, all of that can actually bring the figure lower and lower. So since every home is different, it is very difficult to put an actual dollar amount on there. But the price difference due to high efficiency boilers or heaters is approximately between \$1,200 and \$1,500. Jacqueline, I don't know if you have any other information on that.

MS. BEAM: Madam Chair, Commissioner Garcia, that is true. There are several different complicated formulas to decide how much you're going to be spending extra for the ERI 61, but it really forces builders to be innovative and to see the orientation of the home, strategically placed windows, for example. It's really based on how the home itself is performing. If you take one home that oriented optimally and has windows that are wisely placed then it will be really just a matter of a high efficiency boiler, for instance, and a tankless water heater. Something as simple as that. So it could range from \$1,500 or it could go higher depending upon how many windows you have or how much – if your insulation is less than what it should be. So it really depends, and it requires a smart thinking around energy efficiency from the get-go.

COMMISSIONER GARCIA: Thank you. So really quick, if I have a house – I live within the city limits and I have a house – a beautiful Stamm-built homes that have been there for many, many years. So if I wanted to do an addition, I would have to replace those entire windows? I understand it's case by case is what you're telling me. However, who's going to review that to determine – if I'm going to do a homeowner permit and hire a builder, who determines that? How do we get there? Do I need five more windows? All these windows. So for example, some of those homes are built well. Jack Stamm was a very good builder, but so how does somebody off of State Road 14 determine how many windows I need or I don't need?

MS. BEAM: So Madam Chair, Commissioner Garcia, Commissioners, the State is the final determinant of your requirements for additions, since you're remodeling. And so no matter what, you will have to follow the State requirement. As far as a new homes or new buildings, we are recommending ERI 61, and that does not include modular homes, nor does it include remodeling. And so if you were to go with remodeling, for instance, you could go with the prescriptive path for the addition.

Commissioner Garcia: Thank you for that. Also, in regards to the Homebuilders Association, what other organizations have we worked with? Have we worked with homeowner associations or did we just work with the homebuilder associations?

MR. GRIEGO: Madam Chair, Commissioners, we have tried to reach out to as many people as we can. I think as Jacqueline pointed out, we reached out to the Community College to get some information from them. We reached out to individual developers, so in addition to the Santa Fe Area Homebuilders Association we did reach out to Homewise, Habitat, and Rancho Viejo specifically to try to get their understanding of the costs of building. And then we also have had communications with Carl Trujillo, who provided some comments which are in your packet.

COMMISSIONER GARCIA: Right. Thank you. Just as an example. So my grandma is listening on the radio right now, because she doesn't have internet or a cell phone. So I'm just trying to reach out there through other communications so people can understand what we're going to do, what's happening, and so that's kind of where I'm going with this.

Also, have we actually talked to Dahl Plumbing or any of those individuals that actually sell water heaters? That way they can start letting builders or individual people saying here's where we're going with this. Because sometimes an individual person can go buy a water heater that's not to what our code is. So just reaching out to everybody out there. Just keep in mind there are people out there that still do not have a cell phone and still do not have internet access, like in La Cienega. And so when they go for a building permit, I just want to make sure that everybody is educated and not just those on the internet. So that's just where I'm going with this. So I appreciate that.

MR. GRIEGO: So Commissioner Garcia, one of the things that we've been talking about is trying to create some educational material to do exactly what you're saying and try to coordinate with folks who do know that is. So we've had conversations about that, with the Area Homebuilders Association about how we can create educational materials to provide to the public. Because I think that's a really important piece of this. We're trying to, again, have new standards but we want to be able to communicate this as well as we can. Thank you.

COMMISSIONER GARCIA: So Madam Chair, really quick. So if I wanted to go get a building permit for a 2,000 square foot home, just say off of State Road 14, am I going to be required to have engineering stamped plans and hire a builder that actually is certified? You guys mentioned LEED certification. We all know LEED certification is very hard to get for a new building is LEED certified. I'm glad we took that out of there and moved that to we went down to ERI 61, because these are just some of the questions I'll have in the next year or two. When people get a building permit are they going to have to have a certified engineer stamp those plans, and a certified contractor or not?

MS. ELLIS-GREEN: Madam Chair, Commissioners, I don't believe you will have to have a certified engineer stamp the plan. Plans would have to show for a new home that it's ERI 61. We are working with the State Construction Industries to get their requirements and their checklist for all of the pathways so we can pass that on to the person that's actually going to build the house, and make sure that when they submit to

the County, not only does the State know what you need but we know what you need, because we are the ones issuing the building permit. We then [inaudible] when they're sent home to [inaudible] So we may be working with CID and we will train ourselves to make sure that we understand what will be required. So I'm hoping that by the next time we come back to the Board for approval of this ordinance we will have this checklist from the State and we will be able to also present this to the Board.

COMMISSIONER GARCIA: Thank you. Thank you, staff. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you, Commissioner Garcia. Commissioner Hansen, did you have additional comments or questions? I thought I saw your hand at some point.

COMMISSIONER HANSEN: Thank you, Madam Chair. My comment was actually Penny covered that, that this will be part of the State program, that they will also be hopefully educating people to meet these requirements, because this will be part of the State's plan for energy efficiency. And so I'm looking forward to us working together with the State so that when we do provide information and educational information that it is in concert with the State and with their plan for this. So I think that we are heading in the right path. I really once again appreciate staff's work on this and that is all I have to say. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you. I thought I saw Commissioner Garcia, but Commissioner Hughes, did I see your hand as well, earlier? And if not, I'll go back to Commissioner Garcia.

COMMISSIONER HUGHES: No, Madam Chair. You can go on to Commissioner Garcia.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Thank you, Madam Chair. I just want to make it clear, because a lot of time the State actually gives it to local government, and whenever the local individual comes and talks to us, I just want to make sure that – same thing with the schools. Because when we're dealing with the schools, you guys are local government, you guys deal with it. Because this is your stuff. And I understand the importance of it and I just want to make it clear to the public that this is just something that we're all working on and it's the best thing to do, but how did we get here? So that's why I'm kind of saying it on the radio, because that's where I'm going with it. I agree. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you, Commissioner Garcia. Unless there are further questions from the Board we have a motion by Commissioner Hansen and a second by Commissioner Hughes. I'll go to a roll call vote.

**The motion passed by unanimous [4-0] roll call vote.**

**4. B. Resolution No. 2021-015, a Resolution Adopting the Water Policy Advisory Committee's Calendar Year 2021 Work Plan and Meeting Calendar**

COMMISSIONER HAMILTON: Mr. Dupuis.

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JOHN DUPUIS (Utilities Director): Good afternoon, Madam Chair and Commissioners. On April 30, 2013 the BCC approved a resolution creating the Water Policy Advisory Committee and was then amended by Resolution 2019-95. It requires the WPAC to present for your approval, a work plan and meeting calendar each year.

The WPAC in consultation with the County staff and County Commissioners have developed the work plan and meeting calendar for calendar year 2021. Mr. Bryan Romero, being the WPAC chair is in attendance tonight and I would allow for him to present the 2021 work plan tasks and summary along with the recommended 2021 work plan.

BRYAN ROMERO: Thank you, John. Good afternoon, Commissioners. The 2020 work plan, we have three tasks associated with that plan. The first one was a drought management plan. That task has been a really difficult one. It's been challenging. Our committee is made up of six individuals who have worked hard on this and we're about wrapping it up. I believe we will have something to the Commission in April. We've progressed pretty good. We're going to be meeting this week and reviewing the draft of the drought management plan.

The next one we were working on was with aquifer storage and recovery. Staff worked on a grant related to that particular item. It was a project out in Rancho Viejo and the committee provided feedback on the application for the grant, and so we also worked with staff on that providing recommendations and improving the grant application.

The third task was looking at the 40-year water planning to integrate both the County and City water planning activities to work together on this, and since this activity was placed there has been cooperation between the County and the City on working together in developing the long-range water plan. So that's taken off. So those three items were the task for 2020.

So work plan tasks for 2021, we've included continuation on the drought management plan, and the second one – as the committee was working through the drought management plan, the committee felt that one big component of the plan would be educational outreach. So the committee is proposing to put task #2, which is working on the outreach to the community on how the County can provide the community with educational outreach on sustainability and resiliency on water resources.

So the committee also recognized that it has been challenging as a committee, because we do appreciate the resources the Commission has provided with staff in preparing agendas and assisting of the staff with the WPAC meetings. We believe in the committee that maybe additional support staff to help out with preparing actually work product to assist in the work plan tasks, especially on educational outreach, because the committee is going to have to better understand on what outreach is already currently being done as well as kind of looking at how the committee could work in improving or looking at things that would help the community in understanding the drought management plan and also conservation/sustainability issues.

So with that said I would stand for any questions you may have.

COMMISSIONER HAMILTON: Thank you so much and thank you, Mr. Romero for your service as chair of this committee. You've done an outstanding job. I just saw Commissioner Hughes's hand and I apologize because I can't see everybody all at once. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. My question is task 3 from 2020 – providing recommendations to the BCC on the 40-year water planning. It seems to me that that planning is ongoing, and so I wonder why it's not included in the 2021 work plan, what the thinking was there.

MR. ROMERO: On that particular item we were looking at how we could be looking at participation with that plan and maybe John can speak to this. We saw that there was an active role that the County was playing as part of the long-range planning with the City. So we felt that that endeavor had taken place and was currently being worked on as a collaborative effort. So if there were any other issues that came up through that planning process that was specific to the committee I would believe that would be something that would be good for the committee to look at.

COMMISSIONER HUGHES: Yes, John, can you add to that? Because it seems to me that maybe there would be some things that would come forward that it would be good for us to have some advice from the Water Policy Advisory Committee on.

MR. DUPUIS: Madam Chair, Commissioner Hughes, I think that is something that could be accommodated and we can always amend the work plan if it's approved as provided here and if we want to add that it, we can. Another item to consider is that the City is our partner in the process and they've been hosting the meetings for us to interact all together. That has allowed for the WPAC members to participate in the process, which they have and we appreciate.

COMMISSIONER HUGHES: Okay. The reason I ask is it seems to me on some of these issues, residents of the county have quite a different view point than people living in the city and I would want to make sure that their concerns get taken into account. I'm thinking particularly of the people in La Cienega who write to me and Commissioner Garcia and perhaps the other Commissioners about their concerns about their water table and such. I think people from the city perspective might not take that into account quite as well as we probably should. That's why I'm wanting to make sure we stay involved in that process as much as possible. And whether it's part of this plan or not, I guess I just want to make sure we stay involved.

COMMISSIONER HAMILTON: Thank you, Commissioner Hughes. Are there other comments or questions from the Board? Commissioner Garcia.

COMMISSIONER GARCIA: I do. First of all, thank you, Bryan, for the services that you did for the City of Santa Fe and all the volunteers in the community. I think there's a couple of us that still need to appoint some members of the committee. I guess I just have some questions as Commissioner Hughes brought up as into how does this committee actually look at the 40-year plan for water planning? One of the things is the pipeline that the City's actually proposing to go from the sewer plant all the way north to the Rio Grande. Or the Eldorado connection? Or how is this committee going to look at the Quill plan? And what's happening off of State Road 14. Is the committee actually looking into these ideas, plans, as Commissioner Hughes said?

We've done a lot of studies in that area. We've done many things when Karen Torres was here. We have the issue with regards to the water conditions that have been placed on all of those lots behind the Downs and I guess, how detailed is this committee going to actually look at the Glorieta water system or all the mutual domestic water

systems, because there was a point in the county where we were actually going to take over Rio en Medio, all these water systems there was an individual idea to take them over. So is this committee going to look at all that stuff? Or what does this committee actually – are we starting a new committee to look at the items? But those are a lot of things that are actually in the hopper. And I guess how are we as the County going to deal with things that are already in the hopper?

MR. ROMERO: I guess as detailing there's a wide range of scope of all the different water issues in the county and in this area. So I think the committee would be most effective when a specific issue comes up that the County would want feedback on, and that would be brought forward to the committee so we could then home in on the question and the issue related to what's needed. Otherwise, with that vast amount of issues or different items it's really hard for a committee to give the depths that needed in any one of those topics.

COMMISSIONER GARCIA: Thank you.

COMMISSIONER HAMILTON: Mr. Dupuis, do you have further to add?

MR. DUPUIS: Madam Chair, I believe Mr. Romero makes a great point in that Commissioner Garcia's question is one that we've contemplated significantly, on what items to focus the attention of the committee on, and largely, they look to the Commissioners to provide direction on what's needed, and that the more you find it is the more focus and attention can be provided to what the Commissioners need support on.

COMMISSIONER HAMILTON: I just wanted to add my voice. Those are both very good points and to remind the Commissioners, because in the previous year we didn't have as much interaction with the WPAC as we are having now and I think that is really fabulous that we're having more interactions because in fact, any of the Commissioners, as these issues go forward and we see a need for additional input we can specify that to the committee. That's what they're there for. So this 2021 plan plays out with what we know now what they should start focusing on, but as things change over the year, as both Mr. Romero and Mr. Dupuis mentioned, as the 40-year planning activities progress and County staff is participating in that planning and there are issues that come up that they want further input from the committee, they can request it and we can modify the work plan. And the same is true for any of the issues you mentioned, Commissioner Garcia. That's – I just wanted to offer my perspective on that.

COMMISSIONER GARCIA: Thank you, Madam Chair. I certainly understand that. It's like energy efficiency. The larger picture I get, because actually, I was driving through Arizona a while back. Drought, how do we educate individuals about drought, because that's one of the problems I have because when your water, your tap goes off, we're done. Talking with the schools, the kids. So I just want to – what exactly is the committee - what's their role? It was what I was trying to get at. Because we have a lot of water issues from Aamodt all the way down to Estancia and everything in between that. So that's kind of what I was wanting to ask John. What is your larger plan as into what is your goal and what do you envision – where are you going with this plan?

And I understand, so as we move forward, if I have a question on La Cienega, or let's just stay with the people on State Road 14, they don't have water and don't need pipelines all over certain areas in the county, but what about the people on State Road 14

that don't have water, that haven't had water for a while? So I'm just trying to look at the larger picture. That's where I was going with this, Madam Chair. Thank you.

COMMISSIONER HAMILTON: So just to reiterate, based on that comment, one thing that the BCC is going to see first from the committee is well more than a year effort they've put into drought planning, and then I suspect that's also why they put the outreach as one of their tasks, unless and until other things come along. So Commissioner Hansen, and then Commissioner Hughes.

COMMISSIONER HANSEN: Madam Chair, I would like to move item – a resolution adopting the Water Policy Advisory Committee calendar, a 2021 work plan and meeting calendar. And I'm looking forward to their presentation of the work they have been doing on the drought plan. So thank you.

COMMISSIONER HAMILTON: Thank you very much. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you. I'll second the motion, but I also just wanted to ask for my clarification, what would the process be for adding something to the work plan later on in the year? Do we bring it to the Board of County Commissioners and then have it that way?

COMMISSIONER HAMILTON: Yes. And Mr. Dupuis, if you have any further clarification on that.

MR. DUPUIS: Madam Chair, no I do not. That is correct.

COMMISSIONER HUGHES: Okay. Thank you. And I second.

COMMISSIONER HAMILTON: Thank you. So I have a motion by Commissioner Hansen and a second by Commissioner Hughes. I'll go to a roll call vote.

**The motion passed by unanimous [4-0] roll call vote.**

COMMISSIONER GARCIA: Yes. And if we could get a regular update from the committee. Yes, and I'll bring it up from the dais.

COMMISSIONER HANSEN: Thank you, Bryan, for your work on this. I really appreciate it. And nice to see you. So thank you very much. I appreciate all the hard work of the committee and please tell them that.

COMMISSIONER HUGHES: Thanks to the committee.

COMMISSIONER HAMILTON: Commissioner Hamilton votes yes as well and thanks to the committee.

COMMISSIONER GARCIA: Also, just real quick, Madam Chair. I would like to thank the committee, because it's hard to get volunteers out there. And you guys are doing a great job and there's a lot of committees we have out there and it's hard to get volunteers, so thank you guys on the committee.

COMMISSIONER HAMILTON: And in that regard I suppose we ought to also recognize the importance of those of us who still have openings in our districts to recommend more members for the committee, because they do valuable work. So thank you.

SFC CLERK RECORDED 03/11/2021



4. C. **Request (1) Approval of Amendment No. 4 to Agreement No. 2018-0047-A-CSD/MM with First Choice Healthcare, Increasing the Compensation an Additional \$67,800 for a Total Contract Sum of \$271,200, Inclusive of NMGR; and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order**

BILL TAYLOR (Purchasing Manager): Thank you, Madam Chair, and thank you, Commissioners. Before you today we have amendment #4 with First Choice Healthcare, and this contract that we entered into in January 2018 with First Choice Healthcare was a result of a competitive proposal solicitation, so they provide county residents, including utilizing the County CONNECT network to meet the needs of residents' social determinants of health, such as food, housing, utilities and transportation. And this amendment will increase the compensation to that agreement an additional \$67,800 for a total contract sum of \$271,200, inclusive of New Mexico gross receipts, and requires for that level of contract award requires the Board's approval. With that, Madam Chair, I'll stand for questions.

COMMISSIONER HAMILTON: Thank you, Mr. Taylor. Are there questions from the Board?

COMMISSIONER GARCIA: Madam Chair.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Thank you, Madam Chair. If there's no questions, this is a great organization, especially this time of year, how it's helping the community, the individuals that actually help out there. So move for approval.

COMMISSIONER HAMILTON: Thank you. So there's a motion. Commissioner Hansen.

COMMISSIONER HANSEN: I will second it. Yes, I agree with Commissioner Garcia. Important project and an important group that we work with. So I'm happy to second this.

COMMISSIONER HAMILTON: Thank you. And I saw Commissioner Hughes's hand.

COMMISSIONER HUGHES: I was just going to second it as well.

COMMISSIONER HAMILTON: So is there any further discussion. I have a motion by Commissioner Garcia and a second by Commissioner Hansen. I'll go to a vote.

**The motion passed by unanimous [4-0] roll call vote.**

4. D. **Request (1) Approval of Agreement No. 2021-0123-PW/KE with Holly Frontier Refining and Marketing, LLC, as an Indefinite Quantity and Multiple Year Term Agreement; and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Orders**

MR. TAYLOR: Thank you, Madam Chair, Commissioners. Again, Madam Chair, this is one of our favorite indefinite quantity contracts, but let me kind of

delve into this a little bit. We did do a competitive sealed bid for these services. The Road Division of the Public Works Department utilizes various oils and emulsions to preserve our County roads, not only paved roads but it's also used on County-maintained roads as preservation. It's mixed with chip seal and various products. They have a budgeted amount to purchase these items and they typically spend around \$190,000, \$195,000 annually on these items. This contract will allow them to purchase this product as they needed. It changed depending on the weather, as you're all well aware.

And so we are asking that the Commission approve the agreement for an indefinite amount/quantity. It is a multi-term agreement, so it's going to be a straight four-year agreement. There are provisions in the contract that allow the County to terminate or exit that agreement, so we're not locked in definitely for four years. It just says we have to do an annual renewal. And we're asking to delegate signature authority to the County Manager to sign purchase orders. There was only one bid submitted. We rebid it twice. We finally didn't receive any bids and then we received the one big from Holly Frontier Refining. With that, Madam Chair, I'll stand for questions.

