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BERNALILLO COUNTY
BOARD OF COUNTY COMMISSIONERS
ZONING MEETING
Tuesday, March 14, 2017 3:12 p.m.

VINCENT E. GRIEGO CHAMBERS
ALBUQUERQUE-BERNALILLO COUNTY GOVERNMENT CENTER
ALBUQUERQUE, NEW MEXICO 87102

Before: Paul Baca
PAUL BACA PROFESSIONAL COURT REPORTERS
500 Fourth Street, NW, Suite 105
Albuquerque, New Mexico 87102

A P P E A R A N C E S

- COMMISSIONER DEBBIE O'MALLEY, Chair
- COMMISSIONER STEVEN MICHAEL QUEZADA, Vice Chair
- COMMISSIONER WAYNE A. JOHNSON, Member
- COMMISSIONER MAGGIE HART STEBBINS, Member
- COMMISSIONER LONNIE C. TALBERT, Member

1 CHAIRWOMAN O'MALLEY: Good afternoon,
2 everyone. The meeting, Zoning meeting for Tuesday,
3 March 14, Bernalillo County Commission will now come
4 to order.

5 We will begin with a silent invocation,
6 Pledge of Allegiance led by Commissioner Johnson.

7 (Whereupon, there was a moment of
8 silence.)

9 (Whereupon, the Pledge of Allegiance was
10 led by Commissioner Johnson.)

11 CHAIRWOMAN O'MALLEY: Thank you,
12 Commissioner.

13 There are -- on Item 3 are there any
14 additions or changes to the agenda? There being
15 none, that takes us to the approval of minutes, Item
16 Number 4. I move approval of the February 21, 2017
17 Zoning meeting minutes.

18 COMMISSIONER JOHNSON: Second.

19 CHAIRWOMAN O'MALLEY: There is a motion
20 and a second. All in favor say aye.

21 ALL MEMBERS: Aye.

22 CHAIRWOMAN O'MALLEY: Opposed say no.

23 Motion carries.

24 (4/0 Vote. Agenda Item 4 approved.

25 Commissioner Maggie Hart Stebbins not present for

1 vote.)

2 CHAIRWOMAN O'MALLEY: We don't have a
3 consent agenda as such.

4 We will begin with Item 6, and this is a
5 public hearing and now Ms. Berrack there is a public
6 hearing on Item A, which is Planning and Development
7 Services SPR2016-0005, Valle del Sol Sector
8 Development Plan. And is there anything I need
9 before we speak to this issue?

10 MS. BERRACK: Good morning, Madam Chair,
11 and members of the Commission. My name is Katherine
12 Berrack, and I am with Planning and Development
13 Services, and this is SPR2016-0005. This is a
14 request for approval of the Valle del Sol Sector
15 Development Plan. The plan proposes a land use plan
16 and zoning for light industrial uses along with a
17 framework for transportation, drainage, water,
18 wastewater, trails and open space within the plan
19 area.

20 Valle del Sol is located on tracts of land
21 to the south of the Albuquerque International
22 Airport, north and west of Mesa del Sol, east of
23 I-25, Zoned A1 and containing approximately 540
24 acres.

25 So you can see the planned area in red on

1 the overhead. The planned area in many respects is
2 defined by specific manmade and natural features.
3 These include escarpment areas that are located in
4 the northwest and the southeast portions of this
5 site and then the Tijeras Arroyo and its floodplain,
6 and then the features also include University
7 Boulevard and its right-of-way and the Kirtland Air
8 Force Base railroad spur, so this has been somewhat
9 challenging site to develop over the years.

10 Under this particular plan, under this
11 sector development plan, the overall site framework
12 will be established and extended along with sector
13 development plan zones following under Section 20.5
14 of the Zoning Code. That allows such zoning to be
15 adopted provided that relatively unique neighborhood
16 conditions exist.

17 So the vision is to manage these natural
18 features with sound engineering techniques and then
19 also for a portion of the site to be developed as
20 open space connecting to a broader open space
21 network to the northeast of the site.

22 The plan calls for improvements to the
23 road network, development of a utility system, that
24 will service the development.

25 As a sector plan, two zones are proposed.

1 (Whereupon Commissioner Hart Stebbins
2 entered the chambers.)

3 MS. BERRACK: There is one that coincides
4 with County M1 zoning except that it has -- it's
5 customized to this particular development so that it
6 removes several inappropriate uses and then -- and
7 residential uses and then also identifies specific
8 design standards that will help to enhance the
9 quality of the development.

10 The request also includes an open space
11 zone that will cover about 100 acres in the
12 southeast portion of the site which will be
13 dedicated most likely to the County as major open
14 space.

15 So, so part of this request is to change
16 the zoning part of it is to adopt the sector plan.

17 So as you may have noted in the staff
18 report the property does have a lengthy history that
19 goes back to the 1990s when the current owner began
20 the effort to develop the property where the intent
21 was to create a small village that was sort of
22 adjacent to the Mesa del Sol development. So the
23 plan was for a mixed use development, but over time
24 this has -- it has become obvious that this site is
25 not really conducive to that type of development.

1 There were two master plan submittals 1996
2 and 2007 where it was unsuccessful in getting
3 approval for a mixed use community because of the
4 proximity to the Albuquerque International Airport
5 where residential uses were deemed nonappropriate.

6 So in 2015 the applicant reworked the
7 master plan to remove residential uses and focus on
8 industrial and commercial uses, but then we advised
9 the applicant to apply for a sector development plan
10 because we do have specific language in our Code and
11 that this would be through a process for developing
12 the site that has been successful in other areas the
13 County.

14 So, the applicant did submit their
15 requests and they have argued that A1 zoning of the
16 property is not appropriate but that the proposed
17 Valle del Sol M1 zoning would be appropriate to take
18 advantage of the features surrounding this site on
19 the airport Mesa del Sol, the railroad spur, I-25,
20 and then also in proximity to some of the industrial
21 uses in the South Valley, and also with an open
22 space and recreational component to it.

23 So in terms of the analysis, staff has
24 noted that there is now a much clearer justification
25 for this request as a sector plan with a specialized

1 version of M1 zoning and design standards. This
2 could function as a transition between industrial
3 uses to the west and Mesa del Sol development to the
4 east and the south. The residential component that
5 was problematic was removed. And also this request
6 is consistent with the developing urban area land
7 use designation of the property. And I should note,
8 too, that there is a request to amend the
9 comprehensive plan that was recently recommended for
10 approval by the Planning Commission, so you will
11 likely be hearing that next month and it is to
12 remove the reserve area designation from a portion
13 of this property so that it will all be developing
14 urban and then that would be appropriate for the
15 types of uses and the plan for development of this
16 site.

17 So the sector plan was first submitted in
18 August and has gone through a number of revisions
19 since that time. Staff and agencies have provided
20 comments, we have had a number of meetings with the
21 agents and have done the best we can to fine tune
22 this to an acceptable form and to address all of the
23 comments that staff and agencies had provided over
24 time.

25 So staff has recommended approval of the

1 request with the findings and conditions in the
2 staff report indicating consistency with
3 Resolution 11686 and Section 20.5 the County Zoning
4 Ordinance. Other findings relate to the plans
5 provision, transportation, zoning, land use,
6 archeological studies and open space.

7 And with that, Madam Chair, I stand for
8 questions.

9 CHAIRWOMAN O'MALLEY: Thank you.
10 Commissioner Hart Stebbins.

11 COMMISSIONER HART STEBBINS: Thank you,
12 Madam Chair. A couple of quick questions. So I
13 know that Kirtland Air Force Base has been engaging
14 with us wanting to make sure that they have an
15 opportunity to comment on any developments that we
16 approve. Have you reached out to Kirtland and have
17 they had the opportunity to review this and give
18 feedback.

19 MS. BERRACK: Madam Chair, Commissioner
20 Hart Stebbins, yes, they have been actively involved
21 in these discussions from early on and from the time
22 where there was some concern with the residential
23 component of the development. So now they are in
24 sport and there is recognition in the findings and
25 conditions that they do need to continue to work

1 with them as they develop the site.

2 COMMISSIONER HART STEBBINS: Can you show
3 where the open space is on the map?

4 MS. BERRACK: Madam Chair, Commissioner
5 Hart Stebbins, the proposed open space is this
6 tan-colored area.

7 COMMISSIONER HART STEBBINS: That is going
8 to be essentially given the County or is there going
9 to be compensation?

10 MS. BERRACK: Madam Chair, Commissioner
11 Hart Stebbins, my understanding and based on
12 language in the plan that that will be dedicated to
13 Bernalillo County and then they will also work with
14 the City of Albuquerque in ensuring the connection
15 to the rest of the open space adjacent to the site.

16 COMMISSIONER HART STEBBINS: Okay. Thank
17 you very much. Thank you, Madam Chair.

18 CHAIRWOMAN O'MALLEY: I have a question
19 for you. So in terms of open space -- because I had
20 a question on that as well -- the sector plan will
21 say that is certainly the desire to dedicate open
22 space, but what is the County's process for
23 receiving, for example, this open space that we feel
24 is very difficult to maintain or that we don't
25 necessarily want the responsibility for, how does

1 that work? Is there a -- what is the process for us
2 accepting open space?

