

BERNALILLO COUNTY  
BOARD OF COUNTY COMMISSIONERS  
ZONING MEETING  
Tuesday, April 4, 2017 5:07 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. I call the April 4 meeting of the  
3 Bernalillo County Board of Commissioners, this is a  
4 Zoning hearing to order.

5 We are going to begin with a silent  
6 invocation and Pledge of Allegiance led by our City  
7 Attorney Ken Martinez.

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

10 (Whereupon, the Pledge of Allegiance was  
11 led by City Attorney Martinez.)

12 CHAIRWOMAN O'MALLEY: We go on to Item 4,  
13 which is the approval of the minutes.

14 COMMISSIONER JOHNSON: So moved.

15 COMMISSIONER QUEZADA: Second.

16 CHAIRWOMAN O'MALLEY: We have a motion and  
17 a second to approve the minutes of March 14. All  
18 those in favor say aye.

19 ALL MEMBERS: Aye.

20 CHAIRWOMAN O'MALLEY: Opposed say no.  
21 Motion carries.

22 (5/0 Vote. Agenda Item 4 approved.)

23 CHAIRWOMAN O'MALLEY: We don't have a  
24 Consent Agenda. We will go to our public hearing,  
25 that will be Item 6. We will begin with a

1 presentation by Staff followed by public comment.  
2 This is SPR2017-0002. This is a Comprehensive Plan  
3 Amendment from Reserve to Developing Urban for Valle  
4 Del Sol.

5 Madam Clerk, may I have number, please,  
6 resolution number.

7 COUNTY CLERK STOVER: AR 2017-29.

8 CHAIRWOMAN O'MALLEY: Thank you.

9 MS. VEREECKE: Good afternoon, Madam Chair  
10 and Members of the Commission. My name is Catherine  
11 VerEecke and I am with County Planning and  
12 Development Services. And this is SPR2017-0002.  
13 This is a request for approval of an amendment to  
14 the Albuquerque Bernalillo County comprehensive plan  
15 to change the designation of a portion of the  
16 540-acre Valle Del Sol property from reserve to  
17 developing urban.

18 You can see the Valle Del Sol property on  
19 this map in the context of the area. This request  
20 has been submitted in conjunction with the Valle Del  
21 Sol sector development plan, which was approved by  
22 the BCC on March 14, 2017. That plan includes a  
23 land use plan and zoning for light industrial uses.  
24 And as you can see this property is located to the  
25 south of the airport and north and west of

1 Mesa del Sol and east of I-25 with a sector plan  
2 zoning.

3           This request is focused on amending the  
4 comprehensive plan for the development of the site.  
5 As you may know comprehensive plan land use  
6 designations prescribe particular land uses and  
7 densities for areas of the City and the County and  
8 they guide land use decisions, thus, we have such  
9 designations as rural, semi-urban, developing urban,  
10 and reserve each with particular policies and  
11 prescriptions.

12           Currently for the Valle Del Sol property  
13 there are 460 acres of land designated as reserve  
14 and then the remainder are under the developing  
15 urban area. So it would basically be the  
16 southeasterly portion of the site is reserved and  
17 then the northwesterly portion of the site is  
18 developing urban.

19           As you may recall, since the 1990s there  
20 has been a go or as you may recall from discussing  
21 the sector plan, the developer has been trying since  
22 the 1990s to develop this property, but it has  
23 proven difficult due to the closeness to the  
24 airport.

25           So now as approved under the sector plan,

1 the applicant intends to develop an employment  
2 center that utilizes the existing amenities the  
3 highway, the railroad, the airport, along with  
4 dedicating an area to the City or the County as open  
5 space and making a provision for trails and other  
6 amenities. The sector plan also includes  
7 specialized zoning. The justification provided by  
8 the applicant states that developing urban area  
9 policies are most appropriate for the development of  
10 this site.

11 So Staff has agreed with the justification  
12 and the need for this comprehensive plan amendment  
13 as the site and the area are more appropriately  
14 developed with light industrial or commercial uses  
15 rather than under the reserve area which calls for  
16 large scale mixed use development. There have not  
17 be any comments for this.

18 The City of Albuquerque favors this  
19 request and if the Commission approves this, then  
20 the City will also consider this amendment.

21 So Staff recommends approval of the  
22 comprehensive plan amendment with the findings in  
23 the CPC Notice of Decision including consistency  
24 with the goal and the policies of the developing  
25 urban area.