COMMISSIONER HAMILTON: Excellent. Are there questions from the Commission?

COMMISSIONER GARCIA: I have a question, Madam Chair.

COMMISSIONER HAMILTON: I'm sorry, Commissioner Garcia. I saw Commissioner Hansen's hand and then I'll go to you. Commissioner Hansen.

COMMISSIONER HANSEN: I was just going to make a motion to approve. That will still allow Commissioner Garcia's questions after a second.

COMMISSIONER HAMILTON: So I have a motion. Do I have a second?

COMMISSIONER GARCIA: I'll second it for discussion, because I have several questions on this.

COMMISSIONER HAMILTON: Okay. That's good. A motion and a second. Commissioner Garcia, under discussion.

COMMISSIONER GARCIA: So I guess one of the questions is, so it's \$190,000 for four years or \$190,000 for every year?

MR. TAYLOR: Madam Chair, Commissioner Garcia, the department spent \$194,000 and some change last fiscal year.

COMMISSIONER GARCIA: So Madam Chair, we're getting into a four-year contract only up to \$190,000? I didn't see it on the agenda like that, so I just – just for the people that don't have it in front of us, listening on the radio, this wasn't on the agenda. I don't know why. Everything else has the amount and this one doesn't.

MR. TAYLOR: Madam Chair, Commissioner Garcia, that's why it's submitted in the caption as an indefinite quantity. It does not have a not-to-exceed amount in the contract. I was only providing information to the Commission in regards to how much they expended the last fiscal year.

COMMISSIONER GARCIA: Madam Chair, Mr. Taylor, so it's not going to exceed \$190,000, or it can?

MR. TAYLOR: It could. Yes, it could. Madam Chair, Commissioner, it could.

COMMISSIONER GARCIA: So once again, Madam Chair, Mr. Taylor, tell me what they're going to do.

MR. TAYLOR: They provide various oils and emulsions for road preservation. And if Public Works is on the line, they could probably add more substance to that response.

COMMISSIONER GARCIA: Madam Chair, Mr. Taylor, so they're going to be applying some types of aggregate to help us out on different County roads.

MANAGER MILLER: Madam Chair, Commissioner Garcia, when we do chip seal we need actual chemicals that bind the chip seal as well as seal it. This is the materials for our crews to be able to do chip seals, overlays, that type of thing.

COMMISSIONER GARCIA: Awesome. Thank you, Madam Chair. Perfect. Thank you, Katherine, Manager Miller.

COMMISSIONER HAMILTON: Thank you. Are there other questions? Seeing none, I have a motion from Commissioner Hansen and a second by Commissioner Garcia. I would go to a vote.

**The motion passed by unanimous [4-0] roll call vote.**

4. E. **Request (1) Approval of Amendment No. 5 to Agreement No. 2018-0349-A-CSD/MM with Interfaith Community Shelter, Increasing the Compensation an Additional \$150,000 for a Total Contract Sum of \$559,250, Inclusive of NMGR; and (2) Delegation of Signature Authority to the County Manager to Sign the Purchase Order**

COMMISSIONER HAMILTON: I think, Mr. Taylor, we have you again.

MR. TAYLOR: Thank you, Madam Chair, Commissioners. We contracted with Interfaith Community Shelter for the purposes of navigation services for county residents utilizing the CONNECT network, again, to meet the social determinants with regard to health, food, housing, utilities, transportation for Santa Fe County residents. This before you is amendment #5 to that agreement that increases the compensation to the contractor an additional \$150,000 for a total contract sum of \$559,250, including New Mexico gross receipts tax, and we request authorization that the County Manager be granted to sign the purchase order. With that, Madam Chair, I'll stand for questions.

COMMISSIONER HAMILTON: Once again, thank you, Mr. Taylor. Are there any questions? Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. I just was wondering, is this County general fund money or CARES Act money or where do we come up with \$150,000. I think it's great. I love the Interfaith Shelter and work with them all the time. I just was curious about that part.

MR. TAYLOR: Madam Chair and Commissioner, this is from the Healthcare Assistance program, the funding source, and I'll ask Patricia or Rachel if they can –

MANAGER MILLER: Commissioner Hughes, this isn't CARES Act money but in Community Services we have portions of different gross receipts taxes that are dedicated to different programs. What was previously the indigent fund and then was changed to healthcare assistance, we give one-twelfth of one percent – or I should say three-quarters of a one-third increment we give to the state, and then the remaining

amount stays with the County and supports our Healthcare Assistance program. So this is funding from that GRT.

COMMISSIONER HUGHES: Thank you, Manager Miller. I understand perfectly now, so that's very good. I would move for approval.

COMMISSIONER HAMILTON: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: I would second this. I love the Interfaith Community Shelter. I love what they do for the county. I thank all of the Community Service Department for everything they do. Thank you, Jennifer. Thank you, Patricia. Thank you, Rachel, and our entire staff.

COMMISSIONER HAMILTON: Thank you, Commissioner Hansen. So we have a motion by Commissioner Hamilton and a second by Commissioner Hansen. Is there any further discussion? If not, I'll go to a vote.

**The motion passed by unanimous [4-0] roll call vote.**

**5. PRESENTATIONS**

**A. Road Acceptance Policy Update**

RYAN WARD (Public Works): Thank you, Madam Chair, Commissioners and good afternoon. I would like to give you just a little bit of background and I'll let Daniel put the presentation up so we can get it slide by slide. But really the intent of today was to make everybody aware of possible changes that we're wanting to make in the road acceptance policy. Currently the road acceptance policy, Resolution 2012-151, defines a couple different items on what the County accepts as far as maintenance and how that acceptance moves through a process for review and final acceptance. If you, Daniel, would put up the first slide.

The purpose of this policy is to establish procedures for the orderly and uniform administration of the Santa Fe County process for road acceptance designation or redesignation and vacation of County-maintained roads. And as I mentioned, I had the resolution number currently in control of this policy.

The existing road designations to be removed are shown here. The first one is lesser County-maintained road, and to clarify that a lesser County-maintained road is a road which has been accepted for limited County maintenance. Services on an unpaved lesser County-maintained road shall be limited to a maximum of twice annual motor-grading, signage, limited snow removal contingent upon the availability of labor and equipment and limited repairs. And one other thing I might note on that particular item is there's a maintenance program. It's defined within the policy that goes with that. We don't currently, to my knowledge have any lesser County-maintained roads with that defined, with any kind of maintenance program set in place, although it exists currently in the policy.

Shared maintenance is the maintenance of a lesser maintained County road, or a County-maintained road may be shared between the County and a private individual or individuals, a homeowners association, a public improvement district, or a corporation, partnership, LLC, or other entity. If the particular acceptance of maintenance is one that does exist – Dinosaur Trail which was brought in by resolution and then there's

agreement as well with that HOA, that actually does exist. That is to my knowledge currently we have with shared maintenance.

GARY GIRON (Public Works Director): And if I could, Madam Chair, Commissioners, if I could add something as well, so that portion of Dinosaur Trail, part of it's owned by DOT. Part of it's owned by La Pradera Associates, and the other part is owned by Rancho – is shared maintenance with Rancho Viejo Industrial Park Owners Association. Those are the only two shared maintenance roads that the County has at present.

MR. WARD: Madam Chair, Commissioners, if I could, I'll proceed with one thing that I did want to note on this slide, this change was brought before the TAC Committee on November 18, 2020 and was approved as presented as far as removing these two items from our County maintenance.

Currently, a County-maintained road, a road designated as a County-maintained road, is a road which has been accepted for full County maintenance. Each County-maintained road is assigned a number or name and marked by a blue street name sign with yellow letters. Maintenance services on County-maintained roads may include routine maintenance, snow removal, dust control, installation or replacement of basecourse, chip seal, asphalt, concrete or paving, installation and repair of drainage structures, pot-hole repair, bridge construction and repair, signage and periodic resurfacing. Upon approval of a resolution and pending the designation of a road to a County-maintained road from a lesser designation, the road shall meet County-maintained road standards and signs will be placed, the signs that designate the road as a County-maintained road.

So currently, the roads that we do maintain, I believe this covers kind of an array of different types of roads we have as mentioned in there. It could be a dirt road; it could be a paved road. One thing I would stress is that the things that we look at while we study roads before we accept maintenance of a road is to make sure it meets the current design standards and also the structure of the pavement, that that's consistent with our typical cross sections that are approved through SLDC and County acceptance. So I just wanted to note that.

And so the other designation that exists currently that would remain is the non-County-maintained road. A non-County-maintained road is a road which has not been accepted for County maintenance. A non-County-maintained road may be a public road or a private road. Each non-County-maintained road shall be designated as such. The County may install a County sign that indicates that a road with is not County-maintained is not maintained beyond a certain point. Private roads and other roads that have not been accepted for County maintenance are non-County-maintained roads for purposes of this paragraph. Non-County-maintained roads shall not be maintained by the County except in an emergency constituting an immediate threat to public health, safety, welfare or property, and then only when a written agreement is executed wherein the County is fully reimbursed for the cost of the emergency work.

With that, I believe that's the last slide, I'll stand for questions. But I would like to just finish up with is the real intent of the presentation is to give everybody an overview so that we can get some feedback and to really try to clarify whether we maintain in the future, what type of roads would we as a County be willing to accept. I

believe the lesser County- and the shared maintenance sometimes are a little bit confusing when you're looking at it from a standpoint of whose responsibility is it to maintain certain pieces of the road and how does that look in a program if we just grade it twice a year. Some of you are hoping to remove that with the intent of just clarifying for the future, it's either a County-maintained road or a non-County-maintained road. And I'll stand for questions.

COMMISSIONER HAMILTON: Thank you very much, Mr. Ward. So Commissioners, are there any questions?

COMMISSIONER GARCIA: Madam Chair, I guess I have a lot of questions.

COMMISSIONER HAMILTON: Commissioner Garcia, I'll get to you next. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Ryan. Thank you, Gary, for the presentation. So I am a little concerned about – explain to me why we're removing shared maintenance roads exactly.

MR. WARD: Madam Chair, Commissioner Hansen, one of the main, key points, and then coupled with the recent resolution with the Dinosaur Trail roadway, there's some – I believe with the shared maintenance there's obviously some tort liability within the right-of-way for those folks that share maintenance with us, so for the HOA, the private ownership areas, because there's still that factor that they would go out there, let's say in the instance of Dinosaur Trail, if there's some maintenance for landscaping, those individuals will be out there working in the right-of-way, and so should signs not be set up right or any kind of traffic control violation happen, an accident in a work zone, those type of things are still inclusive in the shared maintenance and so it would be a shared responsibility of the County and some of those entities. And so looking at it from that standpoint, our intent really is to be clear on what we maintain and kind of remove that type of tort liability as well.

MR. GIRON: And Madam Chair, Commissioner Hansen, if I could also add, once the County has decided it's going to adopt a road and it's brought up to the standards that are defined by the County and it meets all those standards, then it is at that point, if all that is taken care of and it is just regular maintenance for us to keep that road in the same kind of performance standard that we do with the rest of the roads that we have.

COMMISSIONER HANSEN: And then my other question is about the emergency. I remember in 2018 we had a flood, kind of a severe flood and there were areas that needed to be maintained or to be taken care of right away. And is this saying that we will not provide any service until we get a written agreement? Or if we're in an emergency and it's a non-County-maintained road and there is no one to help them, but the property – they can't get in and out of their road and they're struggling, we have to wait for a written agreement to do anything?

COMMISSIONER HAMILTON: Manager Miller.

MANAGER MILLER: Madam Chair, emergencies – this has nothing to do with emergencies and private roads and our ability to go – when the County declares an emergency – flooding, snowstorm, whatever, and we have to for the health and safety of individuals, need to go in and clear a path for ambulances or for people to get in and

out, we did something like this with the flooding off of West Alameda and down in La Cienega. Also in Madrid when we had – south of Madrid when we had the severe snowstorm that dumped three feet on them. This has nothing to do with that.

What this is is when the County adopts a road as a County-maintained road, policies for how you go about that and what kind of roads there are – we rewrote the policy years ago and put this lesser maintained road. It doesn't work. A subsequent attorney after the one who recommended that particular proposal said you can't really lesser maintain anything. If our name is on it and we're going to maintain it, if we take the blade over it once a year, twice a year, it doesn't really matter. It's our road and we're liable for maintenance on that road.

So one thing was to remove that definition because we never adopted anything under that provision and when we looked at adopting something under that provision we found we really couldn't do that. It would actually just create significant liability for the County without actually fully adopting a road that's up to County standards.

I think the other provision that was put in there so that we could do that shared maintenance agreement with DOT and that developer and I think that point of staff to recommend removing that is we don't see another reason that we would need that in our road adoption policy.

So that's, I think, the impetus, and this actually started quite a while ago when Attorney Bruce Fredericks was here. He had said that that's a real problem in our policy to have this lesser maintained category. When Robert Martinez was here they started a draft on revising the policy to clean that portion of it up, and then Robert retired, Bruce retired, and Gary and Ryan have picked that back up because it didn't get completed at that time.

COMMISSIONER HANSEN: Thank you, Madam Chair. Thank you, Manager Miller.

COMMISSIONER HAMILTON: Thank you. Commissioner Garcia.

COMMISSIONER GARCIA: Thank you, Madam Chair. Thank you for the update, Manager Miller, because I was going to ask along the same lines as what they're asking. This is just a policy or are we going to take it out? So will actually the ordinance come before us and show us legislation does, striking out old stuff, new stuff? This is just kind of a presentation of as to what we're planning on doing, right?

MANAGER MILLER: Madam Chair, Commissioner Garcia, yes. That was the intent of bringing this forward. So this is a policy. It's not an ordinance. We have it adopted it by resolution and we would bring the resolution back showing you the redline version but because this has been such a long time when we talked about years ago, it's been like two and a half years ago or something like that. Maybe it was two years ago, when we talked about it initially, cleaning up this policy. And then we have a turnover, and now we're ready to pick those things back up and address this road adoption policy as well as the road maintenance policy.

COMMISSIONER GARCIA: Great. And because I had talked to staff about this, I used to talk to Robert Martinez about this. This drives me crazy. Whenever you're going down Dingle Road, on Government Road, for one side of Edgewood to the other side, Richards Avenue, good example as well. Robert Martinez used to love to put up these little signs up that said County maintenance ends, County maintenance starts.

Say, Government Road. So whenever it snows, does that mean that the County plow picks up the blade? Yes. It's like – I talked today about this, is there any way that we can actually create an agreement with the Town of Edgewood, City of Santa Fe, so you know where there's snow there. Those are just things. How do we get to that point? But I understand this is just kind of –

MANAGER MILLER: Madam Chair, Commissioner Garcia, on that point, I'm glad you brought that up because Gary and I were talking about this, Director Giron and I. And that's a separate issue but we do want to enter into an agreement with the Town of Edgewood specifically about that issue, with lifting the plow and putting it back down as it moves in and out of the Town of Edgewood city limits. The other one, we want to have dialogue with Bernalillo County because right on the border there are also two roads that go in and out of Santa Fe County to Bernalillo County and back in, and get some written agreements with those two local governments as to how we could maintain – and maybe one of us maintains, we share the cost, or one maintains one road. We just need to actually negotiate those agreements, but that is a separate issue from the road adoption policy. This policy is designed for individuals who – a developer who maybe – they do a development. All the roads are private, but at some point the neighborhood wants to turn those over as County-maintained roads, this is the process they would have to go through to get them adopted by the County Commission to be taken on as a Santa Fe County-maintained road.

COMMISSIONER GARCIA: Thank you, Manager Miller. I'll get with you and Gary and Ryan on some other technical stuff because sometimes, some of our County roads are below the standards of the SLDC and so, as you know, back in the days we used to adopt the roads. If that was a school bus route the State Highway Department would give us money and the County said, let's adopt all these roads. Which we did. And then some of – there's just things I'm just curious about. Like I said, I'd like to sit down with yourself and Ryan and Gary, Director Giron as well. Thank you, Madam Chair.

And one thing is regarding liability and stuff like that. And maybe now that Bruce is there we could ask the District Attorney to give us an opinion. Just joking. But there's just different things that we deal with and one of the most important things is roads in the rural areas of the community and that's what people – they look at that stuff. The tangible part of what their taxes – where their taxes are going. That's where I'm going with this, but I appreciate it. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you, Commissioner Garcia.  
Commissioner Hughes.

COMMISSIONER HUGHES: Thank you. Just a quick question. What's going to happen with those couple of roads that are shared maintenance now? Will those become County-maintained roads when this goes into effect, if it goes into effect?

MR. GIRON: Madam Chair, Commissioner Hughes, as I understand it, they have already been designated as shared maintenance roads. I don't think that their status would change into the future.

COMMISSIONER HUGHES: Okay. So even though we're not going to have that designation, these will be grandfathered in to stay that way?

MR. GIRON: Madam Chair, Commissioner, that is the way I understand it unless Attorney Shaffer examines the issues and tells us otherwise. But that's the way we



understand it right now.

COMMISSIONER HAMILTON: I would like to ask for some additional clarification on that because that was not my – from looking at the materials – I don't know. Manager Miller or Attorney Shaffer, if we're getting rid of that designation, what's happening.

GREG SHAFFER (County Attorney): Madam Chair, Commissioners, I believe that that would be the appropriate route to follow. We did accept those roads for shared maintenance. That's a completed action of the Board of County Commissioners, and so unless the Board was willing to take over sole maintenance responsibilities it would seem to me to be appropriate to grandfather in so to speak, those limited shared maintenance roads so as to avoid upsetting any settled expectations.

COMMISSIONER HAMILTON: Thank you. Commissioner Hughes, did you have further questions?

COMMISSIONER HUGHES: No. That was it. Thank you.

COMMISSIONER HAMILTON: So I actually have one further question, because I was going to ask that one as well. During the presentation, it sounds like there are some County roads – is there actually a category of County road that is not maintained by the County?

MR. WARD: No. Madam Chair, there is not a designation aside from private roads that's not County-maintained.

COMMISSIONER HAMILTON: But they're all private roads. Thank you. Thank you for the presentation. Are there any other questions among the Commissioners?

## **5. B. Road Improvement Policy**

MR. WARD: Thank you, Madam Chair, Commissioners. I know these are similar in title, but the actual priority index, which is under the road improvement policy is a new look at how we gain some transparency in how we in the future look to dirt roads and try to prioritize the paving of those roads. So this is actually a little bit different but we'll put that to the side of the road acceptance policy. This one's a little different and I'll give you a little bit of background on this.

So the priority index, and really the purpose of this is to look at it through kind of a holistic approach with all the roads in the county that are currently not paved. And so the first bullet there is the purpose of this is to provide a formal procedure that removes individual or community bias from the process and improving transportation infrastructure, more specifically improving the driving surface of the roadway. This policy uses a series of analytics to target roadways that would benefit the most from surface improvements.

The next slide will get into a little more detail but the intent of the road improvement policy will be to consistently assess and rate Santa Fe County roads, maximize the use of available funding and resources, ultimately improving the roadways with asphalt pavement or a chip seal overlay. I believe Commissioner Garcia touched on this a little bit to make sure we're targeting the roads that need the funding. And again, a note at the bottom is this was brought before the TAC Committee as well on November

18<sup>th</sup>. It was approved.