3 MS. BERRACK: Madam Chair, I can't speak
4 on behalf of parks and open space.

5 CHAIRWOMAN O'MALLEY: Mr. Murphy is here,
6 maybe he can speak to that.

7 MS. BERRACK: Maybe somebody else could.

8 CHAIRWOMAN O'MALLEY: All right. Thank
9 you.

10 MR. MURPHY: Madam Chair, Commissioners.
11 We are in the process in working with Trust for
12 Public Lands to do what is called a green print, an
13 a part of that will include how the County will not
14 only accumulate open space but there are individuals
15 who have offered to donate land. So we are going to
16 have categories of open space that is being
17 developed at this point.

18 CHAIRWOMAN O'MALLEY: Okay. So you're in
19 the process of putting some criteria together to
20 evaluate that process or that -- try to make those
21 decisions.

22 MR. MURPHY: Madam Chair, Commissioners, I
23 believe the Trust For Public Land process should be
24 over in June and then we will come forth to the
25 Commission with a very comprehensive outline of all

1 of the various kinds of lands. Sometimes you are
2 looking at accumulating land but just have it in an
3 inventory and not be spending money on it. Our
4 issue at this pint is that we continue to build
5 land, we have to maintain it.

6 CHAIRWOMAN O'MALLEY: All right. Thank
7 you.

8 MR. MURPHY: Thank you.

9 CHAIRWOMAN O'MALLEY: Are there any
10 questions for Ms. Berrack?

11 So there are no other questions, but we do
12 have someone signed up to speak.

13 MS. JULIE ANNE BACA: Ronald Bohannan.

14 CHAIRWOMAN O'MALLEY: Welcome.

15 MR. BOHANNAN: Madam Chair, my name is
16 Ronald Bohannan, 5571 Midway Park Place. We are
17 with the applicant and have prepared this plan. We
18 have worked tirelessly with Kirtland Air Force Base.
19 We are actually working with them on the 30-year
20 agreement for use to the rail access. This is going
21 to be about 350 acres of net acres of employment
22 center. When we signed on with the owners who have
23 been working at this for 15 plus years, we looked at
24 the assets and this is a truly multi-mogul site. We
25 have got the international airport, you have got

1 I-25 and you have got the rail along this area. So
2 it is -- we are hoping to be a game changer for
3 Bernalillo County.

4 In fact, we have been in discussions with
5 ADD and a few other folks about some large users
6 that need rail, that need land. We also have
7 400-acre feet of water rights that we are perfecting
8 on the site. So we bring everything to the table.
9 We think this will be a very high quality employment
10 center. We have worked with the neighbors in the
11 South Valley tirelessly as well to get their
12 support. We have eliminated all of the bad uses
13 that are not appropriate in the South Valley as
14 well. So we really are looking forward to taking
15 the next step. This is a long road into the long
16 road, but the beginning of a new road, and we hope
17 that it will be very advantageous the County.

18 With that, I will be more than happy to
19 answer any other questions from the Commission.

20 CHAIRWOMAN O'MALLEY: Commissioner
21 Johnson.

22 COMMISSIONER JOHNSON: Thank you, Madam
23 Chair. Out of curiosity I know they expanded the
24 international trade zone. Is this property within
25 those boundaries?

1 MR. MURPHY: It is and we have had
2 numerous discussions with the International Airport
3 as well and with the City of Albuquerque concerning
4 FTZ zone on this site. What they have advised us is
5 that we are within their boundaries and that once we
6 have a user that meets that FTZ requirement, to
7 process that application because it does have a
8 shelf life. So instead of us -- we contemplated
9 coming forward and just saying we will get the whole
10 area under an FTZ zone and they said no save it to
11 where you actually have a specific user. So we have
12 that as well as a potential rail user that is
13 talking to the Air Force as well that could bring
14 some jobs almost immediately. So we are very
15 excited about this area.

16 CHAIRWOMAN O'MALLEY: Great, thank you.
17 Commissioner Quezada.

18 VICE CHAIRMAN QUEZADA: I move for
19 approval.

20 COMMISSIONER JOHNSON: Second.

21 CHAIRWOMAN O'MALLEY: There is a motion
22 and a second to approve items. Well, we did -- he
23 was the only person signed up to speak?

24 MS. JULIE ANNE BACA: Correct.

25 CHAIRWOMAN O'MALLEY: We have a motion and

1 a second to approve this whole sector development
2 plan. All those in favor say aye.

3 ALL MEMBERS: Aye.

4 CHAIRWOMAN O'MALLEY: Opposed say no.

5 Motion carries. Thank you.

6 (5/0 Vote. Agenda Item 6A1 approved.)

7 MS. JULIE ANNE BACA: Madam Chair, if we
8 can get a number.

9 COUNTY CLERK STOVER: Madam Chair, it is
10 2017-18.

11 CHAIRWOMAN O'MALLEY: Thank you. The
12 second item, 2, is to approve the ordinance.

13 VICE CHAIRMAN QUEZADA: I move for
14 approval.

15 COMMISSIONER JOHNSON: Second.

16 CHAIRWOMAN O'MALLEY: We have a motion and
17 a second to approve the ordinance, 2017,
18 Madam Clerk.

19 COUNTY CLERK STOVER: 2017-19.

20 CHAIRWOMAN O'MALLEY: 19?

21 COUNTY CLERK STOVER: 2017-3.

22 CHAIRWOMAN O'MALLEY: All those in favor
23 say aye.

24 ALL MEMBERS: Aye.

25 CHAIRWOMAN O'MALLEY: Opposed say no.

1 Motion carries.

2 (5/0 Vote. Agenda Item 6A2 approved.)

3 CHAIRWOMAN O'MALLEY: Okay. That takes us
4 next to Item B, and let's see, this is for the
5 introduction of plan, but there is a motion is my
6 understanding that is coming forth, Ms. Berrack.

7 So we were going to move forward with the
8 introduction by the Planning Department plan but
9 then do we have to deal with something else?

10 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
11 O'Malley, one of the appellants MELC, has an
12 objection to actually going forward because the
13 motion for deferral that they have presented is not
14 on the agenda and it seems to me that it would be
15 best to let Jaime Park, who is their attorney speak
16 after the matter is introduced by Katherine Berrack.

17 CHAIRWOMAN O'MALLEY: Okay. That is fine.

18 MS. BERRACK: Good afternoon, Madam Chair,
19 and Members of the Commission. My name is Katherine
20 Berrack and I am with Planning and Development
21 Services and I have worked on this case for several
22 years as it has as it has evolved over time. So,
23 under this request SPR2016-0001, the applicant is
24 requesting approval of a planned community Level B1
25 master plan within the Santolina master plan area.

1 And as you can see on this map, the area
2 is bounded generally by I-40 to the north,
3 118th Street and the escarpment open space to the
4 east, Dennis Chavez Boulevard on the south, and then
5 also the escarpment area adjacent to Rio Puerco
6 Valley on the west containing approximately
7 4,243 acres.

8 The Santolina Level A Master Plan which
9 covers this entire area together with planned
10 community zoning was adopted by the Board of County
11 Commissioners on June 16, 2015, for the entire
12 13,700-acre property.

13 The Level A development agreement between
14 the County and the owner, Western Albuquerque Land
15 Holdings, was approved on June 24 of 2015.

16 For the Level A plan the County Commission
17 agreed that the plan had adequately addressed the
18 criteria and the policies for such a community.

19 So as with the Santolina Level A request,
20 the current Level B request continues to be guided
21 by planned communities criteria policy document but
22 this time for a smaller area and with more specific
23 details. And then the more specific Level B
24 policies of the planned communities criteria that
25 govern this type of development.

1 So, at this point it is now almost getting
2 to the level of detail that development could
3 conceivably commence after this with site plans,
4 with specific subdivision development plans.

5 So this generally builds on the framework
6 that was introduced during Level A but more specific
7 plans, and you can see some of the land use, the
8 land use areas in this plan with the commercial in
9 red, town center in red; industrial area, industrial
10 area in blue to the west, business park in this
11 lavender color here and then the rest, yellow
12 residential intermixed with neighborhood commercial.

13 And then also a portion of an urban center
14 to be developed within the specific timeframe and
15 then also in green as you can see, proposed open
16 space.

17 So specific land uses are provided that
18 are consistent with what was approved under the
19 under the Level A plan in terms of land uses
20 density, commercial, industrial, and so on.

21 Also provides the next level of planning
22 for transportation network, plan for infrastructure,
23 water, wastewater, drainage, storm water and other
24 utilities. Also a physical impact analysis has been
25 provided.

1 The justification continues to be
2 compliance with the planned communities criteria and
3 the Albuquerque Bernalillo County comprehensive plan
4 reserve area.

5 And the argument being, too, that this
6 provides a long-term plan for this particular
7 portion of Bernalillo County.

8 The request was considered at three
9 special topical hearings by the County Planning
10 Commission and then three additional hearings within
11 the regular CPC agenda. During this time various
12 issues were raised by staff and were addressed to
13 staff's agreement by the applicant and the agents.

14 Findings and conditions were also drafted.
15 The findings indicate consistency with the
16 comprehensive plan, the planned communities criteria
17 and the Level A master plan development agreement.
18 The findings also indicate that there are specific
19 plans within the plan such as transportation,
20 drainage, parks and open space that will need to
21 continue to be followed as this particular portion
22 of Santolina develops when Level C plans are
23 submitted.

24 So they are conditions of approval that
25 also require certain -- certain additional actions

1 that will need to take place within specific
2 timeframes.