1           And with that, Madam Chair, I stand for  
2 questions.

3           CHAIRWOMAN O'MALLEY: Any questions of  
4 Staff? Commissioner Hart Stebbins.

5           COMMISSIONER HART STEBBINS: Thank you,  
6 Madam Chair. So, Catherine, at our last meeting we  
7 approved the sector development plan for Valle Del  
8 Sol. Is that contingent upon this change we are  
9 being asked to make today?

10           MS. VEREECKE: Madam Chair, Commissioner  
11 Hart Stebbins, there was a finding in the Notice of  
12 Decision that noted the intent to continue with this  
13 process, that the County Planning Commission had  
14 considered it and then that the intent is to take it  
15 through the City's process.

16           COMMISSIONER HART STEBBINS: All right.  
17 Thank you. Thank you, Madam Chair.

18           CHAIRWOMAN O'MALLEY: Is there anyone  
19 signed up for public comment?

20           JULIE ANNE BACA: There is one signed up  
21 this evening, Ron Bohannan.

22           CHAIRWOMAN O'MALLEY: Welcome.

23           MR. BOHANNAN: Madam Chair, Ron Bohannan,  
24 5571 Midway Park Place. We are here in support of  
25 the comp plan. As Staff has indicated, this is the

1 last really technical step to get this completed.  
2 We urge your support. We are actually making plans  
3 to try to break ground and bring this park hopefully  
4 online hopefully by the end of this year.

5 With that, I will be more than happy to  
6 answer any questions. We have been getting lots of  
7 interest in our land already, so I appreciate the  
8 support.

9 CHAIRWOMAN O'MALLEY: Any comments?

10 COMMISSIONER JOHNSON: So moved.

11 COMMISSIONER HART STEBBINS: Second.

12 CHAIRWOMAN O'MALLEY: We have a motion and  
13 a second to approve the amendment to SPR217-0002.  
14 That would be a resolution AR 2017-29. All those in  
15 favor say aye.

16 ALL MEMBERS: Aye.

17 CHAIRWOMAN O'MALLEY: Opposed say no.  
18 Motion carries.

19 (5/0 Vote. Agenda Item 6A approved.)

20 CHAIRWOMAN O'MALLEY: I did forget to ask  
21 a question. Were there any additions or changes to  
22 at agenda?

23 All right. That takes us next to Item B,  
24 which is the continuation of the public hearing for  
25 a Level B Master Plan that is required for

1 Santolina. We have a proposed format which is based  
2 on our procedure, which is the plan Staff  
3 introduction followed by County Staff and a  
4 presentation on that, the agencies, and the  
5 applicant's presentation and we will go to public  
6 comment. I think that is the agenda. Is that your  
7 understanding?

8 MS. PARK: My name is Jaime Park. I am an  
9 attorney with the New Mexico Environmental Law  
10 Center. We are representing a number of community  
11 organizations and individuals who have appealed the  
12 Planning Commission decision recommending approval  
13 of this incomplete Level B1 Master Plan.

14 There are three preliminary matters to be  
15 dealt with before the Board continues with the  
16 County's s presentation on this incomplete Level B1  
17 Master Plan. Those three preliminary matters first  
18 are the order of the items to be considered. The  
19 agenda has that our appeal is to be considered after  
20 the Board considers the motion to approve -- the  
21 motion to approve the resolution of approving this  
22 Level B1 Master Plan.

23 If you recall at the Level A proceedings  
24 the Board actually heard the appeals of the Planning  
25 Commission decision first and then considered the

1 Level A Master Plan and rendered a decision on that  
2 Level A Master Plan. So we are asking the Board to  
3 follow those same procedures to hear our appeal  
4 first of the Planning Commission's decision and then  
5 proceed to considering the resolution approving this  
6 incomplete Level B1 Master Plan. So that is a  
7 preliminary matter.

8 CHAIRWOMAN O'MALLEY: Let me ask our legal  
9 staff what their advice is.

10 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
11 Chair, regarding the question of the -- when the  
12 appeals should be heard, I would recommend that you  
13 hear the appeals after you have heard the plan. I  
14 definitely recommend that you wait to do a motion to  
15 approve the plan until after you have heard the  
16 appeals, though. But I think that it can be dealt  
17 with in that manner and, you know, with no harm to  
18 anybody.

19 CHAIRWOMAN O'MALLEY: We do have also  
20 public comment as part of this presentation and so  
21 since we will be hearing the appeal and then there  
22 is going to be some questions anyway about, quite  
23 frankly, the plan at the approval process. So we  
24 will ask questions related to that, but we will hear  
25 the appeal prior to considering any motions. So, we

1 are going to go ahead and follow the agenda as  
2 advised.