So a systematic approach this is establishing priorities that can be quantified and so the four major things that we're looking at when we're looking at an unpaved surface or an unpaved surface or an unpaved road is traffic volumes, route classification, maintenance history – so how much money we've spent in prior years maintaining that road or if there's repetitive maintenance that's time consuming that we're going to do it all the time, that's look at, and then safety, which is a critical piece in how we score these types of roads for paving. We're looking at things such as flooding impacts, impassibility, if there's school bus routes that need access. And so it's really a number of safety factors.

The way it's structured is the scores run between zero and a hundred, and so basically establishing a score for a road will help us prioritize all of the roads that are currently unpaved throughout the county.

So here's an example. This is an example of General Goodwin, and this is scored accordingly. And just to give you a little bit of background on the scoring factors, as you can see, obviously we have the road name, road classification. So there's collector, there's major, minor, arterials, local roads that all have scores. If you look at the functional classification just to the right of center or above it, there's where the actual points for the scoring comes from, so you can see a local doesn't score roads, a collector has four points, arterial eight, a local school bus route is ten, collector school bus route 14, and arterial school bus route, 18.

And so that piece is taken into account. We're looking at the functional classification. The ADT volumes, which is the average daily traffic volumes, those are typically gathered when we do an engineering study for that road for traffic counts. So that's a typical 48-hour count, 24 hours a day. Then we basically take the average between the two days and we come up with our average daily traffic volume. And so then that number is then input.

The annual maintenance cost, as you see the next one down is \$8,500 for this road, so those points are taken into account. If you look at the maintenance factor, which is in the top right corner between those dollar amounts. That's how the point structure is kind of created off of the dollar amounts. And then is the road unsafe or impassible during inclement weather? And so that's usually a yes or no, and it's not always quite that simple. It will involve the length of the road, where the road's at, there are some other factors. But that one if you have yes, it's 14 points they receive.

And so when you calculate all those scores there's a few algorithms running in the background, and then it comes up with the final priority index number that you see there at the bottom. We've vetted it through the TAC and our project engineer worked very closely with the TAC Committee in the early part of last year and they made some modifications to the scoring, brought it back. Several of those members are engineers. We revisited this scoring schematic and this is what we have today, so it's a score from zero to a hundred, a hundred being the top road that probably needs to be paved. Lower scores are not roads that if we're evaluating it, we have to follow the criteria. If you're below, let's say a 50 on the priority index, that's probably a road that could potentially be paved and maybe there's not enough traffic yet. There's some traffic generated, there's probably some changes that need to take place to bump that up.

But I want everyone to have a chance to look at this. This is basically what it's structured on. And I'll stand for any questions.

COMMISSIONER HAMILTON: Thank you so much. Commissioners, are there questions?

COMMISSIONER GARCIA: Madam Chair.

COMMISSIONER HAMILTON: I'll get to you second, Commissioner Garcia. Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. Just a couple questions. One is how do you envision working with the various homeowners associations who may also want to have input on which roads get paved in their areas?

MR. WARD: Madam Chair, Commissioner Hughes, I would still envision that we still work closely with the Commissioners and with those communities. This is really just a way to prioritize what's actually out there on those roadways. It's not to say this is the end-all and be-all. This is exactly how we're going to move it forward as far as which roads actually end up getting paved. Obviously that's still something that we would reach out to the Commission and the HOAs and the community to make sure that the scoring mechanism we're using is still relevant to the needs of the community. So that's still a factor.

MR. GIRON: And Madam Chair, Commissioner Hughes, I would also add that as we look down the road in thinking about communities like Eldorado and some of the other communities is that this is another opportunity for us then to share this process with them, collaborate with them as they're looking to identify the roads in their community, so sharing our resources.

COMMISSIONER HUGHES: Okay. You answered my second question as well, so that's all the questions I have. Thank you.

COMMISSIONER HAMILTON: Thank you, Commissioner Hughes. Commissioner Garcia.

COMMISSIONER GARCIA: Just really quick, Madam Chair, Mr. Giron, when you said look down the road, was that on purpose? Also, roads – for institutional knowledge, roads are very challenging in Santa Fe County. So I guess the question that I have is why do we need to do this policy? I understand the ones where we're taking out the lesser County-maintained roads and taking that off. I get that stuff, but are we going somewhere with this stuff?

MR. GIRON: Madam Chair, Commissioner, [inaudible] than I think people are comfortable with. This is clearly an alternative [inaudible] It is looking at the data. [inaudible] It is a way for us to be more objective as we go forward.

COMMISSIONER GARCIA: All right. We'll still talk a little bit later, but one of the things that I really wanted to bring up is – and I've said this before, Madam Chair, is the maintenance crews – great, great job that those individuals do. When we used to go to the state legislature, eight, ten years ago there was a gentleman from down south. I forget his name. Manager Miller might know. And he used to promote Santa Fe County in the Tax & Rev Committee. Why can't the entire state do what Santa Fe County was doing? And build their roads and their own crew? We did that for a while and then we stopped, and I just want to do a shout-out to – some of the other Commissioners know that your road guys and ladies, they do an excellent job. And the snow, they just do an

excellent job and I've told you that before, so please relay that to them.

MR. GIRON: Thank you Commissioner.

COMMISSIONER HAMILTON: Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Ryan and Gary for this road policy. I kind of wanted to just share with the Commission that it says road classification and it says school bus routes. And part of the designation of the school bus route is that we get money for secure rural schools. And that is a federal program. And so to have that on this priority index example helps us when we're in Washington or when we're talking to our federal delegation about money. School bus routes are a federally funded money that we can get. They have not always been funded. It has been iffy; different years we get more money, and so it kind of goes along with the PILT, the payment in lieu of taxes, so it is important to have that classification. I know that Commissioner Hughes is new and so I just wanted to share that information of how important it is to make sure that we have those designations, because it helps us get federal money. And with that, thank you so much for this update, for professionally updating our policies and I look forward to seeing them as we go forward. So thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you, Commissioner Hansen. Are there other questions with respect to this presentation? Thank you very much.

MR. WARD: Thank you, Madam Chair.

## 6. MATTERS OF PUBLIC CONCERN

COMMISSIONER HAMILTON: Tessa Jo, have there been people who have signed up to speak at this time?

TESSA JO MASCARENAS (Operations Manager): Yes, Madam Chair. We have two people who have signed up to speak thus far. The first one is Harold Hedinke.

COMMISSIONER HAMILTON: Thank you. Let us have the people who've signed up speak and then we can find out if there are any more people. And perhaps we can do a three-minute timer on our speakers. Tessa Jo, you already introduced the first speaker.

MS. MASCARENAS: Yes. And just a note to anybody who may be calling in by phone, they should press star 6 to unmute themselves.

COMMISSIONER HAMILTON: Thank you very much. So our first speaker.

MS. MASCARENAS: Madam Chair, I can repeat this when we go into the public hearing portion in the event that they join us at that time as well.

COMMISSIONER HAMILTON: Okay. I imagine this is separate from the public hearing, so I assume these are on topics other than the public hearing item. I'm going to put it back on you, Tessa Jo. Could you repeat the name of the first speaker, and if not, we'll move on and ask for the second speaker, and ask for the first speaker afterwards.

MS. MASCARENAS: Harold Hedinke. Okay. The next speaker I have is Sidney Monroe.

SIDNEY MONROE: Yes, I'm here.

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COMMISSIONER HAMILTON: If you could just state your name.

MR. MONROE: My name is Sidney Monroe and I'm here to speak today about the City annexation item that's scheduled for discussion later in the executive session. I've been a resident for over 20 years in the region of Santa Fe County referred to as Area 1 in the City-County annexation agreement. For a bit of history, going back to 2006 when the annexation agreement was first advanced, Area 1 was the only area of more than 10,000 acres that were eventually annexed by the City that did not have an early neighborhood notification meeting. The homeowners in the area had already made it abundantly clear that they were not in favor of annexation. They preferred to remain in the county. So we were bypassed in the early neighborhood notification process.

I was a part then and I still represent a group of over 50 homeowners in the Area 1. From 2006 and throughout the process of annexation we attended every meeting, from the Board of County Commissioners, City Council, City Planning, there was something called the ELUA AND ELUC. At last count there were over 80 meetings that we attended between 2006 and 2012. Rather than having additional people speaking here today with the same sentiments. I speak today on behalf of these fellow residents.

After the supposed agreement in 2008 the City immediately violated the terms of the annexation agreement by doing away with the promised rural residential protections. We have been in limbo since 2008 and zoning and building effectively are regulated by the City. We have no voice in the City. No one will meet with us. Even worse, now that so much time has passed, no one even knows what we are talking about. We have no way to vote for a Councilor to represent us and we are fortunate to have Commissioner Hansen who understands our dilemma. The City has not only ignored the residents of Area 1, it has also ignored the extension agreement of 2012. It's been 13 years now with nothing from the City.

We have been very clear about our desire to stay within the county. Until we get the money for the majority of residents in Area 1 to try to remain in the county words to be heard. Thank you.

COMMISSIONER HAMILTON: Thank you so much, Mr. Monroe, and I apologize for some of the background noise.

COMMISSIONER HAMILTON: Is the first person who had already signed up to speak available to speak at this juncture? If not, Tessa Jo, could you unmute everybody? If there's anybody else who would like to speak to the Commission under Matters from the Public, when Tessa Jo unmutes you would you please speak up and we can hear from you at that time?

MS. MASCARENAS: Everybody has been unmuted. What Webex now does is it sends a request for people to unmute themselves. So everybody right now has the ability to unmute themselves.

COMMISSIONER HAMILTON: So if there's anybody else who would like to speak to the Commission at this point in Matters from the Public, please unmute yourself and speak up. Hearing none, I will close Matters of Public Concern.

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**7. MATTERS FROM THE COUNTY MANAGER**  
**A. COVID-19 Updates**

MANAGER MILLER: Madam Chair, Commissioners, first of all, this isn't actually – I don't know if you've noticed the daily count in Santa Fe County for new COVID positives has really dropped. Yesterday it was even – I think we had nine. I always get nervous around this time of day though because the new numbers come out. But we've been seeing a steady decrease and tomorrow we'll get our 14-day average and I'm hopeful that Santa Fe County will be able to move into the yellow. I don't know for sure but two weeks ago we were at 6.4 percent positivity; we need to be five or less and our numbers were significantly better the last two weeks than the previous two weeks.

Also, Santa Fe County is fourth in the state in terms of vaccination rates. As of Sunday, the County had vaccinated 26.8 percent per 100,000 individuals in the county and over 40,000 people have received at least one dose of the vaccine. Now, a notice did come out from the Department of Health though that they are changing the way that they account for it. We might see a slight change in this number. They came out yesterday or this morning and said that they had been recording where people were vaccinated in their dashboard as opposed to where they were a resident. So we may see a slight change in that number. I haven't looked at it today to see if the report changed.

Also, as of Sunday, 9,313 Santa Fe County residents have tested positive. However, as I've said the positivity rates have been steadily decreasing and hopefully tomorrow we'll hear some good news. But our overall goal is to be below 12 new cases per day.

Last week, a total of 2,962 meals, that's 1,833 hot meals and 1,129 frozen meals were delivered to seniors throughout the county. A total of 11,918 meals were delivered during the month of January, and then this week, a total of 162 Food Depot bags were delivered to seniors. Same thing, it's non-perishables, canned food, boxes with fresh produce, apples, oranges, broccoli are included. Other vegetables are included in those food boxes.

I do want to give a shout-out to our Senior Services staff again. They are really, really stepping up to the plate, getting food out, making the meals, freezing meals, delivering meals to seniors in need, so I just want to make sure that you realize how much work their doing to provide meals to our seniors in the county.

Also, to date we've received 3,045 self-initiated assistance requests submitted to our CONNECT hub, our web portal, and today we delivered 20,820 grocery boxes that we distributed through that. 3,114 were delivered to home-bound individuals, and then our healthcare systems program navigated assisted 48 new individuals in the past week and followed up with 60 others. So they're quite active in coordinating services to those in need in the county.

Those are my COVID updates. Do you have any questions on anything else related to COVID-19 and the County's response to that?

COMMISSIONER HAMILTON: Any questions? Commissioner Garcia.

COMMISSIONER GARCIA: Real quick. Thank you, Manager Miller.  
Thank you, Madam Chair. The people in the community, we see the schools are opening

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up. Have you heard any word from the Governor's Office if they're going to really – or what they're doing, because – have they said anything? I'm just wondering, because when you get all back east or you go to Kansas and all that stuff, it doesn't seem like anything is shut down anymore. Good or bad. Dr. Fauci on the calls, but has the Governor's Office said whether they're going to lift it or not? It's just the whole – the economy is what I concerned about as well. But I don't know if you've heard anything you can share with us, that'd be great.

MANAGER MILLER: So what the governor did, Madam Chair, Commissioner Garcia, what the governor did towards the end of last year is changed the way that the state opens up. And what she did is instead of going on a statewide basis and setting rules statewide she set benchmarks for counties relative to positivity rate, and that's what I was talking about for Santa Fe County, we need to have an average of no more than 12 resident per day test positive and we have been moving towards that over the last couple of days, we have actually been at 12 or less. When we move to that we're moving to a different category, and that is we'd move into yellow and then hopefully to green, and in each one of those categories as the county move to having a lower positivity rate, unless infections in the virus amongst county residents, then businesses can open up more.

I don't know if Carmelina is – I don't see her on here but this morning we were having a meeting and she was reading what happens when you move from red to yellow. It means businesses can have up to like 33 percent of capacity within restaurants and retail space. So you have a variety of things. And they're doing that grading every 14 days. So that comes out tomorrow. For across the state you'll see several of the counties probably shift from red to yellow across the state that many counties have been doing better. And while we don't control testing and we don't control vaccines and we don't actually control contact tracing we are being measured as a county.

The rules for opening up businesses are set by whether you are in red, yellow or green category, based upon the positivity rate within your county. So as I said, I know that county residents are doing better, wearing masks, getting tested, having a lower positivity rate and having less positive cases and as long as we move in that direction and stay in that direction we should be able to allow – or the state will allow businesses; it's not actually up to us. Those rules are set at the state level. And I can send out an email to you as to what that means if we go to yellow and what that means for our businesses if we go to green.

But there are only a few counties that are in the yellow category right now as it is and those are typically the lower populated counties. Does that help?

COMMISSIONER GARCIA: Yes. Thank you. Once again, it's up to the state controlling how we open the state. Just for the record. Thank you.

MANAGER MILLER: And Madam Chair, Commissioner Garcia, we don't control – we don't have tests. We don't have – that's the Department of Health and some of the local hospital providers – we don't have vaccines; those go to providers. So while it is up to the counties' population to have a lower positivity rate in order for our businesses to open, we don't control the factors that could help move that needle. Unfortunately, Santa Fe County and the local governments don't have – we don't have contract tracing. We don't have testing. We don't have vaccines.

COMMISSIONER GARCIA: Thank you, Madam Chair. Just thinking of those in Madrid, it's a whole community that's shut down. But thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you, Commissioner Garcia.  
Manager Miller.

MANAGER MILLER: Any other questions on COVID-related issues?

**7. B. Miscellaneous Updates – Including Upcoming Public Meetings And Schedule Changes**

MANAGER MILLER: Paul, are you here?

PAUL OLAFSON (Planning): Yes, Manager Miller. I'm here.

MANAGER MILLER: Why don't you go ahead and present – if you could present your ICIP schedule and webinars.

MR. OLAFSON: Yes. Okay. So good afternoon Commissioners. What we have today is a brief update on how we're going to open up a couple of webinars to the public to provide information on one, the ICIP, which is our annual capital requesting process, and then two, on our other resources that are available to the community for assistance during the pandemic and just in general. And we're doing this in this manner. We did it last year as well because of the pandemic and the need for social distancing, so we will be having two webinars. They are scheduled for February 17<sup>th</sup> and the 24<sup>th</sup>. We'll start advertising those tomorrow through the web, newspapers, and we might even do some radio advertising if we can get on.

The webinars will focus, as I said, on capital infrastructure planning, and that's to get us started earlier in the process this year for our annual capital budget hearing, and also to get, obviously, community input. I'll be discussing, as you can see on the screen from Daniel, the agricultural resources, and that includes our AgriGate land program and a composting program. We'll be talking about community development resources and programs for food distribution and locations, schedule, the CONNECT program, housing programs and business resources.

We'll also do public outreach and participation through community and regional organizations. That's our ongoing CO/RO program. Talk about how communities and organizations can participate and get notification of county issues as well as the workshop series we have planned for the existing CO and RO groups. Also, a written review of the open space program, resource management, ongoing strategic planning and implementation, and finally as I mentioned earlier, the capital infrastructure.

So the community members can provide input for capital projects at any time during the year. However, we want to kind of kick this year's off a little earlier and get those in as soon as possible so we can really review them, scope them well, and clarify what the project is requesting. So with that I would stand for any questions.

Oh, and also I forgot to mention, the meetings will be from 6:00 to 7:00 on the 17<sup>th</sup> and the 24<sup>th</sup> of this month. So I'd stand for any questions.

COMMISSIONER HAMILTON: So, Commissioners, are there any questions? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Paul. I think this is great that we're getting information out early and that we can start the dialogue with the community

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throughout the county. So I wholeheartedly support this and thank you very much for your efforts.

MR. OLAFSON: Thank you.

MANAGER MILLER: Thank you, Madam Chair. Then Daniel, there's also an item there for the transfer stations I believe. So Commissioners, as you know, we had to discuss the schedules at the collection centers and this is due to the fact that for safety reasons we needed to make sure that we had two staff at the collection centers at a time as well as allowing staff members to take their lunch. We did get some requests, particularly in the Jacona area and the Eldorado area though to be open on Sundays. I don't know if you recall, but we also, for a good part of last calendar year, we did not charge residents for using the collection centers for about a four- or five-month period. We did not actually punch their permits as they went through.

So that – we hoped that we would get reimbursed from the CARES Act funding for that but we did not, or a very small part of it, and actually we probably lost about \$185,000 worth of revenue by doing that. So we don't have a lot of funding in the solid waste budget to actually be able to increase hours at all of the stations but what we thought might be helpful between now and the end of the fiscal year, if we looked at opening Jacona and Eldorado collection centers on Sundays from 8:00 to 1:00 pm. So this is based upon Commissioner Hughes, some item that you had, several residents who had asked about it and so did Commissioner Roybal. These are also two of our largest centers. They do receive most of the waste combined. These two receive more than double all the others combined, I think. So we thought this might assist residents and provide additional weekend hours at Jacona and Eldorado. And Gary, did you have something you wanted to add?

MR. GIRON: Manager Miller, thank you. That was a very good explanation. Commissioners, Madam Chair, below that you see the planned schedule changes with Sunday being open for those two sites, and then every other one being open for lunch hour. We'll figure out how – we have already worked out the staffing pattern for that. This information will then be shared. We'll do a press release. We'll put it on our website, and then we may put it on some community websites as well to make sure that people understand these schedule changes.