3 There is also reference to a particular
4 process to be followed related to establishing a
5 development agreement with the Albuquerque
6 Bernalillo County Water Utility Authority.

7 So based upon this, on January 10 the
8 County Planning Commission recommended approval with
9 the findings and conditions that are in the notice
10 of decision. Since the CPC recommended approval
11 there have been several additional actions that have
12 taken place, including an appeal being filed by
13 opponents of the request and as we just mentioned,
14 too, that opponents have also requested deferral of
15 this request and there has been some additional
16 communication.

17 So with that Madam Chair, Commissioners, I
18 stand for questions.

19 CHAIRWOMAN O'MALLEY: And I had spoken
20 with counsel a little bit about this because there
21 is this question out there in terms of the -- I just
22 want to make it clear that this isn't that clean,
23 what we would consider an appeal in the regular
24 zoning terms because this is a legislative matter,
25 correct? Did you want to speak to that?

1 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
2 O'Malley, correct. This is a legislative matter and
3 because of the nature of our code, we call it an
4 appeal from the recommendation of the CPC. It is
5 not an appeal in the ordinary sense, for example,
6 than it would be in a quasi-judicial-type hearing,
7 but the adoption of the master plan is a legislative
8 process.

9 I also did want to mention, too, there is
10 a question of deferral and motion for a deferral
11 that was made by the appellant MELC. Ms. Hart
12 informed me that she also wants to object to
13 hearing, I guess, even that at this point because it
14 was -- well, I will let her make the argument that
15 it is going to have something to do with whatever is
16 on the agenda. It may be the Board's pleasure to go
17 ahead and hear that first because it involves
18 questions of what you would hear later.

19 CHAIRWOMAN O'MALLEY: Counsel advised that
20 I think we should hear that and it would give each
21 side ten minutes each to debate that question and
22 then we can take that under advisement. First of
23 all, I think we have to be able to respond to
24 something and that is to be able to hear the -- that
25 was the point of having the introduction of a plan.

1 We have a lot of folks within our department that
2 will discuss their elements of the plan, but to have
3 a thorough presentation at the time, so that would
4 be -- Mr. Garcia, who did you say the next person
5 is?

6 ASSISTANT COUNTY ATTORNEY GARCIA: Her
7 name is Jaime Hart. She is the attorney for MELC.

8 CHAIRWOMAN O'MALLEY: Commissioner
9 Johnson.

10 COMMISSIONER JOHNSON: Thank you, Madam
11 Chair. Really quickly, Michael, we just talked
12 about this being a legislative matter yet we are
13 putting it in a quasi-judicial form. We are
14 entertaining objections, making a ruling -- it
15 implies that we would be making a ruling on an
16 objection. I have absolutely no problem with going
17 forward and hearing their arguments regarding this,
18 but if this is a legislative matter this should not
19 be in a quasi-judicial form. Does that make sense?

20 ASSISTANT COUNTY ATTORNEY GARCIA:
21 Chairwoman O'Malley, Commissioner Johnson, yes, it
22 makes sense. From the standpoint that we're dealing
23 with the legislative process, we don't have to give
24 them necessarily the same affect that they would
25 have in a quasi-judicial process, but at the same

1 time our Zoning Code allows for what it calls
2 appeals. And I'm talking about two different
3 things, I guess, at the same time.

4 It allows for appeals which are ordinarily
5 only things from quasi-judicial type of decisions.
6 In the context of the request for a deferral, I
7 think it's more like a protest or an objection but
8 at the same time because the parties have -- or this
9 particular party is also engaged in litigation with
10 us regarding Level A, I would recommend you go ahead
11 and hear it, and make a decision on it at some
12 point.

13 COMMISSIONER JOHNSON: Actually, I'm not
14 disagreeing with you at all. I do believe it's wise
15 for us to go ahead and get the input, I just don't
16 want to put the decision or determination on the
17 Board whether to defer or not in the context of a
18 quasi-judicial decision. Whether or not we have
19 full discretion whether to defer or not, I would
20 love to hear the argument and the input for
21 deferral, but it has no basis in our Code that
22 forces us to defer or not. In other words, it is
23 not really legal argument.

24 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
25 O'Malley, Commissioner Johnson, I fully agree.

1 COMMISSIONER JOHNSON: Thank you.

2 CHAIRWOMAN O'MALLEY: Thank you. Would
3 you please come up and state your name, please for
4 the record.

5 MS. PARK: Sure, Madam Chair, Members of
6 the Commission, my name is Jaime Park. I am an
7 attorney with the New Mexico Environmental Law
8 Center, and we have filed an appeal of the County
9 Planning Commission's decision on behalf of a number
10 of community organizations and individuals.

11 But first there is a little bit of a
12 procedural issue with our motion for deferral of
13 today's hearing. The Open Meetings Act requires
14 that notices of public meetings such as this one for
15 the agenda list the specific items should be heard
16 and the public hearing and the agenda that has been
17 provided to the public that is before you does not
18 have our motion for deferral on the agenda.

19 Appellants filed this motion for deferral
20 on February 13th of 2017. We even asked for this
21 motion to be hear at the February fib 21, Board of
22 County Commissioner meeting, but County staff denied
23 that request. So with that in mind, if the Board
24 wants to proceed arguing the merits of this motion
25 for deferral, we just put forth and want to preserve

1 for the record that we believe that for the Board to
2 hear this would violate the Open Meetings Act. The
3 Open Meeting Act requires that meeting notices shall
4 include an agenda containing a list of specific
5 items of business. There are only two items of
6 business listed on this agenda pertaining to
7 Santolina; that is the resolution to adopt the
8 Level B1 master plan and the appeal. It does not
9 list our motion for deferral.

10 CHAIRWOMAN O'MALLEY: Thank you.
11 Commissioner Johnson.

12 COMMISSIONER JOHNSON: Thank you, Madam
13 Chair. Deferrals are typically not something that
14 is subject to publication because deferrals happen
15 during a meeting, a proper motion to defer would be
16 made from the podium up here and any one of us can
17 make this on any particular item. So hearing your
18 argument asking us or requesting for deferral I
19 think is proper.

20 Mr. Garcia, do you see it this way?
21 You're our legal counsel here.

22 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
23 O'Malley, Commissioner Johnson, I agree. We
24 typically do not require notice for matters that get
25 deferred, whether it is a motion by a party or an

1 applicant or a member of the Commission. And all
2 the more, I think that this is -- it applies, our
3 usual practice applies in this case which is the
4 legislative process here. So, from my perspective,
5 I would love to hear your argument and your request
6 for deferral, regardless of whether or not it is
7 considered. I don't think it is a violation of Open
8 Meetings is what I'm telling you. Of course, that's
9 more up to the Board and our County Attorney.

10 CHAIRWOMAN O'MALLEY: This was your
11 argument as you had a few minutes to make your
12 argument.

13 MS. PARK: Well, if I may respond, it is
14 very -- Madam Chair, Commissioner Johnson, this is
15 actually quite critical because any decision that is
16 made on a motion for deferral that was not
17 specifically identified on the agenda is invalid.
18 It is a violation of the Open Meetings Act, so we
19 are putting forth, we are putting it in the record.
20 If the Board would like me to proceed with the
21 merits of our motions for deferral, we can proceed
22 with that.

23 CHAIRWOMAN O'MALLEY: Well, that was the
24 merits of your motion to -- we are getting sideways
25 here, Mr. Garcia, because I don't want to do that.

1 I want to stay focused on the same issue.

2 ASSISTANT COUNTY ATTORNEY GARCIA: Okay.
3 Chair O'Malley, what I understood Ms. Park to be
4 doing was prefacing her -- she wasn't really arguing
5 the motion for deferral yet, she was making a point
6 about the Open Meetings Act. So I think she has two
7 separate issues going on. She would also like -- I
8 guess it is up for her whether she wants to argue
9 her motion for deferral but I think she was trying
10 to also, before doing that just point out what she
11 thinks is the open meetings violation.

12 MS. PARK: Madam Chair, I just want to
13 make sure that things are being done correctly.

14 CHAIRWOMAN O'MALLEY: Okay. So then you
15 want to proceed and we'll start the clock.

16 MS. PARK: Yes, Madam Chair.

17 CHAIRWOMAN O'MALLEY: Thank you.

18 MS. PARK: Now, a balance in this matter
19 requesting that the Board defer consideration or
20 approval of the incomplete Level B1 Master Plan.
21 The New Mexico District Court Rules of Civil
22 Procedure require appellants to come before this
23 Board first when requesting a motion for a deferral
24 or stay before we can request a motion for a
25 deferral or stay from the District Court.

1 This Board has the authority to grant a
2 deferral or a stay of the incomplete Level B1 Master
3 Plan, and furthermore, this Board must grant a
4 deferral or stay of the incomplete Level B1 Master
5 Plan for the following reasons.

6 The first reason is that this incomplete
7 Level B1 Master Plan does not comply with the
8 planned communities criteria for Level B Master
9 Plans. This is because the Master Plan has not
10 included the required development agreement with the
11 Water Utility Authority and the associated documents
12 that are based upon that fully executed development
13 agreement with the Water Utility Authority, such as
14 the detailed facilities plans for water, sewer and
15 drainage facilities.

16 The second reason we are requesting the
17 Board to defer consideration of this incomplete
18 Master Plan is that this incomplete Master Plan does
19 not comply with the conditions of this Board's own
20 conditions of approval for the Level A Master Plan.