3 MS. PARK: Madam Chair, if I may respond.  
4 The Board is actually hearing this motion right now  
5 through the County Staff's presentation.

6 CHAIRWOMAN O'MALLEY: Nobody is making a  
7 motion.

8 MS. PARK: That is what is on the agenda,  
9 Madam Chair.

10 CHAIRWOMAN O'MALLEY: No one has made a  
11 motion.

12 MS. PARK: The second preliminary matter  
13 will pertain to our motion for deferral that we  
14 argued at the last hearing that was March 14.

15 Madam Chair, you had us argue the merits  
16 of that motion, applicant argued their opposition,  
17 we had a two-minute rebuttal and the Board did not  
18 deliberate or vote on that motion.

19 Again, at the Level A proceedings we filed  
20 a motion to defer in those proceedings and the Board  
21 actually voted on that motion. We are asking for  
22 clarification for the record whether the Board in  
23 effect denied that motion because Madam Chair, you  
24 have requested County Staff to proceed with its  
25 presentation after we had presented our motion to

1 defer all Level B Master Plans.

2 COMMISSIONER JOHNSON: Madam Chair.

3 CHAIRWOMAN O'MALLEY: Just a moment.

4 You heard her comments, would you please  
5 respond.

6 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
7 Chair, I think there are a couple of ways that you  
8 could handle the motion for deferral. You can  
9 either deem that it is denied or could you actually  
10 call a vote on it.

11 CHAIRWOMAN O'MALLEY: Okay. Commissioner  
12 Johnson.

13 COMMISSIONER JOHNSON: Thank you, Madam  
14 Chair. Mr. Garcia, this is a policy matter being  
15 held or heard in a Zoning meeting. Is it proper for  
16 a motion of any kind to come from the floor rather  
17 than from the dais?

18 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
19 Chair, Commissioner Johnson, I think that one of the  
20 ways that you can approach it is that you are  
21 dealing with a request or something that you want  
22 from an applicant or an opponent or member of the  
23 public and you can treat the -- what that party  
24 calls a motion however you want, but ultimately the  
25 decision is going to be a motion from the Board of

1 County Commissioners.

2 COMMISSIONER JOHNSON: That is where I was  
3 going with this. The proper motion would come from  
4 a member of the Commission or the Board in this  
5 particular case and not recognized as a motion from  
6 the floor, but as a motion from one of the members  
7 of the Board. So whether or not -- if that motion  
8 is never made, it is not that we haven't acted on  
9 it, it is that it has never been made and couldn't  
10 be acted on for lack of it actually being moot.

11 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
12 Chair, Commissioner Johnson, I think that is true  
13 and one of the points that I do want to emphasize is  
14 that this is a legislative action that is before  
15 you. And so ultimately that is the framework that  
16 you should address these issues in.

17 COMMISSIONER JOHNSON: So we should be  
18 treating this motion as a -- or request for a  
19 deferral, and that would require, as we stated  
20 earlier, a motion from a member of the Board up  
21 here. And if we choose not to make the motion or no  
22 one makes the motion, then it's been dealt with. We  
23 are not obligated to any other action on that.

24 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
25 Chair, Commissioner Johnson, I agree.

1 MS. PARK: If I may respond, Madam Chair.

2 CHAIRWOMAN O'MALLEY: I am going to give  
3 you one minute to respond.

4 MS. PARK: Thank you, Madam Chair. We  
5 would just ask the Board to clarify what is the  
6 distinction between the Board considering and voting  
7 upon a motion for a deferral during a Level A  
8 proceeding and the Board not doing so now, and we  
9 would just ask the Board to clarify that you are in  
10 effect denying the motion for a deferral by not  
11 taking a vote on it. Thank you.

12 CHAIRWOMAN O'MALLEY: Okay. Thank you.  
13 So I think the -- at this point we are -- so the  
14 folks are clear, this is a presentation of a plan  
15 and then we are going to follow it by the appeal.

16 Now, there is a question and I am the last  
17 of those questions about whether or not these are  
18 appropriate to move forward with approval and we are  
19 going to be having some legal question about that.  
20 But at this point we are going to move forward for  
21 the presentation. We simply are going to do a  
22 presentation on the plan. So we are going to move  
23 forward with that as previously stated.