MANAGER MILLER: So Madam Chair, I would stand for any questions as would Gary on this item.

COMMISSIONER HAMILTON: Thank you. Commissioners, are there any questions? Commissioner Hughes.

COMMISSIONER HUGHES: Not a question, just a thanks for figuring out how to keep these places open a little bit longer. I did get a lot of calls on that and this should make people a little bit happier. So thank you very much.

COMMISSIONER HAMILTON: Thank you, Commissioner Hughes. Any other Commissioners? Is that all the updates, Manager Miller for this item?

MANAGER MILLER: Yes, Madam Chair. That is all for Miscellaneous Updates.

7. C. **First Session of the 55<sup>th</sup> Legislature: Potential Action to Express Support for or Opposition to Legislation that Has Been or May be Introduced**

MANAGER MILLER: This is going to be Tessa Jo and Hvtce. I think Hvtce is going to start. Items C and D are kind of the same thing, but D, we actually put specific ones that the Board had mentioned, so I would say under C after both Hvtce and Tessa Jo go if there's any other legislation you want us to go look at, that's a good spot to let us know. Hvtce, do you have your report?

HVTCE MILLER (Liaison): Yes, I do. Good afternoon, Chair Hamilton, Commissioners. Earlier today I sent out two different pdf.s, one was the report and one was a list of legislation. I don't know if Daniel, you were going to bring that up. I can go ahead and just go over the details of what's going on generally. So far we have 39 days left in the session. Next week, next Thursday, the 18<sup>th</sup> will be the deadline for introduction of bills and Monday, yesterday was the deadline for capital outlay submissions. We have an update on that.

Below there, on the first page, bill statistics. There's a lot more than where we were last time when we were presenting to the Commission. We are at 641 bills total. That's a lot lower than a regular 60-day session but it's still a lot of bills to look at.

On page 2 we have a listing of the New Mexico Counties' action on particular bills that the board and the executive committee has taken action on. I just wanted to point out first of all some of the bills that have stalled or tabled in committee, so right now, it doesn't look probable that they would move on but there's a possibility. There's still a lot of time left in the session and if the sponsors want to take up and make changes to this legislation it's possible that they'll do so. But those particular bills are House Bill 49, and that was tabled in committee, the exempt Social Security income taxes.

Further down the list was Senate Bill 134 and that received a do-pass motion; it was not successful – substitute for absent probate judges. The bottom half in the oppose section, House Bill 26 was also tabled in its first committee, so those items have stopped for now.

And as far as going back to the top in the support items, House Bill 14, House Bill 33, House Bill 55, House Bill 57, House Bill 92, House Bill 103, House Bill 105, Senate Bill 20, Senate Bill 39 and Senate Bill 49, and Senate Bill 54, all are in committee and they have already passed one other committee assignment, so they're moving forward. And as for those items in the oppose column, which are House Bill 4, House Bill 40, House Bill 50 and House Bill 110, and those are similar in which they have at least passed one of their committee assignments.

Going on to page 3, these are all the bills on page 3 through 11. These are all the bills that we're monitoring which are associated with resolutions that the County Commission has passed so far and the items that were added to this report different from the last Commission meeting are two public banking bills – House Bill 236, Senate Bill 313 and there's been four cannabis regulation acts introduced as well, and those are House Bill 12, House Bill 17, Senate Bill 13 and Senate Bill 288. Neither the public banking bills or cannabis bills have been heard yet, and the ones that are scheduled are

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House Bill 12 and House Bill 17 and those are scheduled for the 13<sup>th</sup> and that's the House Health and Human Services at 10:30 in the morning. So that will be the first stab at looking at what kind of questions are going to be asked and some of the details within those two particular bills. Actually I myself am first looking at these particular pieces of legislation and I know New Mexico Counties was doing the same and I can make sure and provide you a summary of these different bills and how they are related and how they are different before this February 13<sup>th</sup> committee meeting.

I would just like to mention as well, a big thank you to Commissioner Hansen for adding her support for the variety of sustainability bills that have been in committee and where she has testified these bills have been moving forward. I'm not going to go over each of the bills within this resolution-related legislation, but if you can take a look you can see which ones have passed committee and which ones have not been scheduled at all and are not moving. For the most part it looks like most of the sustainability bills have been moving forward.

The issue with any items dealing with revenue or taxation, they're going to be held up right now because those are going to be components of the state budget overall. And so the state and the two Finance Committees – one in the House and one in the Senate – need to put together the different pieces as to see where funding going to come from and whether or not a certain tax is going to be put in place and included as a revenue within the budget as a whole. And the same goes for those new spending items, whether they are going to be a component of the budget as a whole as well.

I just wanted to add also that all of the New Mexico Counties' items, which were on page 2, the summaries and the information regarding those specific pieces of legislation are contained within the second report, which is just the list of bills itself, and so if they are not included in these bills on pages 3 through 11, then they're going to be included in that second report, which is a list of 194 bills. So if you can't get to sleep tonight maybe you might want to take a look at that.

With that, that's the general overview of the legislation that we're looking at for the County related to specific resolutions and also related to County governance in general. And with that, I don't know if you want to take questions now or move on to the other components of the legislative events.

COMMISSIONER HAMILTON: Do any Commissioners have questions?  
Commissioner Hansen.

COMMISSIONER HANSEN: Yes, thank you, Hvtce, for your information. I really appreciate it. It is an interesting process to try and get to comment on bills. You have to make sure that you sign up the day before and then you have to make sure you get the link to the meeting. Some meetings are run better than others. Some let you in right of way. Sometimes you just have to sit and wait and watch on a webcam but you can't be on the webcam at the same time you're testifying. So there's a lot of moving parts to it.

I was very happy to be able – the only committee that I've really testified in has been Senate Conservation that is chaired by Liz Stefanics and this morning I testified on the neonicotinoid removal on the Pesticide Control Act and it did get a do-pass which was great for all the pollinators. And so I was very happy about that.

But I do highly recommend that my other fellow Commissioners find some of the

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bills that you've supported and try and comment on that. Because I think it does make a difference as a Commissioner making a comment. You only usually get a minute or a minute and a half so you have to be pretty succinct. But I will continue to testify on all the sustainability bills with the Coalition of Sustainable Communities, and I've been working with them. One of the highlights of last week that I was quoted in *US News & World Report*. So that was about our community solar bill. So that was exciting even to have us recognized, New Mexico, as a national leader in moving towards community solar. So I just wanted to share that with you all.

COMMISSIONER HAMILTON: Commissioner Hansen, what's up with the community solar bill? I know you testified.

COMMISSIONER HANSEN: It got a do-pass and moved on to the next committee. So things are moving along. There is definitely a completely different feeling in the legislature. You can see the results of a number of these progressive Senators who have gotten elected. The vibe is definitely different and more progressive and it's very exciting.

COMMISSIONER HAMILTON: That's fabulous. Thank you very much. Are there other Commissioners with comments at this point or should we move along to the next component of the legislative update?

7.     **D.     Potential Action Regarding Legislation on the Removal of the Three Percent Cap on Multi-Family Housing, HB 136 Oil & Gas Subdivision Parcels, SB32 Wildlife Conservation & Public Safety Act, SB93 Broadband Access and Expansion Office and HB26 Exclude Greenfield Areas from TIDD**

MR. MILLER: Thank you, Madam Chair. Manager Miller, were you going to go over the particular items regarding support or opposition? Or did you want me to do that?

MANAGER MILLER: Hvtce, I'll probably talk about these quickly but you might have to help me on a couple of them. But first of all – and I guess we can kind of wrap it up and the end to see if there's anything else the Board is interested in. One of the questions that came up earlier since our last meeting was whether the Board had taken action to support a bill that would remove the three percent cap on valuation on multi-family properties and second homes. We thought that that had actually been included in the resolution on support for different housing initiatives but it wasn't because at the time nobody could find the specific bill. As it turns out, I think the bill was originally sponsored by Representative Matthew McQueen last year but he indicated that this year it is likely going to be in a tax cleanup bill. So as a result we don't have a specific bill number but it's my understanding that Commissioner Hughes and I suppose Commissioner Hughes, you could request a motion to support a removal of the valuation cap on multi-family and second homes if you wanted to give us direction.

COMMISSIONER HUGHES: Yes. Madam Chair, if I could just mention that that goes along with housing. That's seen as a potential source for the housing trust fund or housing activities, the additional revenue that would be collected if we remove the three percent cap on in the increase in property taxes from second homes and other

types of properties. So, yes, I would like to add that to the things that we support. I know that's important to our Housing Authority Director in particular.

COMMISSIONER HAMILTON: So I'll take that a motion.

COMMISSIONER HANSEN: I'll second.

COMMISSIONER HAMILTON: So we have a motion and a second from Commissioner Hansen.

COMMISSIONER GARCIA: Madam Chair, I have a question.

COMMISSIONER HAMILTON: Commissioner Garcia. In discussion.

COMMISSIONER GARCIA: What does that removing the three percent cap – can you give me an example?

MANAGER MILLER: So, Commissioner Garcia, Madam Chair, an example would be a multi-family housing complex. So apartment complexes currently are considered residential and even though they're owned by individual renters, or they're owned by a developer who developed them who have developed them. Right now, the three percent cap that was put – oh, gosh. It was probably even about 20 years. It seems like an eternity. But there is a cap on if you purchased a home, that valuation, the assessed value, cannot go up more than three percent per year unless you sell the home. If you sell the home then it gets reassessed at the market rate at the time of the sale. But multi-family – and there's been talk of removing that for a long time but there has not been support in the legislature to remove it from primary residence.

But there has been a proposal put forward by Representative McQueen last year that it's not really appropriate that that cap is on multi-family, because they're not being assessed at their proper value, and therefore the property taxes are not being assessed at the proper value. So the bill that I saw last year, and there were some articles in the paper about it, was to remove that cap on valuation on multi-family. But I also understand that there is a desire to do that on second homes as well. So if you own a second home, it would not be subject to the three percent valuation. And Joseph Montoya, I don't know if you wanted to add to that.

JOSEPH MONTOYA (Housing Director): Madam Chair and Commissioner, Manager Miller, yes, that's correct. The legislation would provide the opportunity for us to tax folks who have a second or third or fourth home in Santa Fe. The original legislation was passed, as you know, many, many years ago as Manager Miller had indicated, in order to allow folks who were getting gentrified out of neighborhoods. So we had a lot of people in the 80s and 90s who were losing their homes simply for property taxes. So we were asked actually to create legislation to put a cap on the appreciation for people.

At the time we didn't think it through enough to be able to say we're trying to maintain, make sure that for instance, in this case it was local Santa Feans who were getting priced out of their home even if they didn't have a mortgage. But there are those people, for instance, who own a home that say, live in California and they have a second home here, the idea is to be able to make sure that we actually appraise those homes to market value. And so the difference between what we're receiving right now in terms of our property taxes and what we would receive, hopefully, will actually go towards the development of affordable housing.

COMMISSIONER HAMILTON: Does that answer your question,

Commissioner?

COMMISSIONER GARCIA: No. But as Manager Miller knows, back in one of those – when Speaker Ben Lujan was around and as Joseph mentioned, our Assessor, individuals who lived off of Canyon Road were losing their homes because somebody bought a million dollar where they invested in the property and they build a million dollar home next to Mrs. Garcia's house and her taxes went from here to here, way up there, and they couldn't afford to pay their property taxes. And so what happened is basically they could only raise your taxes three percent.

So I guess I don't understand – on the multi-family. So if you have a compound – let's take it Mrs. Garcia has a compound off of Canyon Road and she has three house on her property for all her grandkids, does that mean that that is multi-family housing? And that her lot can be taxed? I do have a lot of questions on it, and as into – I haven't seen the legislation. Also in regards to the second homes, does that mean two homes within Santa Fe County, or one home in Texas, one home in Florida, one over here? So that makes a third home here? I guess I'm just very concerned about the individuals on this new tax because the State of New Mexico got sued roughly seven, eight years ago. I don't remember what the actual lawsuit was determined off of it. However, it was saying that we could not put a salary cap on taxes, and I don't remember where it went. And so I'm just a little confused on analysis, what it says and where we're at. So those are just question. I'm sure there will be a lot of questions as it goes through the process at the Roundhouse. Thank you, Madam Chair.

MANAGER MILLER: Madam Chair, I don't have the answers. I haven't seen it yet. We were looking for it in a tax cleanup bill. I thought it would actually be a separate bill so we could have those specifics for you but it's our understanding it's not going to be a separate bill.

COMMISSIONER HAMILTON: Okay. Just for clarity the motion is for the Board to recommend that we follow and support the legislation related to this topic. If there's no further discussion we do have a motion and a second. I'll go for a roll call vote.

**The motion to follow and support removing the three percent cap on multi-family and second homes passed by majority [3-1] roll call vote with Commissioner Garcia casting the nay vote.**

MANAGER MILLER: Madam Chair, as soon as we find the legislation we'll shoot out an email summarizing what it says to all of you.

The next item that was on the agenda was House Bill 136, which is oil and gas subdivision parcels. This is a bill that amends the New Mexico Subdivision Act to accept the division of land for oil or gas operations from the definition of the term "subdivision." Don't know the effective date of the bill and it's assumed that it would be effective 90 days following adjournment of the session or I think with signature. Generally, from staff's perspective, it's bad policy to make a bunch of exemptions to the Subdivision Act that lead to abuse in the creation of subpar subdivisions without adequate infrastructure to support them, among other problems.

Now, for Santa Fe County, the Santa Fe County Oil and Gas Ordinance would still apply, and it covers similar ground as the subdivision regulations. House Bill 136

would not override minimum lot sizes and the risk in Santa Fe County would arise when oil and gas operations cease. So in other words if somebody did create an oil and gas subdivision it could be converted to a residential, commercial or mixed-use subdivision, depending upon the underlying base zoning. So we would say at a minimum House Bill 136 should be revised so that new exemptions precluded the flipping of oil and gas subdivisions into a subpar subdivision for other purposes. I'd ask direction whether you want us to oppose it.

COMMISSIONER HAMILTON: Okay. What are inputs from the Commissioners if any on this House Bill?

COMMISSIONER GARCIA: I have a question, Madam Chair.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Who's carrying this bill?

MANAGER MILLER: Representative Greg Nibert.

COMMISSIONER GARCIA: Well, actually due to the – as you guys know, you know, Katherine, we have the most environmentally safe oil and gas regulations in Santa Fe County. And so we would still have those regulations in place, and so I guess this would pass as it's introduced. Does this mean that they could create a ten-lot subdivision or they could create a 20-lot subdivision and minimum lots. And change it to commercial or housing?

MANAGER MILLER: Madam Chair, Commissioner Garcia, if Greg is there he'd probably be the better one to answer that. From what I understand from his analysis of the bill, we're somewhat protected with our ordinance because we have a bunch of other requirements.

COMMISSIONER HAMILTON: Attorney Shafter, please comment.

MR. SHAFFER: Thank you, Madam Chair, Commissioners. So Commissioner Garcia, you're correct, our oil and gas regulations stand alone and are not tied to the subdivision of land for the purpose of oil and gas development. So in my view, even if this bill were to become law the County would still have its existing authority under its existing ordinance to regulate oil and gas activities. As the County Manager alluded to, I think the challenge that Ms. Ellis-Green and I saw, if the bill did become law, it was more when the oil and gas activity ceased and you now have a legally created subdivision that is no longer used for oil and gas and there could potentially be used for some other purpose that never went through the subdivision regulations to ensure that it had adequate infrastructure for those other purposes, be it residential, commercial or mixed use.

So again, the risk that we saw to the County was on the back end after the oil and gas activities went away. That why Manager Miller expressed that a way to potentially deal with that by amending the bill would be to make it clear that if you create an oil and gas division of land that that's all you can use it for. You can't use it for anything else unless it actually goes through the subdivision regulations for purposes of getting entitlements for other permitted uses. So I hope that that answers your question as to the impact of this exemption if it became law on our existing regulations, as well as the potential risk to the County. Thank you.

COMMISSIONER GARCIA: Madam Chair, yes, actually it does. I'm just thinking back several years ago when we passed our oil and gas ordinance. Before he was

the speaker Representative Egolf was introducing the bill and it was almost like it got walked out of the committee by the oil and gas regulations, because were actually wanting to look into a bill. But I guess this bill probably looks for smaller counties that actually don't have oil and gas regulations. And if we want to amend the – I'm okay with it.

COMMISSIONER HAMILTON: Well, can you clarify, did you actually make a motion?

COMMISSIONER GARCIA: Yes.

COMMISSIONER HAMILTON: Can you clarify what your motion was?

COMMISSIONER GARCIA: My motion was actually to follow Manager Miller's advice as into see if we could actually amend the bill as it's moving forward in the committee.

COMMISSIONER HAMILTON: Okay. Thank you. Commissioner Hansen.

COMMISSIONER HANSEN: So I believe that I am opposed to this bill.

COMMISSIONER HAMILTON: Okay. Is there a second for this motion or is the motion going to get –

COMMISSIONER HUGHES: I'll second the motion. I think we either oppose it or we want to amend it, obviously. I think asking for the amendment is sort of like opposing it, so I'll second the motion.

COMMISSIONER HAMILTON: Okay. Is there further discussion at this point? As my input I strongly support the concern about this bill, so would support amending it. Manager Miller.

MANAGER MILLER: So Madam Chair, the reason I put this on here was because New Mexico Counties had asked for some input from us and our opinion on the bill, and I didn't want to state a County position without getting direction from the Board, although we did let them know our analysis of the bill. One of the things that Mr. Kopelman had said, you know it ought to be a local option. In other words, let the counties that want to be able to do something like this do and the ones that don't, don't have to kind of thing. So I think what they were – and I think in our position, we wouldn't actively chase down amending the bill, we would just make it clear as this bill moves forward, we think that that amendment needs to be made.

COMMISSIONER HAMILTON: Because I have two questions. One of them is sort of related to – well, I don't know what. If unamended, this bill would put Santa Fe County in jeopardy, but it sounds like it would potentially put other counties in more jeopardy that don't have the same type of oil and gas regulation we have. As it currently stands, does this bill – does it have that county by county option that you just referenced? Or is it an all or nothing proposal at this point?

MANAGER MILLER: Madam Chair, Hvtce, where is this on the New Mexico Counties list? Were they opposing it or were they pushing for an amendment?

MR. MILLER: As far as I can see from the actions list, it is not on there, on the report. On page 2 it's not included as one of the action items.

MANAGER MILLER: Okay. They have not taken this to their executive committee yet.

COMMISSIONER HAMILTON: Commissioner Hansen.



COMMISSIONER HANSEN: Yes, thank you, Madam Chair. So I think we should basically ignore this bill and not support it or not amend it. I don't think it has the support at the Roundhouse to move forward, from what I have been observing. I could be wrong, but I don't think so.

MANAGER MILLER: Madam Chair, might I suggest then that as far as Commissioner Garcia's motion that you could either say that if it gets moving that we would stand in opposition of the bill unless it were amended.

COMMISSIONER GARCIA: Madam Chair.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: So maybe we should actually – if it hasn't gone through their executive board at New Mexico Counties, maybe we should actually give Manager Miller authority in a motion to say it's okay to take the conservative way out and either be against it or amended.