21 In particular they would be conditions
22 Number 8, 9, and 11, but we have listed many other
23 conditions of approval to the Level A Master Plan
24 that the developers have failed to comply with.

25 The second reason is that this Board's

1 consideration or approval of this incomplete
2 Level B1 Master Plan is premature. As previously
3 stated by legal counsel, we do have pending
4 litigation in the Second Judicial District Court of
5 this Board's Level A approvals. Part of that
6 litigation is the issue of whether a Master Plan is
7 a legislative or a quasi-judicial issue. So that is
8 still being litigated and to be decided by the
9 Court.

10 Third, no harm will result to the
11 applicant in this matter if this Board does grant a
12 deferral or a stay of this incomplete Level B1 Plan
13 for two reasons. First and most obvious is that
14 developers, they have not provided the required
15 documents and required information under the planned
16 community criteria and under the Board's conditions
17 of approval for the Level A Master Plan. The second
18 reason that it will not harm the applicant, is it
19 allows the applicant more time to actually comply
20 with the requirements of the planned communities
21 criteria.

22 The applicant has made clear in its
23 response in opposition to our appeal and response in
24 opposition to our motion for deferral that they are
25 unable to get this fully executed development

1 agreement with the Water Utility Authority until
2 well after Level B approvals by this Board.

3 Finally harm will result to the appellants
4 in this matter and to the public interest in this
5 matter if this Board doesn't grant the deferral on
6 consideration or approval of this incomplete
7 Level B1 Master Plan, and that is for two reasons.

8 First is that if this Board were to
9 proceed with approving an incomplete Level B1 Master
10 Plan and deferring the submission of a development
11 agreement with the Water Utility Authority until
12 after a Level B approval, you are putting that off
13 to Level C. And Level C doesn't come before this
14 Board. Level C goes before the County Development
15 Review Authority and the County Development Review
16 Authority and the County Code of Ordinances do not
17 provide for public hearing on Level C documents.

18 The only public hearing that was to be
19 held before the County Development Review Authority
20 are public hearings on preliminary plats. Public
21 hearings aren't held on final plats and public
22 hearings are not held on any other Level C document.
23 So, this Board will lose its last opportunity to
24 conduct a comprehensive review of the Level B Master
25 Plan documents and this development agreement with

1 the Water Utility Authority and the associated
2 document that depend on that development agreement.
3 And furthermore the public will no longer be able to
4 provide public comment on those required documents.

5 So, if those reasons we are asking this
6 Board to please defer consideration or approval of
7 this incomplete Level B1 Master Plan.

8 I stand for questions?

9 CHAIRWOMAN O'MALLEY: Thank you.
10 Commissioner Hart Stebbins.

11 COMMISSIONER HART STEBBINS: Thank you,
12 Madam Chair. So my first question is for our legal
13 counsel and I want to follow-up on what Commissioner
14 Johnson had asked. So it is pretty standard
15 practice that any -- at any Zoning meeting,
16 Commission meeting, we are able to defer items. Is
17 it different legally if a deferral is requested from
18 an outside entity?

19 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
20 O'Malley, Commissioner Hart Stebbins, it is usually
21 not different in the way that we practice before the
22 Planning Commission or before this Board. Lots
23 of -- at least in my experience and this is not so
24 much a legal answer, just experience is that when,
25 for example, a neighborhood association or another

1 party asks for a deferral it is often granted so the
2 parties can work things out.

3 COMMISSIONER HART STEBBINS: Is there any
4 reason why this particular request would need to be
5 noticed?

6 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
7 O'Malley, Commissioner Hart Stebbins, to my
8 knowledge no.

9 COMMISSIONER HART STEBBINS: Here is my
10 second question: I think it is very unlikely that
11 we are going to get through this today and get to a
12 point where we are going to actually vote on it so,
13 I am just expecting that as we get close to the end
14 of our time we are going to defer to a future date.
15 Would that qualify as a deferral under what has been
16 requested?

17 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
18 O'Malley, Commissioner Hart Stebbins, I think what
19 that we will wind up doing would be more in line
20 with a continuance. If we continue what we have
21 heard thus far and proceed with another longer
22 hearing.

23 CHAIRWOMAN O'MALLEY: All right. I guess
24 maybe I can ask you, it is unlikely we are going
25 vote. Is it your request that we don't hear

1 anything today or if we end up deferring it do we
2 need a continuance, would that satisfy your request.

3 MS. PARK: Madam Chair, Commissioner Hart
4 Stebbins, what we have -- in our motion for deferral
5 we asked the Board to defer consideration of the
6 Level B1 Master Plan and/or approval for at least
7 three months; until three events are satisfied. But
8 again, there is this preliminary threshold issue for
9 the motion for validation of the notice. It is not
10 on at agenda. And so we just wanted to make sure
11 that we are not violating the Open Meetings Act
12 because, again, any decision on our motion for
13 deferral could be invalid if it violates that.

14 I think a remedy for that would just be to
15 defer everything to either the next meeting, I think
16 is April 4, 2017 or another future meeting. But the
17 motion for deferral itself, it is a preliminary
18 issue and it should be considered by the Board
19 before the applicant gives its presentation of the
20 Level B1 Master Plan, but I know there is two
21 appeals in this matter. It is not just appellants
22 who have filed an appeal, the applicant also filed
23 an appeal of the County Planning Commission. That
24 appeal was filed 36 days after the deadline to do
25 so. That was filed on March 2, so, those appeals we

1 would argue should also be considered by the Board
2 before the administrative resolution approving the
3 incomplete Level B1 Master Plan.

4 COMMISSIONER HART STEBBINS: I'm not quite
5 sure whether I got my answer or not, but one last
6 question. So the decision was made that the planned
7 communities criteria require an agreement with the
8 Water Utility Authority before we consider a Level B
9 plan. Is that true? I thought that we had put that
10 into the Level A development agreement but is it
11 also required by the PCC?

12 ASSISTANT COUNTY ATTORNEY GARCIA: Chair
13 O'Malley, Commissioner Hart Stebbins, I do not
14 believe that the PCC states that requirement in so
15 many words. What the PCC required at level A, as I
16 recall in summary, was a demonstration of legal and
17 physical availability of water. So at Level A the
18 requirement for a water agreement with the Water
19 Authority was in some fashion, I think, designed to
20 satisfy that requirement in the PCC. But in those
21 particular words, no.

22 MS. PARK: If I may respond. Madam Chair,
23 Commissioner Hart Stebbins, the planned communities
24 criteria does require the development agreement with
25 the Water Utility Authority. It's the mechanism for

1 providing those required statements of water
2 availability and serviceability as well as providing
3 the required detailed facilities plans regarding
4 water, sewer and drainage systems. So the planned
5 communities criteria do require this as well as the
6 Board's conditions of approval for the Level A
7 Master Plan.

8 COMMISSIONER HART STEBBINS: So I
9 recognize that this Board's approval of the Level A
10 Master Plan -- sorry, development agreement did
11 require that. Does the PCC require the -- a
12 commitment from the Water Authority other than the
13 statement that they have already provided before
14 consideration of Level B?

15 MS. PARK: Madam Chair, Commissioner Hart
16 Stebbins, the planned communities criteria requires
17 the Water Utility Authority to provide statements of
18 water availability and serviceability to this
19 proposed development. Those statements have not
20 been made by the Water Utility Authority. That is
21 in the record in this matter.

22 The executive director, Mark Sanchez; the
23 Chief Operating Officer, John Stomp of the Water
24 Utility Authority are on the record saying that the
25 Water Utility Authority has not provided statements

1 of water availability or serviceability to this
2 Board.

3 COMMISSIONER HART STEBBINS: Thank you.
4 Thank you, Madam Chair.

5 CHAIRWOMAN O'MALLEY: Thank you, Ms. Park.

6 MS. PARK: Thank you, Madam Chair.

7 CHAIRWOMAN O'MALLEY: Mr. Sanchez.

8 MR. SALAZAR: Thank you, Madam Chair. My
9 name is John Salazar with the Rodey Law Firm,
10 P.O. Box 1888, Albuquerque, 87103. I'm here
11 representing the applicant in opposition to the
12 request for a deferral.

13 First of all, as has been pointed out,
14 this is a legislative matter. The opponents have no
15 standing to make a motion before this body. The
16 motion that is to be made will be made by a member
17 of this body.

18 Now the opponents can request this body to
19 defer a matter but they have got no standing to
20 request -- no standing to make a motion that has to
21 be voted on by this body. So almost by definition
22 there is no request, there is no requirement to put
23 this on your agenda because the item is on the
24 agenda, people can appear at a meeting and oppose
25 it, ask for a deferral, ask for approval, but

1 they -- otherwise you would have to put all kinds of
2 things on the agenda like people are going to come
3 and make a request that you approve it. So that --
4 there is no grounds to put it on your agenda so
5 there cannot be a violation of the Open Meetings Act
6 for an item that is not required to be on the
7 agenda.

8 The deferral -- the deferral request is
9 really an argument against the merits of the
10 application because they are saying you should not
11 hear this because it is our opinion, the opponents'
12 opinion it is not complete. Well, you have a
13 recommendation coming to you from your Planning
14 Commission saying that everything has been complied
15 with. We believe this Master Plan is -- we are
16 recommending approval of this Master Plan because it
17 has met all the criteria. And they are saying don't
18 hear it because we don't agree with the CPC. Well,
19 that is the merits. So then we just proceed to the
20 merits to see what they have got to say about that.