24 Was there anything else I need to do  
25 before we keep moving here?

1 All right. The first thing was we have  
2 Planning Staff introduction. And I -- folks who  
3 want to speak to this issue, please sign up to  
4 speak. It is going to be very important to me that  
5 we follow our own procedures and general rule of --  
6 the general rules of procedure and give the public  
7 the opportunity to speak to this issue. Begin,  
8 please.

9 MS. VEREECKE: Thank you, Madam Chair. My  
10 name is Catherine VerEecke, and I am with Planning  
11 and Development Services, and I just wanted to  
12 mention, again, like you said, the format of today's  
13 hearing is that we have asked Staff to give a brief  
14 overview of their area and their recommendation  
15 regarding the Santolina Level B Master Plan. Which  
16 the format that we propose follows the plan and it  
17 also follows the format that we use during the  
18 County Planning Commission hearings.

19 After the overview then we will also allow  
20 some time for a discussion of the fiscal impact,  
21 fiscal and economic analysis that was submitted with  
22 the application and then to allow time for the  
23 applicant to present the plan and then also time for  
24 the public comment.

25 But just to emphasize, too, through this

1 process we do have the presentation of the Master  
2 Plan, then the appeal and then even beyond that we  
3 have the possible hearing of the development  
4 agreement where there will also be additional  
5 discussion of the financial side, but to emphasize  
6 that is separate from this presentation today.

7 And our goal today is to present the plan  
8 to you.

9 So with that, I will begin my  
10 presentation. And to say that the applicant has  
11 been requesting approval of a planned communities  
12 Level B1 Master Plan within the Santolina planned  
13 area.

14 The Level B plan area is generally bounded  
15 by I-40 to the north, 118th Street and the  
16 escarpment open space to the east, Dennis  
17 Chavez Boulevard on the south and the escarpment  
18 area -- escarpment area and adjacent Rio Puerco  
19 Valley on the west containing approximately  
20 4,243 acres.

21 The Level A Master Plan together with  
22 planned community zoning was adopted by the Board of  
23 County Commissioners on June, in June of 2015 for  
24 the entire site with 24 findings and 22 conditions.

25 Subsequently the Level A development

1 agreement was also adopted between the applicant and  
2 Bernalillo County.

3 For the Level A plan the County Commission  
4 agreed that the plan had adequately addressed the  
5 planned communities criteria and the policies for  
6 such a community.

7 Level A, just to give you an overview of  
8 what was discussed under the Level A, land use and  
9 zoning required a discussion of a general mix of  
10 land uses such as residential villages, town center,  
11 urban center, employment center, business park,  
12 industrial park and open space. And here is the  
13 Level A plan that was approved.

14 The general areas were identified along  
15 with an associated plan community zoning that the  
16 Commission adopted concurrently with the adoption of  
17 the Level A plan.

18 It also included a phasing plan and an  
19 overall jobs-to-housing ratio of two jobs to every  
20 household.

21 The Level A plan included the  
22 transportation plan with an overall network and  
23 hierarchy of streets and a traffic impact study. It  
24 included review of environment and open space that  
25 discussed the general features of the site, general

1 drainage, storm water, documentation, physical and  
2 legal availability of water, and a Class 1  
3 archaeological survey.

4           The Level A plan also included government  
5 and public services concept plan for schools  
6 strategy for funding of the infrastructure and then  
7 after the Commission adopted the Level A plan, then  
8 a Level A development agreement was entered into  
9 with the applicant.

10           So, based on the information provided  
11 during the review of the Level A plan, Staff had  
12 determined that the planned communities criteria had  
13 been adequately addressed and likewise the  
14 Commissions agreed and approved the Level A plan.

15           So as with the Level A request, the  
16 current Level B request continues to be guided by  
17 the planned communities policy document. So the  
18 Level B criteria cover the same areas but with more  
19 specific requirements, so now we are getting into a  
20 greater level of detail.

21           So for land use the requirements include  
22 parcels -- specific parcel, specific land use,  
23 densities, delineation of open space system with  
24 proposed ownership, maintenance and important design  
25 characteristics.

1           Transportation requires a more detailed  
2 road network and system analysis, cross sections,  
3 multimodal transportation system in greater detail.

4           For environment, again, more details and  
5 more specific analysis of environmental features  
6 including air quality, energy efficiency, and  
7 drainage and Class 2 archeological study.

8           And then for government and public  
9 services, the requirement includes more detailed  
10 strategy for funding and maintenance of public  
11 facilities, a facilities plan for water, sewer,  
12 drainage and a statement of water availability and  
13 availability of public services and then a Level B  
14 development agreement.