COMMISSIONER HAMILTON: Is that an amendment to your motion?

COMMISSIONER GARCIA: Yes. Yes.

COMMISSIONER HAMILTON: Commissioner Hughes, are you –

COMMISSIONER HUGHES: I agree with that.

COMMISSIONER HAMILTON: Okay. So we have a motion and a second to either oppose or amend this bill.

**The motion to oppose or amend the House Bill 136 passed by unanimous [3-1] roll call vote with Commissioner Hansen voting nay.**

MANAGER MILLER: So the next – this one was actually brought forward by Commissioner Hansen, Senate Bill 32, Wildlife Conservation and Public Safety Act. Commissioner Hansen, did you want to speak to that?

COMMISSIONER HANSEN: Thank you. This received a do-pass, I believe, out of Senate Conservation. This bill is brought forward by Senator Bobby Gonzales, Matt McQueen, and from what I can actually understand, this is basically a bill codifying all the rules that have already been put in place by Game and Fish on trapping. It is a very conservative bill about trapping. It is really excluding really severe traps. It has a lot of exemptions for if people have problems with wildlife they're allowed to trap on their land. It's basically just codifying what Game and Fish have put into rule, from what I can gather from reading the bill and listening to the Wildlife Conservation. So with that, if you want to ask me more questions, I had my copy of the bill but of course it's disappeared at the moment.

MANAGER MILLER: Madam Chair, Commissioner Hansen, maybe I could help you out. I have a couple of pointers from it. No person or government entity may use a trap, snare or wildlife poison to capture, injure or kill an animal on public land, and that the violation is a misdemeanor with cumulative penalties with each individual trap, snare, or application of wildlife poison constituting a single violation. Restitution to a state agency that incurs costs in enforcement of the act may also be imposed by the court upon conviction. It has a bunch of exceptions of things that are authorized by law, are okay, and then it has a lengthy list of definitions for clarification.

COMMISSIONER HANSEN: Thank you, Manager Miller. With that I

would like to move that we support SB 32, Wildlife Conservation and Public Safety Act.

COMMISSIONER HAMILTON: So I have a motion. Is there a second?

COMMISSIONER HUGHES: I'll second that.

COMMISSIONER GARCIA: I have a question.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Madam Chair, this is only for public lands, right?

COMMISSIONER HANSEN: Yes.

COMMISSIONER GARCIA: And so if I have a lease for 100 cattle on private land and there's an individual bobcat or something that's taking out 20 or a hundred of my cattle over a weekend, so this would stop Game and Fish for allowing me any trapping of that. Right?

COMMISSIONER HANSEN: Actually, if it's proven that an animal is attacking a cow or something, you are allowed to trap that animal.

COMMISSIONER GARCIA: Okay. I understand that. These bills are just kind of hard because when they go through the process, everything gets amended. Unless you have staff that's there watching the entire time – I get it. Okay. It makes sense if it's on public land – if it's a bobcat or something out there that's taking out – and then can these individuals – let's just say cattle – so they're okay to trap it? Does it say that in the bill?

COMMISSIONER HANSEN: Yes, it does.

COMMISSIONER GARCIA: Okay. That's all. Thank you.

COMMISSIONER HAMILTON: Thank you. We have a motion and a second. Is there further discussion? Commissioner Hughes.

COMMISSIONER HUGHES: Oh, just real quick. I think this is the bill that was introduced in response to somebody's dog being killed.

COMMISSIONER HANSEN: It's a completely different bill.

COMMISSIONER HUGHES: Oh. Sorry. Different bill.

COMMISSIONER HANSEN: It might be the same bill but it's been rewritten. It doesn't really relate to that bill the way that it has in the past. They're not using that definition of the Roxy Law. It really has a lot to do with the rules the Game and Fish have already put into law and this is codifying it, from what I can hear and what was explained at the committee.

COMMISSIONER HUGHES: Okay. Well, thanks for that clarification. I just want to make sure I don't run into Commissioner Garcia's bobcat that took out 100 cattle.

COMMISSIONER HANSEN: Me too.

COMMISSIONER HAMILTON: Very good. Okay, so we have a motion and a second. I'll go to a roll call.

**The motion to support SB 32 passed by unanimous [4-0] roll call vote.**

COMMISSIONER HAMILTON: Manager Miller, we're back to you.

MANAGER MILLER: The next one is Senate Bill 93, Broadband Access and Expansion Office. This one I put on here. I was having a conversation with

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Commissioner Hansen about the legislation that the New Mexico Counties was supporting or opposing. She requested I put this one on our list specifically because this is a bill that would appropriate \$950,000 from the general fund to the Department of IT for expenditure in fiscal year 22 to establish and operate the Office of Broadband Access and Expansion, and for the hire of up to five FTE to support the operation of a broadband office.

I think probably the thing that would apply to us as well is if the – I know that the governor is proposing \$200 million for broadband expansion in the state. I think this office would be the one responsible for developing a state broadband plan, coordinating and providing technical assistance to other state and local government institutions, identifying broadband funding opportunities, and applying for federal and non-governmental broadband funding.

COMMISSIONER HAMILTON: Thank you. So is there input, questions or comments from the Commissioners? Commissioner Hansen.

COMMISSIONER HANSEN: Thank you, Madam Chair. I move that we support SB 93, Broadband Access and Expansion Office.

COMMISSIONER HAMILTON: Thank you. I have a motion. Do I have a second?

COMMISSIONER GARCIA: I'll second.

COMMISSIONER HAMILTON: Thank you very much. Is there further discussion from Commissioners? If not, I would like to add I thank Commissioner Hansen for bringing this up. We all know, just this Commission has been working for years trying to assist and facilitate the expansion of broadband and I guess this past year has shown how important it is, in terms of equitable functioning across our communities. It's a very difficult thing to get done. One can only hope that having this office would help that. Commissioner Hansen.

COMMISSIONER HANSEN: Even just listening at this meeting, it is made apparently clear how much broadband access is needed just in Santa Fe, where we are. It was much worse throughout the State of New Mexico. So anything we can do to improve our broadband access I think is really important.

COMMISSIONER HAMILTON: Thank you. So I have a motion and a second.

**The motion to support SB 93 passed by unanimous [4-0] roll call vote.**

COMMISSIONER HAMILTON: There's yet another item. Manager Miller.

MANAGER MILLER: Madam Chair, there was a lot going on legislatively last week and the phone was ringing quite a bit and this was one that two of our legislators called about because it was in the Local Government Committee and we have I think three or four representatives that are on that committee. This is House Bill 26 sponsored by Representative G. Andres Romero, not be confused with Andrea Romero. This is an Albuquerque representative, not Santa Fe County. And it excludes greenfields from certain taxes.

Now, I think a lot of people kind of looked right over it because they thought it

was brownfields. No, this is greenfields, and the definition of a greenfield in this bill is an area defined to mean a land area that is primarily undeveloped and not currently served by municipal or county infrastructure or a project area that would primarily rely on building new structures and infrastructure rather than redevelopment of existing structures and infrastructure. So that's primarily any open space land in the county or any area in our SDA-1 that is currently already developed.

And what the bill does is actually excludes those properties from being eligible for tax increment development districts. So we don't currently have any projects that would – any applications in by any developers looking to create a TIDD in Santa Fe County. However, what this does is pretty much takes this tool off of the table for counties. It's my understanding this has been tabled but there's an effort to bring it back with an amendment or substitute that would only make it Class A counties which would still include us.

From my perspective I think that this is a tool created in state statute, probably was created close to 20 years ago as an economic development tool in the toolbox for counties to decide how they want to develop and where they want to focus development within their boundaries. So it would be my recommendation that the Commission oppose this bill, even it gets substituted to include Class A counties only, because it just makes it an uneven playing field. Cities would still have the ability to do TIDDs and Class A counties would essentially not be able to unless they had large areas that were already developed and you were going to do them as a re-development.

COMMISSIONER HAMILTON: Thank you. Commissioners, Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, Commissioners, I would like to move to oppose this bill. I think some of the examples that have been brought forward, it's important. I don't think I need to say more about it. I agree with Manager Miller.

COMMISSIONER HAMILTON: I have a motion. Do I have a second?

COMMISSIONER HUGHES: Second.

COMMISSIONER HAMILTON: So I have a motion and a second. Is there any further discussion?

COMMISSIONER GARCIA: Madam Chair, really quick, Manager Miller. This is probably for the bobcat that's way out there in the field, [inaudible] State Road 14. Here's an example. Let's say the studios. If we wanted to redevelop the studios, does this help us or doesn't help us?

MANAGER MILLER: So this bill – that's an excellent example because it's what I was thinking of. If this bill went through and excluded greenfields or Class A counties' greenfields, the developer of the studios if they wanted to do a new development on 25 acres they would not be eligible for a TIDD. And that should actually be up to the Commission, as opposed to taking this tool away legislatively. Right now, as the law stands right now, if the developer wanted to develop in the county or anywhere for that matter in our Community College District, even Rancho Viejo. If Warren Thompson in the next phase of his development wanted to come to the County Commission and look at doing a tax increment development district he would not have that option if this bill were to go through.

COMMISSIONER HAMILTON: Thank you.

COMMISSIONER GARCIA: Madam Chair, I understand. So I'll take Manager Miller's recommendation. We already have a motion, right?

COMMISSIONER HAMILTON: Yes. There's already a motion for exactly that. So we have a motion by Commissioner Hansen and a second by Commissioner Hughes to oppose this. Roll call.

**The motion to oppose HB 26 passed by unanimous [4-0] roll call vote.**

7. E. **Resolution No. 2021-016, a Resolution Urging the New Mexico Legislature (1) to Amend House Bill 4 of the First Session of the 55<sup>th</sup> Legislature to Incorporate the Approach of the New Mexico Tort Claims Act, Which Strikes a Balance Between Compensating Plaintiffs and the Need for Government to Provide Essential Services for All, and (2) to Address Some Root Causes of Civil Rights Claims Against Law Enforcement by Dedication Adequate Resources for Behavioral Health Prevention and Treatment As Well As Improving the Operations of the New Mexico Law Enforcement Academy**

MANAGER MILLER: Madam Chair, I think I would like to turn it over to Greg for this item.

MR. SHAFFER: Thank you, Madam Chair and Manager Miller. I'm going to try and be brief since the issues raised by House Bill 4 have been discussed with the Board on multiple occasions, and give the public hearings on tonight's agenda. At its January 26, 2021 meeting the Board of County Commissioners gave staff direction concerning House Bill 4, which would enact the New Mexico Civil Rights Act. The general thrust of that direction as we understood it was that the Board did not oppose protecting New Mexico constitutional rights through the enactment of a bill such as the New Mexico Civil Rights Act, but the Board had reservations that the proposed bill went too far and instead should be modeled after the approach taken in the New Mexico Tort Claims Act which generally strikes a balance between compensating plaintiffs and the need for government to provide essential services for all. And in addition the Board expressed its opinion that the legislature should address the root causes of claims against local law enforcement by dedicating resources to behavioral health prevention and treatment, as well as to improve the operations of the New Mexico Law Enforcement Academy.

Staff drafted a resolution to reflect the sentiments announced by the Board at its January 26, 2021 meeting and included it in the packet material for this meeting. In the interim and more specifically yesterday, the House Judiciary Committee met to discuss House Bill 4 and a proposed committee substitute. In the event the House Judiciary Committee recommended that House Bill do not pass but that its committee substitute do-pass.

The House Judiciary Committee substitute makes significant changes to House Bill 4 as it was introduced, most notably the substitute would be limited to claims for the deprivation for any rights, privileges or immunities secured pursuant to the bill of rights

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of the New Mexico constitution. So as introduced, anything was fair game under the New Mexico constitution. Under the substitute we're talking about the bill of rights only, and that addressed one of the concerns that had been raised about the bill, which is what about the constitutional provision mandating adequate education?

In addition, the substitute would include a per-claim cap on claims that are brought under the new act, inclusive of the claimant's cost of action and reasonable attorney's fees of \$2 million. The substitute would require that cap to be adjusted upward annually based upon the Consumer Price Index, and the substitute would preserve common law, judicial, legislative, and other established immunities that prohibit the assertion of qualified immunity in response to claims of civil right deprivations. And finally, in terms of notable changes, the substitute would prohibit individuals employed by a public body from using the New Mexico Civil Rights Act to pursue arising from the individual's employment by the public body.

So in other words, an employee of the County couldn't bring a New Mexico Civil Rights Act claim against the County for matters arising from the employee's employment with the County.

The issue before the Board is whether the House Judiciary Committee substitute goes far enough to meet the state objectives of the Board of County Commissioners to ensure that the balanced approach of the New Mexico Tort Claims Act is incorporated into the new Civil Rights Act. And I guess to put a fine point upon it, one can support the general direction of creating a new Civil Rights Act while also believing that the balanced approach that the legislature adopted some time ago in the New Mexico Tort Claims Act be respected and be carried forward into that new act so that we don't go too far too fast and potentially expose public bodies to liability that may in fact undercut the ability of a public body to provide and to improve essential services.

But that's the policy decision before the Board. The County Manager and I did work on a revised resolution that was circulated to the Board that does account for and recognize the significant changes that the House Judiciary Committee substitute made while continuing to assert that it doesn't quite go far enough to meet the Board's objectives, but again, that's a policy decision for the Board to make as to whether or not those changes are enough. So I'd be pleased to answer any questions about the substitute or the revised resolution and I'd also defer to the County Manager if she has anything that she wants to add to that discussion.

COMMISSIONER HAMILTON: Manager Miller, do you have anything before I go to the Commissioners?

MANAGER MILLER: Madam Chair, I don't have anything to add.

COMMISSIONER HAMILTON: Do any Commissioners have comments at this point?

COMMISSIONER GARCIA: I do, Madam Chair.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Just that we did talk about this and just for the record, the Sheriff, last time, was in favor of this. Has he seen the new revised resolution you put together? And also has the revised resolution been brought to the sponsor of the bill? And then one other thing, this qualified immunity, who determines if it's qualified immunity or not?

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COMMISSIONER HAMILTON: Mr. Shaffer, can you address some of that?

MR. SHAFFER: Certainly, Madam Chair, we did not have an opportunity to consult with the Sheriff relative to the revised resolution. It does not deviate from the course that the Board had set out at the last meeting, but we did not have the opportunity to do that given the short timeframe under which we were operating. Number one.

Number two, with regard to presenting the draft resolution to the Speaker and the other sponsors of the bill, no, staff has not done so, in terms of providing a draft of the resolution.

MANAGER MILLER: Madam Chair, could I interrupt. Sorry, Greg. While we haven't presented the resolution, the New Mexico Counties has presented the concerns that are raised in the resolution and presented those at the committee hearing yesterday when the substitute was proposed. Isn't that correct, Greg? So we didn't hand the resolution to the sponsors but they did know that the New Mexico Counties, Municipal League, Public School Insurance Authority still had these concerns.

COMMISSIONER HAMILTON: Thank you, Manager Miller. Mr. Shaffer.

MR. SHAFFER: And the final question was with regard to qualified immunity. Keeping at a high level, qualified immunity is a doctrine created by federal judges relative to civil rights causes of action brought pursuant to Section 1983 of federal law. Under existing state law, qualified immunity is not a defense to claims brought against law enforcement officers for deprivation of New Mexico constitutional rights. So I hope that answers the question. If we were asserting a defense of qualified immunity I think the judge hearing that motion would be the one to decide whether or not we were asserting qualified immunity or some sort of other common law immunity. But I think most judges would very clearly understand when qualified immunity was being asserted. I hope that answers your question.

COMMISSIONER GARCIA: Madam Chair, Attorney Shaffer, Manager Miller, yes. Totally answered the questions. I wanted it put on the record because I just want to know that we're looking out for the best interests of local government and/or our local Sheriff's Department and law enforcement, for cities, counties, as well as possibly state. So I just want it on the record. Thank you.

COMMISSIONER HAMILTON: Thank you. Do other Commissioners have input on this, since they're looking for direction? Commissioner Hansen.

COMMISSIONER HANSEN: Madam Chair, Manager Miller, do we need to pass this resolution since these items are being brought up by New Mexico Counties?

MANAGER MILLER: Madam Chair, Commissioner Hansen, I think that – well, first of all, the New Mexico Counties has asked for our support in these positions. As a matter of fact I think also there is a similar resolution in front of Bernalillo County Commission right now asking similar questions about still requesting further changes to the bill that while we appreciate the changes that were made, they don't address all of the concerns that Santa Fe County as well as other counties and other local government bodies – I think also the acequia groups, small local governing bodies, had also expressed concerns about yesterday. So from the perspective of whether or not Santa Fe County staff can still speak to this issue and state that this is still Santa Fe County's position, yes,

we would need you to pass a resolution or give us direction to that effect.

COMMISSIONER HAMILTON: Commissioner Hansen, is that it for the moment, or do you have --

COMMISSIONER HANSEN: That's it.

COMMISSIONER HAMILTON: Commissioner Hughes.

COMMISSIONER HUGHES: Thank you, Madam Chair. Yes, I think we still have to give the staff direction and permission to go ahead and ask for the changes to the bill. I think the most important part of all is the fact that this bill doesn't actually address the root causes of civil rights being violated. As someone who's worked with a lot of homeless people I know that our behavior health system in this state is in tatters and the jails do become de facto mental health institutions which they're not designed for. So I think we should really emphasize that point and I also like the point about improving operations of the New Mexico Law Enforcement Academy in order to better police our police forces if that's what's needed. I think we'd much rather see people not have their civil rights violated in the first place than that they get a big payoff after they've been violated, or in the worst case, they've passed away from something that happened. This bill only gets at what happens afterwards.

My other suggestion might be to express in this resolution to be really clear about what limits we want. I guess it sort of gets that by saying it should be similar to the Tort Claims Act, but maybe we should say that the limits should be exactly the same as in the Torts Claim Act so in the event that we do get someone to pay attention they'll know exactly what we want, which I think is what Attorney Shaffer and I talked about earlier today. I think that was his suggestion, that it exactly mirror the Tort Claims Act so that we're not throwing too many different things at our insurance companies all at the same time, with them trying to figure it out.

COMMISSIONER HAMILTON: I actually agree with you and would support a motion to state exactly that and have the County stand for that position. Are you making a motion to that effect?

COMMISSIONER HUGHES: Yes. I'll go ahead and make that into a motion, that we go ahead and pass this resolution with the simple addition that we be very specific about the limits that we want to see that would be exactly the same as the Tort Claims Act.

COMMISSIONER HAMILTON: Unless somebody objects procedurally, I'll second that motion.

MR. SHAFFER: Madam Chair and Commissioners.

COMMISSIONER HAMILTON: Mr. Shaffer.

MR. SHAFFER: Madam Chair and Commissioner Hughes, I obviously would defer to the Board. I think the language as written, saying that it should include caps on compensatory damages and other procedural safeguards, comparable to those in the NMTCA is adequate for us to be able to carry that message. So with respect I think that it's covered, but we can add whatever language you think might underscore that further. I defer to whatever direction the Board wants to give, but I did want to throw --

COMMISSIONER HAMILTON: I defer to Commissioner Hughes, who made the motion. I would support in either direction.