21 And then they say, well, you can't hear it
22 because you have a Condition Number 8 and related
23 Condition Number 9 and related Condition Number 11
24 that say, and they are right about this, it does say
25 your condition it was adopted when you approved the

1 Level A plan. It does indicate that you will not
2 approve a Level B plan until an agreement with the
3 Water Authority has been presented to you. That
4 does not say you cannot consider a Level B plan.
5 You're perfectly entitled to consider it.

6 Now there is a issue we are going to have
7 to talk about during these proceedings about
8 Conditions 8, 9 and 11 at some point, but there is
9 nothing to prevent you from hearing it. The other
10 thing I would say as to Conditions 8, 9 and 11, they
11 were adopted when we adopted the Level A Master
12 Plan. They are not really Level A conditions, they
13 are really Level B conditions because each of them
14 pertains to procedure when you get the Level B. It
15 says when you get to level -- when we get to Level B
16 we will not approve of a Level B plan until we see
17 the agreement with the Water Authority.

18 Whether those conditions are in existence
19 or not affects the Level A plan in no way. They are
20 not Level A conditions. They don't even pertain to
21 Level A, they pertain to Level B.

22 Now it was also suggested that it would be
23 premature to hear this matter because the opponents
24 had filed an appeal of the Level A plan in District
25 Court, which is true, however there is nothing

1 staying the decision of this Commission. Your
2 decision is final on the Level A plan, it stands,
3 unless and until it is reversed and even then the
4 District Court does not have the authority to zone,
5 it would merely refer the matter back to you if it
6 felt there was something that justified that. But
7 your decision stands.

8 Now there is a procedure in court if you
9 really want to stay a proceeding you go to the judge
10 and ask you for a stay. You ask the judge to impose
11 a stay. Now, I would suspect, I don't know this,
12 but I would suspect the reason they haven't asked
13 the Court to do it is that the Court ordinarily
14 would then require a bond, so that if the Court
15 ultimately finds that the stay should not have been
16 granted then there is a bond to protect the
17 applicant whose application from the stay to protect
18 them from damages that they suffer during the period
19 of the stay. So by asking you not to hear this
20 matter, they are asking for a free stay. So, we
21 think it is totally inappropriate and there is no
22 reason to delay consideration.

23 And then it was suggested there is no
24 prejudice to the applicant if you don't hear the
25 matter. The applicant has been at this a long time

1 trying to meet all the County requirements, all the
2 PCC requirements and it wants to get on with its
3 project. If this is delayed it will harm the
4 developer because the time, time is cost, it is a
5 cost of doing business and they want to get going
6 with this development. So, unless there is a reason
7 to defer it for noncompliance it will be harmful to
8 the applicant to delay it.

9 It was suggested the applicant has filed
10 an appeal of the CPC decision. That is incorrect.
11 No appeal has been filed because it is a legislative
12 matter. There is nothing to appeal from. The CPC
13 has made a recommendation of approval of the Level A
14 plan. There is no final decision by the CPC. If
15 the CPC decision stood nobody could do anything
16 because it's a recommendation it this body to
17 approve of the Level B plan. So there is nothing to
18 appeal from. That is why the opponents' appeal is
19 not really an appeal as suggested by your counsel it
20 is really a protest. It is a protest of what the
21 CPC is recommending to you. There is no reason to
22 appeal.

23 We have questioned a finding of the CPC we
24 will be discussing it with you, but we have not
25 appealed. And, it is incorrect that the PCC -- the

1 PCC does not require an agreement with the Water
2 Authority. The PCC was adopted in 1990, that was
3 before the Water Authority was created. The PCC
4 document does not require anything because the Water
5 Authority didn't exist at the time and that language
6 was not changed.

7 Now what the County Commission did in 2012
8 when it had -- after 1990 the County Commission at
9 some point got out of the PCC but then readopted in
10 2012. And in 2012 when the Commission readopted the
11 PCC it specifically had an addendum that said since
12 this was originally adopted in 1990, the Water
13 Authority was created. So we recognize that, so, in
14 all future decisions affecting master plans in
15 Bernalillo County the existence and the authority of
16 the water -- of the existence and the authority of
17 the Water Authority will be recognized. And as
18 you-all well know three County Commissioners sit on
19 the Water Authority so the County Commission is well
20 represented on that body.

21 So, Madam Chair, and Members of the
22 commission for these reasons we would request that
23 you not grant the request for deferral and proceed
24 to hear the recommendation of the CPC that the
25 Level B plan be approved.

1 CHAIRWOMAN O'MALLEY: Commissioner
2 Johnson.

3 COMMISSIONER JOHNSON: Thank you, Madam
4 Chair. I believe we probably should at least go
5 along with the staff recommendation before we decide
6 the next steps to take.

7 CHAIRWOMAN O'MALLEY: We will take that
8 under advisement and we will proceed with the staff
9 presentation.

10 MS. PARK: Madam Chair, may I have two
11 minutes of a rebuttal?

12 CHAIRWOMAN O'MALLEY: You've stated
13 your -- well, two minutes.

14 MS. PARK: Thank you, Madam Chair. I will
15 be very brief.

16 First, both the developer and the
17 planned -- planned -- County Planning Commission
18 have both conceded that this is an incomplete
19 Level B1 Master Plan.

20 The developer has filed a motion to remove
21 and/or revise conditions of approval to a Level A
22 Master Plan arguing impossibility of compliance, and
23 the County Planning Commission acknowledged that
24 this is an incomplete plan in its own conditions of
25 approval. Particularly and Finding Number 19, in

1 which they have created this two part process
2 dealing with this fully executed development
3 agreement with the Water Utility Authority
4 requirement.

5 Next would be that we are not asking a
6 free stay from this Board. I would advise counsel
7 for applicant to reread Rule 174 of the District
8 Court Civil Rules of Procedure. That rule requires
9 us to first come before this Board and request a
10 deferral or stay before we can ask that of the
11 District Court. And furthermore Rule 74 does not
12 impose a mandatory bond that appellants would have
13 to pay. That is absolutely discretionary of the
14 District Court. And I think most importantly it is
15 really irrelevant whether this is considered to be a
16 legislative or a quasi-judicial matter. The fact is
17 the Board's own Rule of Procedure and the Code of
18 County ordinances, you know, allow for appeals of
19 County Planning Commission decisions and that those
20 appeals are to be handled as quasi-judicial
21 proceedings according to the Board's own rules, so
22 it is just irrelevant.

23 And the fact is the applicant themselves
24 have filed an appeal back on the County Planning
25 Commission's decision to recommend approval of the

1 Level A Master Plan. They actually called this
2 appeal an appeal. So they are quite aware of that
3 and they would not argue that they did not have
4 standing to file that appeal back in 2015. Thank
5 you.

6 CHAIRWOMAN O'MALLEY: Thank you.
7 Ms. Berrack, if you would continue your presentation
8 please.

9 MS. BERRACK: Madam Chair, Commissioners,
10 just to reiterate that this is the Santolina
11 Level B1 Plan, includes more detailed framework for
12 development within specified area including land
13 use, more specific details for zoning,
14 transportation, parks and open space, utilities,
15 water, wastewater. And staff has reviewed this plan
16 and worked with the applicant over time and had
17 agreed to the recommendation of approval which the
18 County Planning Commission also agreed to in
19 January, so I have no further comments.

20 But staff is also here. If you have
21 questions or you want them to address any particular
22 areas, we are available to do that.

23 CHAIRWOMAN O'MALLEY: I know that you have
24 staff in particular from public works,
25 transportation and folks like that. I think it

1 would be good to hear from folks that worked on the
2 plan.

3 Who is first?

4 MR. MEADOWS: Good evening, Madam Chair,
5 Commissioners. My name is Richard Meadows, and I am
6 a transportation planner with public works, and I
7 did review a number of studies that were prepared by
8 the applicant's consultants having to do with
9 transportation and I would be happy to answer any
10 questions you might have or give you an overview.

11 CHAIRWOMAN O'MALLEY: If you wouldn't mind
12 giving an overview I would like to have a little
13 discussion about trails and basically a little bit
14 about productivity.

15 MR. MEADOWS: Okay. Let's see. All
16 right. So the transportation plan divided up the
17 project into two phases. There is a 2025 phasing
18 plan and then 2040. So as you can see, this shows
19 the layout of the transportation system, the major
20 arterials, principal arterials and minor arterials,
21 collectors that would be built by 2025. And then
22 there you can see the transportation network that
23 would be built by 2040.

24 And the transportation study compared this
25 network with the network that is in the 2040

1 metropolitan transportation plan prepared by
2 Mr. Cogg and adopted in 2015. And that plan, that
3 long-range plan is also our County's plan because we
4 also adopted it.

5 So I compared it in turn, compared
6 soundliness, transportation plan to the long-range
7 transportation plan and looked at things like travel
8 delay, volume to capacity, which is congestion,
9 vehicle miles traveled, those kinds of measures.
10 And for most of those measures the Santolina plan
11 performed very well. It performed actually better
12 than the Trans scenario in the Metropolitan
13 Transportation Plan.

14 There was one measure by 2040 where the
15 Santolina plan did not do as well as Mr. Cogg's
16 transportation plan and that had to do with vehicle
17 miles traveled. So, it showed that there would be
18 more vehicle miles traveled under the Santolina
19 development scenario than was in the Metropolitan
20 Transportation Plan.

21 But otherwise, it did pretty well. It
22 provided -- and that is assuming that all the land
23 use assumptions are correct, that there is a high
24 jobs to housing ratio, and so forth. There is kind
25 of a summary of that. So as long as those

1 assumptions are correct and the selling and
2 develops, as it says in the in its master plan, then
3 the transportation plan also performs quite well.

4 Now there were some locations where there
5 were impacts to the facilities off site -- well,
6 actually both on site and off site, and I've got a
7 map of that. So we asked the consultant, the
8 applicant's consultant to prepare an impact study
9 for us and to tell us what kind of mitigation
10 measures would be needed to address those impacts.
11 SO there is about 20-something, 24 locations where
12 under the Santolina development scenario there would
13 be some kind of increased congestion at certain
14 locations, and some of those are on the site itself
15 and many of those are off-site. And so that study
16 was prepared. It told us what would be needed to
17 make improvements and mitigate the impacts and how
18 much it would cost to mitigate those impacts.

19 And so if you total up all of those costs
20 it is about \$250 million to make -- to make
21 improvements, transportation improvements on the
22 site and also to mitigate off-site impacts. And so
23 the one outstanding question that we have that we
24 asked to be addressed as part of our conditions is
25 how are those -- how are those improvements in

1 mitigation of transportation impacts going to be
2 paid for. So we don't know the answer to that
3 question.

4 CHAIRWOMAN O'MALLEY: Commissioner
5 Quezada.

6 VICE CHAIRMAN QUEZADA: Madam Chair, could
7 you possibly tell me the impact to Pajarito Mesa
8 with the transportation plan and does it improve
9 Pajarito Mesa, does it harm Pajarito Mesa? Have you
10 done any studies on how it is going to affect
11 Pajarito Mesa?

12 MR. MEADOWS: Madam Chair, Commissioner
13 Quezada, there Pajarito Mesa did not -- did not show
14 up as one of the areas impacted by Santolina, so it
15 was mostly like along Rio Bravo, Dennis Chavez and
16 various intersections along Central, along I-40 and
17 some of the interchanges, but not Pajarito Mesa.

18 CHAIRWOMAN O'MALLEY: So, Mr. Meadows,
19 when you talk about the off-site issues, so I am
20 looking at the map, there is a lot of flow outside
21 to largely Interstate 40, and then there is
22 impact -- well, there is a -- the street doesn't go
23 all the way to 118th Street, but that is -- the plan
24 is to extend it a roadway out there --

25 MR. MEADOWS: Uh-huh, correct.

1 CHAIRWOMAN O'MALLEY: So we had a lot of
2 arrows going into other parts of the property and at
3 this point, of course, the infrastructure isn't
4 built. So is the plan -- so when you say off site,
5 you are not talking about the section in the Paseo
6 del Volcan within this Plan B or the section of
7 Atrisco Vista within this Plan B, you are talking
8 about outside of that?

9 MR. MEADOWS: Madam Chair, both of those
10 interchanges or all three interchanges those are
11 considered off-site impacts. So all three of those
12 would need to be either about built in the case of
13 118th Street and Paseo del Volcan or improved so
14 Atrisco Vista there is some improvements that need
15 to be made to mitigate impacts to the existing
16 interchange.

17 CHAIRWOMAN O'MALLEY: Okay. At this point
18 Atrisco Vista is the only functioning interchange
19 even though you are saying there are problems, it is
20 the only functioning interchange at this point.

21 MR. MEADOWS: That is correct.

22 CHAIRWOMAN O'MALLEY: And you estimate
23 that there is probably 200 plus million dollars
24 worth of infrastructure that needs to be built to --
25 is it to support what is being proposed at this

1 point?

2 MR. MEADOWS: Madam Chair, it includes
3 both, I just totaled everything up but there is a
4 breakdown.

5 CHAIRWOMAN O'MALLEY: The interchanges?

6 MR. MEADOWS: Yeah, it includes the
7 interchanges, it includes what is going to be built
8 on site as well as what would be needed to mitigate
9 impacts off site, but it includes the three
10 interchanges.

11 CHAIRWOMAN O'MALLEY: What is the
12 developer responsible for building? Is it the
13 interchanges it looks like -- well, I guess it
14 depends on how you approach that, you know, who pays
15 for what, but it is certainly the interior roads.
16 Does that include the section Paseo del Volcan to
17 its terminus at this point?

18 MR. MEADOWS: Madam Chair, that's correct.
19 It would include extending Paseo del Volcan south
20 to -- by 2040. It is not in the 2025 plan, it is in
21 the 2040 plan.

22 CHAIRWOMAN O'MALLEY: Okay. And that is
23 a -- is that a four-lane roadway at this point, is
24 that what is being planned here?

25 MR. MEADOWS: Madam Chair, in the study

1 they only show it building up to two lanes, but the
2 potential is for eventually to be a four-lane
3 freeway-type facility that would have great
4 separated interchanges.

5 CHAIRWOMAN O'MALLEY: Are you aware Paseo
6 del Volcan is headed south where is it supposed to
7 land eventually?

8 MR. MEADOWS: Paseo del Volcan is this
9 roadway right here (indicating). By 2040 it would
10 extend down to what is referred to as the Gibson
11 extension. Gibson Boulevard would extend up the
12 escarpment and through the development. So it would
13 extend down that far by 2040.

14 CHAIRWOMAN O'MALLEY: And Atrisco Vista?

15 MR. MEADOWS: Atrisco Vista is this
16 roadway (indicating) and it would stop at Dennis
17 Chavez as it does now but it would be -- by 2040 it
18 would be widened to in some portions a four-lane
19 roadway and in some portions a six-lane roadway.

20 CHAIRWOMAN O'MALLEY: But its plat so that
21 it would actually go into, is that Dennis Chavez for
22 118th Street?

23 MR. MEADOWS: Yes, it would go to Dennis
24 Chavez as it does now, as it does today.

25 CHAIRWOMAN O'MALLEY: Okay. But I mean I

1 guess I want to say dump onto, but it would end
2 up -- all the traffic -- so on the main road it
3 would get off at 118 for somebody to get off of
4 into -- onto I-40.

5 MR. MEADOWS: Correct. This is
6 118th Street here.

7 CHAIRWOMAN O'MALLEY: Okay. So a lot of
8 this development really relies on access to I-40 in
9 order to get the traffic out to main arterials to
10 get either primarily east, I think east and north.

11 MR. MEADOWS: As well as Dennis Chavez and
12 Gun Club.

13 CHAIRWOMAN O'MALLEY: Is there a trail
14 system in here, a network trail system? Is that
15 these little green lights?

16 MR. MEADOWS: Madam Chair, I apologize I
17 didn't bring the trails map up with me, but there is
18 a trails map.

19 CHAIRWOMAN O'MALLEY: But there is
20 connectivity in terms of the green space, correct?

21 MR. MEADOWS: That is correct. And the
22 applicant did make a number of improvements to that
23 network.

24 CHAIRWOMAN O'MALLEY: Is the plan as well
25 because we just approve another extension plan

1 having to do with dedication of open space. Is
2 there also the expectation that there will be a
3 dedication of open space the County?

4 MR. MEADOWS: Madam Chair, I believe so
5 but I would defer that question to Parks and Rec or
6 Community Services.

7 MR. MURPHY: Madam Chair, Vince Murphy,
8 Deputy County Manager Community Services. There has
9 been discussion about open space but no discussion
10 about dedicated open space at no cost to the County
11 at this point.

12 CHAIRWOMAN O'MALLEY: I have some
13 questions for some other of the staff members, but I
14 wanted to give the folks an opportunity if you have
15 any questions for Mr. Meadows.

16 COMMISSIONER HART STEBBINS: Maybe this is
17 for Vince. Since when you say there has been no
18 discussion about how the open space is going to be
19 decided, when does that discussion take place? I
20 mean has the County asked that question?

21 MR. MURPHY: Madam Chair, Commissioner
22 Hart Stebbins I really need to defer to John Barney
23 from Parks and Rec. He has been into that detail.
24 I know there has been discussions there has not been
25 resolution.

1 COMMISSIONER HART STEBBINS: Okay. Just
2 in the last case that we just heard, the open space
3 was dedicated at no cost the County. I think it
4 would be kind of important, maybe we don't have to
5 decide it tonight, but it would be very valuable to
6 know whether that is likely.

7 MR. MURPHY: Madam Chair, Commissioner, I
8 know the conversation is ongoing.

9 CHAIRWOMAN O'MALLEY: I wanted to talk a
10 little bit about conservation and I realize that
11 there is the water, the issue of the Water Authority
12 and they said that their authority regarding this
13 plan and what comes first, et cetera, but we also
14 just -- we have policies around conservation. We
15 have our own policies regarding planning. Have we
16 employed -- are these policies throughout the plan?
17 Do they have -- I mean, separate from water
18 availability but in terms of conservation and
19 landscaping and things like that?

20 MR. MCGREGORY: Dan McGregory Bernalillo
21 County Public Works and Natural Resources Manager at
22 the moment. With regard to the conservation issues
23 the Level A plan definitely called out a very
24 stringent approach to water conservation including a
25 high degree of recycled, use of recycled water.