COMMISSIONER GARCIA: Madam Chair, if I may, if Commissioner



Hughes is going to amend, I have reservations in order to look at all the things that Attorney Shaffer just mentioned because – I have reservations on it. And so I just want to say we have reservations on it. We actually want to see if we can work with whoever. That's just my thought. Thank you.

COMMISSIONER HAMILTON: Well, I would love either Manager Miller or Attorney Shaffer to comment on that but my belief is that's exactly what the memo that's before us that whether we would support it or not is intended to do. Commissioner Hughes.

COMMISSIONER HUGHES: Yes. I'm wondering if we just change the word "comparable" to match, to say they match those in the New Mexico Tort Claims Act. But I want to ask Attorney Shaffer if that is problematic to change it to make it more exact that way.

MR. SHAFFER: Not a problem at all, Madam Chair, Commissioner Hughes. We can make that change without difficulty.

COMMISSIONER HUGHES: Thank you. I think that just makes it a little easier to understand for people like me who don't do this all day long.

COMMISSIONER HAMILTON: Thank you, Commissioner Hughes. Commissioner Hansen.

COMMISSIONER HANSEN: I have a little bit of a problem with that because the Tort Claims Act hasn't been updated for a really long time and they're talking about \$2 million to \$400,000 and so we're not probably going to win on that. And so I would think that we would rather do something we could win on, and leaving it a little more vague might give us a little more leverage. I just want to just throw that out for discussion.

COMMISSIONER HAMILTON: Commissioner Hughes.

COMMISSIONER HUGHES: I think that's actually a very good point. I know that when I was talking to Attorney Shaffer earlier today he made a very good case for trying to match the Tort Claims Act more exactly, but maybe we should just leave it the way it is. I think they've put a lot of thought into the way it's worded. So I will make my motion back to just leaving it the way it was.

COMMISSIONER HAMILTON: Okay. I will support that because I think it empowers the County to make the case, although actually I think making that case strongly is really important to the way this House Bill could be pushed to be modified, and I think that's really important in this case. I think, as I said before, I recognize how difficult it is to be portrayed as speaking against civil rights, but that's not what we're doing in the least. We're speaking against the way the law is constructed to be balanced. But my second will follow you, Commissioner Hughes. So is there further discussion. So we have a motion and a second and I'll go for a roll call vote.

**The motion passed by unanimous [4-0] roll call vote.**

COMMISSIONER HAMILTON: Manager Miller, does that complete item 7. E?

MANAGER MILLER: Madam Chair, it does. Sorry for such a long bunch of stuff, but as I said, it was a busy week at the legislature, so a lot of things we wanted to

talk to you about. But that does include all of my items.

COMMISSIONER HAMILTON: Excellent. Thank you so much for that. It was very productive.

**8. MATTERS FROM COUNTY COMMISSIONERS AND OTHER ELECTED OFFICIALS**

**A. Commissioner Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions and Requests for Updates or Future Presentations**

COMMISSIONER HAMILTON: Are there any Commissioners who'd like to speak at this point? Commissioner Hughes

COMMISSIONER HUGHES: Thank you, Madam Chair. Just wanted to mention that at my last public meeting we had a lot of participation from the part of my district that goes along Route 14, the San Marcos are, and I think both Commissioner Garcia and I have been invited to attend the annual meeting of the San Marcos Association. And I think Commissioner Garcia referred to this earlier about some of the problems with water out there but they're also having problems with their electrical service, their broadband service of course, and are wanting some attention from the County. So I'm going to attend their meeting and see what they have to say and we'll bring some stuff back. Thank you.

COMMISSIONER HAMILTON: Thank you so much, Commissioner Hughes? Other Commissioners? Commissioner Hansen, anything at this point?

COMMISSIONER HANSEN: Thank you, Madam Chair. I basically think we have covered it. I have spent most of my time at the legislature so I think that that's all that I have to say. I also hope that we are going to go on to Public Hearings after this and Matters from the County Attorney.

COMMISSIONER HAMILTON: For myself, I actually just really feel compelled to give a shout-out to our Director of Community Services, Rachel O'Connor. We've had some constituent issues that we've recently been interacting with her on and with all the pressures that that department is under right now with COVID and emergency responses and management she has been so incredibly responsive, and I just can't thank her enough for her professionalism and way beyond that, her ability to just jump right in and whatever we throw at her. I'm just hugely impressed and hugely grateful.

COMMISSIONER HANSEN: I'll second that.

COMMISSIONER HAMILTON: Thank you very much, Commissioner Hansen. I just find it very, very impressive and beneficial to our constituents.

COMMISSIONER GARCIA: I'll third that also. Her and her entire staff, because the department is doing a great job.

COMMISSIONER HAMILTON: Thank you so much, Commissioner Garcia.

**8. B. Other Elected Officials' Issues and Comments, Including but not Limited to Constituent Concerns, Recognitions, and Requests for Updates or Future Presentations**

COMMISSIONER HAMILTON: Madam Clerk, I can start with you. Do you have anything for tonight?

KATHARINE CLARK (County Clerk): I would like to mention that we're starting our Board of Registration examination, which is an active voter process, sending out a press release for transparency purposes. We're watching closing the upcoming special election, the seat that's going to be vacated by Deb Haaland should she get the nomination to the Department of Interior, she will resign and that will trigger a special election. This would just be the people in Edgewood that are in CD-1 District.

We're also going to be starting an outreach program. We're interested in how the voters felt around the 2020 election. And so we're going to have some townhalls and a survey asking about what kind of information would be sort of – asking how they'd like information, what kind of information they'd like to see from our office, which will help us develop our voter outreach program as well as our institute services plan, and our upcoming website. So that's some of the things we've been working on.

COMMISSIONER HAMILTON: That's quite a bit. Very much appreciated. Treasurer Manzanares, are you still on and is there anything you would like to bring forward?

MS. MASCARENAS: Madam Chair, it looks like she may have signed off.

COMMISSIONER HAMILTON: Thank you very much. Very much appreciate her being on. Given the hour, I'd be happy if anybody else would like to weigh in on this but I was thinking we might want to entertain the Public Hearings first, which are under item 10. I see a thumbs up from Commissioner Hansen and – I am remiss. I see our Sheriff is raising his hand. I very much apologize, Sheriff Mendoza. I didn't realize you are still on. I can reopen Matters from Other Elected Officials. By all means.

ADAN MENDOZA (County Sheriff): Thank you, Madam Chair. Just real quick, and no problem. I'm not wearing my uniform so it's easy for me to miss the opportunity.

COMMISSIONER HAMILTON: Just going back and forth I missed you. I so apologize.

SHERIFF MENDOZA: No problem. I just wanted to say that the Santa Fe County Sheriff's Office is actually celebrating a 175-year anniversary this year. The first sheriff was appointed to office in 1846. It doesn't coincide with Santa Fe County's anniversary or the state's anniversary but it is the Sheriff's anniversary and so we'll be rolling out a few things for the 175<sup>th</sup> anniversary. We ordered some commemorative badges that the deputies will be wearing. They have a little bit of a retro look but we'll be rolling those out and doing hopefully a few other things celebrating 175 years of public service, protection and a tradition and honor. So I just wanted to put that out there.

COMMISSIONER HAMILTON: Wonderful. Thank you very much. Congratulations on the anniversary. That's very impressive. I assume we will get inputs

on that as we go through the anniversary year.

SHERIFF MENDOZA: Yes. Thank you for giving me a minute to bring that forward.

COMMISSIONER HAMILTON: Of course. It can be a challenge to scan back and forth to see who's on because you can't see all the pictures at once and that was my mistake.

8. C. Certificate of Appreciation to Marcos Archuleta for his commitment and act of kindness shown towards his community in Pojoaque **POSTPONED**

10. **PUBLIC HEARINGS**

- A. **Case # 21-5000 BW – Gas & Convenience Retail, LLC. Transfer of Ownership of Dispenser Liquor License Number 0946. BW Gas & Convenience Retail, LLC, Applicant, Linda Aiken, Agent, Requests Approval of a Transfer of Ownership of a Liquor License (License No. 0946). The Property is Located at 2 Avenida del Sur, within the Community College District, Within Section 25, Township 16 North, Range 8 East, (Commission District 5**

JOSE LARRAÑAGA (Case Manager): Thank you, Madam Chair. The applicant is requesting a transfer of ownership of existing liquor license No. 0946 to BW Gas and Convenience Retail, LLC. The property is located at 2 Avenida del Sur within the Community College District. The property is zoned Existing Neighborhood. Allsup's Convenience Stores, Incorporated owns the liquor license at this location and has merged into BW Gas and Convenience Retail, LLC. No change to business location or name is being requested.

The applicant has a current Santa Fe County business license and a current permit to operate from New Mexico Environment Department. Table 8.4.4. CCD Use Table does not allow liquor sales within an Existing Neighborhood zoning district, however, Allsup's Convenience Store #346 received County approvals in 1998 and is considered a non-conforming use. The State Alcohol and Beverage Control granted preliminary approval of this request in accordance with Section 6-6B-4 NMSA of the Liquor Control Act. The Liquor Control Act requires the Board of County Commissioners to conduct a public hearing on the request to grant a change of ownership to an existing liquor license.

In accordance with the Liquor Control Act the BCC may disapprove the issuance of the license if the issuance would be in violation of zoning of an ordinance or the issuance would be detrimental to public health, safety or morals of the residents in the local option district.

Growth Management Staff has reviewed this proposed project for compliance with pertinent code requirements and finds the following facts to support the submittal: Chapter 1, Section 1.11.3 validates existing uses which were previously approved by the County prior to enactment of the SLDC and the applicant has met the State of New Mexico requirements for noticing. Staff recommendation is to support approval of a transfer or ownership of a liquor license to be located at 2 Avenida del Sur. Madam Chair, I stand for any questions.

COMMISSIONER HAMILTON: I appreciate that. Is there an applicant present who cares to make a statement at this point? Does anybody know?

MR. LARRAÑAGA: Madam Chair, there's supposed to be a representative from Allsup's on the line. They were supposed to call in. I don't know if they did or not.

MS. MASCARENAS: If they're attempting to unmute themselves you'll need to press star 6.

INEZ WALLY: This is Inez Wally.

COMMISSIONER HAMILTON: Yes. We can hear year. Could you identify yourself?

MS. WALLY: Inez Wally. I'm the district manager for the area.

COMMISSIONER HAMILTON: Thank you. Feel free to continue.

MS. WALLY: Okay. This is just a change or ownership. Nothing will change operationally.

COMMISSIONER HAMILTON: Excellent. Thank you very much. And I assume you can be present if there are other questions that come up.

MS. WALLY: I would.

COMMISSIONER HAMILTON: At this point I would go ahead and open public comment on this application. Tessa Jo, in this case did anybody actually write in to indicate they wanted to make public comment on this particular case, or should we just open the line and ask if there's anybody present?

MS. MASCARENAS: No, Madam Chair. No one has signed up for this particular case yet. But, yes, we can open the lines and they can also send me their name in the chat feature and then I'll create a list and call on them.

COMMISSIONER HAMILTON: So is there anybody on this webinar who cares to comment on this application. So if there's anybody that wants to comment on this case, if you're on the webinar, if you could unmute yourself, or if you're on the phone if you could press star 6 to unmute yourself and indicate a desire to make a public comment. I don't want to move too fast but I'm not seeing anybody who's indicating a desire to comment on this case. So I believe I can close public comment and go to the Commissioners. Are there any questions that Commissioners have or comments they would like to make. I might start with Commissioner Hughes since this is in your district.

COMMISSIONER HUGHES: Thank you, Madam Chair, but I don't have any questions as this is just merely a change or ownership.

COMMISSIONER HAMILTON: Thank you, Commissioner Hughes. Are there any other Commissioners? Commissioner Hansen.

COMMISSIONER HANSEN: I would happy to make a motion for approval but maybe I would like to also ask Commissioner Hughes if he would like to do that since it's his district.

COMMISSIONER HUGHES: Thank you. If we are to the point I will make a motion for approval.

COMMISSIONER HAMILTON: So there's a motion for approval. Is there a second?

COMMISSIONER HANSEN: Second.

COMMISSIONER HAMILTON: Thank you. So we have a motion and a

second to approve this application. Is there any further discussion? Seeing none.

**The motion passed by unanimous [4-0] roll call vote.**

10. B. Case No. 10-5366 - St. Francis South Preliminary Plat Approval for Phases 1-4 and Final Plat Approval for Phases 1 & 2. TABLED

10. C. Case # 20-5070 – Las Campanas Conceptual Plan Amendment. Las Campanas Master Association and Verizon Wireless (Jointly, the Applicant), Are Requesting an Amendment of the Las Campanas Conceptual Plan to Allow a Stealth Wireless Communication Facility on Lot 5 within the Existing Planned Development District (PD-16) as a Permitted Use. The Applicant is Proposing a 70-Foot Stealth Communications Facility (and its Associated Switching Infrastructure) as an Allowed Use on a Proposed Bell Tower within the Las Campanas Planned Development District (PD-16). The Proposed Stealth Cell Tower Will Be on Parcel 5, Which Comprises 7.62-Acres. The Site is Located at 366 Las Campanas Drive within T17N, R8E, Section 15, SDA-2 (Commission District 2)

COMMISSIONER HANSEN: I would turn this over to the Case Manager, Gabriel Bustos.

GABRIEL BUSTOS: Thank you, Madam Chair. On April 14, 1992, the Board of County Commissioners approved the Las Campanas de Santa Fe Master Development Plan. This approval allowed for large-scale mixed-use development which included a total of 1,419 residential lots, two golf courses, two golf course maintenance facilities, a clubhouse with dining facilities, a tennis center, an equestrian center, a sales office, a hospitality house and a wastewater treatment facility.

The prior approvals did not address communication towers as an allowed use. On December 8, 2015, with the implementation of the Sustainable Land Development Code, the planning envelope associated with the approved Master Plan for Las Campanas was designated as a Planned Development District.

The applicant is requesting approval of an amendment to the previously approved Master Plan to allow a stealth communications tower as an allowed use on Parcel 5 of the Las Campanas Planned Development District. The location of the tower may reside on the same parcel as the Las Campanas master association building abutting the site to the northwest and the northeast are parcels also owned by the Las Campanas Master Association that are utilized for open space and trails. To the south of the site lies the Caja del Rio water treatment facility.

The proposed stealth communications tower lies under the bell tower. After discussion the members of the community as determined by the applicant determined that the bell tower would be aesthetically consist with the architectural style of homes in Las Campanas. If the decision of the Santa Fe County Board of County Commissioners is to approve the conceptual plan to amend the previously approved Master Plan to allow a stealth communications facility on Parcel 5 the applicant would then apply for an

administrative site development plan subject to the requirements of Table 10-4, Submittal Requirements for Wireless Telecommunications Facilities.

The applicant had also requested a variance of Section 10.17.8.1 of the SLDC to allow the stealth communications tower to be 70 feet in height which exceeds the height of 27 feet allowed in a PD zoning district. This request was denied by the Planning Commission. Per the SLDC the Planning Commission makes the final decision on variances. The applicant has indicated that upon approval of the final order by the Planning Commission they intend to appeal the decision for the height variance which will be presented to the Board of County Commissioners at a later date. The request to the Board of County Commissioners at this time is solely for the conceptual plan.

The applicant has responded to the conceptual plan review criteria and staff has commented on the applicant's response to the criteria.

Building and Development Services staff has reviewed this project for compliance with the pertinent SLDC requirements and has found that the facts presented support the request for a conceptual plan amendment to allow a stealth communications tower as an allowed use on Parcel 5 within the Las Campanas planned development district. The proposed use is a permitted use within a Planned Development District as per Appendix B, Use Matrix and the application satisfies the submittal requirements set forth in the SLDC inclusive of criteria set forth in Section 4.9.9.

Staff has established findings that this application for an amendment of the conceptual plan to allow a stealth communications tower as an allowed use on Parcel 5 within the Las Campanas Planned Development District is in compliance with the criteria set forth in the SLDC.

Recommendation: The decision of both the Hearing Officer and the Planning Commission was to recommend approval of an amendment to the conceptual plan to allow the proposed stealth communications tower as a permitted use within the Las Campanas Planned Development District to be located on Lot 5 which comprises 7.62 acres subject to staff's recommended conditions. Staff supports the request for a conceptual plan amendment but would recommend that condition 1 be modified. The condition is based on an early iteration of the application in which the applicant was proposing the use of a stealth facility in multiple locations. The applicant has since decided to request approval for a stealth facility on Parcel 5 only.

Staff recommends approval of the conceptual plan amendment to allow the proposed use of a stealth communications tower on Parcel 5 subject to the following conditions which identify the recommended modification to the language in condition #1. Madam Chair, may I enter the following conditions into the record?

COMMISSIONER HAMILTON: Yes, please.

[The conditions are as follows:]

1. A separate application for a Development Permit/ Site Development Plan for the stealth facility must be submitted and can be reviewed and approved administratively. ~~Residential lots are restricted to stealth Wireless Communications Facilities ("WCF") only. Nonresidential and utility related lots may have non-stealth WCFs and shall be reviewed as a Conditional Use Permit ("CUP").~~
2. The Conceptual Plan showing the uses allowed, restrictions as to the location of stealth facility, site layout and conditions of approval shall be recorded at the expense

of the Applicant in the office of the County Clerk in accordance with Chapter 4, Section 4.9.9.9.

3. The proposed communications facility (and its associated infrastructure) shall comply with all criteria set forth in the SLDC prior to approvals of the development.

MR. BUSTOS: Thank you. Also, Madam Chair, I just wanted to clarify that many of the public comments received are about the variance request and this hearing tonight is only about the conceptual plan amendment. If the variance is appealed by the applicant there will be a separate hearing where the public can comment on the height variance. Thank you, Madam Chair. I now stand for any questions.

COMMISSIONER HAMILTON: Thank you very much. Is the applicant present and desiring to make a statement at this time?

ROBERT KIELY: Yes, please.

COMMISSIONER HAMILTON: Thank you. If you would identify yourself and proceed.

MR. KIELY: My name is Robert Kiely. I chair the Las Campanas Cellular Committee, and also joining us this evening is Amy McKenzie of Black and Veatch, who represents Verizon Wireless. I'll provide some background information and then Amy will provide some details of the actual cell tower. And this is a joint application between the Las Campanas Master Association and Verizon Wireless.

[Mr. Kiely was placed under oath and testified as follows:]

MR. KIELY: Thank you, Case Manager Bustos for giving the background on this. And I'd also like to thank the Board for considering this, and feel free to ask me any kind of questions. And I'd also like to thank the residents of Las Campanas and the neighboring communities for participating tonight and I encourage you to comment at the right time, but as Case Manager Bustos mentioned, please let's keep this to the conceptual plan change application, because the height variance will be addressed at a future time. So please let's stick with the matter at hand.

So back in the early 1990s as Mr. Bustos mentioned, the Las Campanas conceptual plan was drawn up and back then cell service was just in its infancy. The developer at the time, Lyle Anderson, was a visionary in many ways but he really didn't have a vision of what was going to happen in the cellular industry. In fact, at that time I was working in leading telecommunications technology and I didn't even own a cell phone. So the cell towers were not in the conceptual plan that we're asking for the change in today.