1 In actuality the place where the County's
2 water conservation when it comes into play is the
3 Level C plans when we start reviewing subdivisions
4 because then we are getting into more of the
5 medians. It particularly applies when we get down
6 to building permit applications because that is when
7 we can actually start looking at individual
8 landscapes, plumbing features, those sort of things.
9 So at a high-level, yes, they do clear it in the
10 plan what I would deem to be an appropriate water
11 conservation strategy.

12 CHAIRWOMAN O'MALLEY: Okay. So at this
13 point they're not be in a Level B?

14 MR. MCGREGORY: Not in any level of
15 detail, no, ma'am.

16 CHAIRWOMAN O'MALLEY: But I just wanted to
17 sort of state that that is not all the Water
18 Authority's decision regarding all the elements of,
19 for example, conservation there, we have our own
20 policies around that.

21 MR. MCGREGORY: Yes, Madam Chair, and the
22 way that that works is while it is still under the
23 jurisdiction of Bernalillo County for building
24 permits for zoning, it is under the Bernalillo
25 County's authorities with regard to our water

1 conservation ordinance. Once the system has been
2 connected to, then at that point any responsibility
3 for water waste, water waste compliance actually
4 then goes to the Water Utility Authority. So
5 essentially the handoff, if you would, between the
6 County to the Water Utility Authority for water
7 conservation responsibilities would essentially be
8 the certificate of occupancy.

9 COMMISSIONER HART STEBBINS: I have some
10 more general questions but not specifically for Dan.

11 CHAIRWOMAN O'MALLEY: Are there any other
12 questions for Mr. McGregory?

13 COMMISSIONER HART STEBBINS: So just going
14 through the packet in some of the material that is
15 provided, I am looking at the CPC report from
16 January 4, 2017. And on Page 58 there is a listing
17 of unmet Level B planned communities criteria and
18 then unmet conditions from the Level A plan. How
19 was this Level B plan brought to the County
20 Commission with those conditions still unmet? I can
21 read them to you if you want, but it is very clear
22 on Page 58, Unmet Level B planned criteria
23 community -- planned communities criteria: No
24 agreement on open space, no agreement on government
25 and public services, no strategy for the funding

1 maintenance, no facilities plan for water, no
2 statement of water availability.

3 And then unmet conditions from a Level A
4 plan also, again, no Water Authority agreement and
5 no platting or insufficient platting. So, those are
6 staff comments, right?

7 MS. BERRACK: Madam Chair, Commissioner
8 Hart Stebbins, so you're referring to the staff
9 report from November 2, and that was the status at
10 the time that there were unmet conditions like the
11 platting of the property, and then additional staff
12 comments that still needed to be met. So if you
13 were to flip further to Page 59 January 4, then that
14 indicated that the previous comments and concerns
15 had been addressed or had been addressed in findings
16 and conditions of approval and at that point staff
17 recommended approval of the request and the
18 outstand -- one outstanding condition of approval
19 from Level A was to staff's agreement was addressed
20 in the findings and conditions that were proposed by
21 staff and then adopted by the CPC.

22 COMMISSIONER HART STEBBINS: So the one
23 concerning the approved agreement with the Water
24 Utility Authority was later determined to have been
25 satisfied?

1 MS. BERRACK: Madam Chair, Commissioners,
2 I would defer to the other staff who worked on those
3 particular conditions, but the feeling was that
4 those conditions established a procedure where there
5 was a recommendation of approval by the CPC with a
6 process that would be followed proceeding into the
7 County Commission review. But I would also defer to
8 other staff, if you want me to walk out those.

9 COMMISSIONER HART STEBBINS: That would be
10 helpful because I think another one on the Level B
11 planned communities criteria, you know, one of the
12 concerns was no strategy for funding and
13 maintenance. And so it seems that we still have yet
14 to determine who is going to pay for the open space,
15 right? Is that not a requirement? Is that not
16 covered under that strategy concern?

17 MS. BERRACK: Madam Chair, Commissioner
18 Hart Stebbins, so the expectation is that -- that
19 the no net expense requirement will be carried
20 through into Level B and a development agreement
21 will be agreed to that addresses all of the funding
22 associated with the plan in terms of infrastructure,
23 open space, and other utilities and ensuring that
24 the land use and the transportation plan is
25 followed. So, my understanding is, is that

1 development agreement is -- is currently in process
2 now that will allocate those specific
3 responsibilities to the County and the developer in
4 concurrence with the level A development agreement.

5 COMMISSIONER HART STEBBINS: So you say
6 that will be worked out in subsequent development
7 agreement? What would that be, Level C, Level B?

8 MS. BERRACK: Madam Chair, Commissioner
9 Hart Stebbins so the expectation is that after the
10 BCC approves the request that the development
11 agreement will be completed assigning the different
12 responsibilities.

13 COMMISSIONER HART STEBBINS: Because this
14 applies not just to open space but for any public
15 facilities, right? I know in previous developments
16 property for public safety, property for public
17 schools has been essentially donated the County or
18 made available at no cost the County to the City
19 whoever the government is. It sounds as if that has
20 not yet been resolved here.

21 MR. GRADI: Madam Chair O'Malley,
22 Commissioner Hart Stebbins, the discussion regarding
23 the funding mechanisms, the open space and the other
24 facilities is not something that the -- as this
25 process moves through the County Planning

1 Commission. Those were questions that as the
2 Planning Commission felt that they were interpreting
3 the Zoning Code assigned through the Zoning Code to
4 primarily evaluate the land use issues. They did
5 not feel comfortable entering into items that they
6 felt were more appropriate for the Board of County
7 Commissioners ultimately reviewing the development
8 agreement that would follow or were found
9 concurrently with the Level B plan. So those items
10 were really something that the Planning Commission
11 did not feel comfortable, how shall I say,
12 evaluating at their level and given their charges as
13 Planning Commissioners.

14 COMMISSIONER HART STEBBINS: I am still
15 not clear when those agreements are finalized. Does
16 the County Commission add those to the Level B Plan?
17 Is it worked out by staff and the developer, the
18 applicant, when does that happen?

19 MR. GRADI: Madam Chair O'Malley,
20 Commissioner Hart Stebbins, my understanding is that
21 those will be worked out in the development
22 agreement. The development agreement is something
23 that as it was with the Level A plan be worked out
24 between staff and the applicant, however the
25 development agreement will ultimately go to the

1 Board for review, and ultimate approval. It would
2 be the Board of County Commissioners that has the
3 ultimate decision regarding the development
4 agreement. But that development agreement process,
5 we have had a couple of meetings already and we are
6 starting to -- because the plan is now in some form,
7 some shape, those discussions are now beginning. We
8 have not approached the issue of open space and cost
9 associated in the allocation of funding.

10 COMMISSIONER HART STEBBINS: So it is not
11 in this Level B plan that we are asking to approve
12 yet?

13 MR. GRADI: That is correct Madam Chair
14 O'Malley, Commissioner Hart Stebbins, that is really
15 going to be something that is going to be worked
16 out. It is beyond the scope of the Planning
17 Commission recommendation. It is not something what
18 we have yet. What we have in front of us is mostly
19 a land use document independent of the decisions
20 having been made or having been worked out regarding
21 infrastructure, cost, size and basic allocation of
22 open space. Those matters will come later.

23 COMMISSIONER HART STEBBINS: Thank you.
24 Thank you, Madam Chair.

25 CHAIRWOMAN O'MALLEY: I have some

1 questions, but we are going to start to push into
2 the time that we would start the administrative
3 meeting. We did have four folks that were signed up
4 to speak. It would be good to hear them and then we
5 will move for a continuation of the presentation. I
6 will move for that.

7 Would you please call those folks because
8 they have made their way here today. I think it's
9 important that they be heard.

10 MS. JULIE ANNE BACA: Don Hyde, Rachel
11 Riboni, Tad Niemyjski and Dina Vargas.

12 MR. HYDE: Chairwoman O'Malley and
13 Commissioners, my name is Don Hyde. I live at
14 4326 Pan American Freeway, Northeast and the ZIP is
15 87107. And I hope this is appropriate at this time.
16 First of all, I have attended several of the
17 hearings before the CPC and I don't remember a
18 single public comment in favor of this plan.

19 One of the findings listed is a no net
20 cost to the County, however I wish to assert that
21 beyond the construction jobs, this plan will bring
22 no net benefits to Bernalillo County. There are
23 faulty assumptions which include unsubstantiated
24 population growth and predicted job creation. A
25 percentage of the job forecasted for Level B would

1 merely be jobs moved from other parts of the County.

2 Whatever -- this is something else.

3 Whatever health insurance program Congress passes
4 this year is very likely to decimate our local
5 healthcare industry. That will reduce jobs in our
6 area.

7 That Santolina plan comprises a build-out
8 over two or three decades. That tends the
9 Commission to be forward looking about current
10 economic trend, about coming economic trends,
11 primarily fewer jobs, the de-spilling of jobs, lower
12 wages and a strengthening consumer base which are
13 all due to all the amazing technological advances
14 that are -- will begin to reshape our national and
15 global economy.

16 The Commission would be wise to stay
17 abreast of these trends and accept the challenge.
18 Any solution to the structural economic problems
19 will be political. So I ask -- I am asking you to
20 be forward looking.

21 CHAIRWOMAN O'MALLEY: I should have said
22 something. You are given two minutes to speak.
23 Once your time is up, the red button will blink.

24 Next speaker, please.

25 MS. JULIE ANNE BACA: Rachel Riboni, Tad

1 Niemyjski, Dinah Vargas.

2 MS. RIBONI: I do want to speak. My name
3 is Rachel Riboni. And I -- at this time I would
4 like to kind of defer my -- if you are going to
5 continue this, I would like to wait until then to
6 give my opinions and so forth. So, all right thank
7 you. Thank you for your time.

8 MS. JULIE ANNE BACA: Tad Niemyjski, Dinah
9 Vargas.

10 MR. NIEMYJSKI: My name is Tad Niemyjski.
11 Well, I am going to get to the comments later.
12 First we have to look at who is -- who was behind
13 Santolina project, that is Number 1, A, County
14 Commissioners, Planning Commission, County
15 government are all above. The question is why, who,
16 all this people and whose interest. Well, that is
17 very easy to figure out.

18 Now, Number 2, project -- this project is
19 in litigation. A litigation, a question in part,
20 this should stop according to my understanding.

21 B, I do not see it to happen, of course.

22 Number 3 County government, Commission
23 violated many, many times New Mexico Open Meeting
24 Act before.

25 Number 4, I do have seen many deal was

1 made behind closed doors, yes, behind close doors.
2 By this Board, Bernalillo County Board.

3 MS. JULIE ANNE BACA: Dinah Vargas.

4 MR. PADILLA: Good afternoon, Commission,
5 Chair, Members of the Committee. My name is Jerome
6 Padilla and I am a little curious as to -- I've
7 presented numerous times at the County Commission
8 meetings and the County Planning Commission and
9 there is a lot of exceptions on the reports and
10 the -- what you find in front of you. I am going to
11 go and share this with staff. And the town of
12 Atrisco Board of Trustees and the Atrisco Land Grant
13 Board of Elders continue to request an assessment of
14 the risks associated with the County and the State
15 of New Mexico for continued violation of the rights
16 and privileges of the Atrisco Land Grant errors and
17 some items of consideration.

18 One, the town of Atrisco incorporated in
19 1892 and I think that sole jurisdiction the County
20 is severely in jeopardy especially when you're going
21 to put people into those communities and you're
22 going sell them real estate, real property and they
23 are coming into the lands of the town of Atrisco.
24 There is a Sundance subdivision, numerous
25 subdivisions that are in place that they warn people

1 that you are buying property within a land grant,
2 and so I would take that into consideration. I know
3 that I met with Andy Otteo and staff before and I
4 don't really see a clear understanding that the
5 County has done an assessment of the legal risk
6 associated within encroachment into the land grant
7 without some kind of mutual jurisdiction or some
8 kind of meetings to discuss in mutuality how we can
9 move our community forward.

10 The town of Atrisco currently does not
11 have -- and as an agency, you know, we would like
12 the respect of an agency when we come to a meeting
13 no different than the Water Authority, the COG and
14 we are in negotiation right now with the COG to be a
15 part of that.

16 The town of Atrisco grant is a local body
17 government filed by the State under Chapter 49, and
18 so we have two entities that are local bodies.
19 There is one, the town Atrisco Grant, that is what
20 you will find at the top of the paper here. The
21 other one is the Atrisco -- I would ask the courtesy
22 to be extended an agency status for time, Madam
23 Chair.

24 CHAIRWOMAN O'MALLEY: I'm sorry?

25 MR. PADILLA: I would like to make a

1 request to be treated as an agency unit of
2 government and extend it five minutes.

3 CHAIRWOMAN O'MALLEY: You have one minute.

4 MR. PADILLA: Thank you. I would like to
5 make sure that the County understands the
6 predicament of putting people that you're putting
7 into the 55,000 acres on the mesa with the lands of
8 Atrisco. You have the incorporated area, there is
9 really the County have jurisdiction or sole
10 jurisdiction of an incorporated area. The town of
11 Atrisco voted to incorporate similar Silver City,
12 which Silver City is celebrating their 100 and
13 something year of incorporation under territorial
14 law.

15 So the town of Atrisco in 1892 after
16 encroachment by the City and the United States on
17 the river sued the private land claims in federal
18 court, one, and they decided that at the bequest of
19 Warren Trum Ferguson to incorporate. So they filed
20 federal corporation papers under Chapter 46.
21 Currently the town of Atrisco and the Atrisco Land
22 Grant Board of Elders has Chapter 49 status. As a
23 land grant, the Board of Trustees has the ability to
24 remove anyone from their interior boundaries and I
25 am open for questions.

1 CHAIRWOMAN O'MALLEY: Thank you. We will
2 have the next speaker.

3 MS. JULIE ANNE BACA: Dinah Vargas.

4 MS. VARGAS: Good evening. My name is
5 Dinah Vargas, and I am from the town of Atrisco, and
6 my address that I use is 2121 Central Avenue
7 Northwest located within the boundaries of the City
8 of Albuquerque. And I am just here again in
9 opposition of this development. It feels like the
10 usual shakedown. I am guessing there is enough
11 votes for it to go through, whatever, whatever. It
12 is Albuquerque, it is New Mexico. I get how it
13 goes. So I am basically here just to be put on the
14 record of objecting. And I would like to just
15 comment based on what the Abogado Salazar said and
16 it seemed like he was more worried about the
17 developers and their dollars because, you know, time
18 is money. But I brought the play book, too, and it
19 says -- Article 2, Section 2 it says all political
20 powers invested in the people. And like the rapid
21 ripoff project or the Albuquerque Rapid Transit
22 Project, the mayor's project, you know, it is almost
23 like that is a gateway drug into Santolina. Like
24 they got all their ducks in a row, our state seal
25 dictates how we proceed forward and it says we grow

1 as we go. We are not doing that. We have a
2 negative migration. We are nearly dead last in
3 every metric measurable. It is embarrassing. And
4 for somebody to come and be more worried about their
5 own pockets while at the same time I was here when
6 he said he would not come for tax credits and then
7 he comes back and shakes us down for some tax
8 credits and there was enough votes so it went
9 through. It is New Mexico. It is how it goes. I
10 get it. It is clear. We all know the deal, but it
11 is offensive, it is offensive. It is offensive. It
12 is offensive. It is offensive.

13 CHAIRWOMAN O'MALLEY: Thank you.

14 I am going move for a continuance so that
15 we continue the presentation. I certainly have more
16 questions and I know that it is important for all of
17 us and, you know, I know Commissioners feel
18 differently about it, that we feel well informed on
19 the proposal and so, I want to hear from staff and
20 then also it is important that the public feel that
21 they have adequate time to review the plan and also
22 to comment on the plan.

23 So, Mr. Gradi if you could tell us some
24 times to -- I think it would be best that we do
25 something beginning to 5:00 that is closer to the

1 time people get off work if they want to make it
2 down here. We have other meetings at 5:00.

3 MR. GRADI: Madam Chair O'Malley, staff
4 has looked into some possible future hearing dates.
5 We have a list and I've got a few over April, May
6 and June. But to start with we already have a
7 scheduled Zoning hearing on Tuesday, April 4 at
8 4:00 p.m. It is currently scheduled. It is on the
9 Board of County Commissioners calendar and that is
10 scheduled to start at 4:00. It can start later but
11 it would carry us into the evening and it gives
12 sufficient, fair amount of time for additional
13 discussion.

14 We also have availability of these
15 chambers on Tuesday the 11th of April, but that is
16 from the morning until about 2:00 p.m., so we would
17 have to leave the chambers at 2:00.

18 Moving on into May, we have got time on
19 Monday the 8th of May all day long. Monday the 29th
20 of May is also all that long, and then we have one
21 day in June is available that is also the currently
22 scheduled Zoning hearing day that is on the
23 calendar.

24 CHAIRWOMAN O'MALLEY: Commissioner
25 Johnson.

1 COMMISSIONER JOHNSON: Thank you, Madam
2 Chair. I think it would probably be better to move
3 this sooner rather than later. I think the April 4
4 date is a fine date. It gives us plenty of time, we
5 have the room. I am certainly open to moving it to
6 4:30 or 5:00 if it is the will of the Board. That
7 is certainly not a problem, so I would make that
8 motion.

9 CHAIRWOMAN O'MALLEY: I would like to make
10 a recommendation to make it at 5:00 if that is okay
11 with folks.

12 COMMISSIONER JOHNSON: Madam Chair, I
13 would be happy with 5:00.

14 VICE CHAIRMAN QUEZADA: Second.

15 CHAIRWOMAN O'MALLEY: There is a motion
16 and a second to continue the presentation on April 4
17 at 5:00 p.m. All those in favor say aye.

18 ALL MEMBERS: Aye.

19 CHAIRWOMAN O'MALLEY: Opposed say no.

20 Motion carries.

21 (5/0 Vote. Agenda Item 7A to be deferred
22 approved.)

23 CHAIRWOMAN O'MALLEY: Thank you. I am
24 going to adjourn this meeting because we have an
25 administration in five minutes.

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(Proceedings concluded at 4:55 p.m.)

1 STATE OF NEW MEXICO
2 COUNTY OF BERNALILLO

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REPORTER'S CERTIFICATE

I, Paul Baca, New Mexico Certified Court Reporter, No. 112, do hereby certify that I reported the foregoing proceedings in stenographic shorthand and the pages are a true and correct transcript of those proceedings and were reduced to printed form under my direct supervision.

I FURTHER CERTIFY that I am neither employed by nor related to any of the parties or attorneys in this matter and that I have no interest in the final disposition of this matter.

PAUL BACA
Certified Court Reporter, #112
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