So since that's happened of course, cell phones have become ubiquitous. The iPhone came out in 2007 and many, many people are cutting the cord and really going to a cell phone as their primary and only means of communication. So I've been an owner in Las Campanas for 27 years now, since the very beginning and I moved here eight years ago full-time after a three-decade in international telecommunications management. And one of the first things you notice when you come to the Las Campanas area, either as owner, a visitor, an employee or whatever, is the service is really terrible. Literally, the service in the outskirts of Tegucigalpa is better than the service here in Santa Fe County.

So when I heard that there was a cell committee that had been formed, then I volunteered and they made me chair. So we didn't just run out and talk to cell companies



and say let's put up a tower. We really wanted to have community input, so not just from Las Campanas but from the neighboring communities. We did a pretty intensive survey and we got 401 responses from Las Campanas owners and we also got 158 responses from neighboring communities including Aldea, Camino del Rey, Colinas Verdes, El Prado, La Serena, La Tierra Preciosa, La Villa Escondida, Los Sueños, Rancho de los Niños, Sonrisa, Tierra de Oro, Vallecita de la Tierra, and Villa de Estrellas. So we got 150 responses from them.

And what did we find out? We found basic things like about 69 percent of the people use Verizon and 22 percent use AT&T, which is important when you're deciding which cellular carrier to go with. We also found out that the vast majority have problems with their cell coverage. They had dropped calls, dead zones, low or no data rates, and they also told us that it's a security issue and it's really a safety issue. More than just convenience, it's a safety and health issue.

And so a super majority of the respondents were open to a cell tower, even though they know that it would be in some of their sight lines. So with this mandate we started talking to the cell companies, AT&T, Verizon, a little bit to T-Mobile, to talk. We had some criteria. We wanted to have the maximum coverage to include not only Las Campanas but neighboring communities, some of the hiking trails, some of the equestrian trails and then the major thoroughfares in the area. We also wanted a stealth design to match the southwest architecture in the area. Optimally, it would be a bell tower because Las Campanas is "the Bells", which makes a little bit of sense.

We wanted minimal impact on sight lines although we know any tower will have some impact on sight lines. And we wanted the minimum height to provide adequate coverage. And we also wanted space for two carriers on the tower because one, it's kind of a mandatory requirement from the County, at least what we were told, and secondly, just to provide coverage to the people who need it.

So after talking to multiple carriers we chose Verizon, because one, they had a very creative team who came up with a design for the tower, and secondly, they're just easier to work with than some of the other carriers. So we've been very happy with Verizon. We signed a contract not quite a year ago.

So after looking at about a dozen sites in the area we finally decided upon a site that's adjacent to the existing Las Campanas owners building and then next to that is the maintenance facility. It provides a good coverage from that tower and it also has existing power, fiber-optic cable, has parking, it has security, and it has some impact on sight lines but it's fairly minimal at that point. To the west of this site is BLM land and the Santa Fe National Forest and the Camino Real de Tierra Adentro hiking trail that Santa Fe County spent almost a half a million dollars to put in. I love that trail. I hike it all the time, but unfortunately the cell coverage out there is very minimal which causes some safety and security issues. But it's a great place to go and I recommend if you haven't been out there please do that.

As Case Manager Bustos mentioned, about 500 yards to the south is the Buckman water treatment plant and so that this tower would provide excellent coverage to the treatment plant and to a lot of the pipelines nearby. Just to the north of the location, and Amy will show you a little bit more in her part about where the location is, just to the north is the Las Campanas water and sewer treatment plant and the agronomy building

and a dog park. And then to the east is undeveloped land. So it's really over half a mile, it's about 900 yards to the nearest home from that position that we recommend that we put a cell tower in.

So we held a pre-application neighborhood meeting back on July 14<sup>th</sup>. We had 114 attendees. Everyone there who commented was supportive. We did have one objection. How can we move this process ahead faster? So there's one in every crowd. So we submitted the application to the County staff on July 27<sup>th</sup> of last year. Following the application the County staff recommended in favor of the change to the conceptual plan to allow the cell tower as an allowed use. We had the Hearing Office Webex on November 12<sup>th</sup>. Ten members of the public testified. No one testified against it. The majority of the people who testified said that it was a safety and a security issue and that they were concerned for their safety and security without adequate cell coverage. And the Hearing Officer's conclusion was the application meets the requirements of the SLDC applicable to amendment of the Las Campanas conceptual plan and should be approved.

We also had the Planning Commission Webex that was held January 21<sup>st</sup> and many, many people testified at that. No one testified against the cell tower, and the Planning Commission recommended approval of the conceptual plan change to allow a cell tower as an approved use.

As Case Manager Bustos mentioned, we will come back to the County Commission at a future date to discuss the height of the tower and a variance but we're not going to talk about that tonight. So if you happen to look in your packet and looking at your agenda, you had a lot to review before this meeting, but there have been over 400 letters in support of this cell tower and only about five against. So many of the letters talked about convenience. They talked about working at home, pandemic issues, 21<sup>st</sup> century communications issues, but many, many talked about safety and security and the ability to connect to emergency services, the ability to contact 911, the ability to talk to their doctor or to a nurse. And as you probably know, the median age in Santa Fe County overall is about 47 years but the median age in Las Campanas is about 68 years, and it's probably the same in the communities that surround Las Campanas.

So there's just definitely more of a need for health-related communication services on this area.

And just real briefly, I just want to read you a couple of these excerpts of a couple of the letters. They're all public information. They're on the website, uploaded by Santa Fe County staff. Here's one: My chief concern is the ability to contact emergency services on my cell phone when I'm away from home, my home booster, especially when hiking. There's no service out here and that's become obvious while hiking and coming upon bikers who've been injured. A friend just suffered a heart attack. If this had happened out while walking with no phone service he might have died. This is a critical service.

This is another interesting letter to some of you who are active in this. Those of us who are active members of the Santa Fe Search and Rescue Team must have immediate cell access to support search and rescue missions, most of which are life and death situations that require immediate team response. So far this year – that was November of last year – we've had 139 missions and I personally have missed the emergency response notification on multiple occasions because of the lack of this essential cell phone service

in this area.

And here's the final one I'm going to read today. I wanted to briefly explain why I would like your support of this project. Back in February my mother entered hospice and passed away a few days later. Cell reception is so poor in our neighborhood that I had to drive around in my car to carry on a conversation with my family.

So this is what we're up against out here and it's a very important issue to Las Campanas owners and there are 950 homes out here, so that means about 1,900 people, and there are about 900 club memberships and that means about 1,600 people. Now, there's a lot of overlap in there and they're separate organizations but we're in lock-stop on this application. But it's not just Las Campanas owners that need this service. The neighboring communities that I mentioned.

Also, the owners association has about 50 employees that are in various parts of the area at various times. The Club has over 100 employees, and with over 60 homes currently in construction and 20 major remodels, any given weekday there are between 500 and 800 people in Las Campanas in the construction trades. And when they come out here – they live all over Santa Fe County but they work here in Las Campanas on these construction projects. Most of the time they're younger. They have families, sometimes multigenerational families, so when they come to Las Campanas during the day the only way that they have to communicate with their family is via a cell phone. And without the coverage, they're basically cut off. Any time it's an issue but especially in the pandemic. We really shouldn't be in this situation where we don't have modern cell service out here, and really now is the time we can make it happen.

So I hope I've been able to adequately communicate to you that in the areas out here and the adjacent areas and the employees and the trades people, we're very, very much in favor of this. I've never seen a project with so much community support as this. And I hope I've been able to help you understand, it's not just a Las Campanas. It is a Las Campanas issue but it's a broader issue than that. So that's where I conclude my part. If you have any questions I'll entertain them, or also I'd be happy to turn it over to Amy McKenzie who will present a little bit of detail about the tower itself. Thank you.

COMMISSIONER HAMILTON: I think we want to do the presentations before we do questions. And feel free to turn it over. Amy, I think you have to be sworn in as well. If you could identify yourself.

AMY MCKENZIE: I am Amy McKenzie.

[Duly sworn, Amy McKenzie testified as follows:]

MS. MCKENZIE: Thank you, Madam Chair, Commissioners. I appreciate the opportunity to speak to you. We were contacted by Las Campanas, it's been a little over a year ago – we being Verizon Wireless – about an opportunity to provide better service to Santa Fe County. After doing the analysis and running the numbers and running the data we realized this really is a very underserved part of Santa Fe County. We could definitely make a big difference in this area.

And so when we put our proposal together and looked at the SLDC, Santa Fe County does encourage public and private investment in communications infrastructure to ensure both fast, reliable wireless service communications for its residents, businesses and emergency responders, and to advance the County's economic and community development interests and goals. And with a cell tower, it would significantly improve

the quality and reach of wireless service to Verizon customers in this underserved area of the county, and it would allow for development of communications. The County does already allowed, in Planned Development Districts, a communications tower as a permitted use.

Our problem, Las Campanas' problem is this was back in the nineties and wireless service was in its infancy so it wasn't really taken into consideration. That's why we're here, asking for this change.

As far as the structure itself that we're doing, we did a design keeping in mind the Santa Fe architecture and we also kept in mind the SLDC that we're proposing a structure that could be co-locatable by a second carrier. So again, this would reduce the number of towers so that we wouldn't have tower proliferation in this area. If I'm permitted I can show you what the structure would look like if I could share my screen. Is that okay?

COMMISSIONER HAMILTON: Yes. By all means.

MS. MCKENZIE: Hopefully you can see that.

COMMISSIONER HAMILTON: Yes.

MS. MCKENZIE: Okay. Terrific. So this is the Las Campanas Homeowners Association at 366 Las Campanas. Obviously, the tall structure is the stealth structure that we are proposing, just so you can have an idea of how it's set up. At this top window area would be where Verizon wireless antennas would go and in the lower section of the top tier would be where a second carrier would go and I know Las Campanas has already been talking with AT&T about that second spot. This spot, the center, if you want to call it, doesn't have any equipment, and then this lower portion right here, the eight-foot wall, is where our ground equipment is hidden.

So that's what the structure looks like, and if you bear with me I can also show you a photo of a simulation. So this is a photo simulation. So this would be a north elevation looking south right now, and this area back here, that's 366 Las Campanas. With the structure added, so that's what you would see looking south. You would see the top section. And again, I know we're not talking about height right now but this would be at a proposed height of 70 feet. Okay, this is Las Campanas again, 366, and this is the east elevation looking west, and with the addition this is what it would look like. And then I've got one last view. So this is the last view and this is the southeast elevation looking northwest. And again, it's nice and beige, but you can see Las Campanas right here, and that is what the structure would look like looking northwest. And again, this is a proposed height of 70 feet.

As Robert mentioned earlier, there's no homes in this area so it's not something that the average person would look out their back window and see. Really, the only folks that would see the tower are folks driving on Las Campanas, on the road. So that is essentially what it looks like. We have met the criteria from the SLDC to have this approved, and I just stand for any questions.

COMMISSIONER HAMILTON: Thank you very much. I think it's appropriate if Commissioners have questions for these two presenters. I thought we would then have discussion and comments after the public hearing portion. So if the Commissioners are amenable to that process, are there any questions for the presenters?

COMMISSIONER GARCIA: Madam Chair, I have some questions.

COMMISSIONER HAMILTON: Commissioner Garcia.

COMMISSIONER GARCIA: Just seeing background on the gentleman that actually talked about Las Campanas and there was nothing out there back in 1992 and they came in and they got master plan approval and they questioned everything that he talked about and where we've come in the age of technology, and I certainly understand the challenge issues. And so a couple of things. So the co-locate, have we already talked to other cell tower businesses as into co-locating on here? That's one question. And then also –

MR. KIELY: Do you want me to answer that now or after you ask your second question? However you like it sir.

COMMISSIONER GARCIA: You can answer it now

MR. KIELY: So on the co-location, we talked to T-Mobile who at the time was getting ready to go through an integration with Sprint, and we also talked to AT&T. I went to a number of places with AT&T, sometimes with their consultant to look at various locations. We did make the decision to go with Verizon as the tower builder but we're still talking to AT&T. They're very interested in going on the tower but they're not going to make a commitment until we have final approval for a tower tall enough to accommodate them as well as Verizon on the top.

The nice thing about AT&T that they bring with them is they bring First Net capability. First Net is a first responder, nationwide network that was designed after the events of 911 when they found out that various first responder entities couldn't communicate with one another. So AT&T has a nationwide deployment plan for that and they would be happy to go on this tower and provide that first responder First Net capability if we go forward with it.

COMMISSIONER GARCIA: I appreciate the consistency how Las Campanas is coming from 1992. Vicki, you can attest to this. Remember Joe Catanach many, many years ago? And it just seems like yesterday. However, the co-location is what I'm interested in because are we going to have three or four different carriers out there? Three or four different towers? Because I know sometimes carriers want to carry their own equipment on their own tower. So that's kind of where I'm going with the question.

Also, in regards to – for staff, right now we're going to approve just the location, a tower location, not height. Correct?

MR. BUSTOS: Madam Chair, Commissioner Garcia, that is correct.

COMMISSIONER HAMILTON: We're actually approving – can you expand on that, Mr. Bustos? We're approving a cell tower as a permitted use? Or are we also approving the location specifically?

MR. BUSTOS: Madam Chair, the application that's being presented is specific to Parcel 5 in Las Campanas, so it is, I guess for this specific site.

COMMISSIONER HAMILTON: Thank you.

COMMISSIONER GARCIA: Madam Chair, also, so the reason why is back when they did the master plan in 1992 and since then completed it and never allowed for a location for a cell tower. Right? In a nutshell?

MS. MCKENZIE: Right.

MR. BUSTOS: Madam Chair, Commissioner Garcia, that is correct.

COMMISSIONER HAMILTON: Thank you.

COMMISSIONER GARCIA: And then also – is there a copy of the actual survey so I can look at that larger picture, the master plan of exactly where Lot 5 is? Does anybody have that available?

MS. MCKENZIE: I can show it on my screen.

MR. KIELY: It shows the parcel it will be located on but I'm not sure if it shows all of Las Campanas. She'll pull up that one parcel and I can explain to you. It's the very far end of Las Campanas, about 500 yards north of the Buckman water treatment plant.

MS. MCKENZIE: I'm going to share the site plan. It's not a big picture but I think you'll get the gist of it. So this is the turn on Las Campanas. This is the parking lot and this is the building. And if you see a little bit bigger picture this is where we're at right here.

COMMISSIONER GARCIA: So this is the furthest most western end of the property of Las Campanas, right? The master planned area?

MS. MCKENZIE: Exactly.

COMMISSIONER GARCIA: I'm just trying to get it in my brain.

MS. MCKENZIE: You are correct.

COMMISSIONER GARCIA: So Madam Chair, so then the property to the south here is actually BLM land and the Marty Sanchez Links de Santa Fe, correct?

MR. KIELY: Correct.

COMMISSIONER GARCIA: I just want to get it in my brain. Okay, so once again, we're actually just looking at the co-location. That's what we're looking at. I have no further questions, Madam Chair. Thank you.

COMMISSIONER HAMILTON: Thank you. Commissioner Hansen, I thought I saw your hand up.

COMMISSIONER HANSEN: Thank you, Robert and thank you, Amy. Madam Chair, I just want to mention this is a conceptual plan amendment is what we are voting on tonight and that as Robert said earlier, Lyle Anderson didn't think about cell phone towers in 1992. So we are adding – I just want – for Commissioner Garcia, this is just a little bit west of the end of Caja del Rio Road and Las Campanas Drive. So that is where the homeowners association building is located.

COMMISSIONER GARCIA: Thank you.

COMMISSIONER HAMILTON: Anything more, Commissioner Hansen?

COMMISSIONER HANSEN: No, I just wanted to make that comment before we went to public hearing.

COMMISSIONER GARCIA: Just one more thing, Madam Chair, if I may. I just have this – it's like a nice chill, because like I say, I worked for the County for many years. And Lyle Anderson, I remember Lyle Anderson, I know on opening day they had Jack Nicklaus and his son actually take you around the golf course. This is way we actually built this [inaudible]. It was pretty nice. But I understand now the conceptual and co-locations. Thank you, Madam Chair.

COMMISSIONER HAMILTON: Thank you. So if we have no other technical questions for the presenters we should move to public comment. It appears there are quite a few people here. I don't know. Tessa Jo, do you actually have a list or are we going to simply unmute and take people in whatever order they present

themselves?

MS. MASCARENAS: Madam Chair, we do have one person who has signed up to speak, if there's anybody else, they can identify themselves and we could go in that order if you'd like.

COMMISSIONER HAMILTON: That would be good. I see people raising their hands. I see Tim Galvin. I'm going to leave this process up to you, Tessa Jo.

MS. MASCARENAS: I do see Tim Galvin.

MANAGER MILLER: Their names are in the chat.

MS. MASCARENAS: You can also contact me in the chat.

COMMISSIONER HAMILTON: I see that. So Tessa Jo, while you write down the names from the chat, there are quite a few people. I think I would like to limit this to two minutes per comments. As per usual, I'd like to minimize to the extent possible repetitive comments, because once the information is passed we get it. And I also, and I very much appreciate the presenters mentioned this but I want to reiterate that what we're dealing with tonight is the revision of the conceptual plan and not tower height. So we would like the comments to be constrained to the issue of revising the conceptual plan. We'll take other comments in the future when the other matter comes before us. Commissioner Hansen.

COMMISSIONER HANSEN: I was just going to suggest that if people wanted to who are here they could possibly use the reaction button and use a thumbs up if they're in favor and that would also give you an idea of how many people are in favor of this process. It's just a way to –

COMMISSIONER HAMILTON: Some people are already doing that. That's a very interesting thought. I would not have thought of that. But we're still going to go through the process of allowing them to speak.

COMMISSIONER HANSEN: Of course. Of course.

COMMISSIONER HAMILTON: But that's a very entertaining idea. So Tessa Jo, at the point where you have a handle on this if you would care to start with the first person and we can put up the two-minute timer.

MS. MASCARENAS: Madam Chair, is it okay if I read through the list to make sure that I've captured everyone who would like to speak.

COMMISSIONER HAMILTON: Feel free. And when we're finished with the list we can also ask if we've missed everybody.

MS. MASCARENAS: Okay. I have Howard Alpern, Tim Galvin, Jan Watson, Al Antonez, C. Munday, and Margaret Hoban. Are there any other additional people who would like to comment, if you would either unmute yourself or type your name into the chat.

MANAGER MILLER: I saw John Flynn, also, Tessa Jo.

COMMISSIONER HAMILTON: I apologize. It's really cumbersome to get the process rolling on a Webex and we really appreciate everybody's cooperation. We really do want to hear everybody's comments. Okay, Tessa Jo, please start with the first person and we can proceed through.

MS. MASCARENAS: Thank you, Madam Chair. Our first speaker is Howard Alpern.

[Duly sworn, Howard Alpern testified as follows:]

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HOWARD ALPERN: Madam Chair, Commissioners, I'm Howard Alpern. They represent Verizon, AT&T. They represent Las Campanas Homeowners Association. I'm not a member of any committees. I'm just a very concerned citizen. The cell service in this area is pitiful. Calls are dropped all the time. The main problem is it is a safety concern. I am cyclist. I cycle with lots of people who come from town to come out to the Las Campanas area. You can't get cell service in most of Las Campanas. It's scary.

I want to emphasize one thing. They keep talking about Las Campanas. This is in Las Campanas. Las Campanas is trying to get this done but it's not for Las Campanas. This is for all the citizens, all the citizens in Santa Fe County and all the people who come visit here. All the people who work out here. Hundreds of them every day. They need this service. It's a safety concern. I find it very interesting that the Commissioners today decided to support – I think it was Senate Bill 93 concerning a broadband plan for the state. Well, here we are, right in our backyard and we don't have 21<sup>st</sup> century communications. We need to do something about it. Government needs to work for the people. That's why you're elected, and we would expect that everyone who recognizes that the state needs a broadband plan recognizes that Santa Fe County needs 21<sup>st</sup> century communications. Thank you very much for letting me speak for one minute and 59 seconds.

COMMISSIONER HAMILTON: Thank you very much. Let's go to the next person.

MS. MASCARENAS: Madam Chair, the next speaker will be Tim Galvin.  
[Duly sworn, Tim Galvin testified as follows:]

TIM GALVIN: Thank you for giving me time, first of all. I just want to ask you as a concerned citizen to vote yes on it. It's really – the central word here is safety. Safety for not just the residents of Las Campanas but the safety of everyone around here who's using their cell phones, not just for yakkity yak or twitter, but for an illness, to phone 911, and then even for essential things like contractors who get lost out here, and the contractors who work here as well. The one positive thing about this is that it's being located in Las Campanas. We're not shuffling it off on somebody else in their backyard. So it's in our backyard, which is a nice thing. I think the biggest thing that Robert pointed out is search and rescue, they need it as well.

I would really strongly urge you to drive out there to the Las Campanas Homeowners Association building and take a look around and see how little – there are really no homes not just within rock-throwing distance, within walking distance. It's really far to the other homes. So it's not like they're sticking a cell tower next to somebody else's neighborhood and we and the other people are being benefited for it. So for those reasons I would ask all of you to vote yes on this proposal. Thank you so much.

COMMISSIONER HAMILTON: Thank you, Mr. Galvin. Tessa Jo.

MS. MASCARENAS: Thank you, Madam Chair. Our next speaker will be Jan Watson.

[Duly sworn, Jan Watson testified as follows:]

JAN WATSON: I'd like to agree with everything that's already been said but I'd also like to point out a couple of other things as well. I live less than two miles away from the proposed site and I know I won't be able to see the tower no matter what



height it is. But most days, I'm lucky if I have one bar for maybe 75 percent of the day. Other days I don't have service for at least half of the day. This is really a critical issue. My house is less than seven years old and it's not even wired for a hard line so I really depend on my cell service to get a hold of anybody.

It's a safety and security issue. My mother is in assisted living. I need to be on call for her all of the time. Other people have talked about the contractors that come out here, but it's not just them. It's Fedex, it's UPS, it's other delivery services, it's the Postal Service. They all have the same problems that the residents have. I have a good friend that lives in La Serena, less than ten minutes away from me, we cannot talk on our cell phones because both of our connections keep getting dropped all of the time. So this is really a Santa Fe County issue. It is really not just a Las Campanas issue. And I hope that the Commissioners will agree that this is the right thing to do. Thank you very much for your time.

COMMISSIONER HAMILTON: Thank you very much, Ms. Watson.

Tessa Jo.

MS. MASCARENAS: Thank you, Madam Chair. Our next speaker will be

Al Antonez.

[Duly sworn, Al Antonez testified as follows:]

AL ANTONEZ: Thank you, Tessa. Good evening, Commissioners. I live at 8 Avenida Herrera. I'm also the general manager of the Club at Las Campanas. I'm on 32 Clubhouse Drive. Our club has the only Audubon certified sanctuary golf courses in New Mexico. We've been working with New Mexico State University, the USGA tour to develop subsurface irrigation technology for long-term sustainability. Our club has been working collaboratively with the County and City staff on long-term water sustainability issues. Our members and staff are not able to speak to colleagues and collaborate. They're not able to call for help if they're on the property and experience an emergency, our members aren't able to. We have over 200 employees that we're unable to communicate with just from one side of the clubhouse down to our agronomy building and our facilities building.

We strongly urge you to approve to the Las Campanas conceptual plan to permit a cell tower as an allowed use. The conceptual plan is supported by the Las Campanas Master Association, County staff, Mr. Richard L.C. Virtue, the Hearing Officer, and the Planning Commission. Hearing Officer Virtue stated, "The application meets the requirements of the SLDC of the amendment of the existing Las Campanas conceptual plan and should be approved. The variance application meets the requirements of the SLDC applicable. It should be approved.

What's interesting is Marty Sanchez is at our exact same elevation. I think it's 6,464 feet. This location would also be at 6,464 feet. In between there's a horizon between there. So it's 2 ½ miles from Marty Sanchez to our property and we can't even call them on a cell phone. Earlier this evening at 4:04 there was an Amber alert; I have yet to receive that message. So it's 6:44 right now. I'll probably get it on my way home. So that's just one example today that happened. You get the calls but we don't, based on where you're located. So thank you for your consideration and I appreciate all the time today. It's been a long day.

COMMISSIONER HAMILTON: Thank you very much. Tessa Jo.

MS. MASCARENAS: Madam Chair, the next speaker is Chip Munday.  
[Duly sworn, Chip Munday testified as follows:]

CHIP MUNDAY: Madam Chair, Commissioners, thank you for allowing this public input to this very important discussion. In all transparency, I am the general manager of the Las Campanas Master Association, but I am also a resident of the Roybal Subdivision, which is roughly a mile south of the intersection of Caja del Rio and Las Campanas Drive. I'm pretty much adjacent to the Marty Sanchez Golf Course. A lot has been said about how this would benefit those people there additionally that are across the road. Across from Caja del Rio from where I live there is a trail head on the Camino Real Trail and there is no service once you get a couple hundred yards into that trail at all. And there is a lot of people that use that trail. There's a lot of people that would benefit that use the public recreational facilities up and down Caja del Rio, including, depending on how this goes forward, it could reach as far as potentially towards Diablo Canyon. And these are areas that we all use and cherish. But we all are getting older and we all need to have a keen eye on health and safety issues and this cell tower could help us immensely.

There is undoubtedly questions about whether or not this is a great location. One of the things that hasn't come up and I know Commissioner Garcia did bring it up is it is in a low spot topographically, but if we located this tower further east or in a different location it could require us or the providers to reduce the power of the associated towers to our east. And that would not benefit the county residents at all. And we hope that this project goes forward and we can provide a true asset to the entire county of Santa Fe. Thank you.

COMMISSIONER HAMILTON: Thank you, Mr. Munday.

MS. MASCARENAS: The next speaker is Margaret Hoban.

[Duly sworn, Margaret Hoban testified as follows:]

MARGARET HOBAN: I have little more to say than has been said already but I am a single woman living in Santa Fe, New Mexico, and I have no cell coverage whatsoever. When my Comcast system goes down, which I have to admit is quite often, I have no home service either. I'm only asking you all to think about the safety of so many residents out in this area and all of the people who walk the trails that are not residents of Las Campanas. This is really not about Las Campanas. This is truly about a community and an area in Santa Fe that requires the safety of cell phone coverage going forward.

I live very, very close to the homeowners association and I will not see that tower unless I go to the dog park. The way they've designed it, I'm happy to have it there, and I'm hoping that you all understand the need for bringing this safety into our community, for our EMS people, our residents, and all of the people who travel in and around this area in need of cell coverage. That's all I have to say. Thank you.

COMMISSIONER HAMILTON: Thank you, Ms. Hoban. Tessa Jo.

MS. MASCARENAS: John Flynn.

[Duly sworn, John Flynn testified as follows:]

JOHN FLYNN: My name is John Flynn. For the last 2 ½ years, more or less, I have served as a member of the board of the homeowners association here in Las Campanas and recently wrapped up a short term as the president of the board. I also chair the Community Affairs Committee and have chaired that committee for over two years

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and I can tell you that to a person, everyone with whom I've spoken is strongly in favor of this change to the conceptual plan, primarily for all the reasons that the speakers before me have laid out. So I would urge the Commission to vote favorably to this change to the conceptual plan. Thank you.

COMMISSIONER HAMILTON: Thank you very much, Mr. Flynn. Tessa Jo.

MS. MASCARENAS: Madam Chair, that was the last person on our list thus far. Is there anyone else who would like to testify? If you would like to testify please unmute yourself or send your name to me in the chat box.

COMMISSIONER HAMILTON: So hearing no one, and so far seeing no one, I believe we can probably close the public hearing.

MS. MASCARENAS: That's all of the public testimony.

COMMISSIONER HAMILTON: Thank you very much. So we're going to close the public hearing on this. And at this point it would be appropriate to go to the Commissioners. And I think this is in your district, Commissioner Hansen, I would start with you for comments or questions. Commissioner Hansen.

COMMISSIONER HANSEN: I want to first of all and most importantly thank all the constituents from Las Campanas and the surrounding areas for coming and testifying and taking the time out of your schedule to be here because I believe that this is an important thing for our community. As the Commission knows, I have supported broadband. I continually ask for fiber for my district, which seems to be exorbitantly expensive. So therefore this is really a great solution. And if I may, Madam Chair, I would like to make a motion to approve this for the conceptual plan.

COMMISSIONER HAMILTON: Thank you. There's a motion. Do I have a second? Commissioner Hughes.

COMMISSIONER HUGHES: I'll second.

COMMISSIONER HAMILTON: So there's a motion and a second. Is there further discussion?

COMMISSIONER GARCIA: I have a question. Thank you, Madam Chair. This is for staff. Is there any story poles out there, story poles, as into how high it's going to look?

MR. BUSTOS: Madam Chair, Commissioner Garcia, we have not put any story poles up. The only type of visualization that we have seen are the photo simulations that were presented by Ms. McKenzie.

COMMISSIONER HAMILTON: I would just add I thought those photo simulations – go ahead, Commissioner Garcia.

COMMISSIONER GARCIA: No, I know the photo simulations were good, but I was just – I know we're not at that point. I think it's kind of a moot point. But thank you, staff. Thank you once again, everybody for coming and watching our entire meeting today. It's great to see our taxpayers watching. Thank you.

COMMISSIONER HAMILTON: Thank you.

VICKI LUCERO (Building & Services Manager): Madam Chair.

COMMISSIONER HAMILTON: Yes.

MS. LUCERO: Can I just get clarification if the motion included the recommended conditions of staff including the modification to condition #1?

COMMISSIONER HANSEN: Madam Chair and Vicki, it's nice to see you, of course, and thank you for reminding us that we needed to add the conditions. We appreciate that. So yes. My motion does include your conditions.

COMMISSIONER HAMILTON: Commissioner Hughes, does your second include that?

COMMISSIONER HUGHES: Yes. Definitely.

COMMISSIONER HAMILTON: Thank you.

MS. LUCERO: Thank you, Madam Chair.

COMMISSIONER HAMILTON: Did you have more?

COMMISSIONER HANSEN: Just that I see this as something that's really important for not only District 2 but for the entire county and I really want this to pass and I am wholeheartedly in support of this.

COMMISSIONER HAMILTON: Thank you. Interestingly, you guys have one Commissioner who's in search and rescue and one Commissioner who's a firefighter and communication issues are a very big deal. If there is no further discussion, Madam Clerk, we have a motion and a second. Can you do a roll call?

**The motion passed by unanimous [4-0] roll call vote.**

COMMISSIONER HAMILTON: Thank you everybody for sticking it out to a somewhat later hour. I really very much appreciate all the community participation. We would be going back to item 9 which involves executive session. Before we do that I would have a quick question. Are there any questions – I imagine staff has stuck around till the bitter end. Are there any questions Commissioners have of staff for reports or anything of that nature? If not perhaps they could also feel free to depart. I don't see anybody raising their hand madly.

**9. MATTERS FROM THE COUNTY ATTORNEY**

- A. Executive Session. Limited Personnel Matters, as Allowed by Section 10-15-1(H)(2) NMSA 1978; Board Deliberations in Public Hearing(s) on the Agenda, as Allowed by Section 10-15-1(H)(3) NMSA 1978; Discussion of Bargaining Strategy Preliminary to Collective Bargaining Negotiations Between the Board of County Commissioners and Collective Bargaining Units, as Allowed by Section 10-15-1(H)(5); Discussion of Contents of Competitive Sealed Proposals Pursuant to the Procurement Code During Contract Negotiations as Allowed by Section 10-15-1(H)(6); Threatened or Pending Litigation in which Santa Fe County is or May Become a Participant, as Allowed by Section 10-15-1 (H)(7) NMSA 1978; and, Discussion of the Purchase, Acquisition or Disposal of Real Property or Water Rights, as Allowed by Section 10-15-1 (H)(8) NMSA 1978, including:**
- 1. Disposition of Open Space Property within the City Limits of the City of Santa Fe**
  - 2. Discussion of Bargaining Strategy Preliminary to Collective**

**Bargaining Negotiations with NMCP SO**

- 3. Breach of Settlement Agreement and Related Agreements Related to Annexation**
- 4. *Santa Fe 330 Investments, LLC v. County of Santa Fe, et al.*, Cause No. D-101-CV-2016-00008.**

COMMISSIONER HAMILTON: The other thing I would ask before I ask Attorney Shaffer to tell us what we would be going into executive for, my question is, are items we would have to come back into regular session for. Do we need to retain a representative from the Clerk's Office to be present when we come back? Mr. Shaffer, can you just speak to the process we need to go through?

MR. SHAFFER: Madam Chair, it certainly wouldn't be inappropriate for a representative of the Clerk's Office to stay. I believe in the past, when there have been action items after an executive session we have managed those with staff and with the court reporter so as not to overburden the Clerk's Office. So either works and either would be appropriate. I'd really defer to the Clerk.

COMMISSIONER HAMILTON: I would defer to the Clerk as well, Madam Clerk. That's entirely your call.

CLERK CLARK: I would like to send my staff or Estrella home.

COMMISSIONER HAMILTON: That's totally okay.

CLERK CLARK: I'm happy to stay but I would like Estrella to head home.

COMMISSIONER HAMILTON: That's quite appropriate. So Attorney Shaffer, if you could tell us what we're going into executive session for.

MR. SHAFFER: Thank you, Madam Chair. At the outset there is a separate executive session Webex meeting invite that has been sent around so we will be exiting this meeting to go into executive session.

We'd be looking for a motion to go into executive session pursuant to the following authority and to discuss the following items: Discussion of bargaining strategy preliminary to collective bargaining agreement negotiations between the Board of County Commissioners and collective bargaining units as allowed by Section 10-15-1 (H)(5) NMSA 1978, threatened or pending litigation in which Santa Fe County is or may become a participant as allowed by Section 10-15-1 (H)(7) NMSA 1978, and discussion of the purchase, acquisition or disposal of real property or water rights, as allowed by Section 10-15-1 (H)(8) NMSA 1978, including one, disposition of open space property within the city limits of the City of Santa Fe, two, discussion of bargaining strategy preliminary to collective bargaining negotiations with the NMCP SO union, three, breach of settlement agreement and related agreements related to annexation, and four, *Santa Fe 330 Investments, LLC v. Santa Fe County et al.* Cause No. D-101-CV-2016-00008.

COMMISSIONER HAMILTON: Thank you, Attorney Shaffer. So I would entertain a motion. Commissioner Hansen.

COMMISSIONER HANSEN: I move we go into executive session to discuss the items that Attorney Shaffer brought forward.

COMMISSIONER HUGHES: Second.

COMMISSIONER HAMILTON: Thank you. So I have a motion and a

second. Madam Clerk, can we have a roll call vote.

**The motion to go into executive session pursuant to NMSA Section 10-15-1-H (5, 7, and 8) to discuss the matters delineated above passed by unanimous roll call vote as follows:**

Commissioner Garcia	Aye
Commissioner Hamilton	Aye
Commissioner Hansen	Aye
Commissioner Moreno	Aye

[The Commission met in executive session from 7:00 to 8:35.]

COMMISSIONER HAMILTON: We have a quorum. I would entertain a motion to come out of executive session.

COMMISSIONER HANSEN: I move that we come out of executive session and the only things that were discussed were the items that were on the agenda, and the only people that were there were the Commissioners and the County Attorney and the Manager.

COMMISSIONER HAMILTON: I have a motion. Do I have a second?

COMMISSIONER HUGHES: Second.

COMMISSIONER HAMILTON: Thank you. There are only three of us, so are there any negatives to that motion? Seeing none, that motion passes. We're out of executive session.

**The motion passed by unanimous [3-0] voice vote.** [Commissioner Garcia was not present for this vote.]

9. B. **Resolution No. 2021-017, a Resolution Declaring the Vacation and Abandonment of Certain Unused and Unneeded Road Rights-of-Way Near the NM 599 and Camino La Tierra Interchange**

COMMISSIONER HAMILTON: Commissioner Hansen.

COMMISSIONER HANSEN: I move to approve the resolution of the vacation and abandonment of certain unused roads.

COMMISSIONER HUGHES: Second.

COMMISSIONER HAMILTON: Thank you. So we have a motion and a second. Is there any discussion? Seeing none, I'll go for a vote.

**The motion passed by unanimous [3-0] roll call vote.**

9. C. **Potential Action on Items Discussed in Executive Session**

No further issues were discussed or acted upon.

SFC CLERK RECORDED 03/11/2021

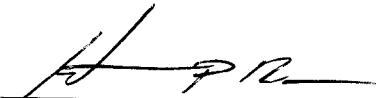
**CONCLUDING BUSINESS**

- A. Announcements**
- B. Adjournment**

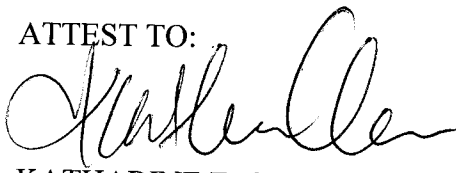
Upon motion from Commissioner Hughes and second from Commissioner Hansen, and with no further business to come before this body, Vice Chair Hamilton declared this meeting adjourned at 8:36 p.m.

Approved by:




  
Board of County Commissioners  
Henry Roybal, Chair

ATTEST TO:


  
KATHARINE E. CLARK  
SANTA FE COUNTY CLERK

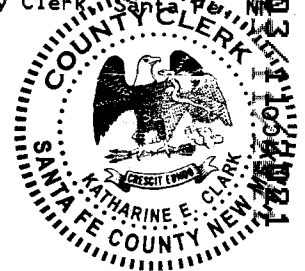
Respectfully submitted:

  
Karen Farrell, Wordswork  
453 Cerrillos Road  
Santa Fe, NM 87501

COUNTY OF SANTA FE ) BCC MINUTES  
STATE OF NEW MEXICO ) ss PAGES: 71

I Hereby Certify That This Instrument Was Filed for  
Record On The 11TH Day Of March, 2021 at 02:34:55 PM  
And Was Duly Recorded as Instrument # **1946214**  
Of The Records Of Santa Fe County

Witness My Hand And Seal Of Office  
Katharine E. Clark  
Deputy  County Clerk Santa Fe County



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MAR 11 2021