15           So generally this Santolina Level B1 plan  
16 has been structured around the planned communities  
17 criteria coming in at a greater level of detail and  
18 geographically focused on two areas. As you can see  
19 in this map of the Level B plan area, you can see  
20 there are two areas proposed, one is focused on  
21 Atrisco Vista Boulevard and Dennis Chavez, and Paseo  
22 del Volcan and then the other is near I-40 and  
23 Shelly Road.

24           The development is proposed to fall within  
25 the main land use areas, including mixed use,

1 commercial town center, business park, residential  
2 villages and village commercial centers and a  
3 portion of the urban center. And then, again, in  
4 the westerly portion an industrial park will be  
5 developed.

6 In addition a total of approximately  
7 850 acres of open space and parks will be provided  
8 in the Level B development. Other Staff will be  
9 providing more details on these specific areas as  
10 they relate to parks and open space and also zoning.

11 The plan also provides mechanisms for  
12 ensuring that the two-to-one jobs to housing ratio  
13 that was established in Level A will be maintained  
14 in the development of the B1 community.

15 This is reflected in language in the plan  
16 and also a conceptual sequencing or phasing plan  
17 that shows the relative development of different  
18 residential and employment sections and the  
19 infrastructure of the B1 plan area over time. And  
20 also statements indicating the intent to meet the  
21 overall density limitation of three dwelling units  
22 per acre as per prescribed in the reserve area of  
23 the comprehensive plan.

24 The Level B plan also proposes the next  
25 level of planning for transportation, infrastructure

1 including water, wastewater, drainage and other  
2 utilities along with other public facilities. It  
3 also includes in more detail fiscal and economic  
4 analysis to show the possible benefits and revenues  
5 from the development. And, again, we will be  
6 looking at that in the second part of Staff's  
7 presentation.

8           Accordingly, after reviewing the plan and  
9 after several hearings with the County Planning  
10 Commission and a number of rounds of revisions to  
11 the plan and discussions with Staff, that Staff  
12 concluded that the request did meet the planned  
13 communities criteria for Level B and also met  
14 department and agency comments.

15           On January 4 the County Planning  
16 Commission recommended approval with 21 findings and  
17 nine conditions of approval.

18           The findings indicate that the plan  
19 includes guidelines for such areas as land use,  
20 zoning, transportation, parks, and open space that  
21 must be followed into subsequent Level C plans.  
22 There are also conditions where Staff felt there  
23 were -- where they were relevant.

24           As has just been noted since the CPC  
25 recommended approval of the request, several

1 additional actions have taken place and appeal has  
2 been filed by opponents of the request. Opponents  
3 have also requested deferral, as you just heard.  
4 The applicant has also filed requests to change  
5 conditions from Level A and then also from Level B.

6 And these -- these requests are related to  
7 the position of the Water Utility Authority and what  
8 their requirements are for entering into an  
9 agreement with the applicant.

10 There have also been additional  
11 communications and submittals from the applicant as  
12 well as the appellant.

13 So, again, in conclusion, Staff has  
14 recommended approval of this request with the  
15 findings and conditions of the County Planning  
16 Commission that also do allow for some minor  
17 modification to the language in the findings and  
18 conditions.

19 Again, we are hoping to provide an  
20 overview of the plan and Staff will be getting up  
21 and talking about each of their areas. So, with  
22 that I stand for questions.

23 CHAIRWOMAN O'MALLEY: Thank you. So to  
24 clarify with the -- this presentation, typically the  
25 approval of a plan would -- following that would be

1 the development agreement which really outlines  
2 essentially to put it lovely who pays for what, for  
3 example.

4 MS. VEREECKE: Madam Chair. That is  
5 correct.

6 CHAIRWOMAN O'MALLEY: Thank you.

7 MS. VEREECKE: Madam Chair, if there  
8 aren't any other questions I will proceed through  
9 the order of speakers first with Juanita Garcia.

10 MS. GARCIA: Madam Chair, Commissioners,  
11 my name is Juanita Garcia. I am with the Planning  
12 and Development Services Department. During the  
13 review of the Level B1 plan I served as a zoning  
14 administrator. I no longer serve in that position  
15 but wanted to give some information as to what  
16 happened during that review.

17 So, after many months of working with the  
18 appellant and other Bernalillo County Staff members,  
19 the chapter pertaining to regulation of land use has  
20 been completed. The initial rendition of this  
21 chapter was confusing and unenforceable and was not  
22 suitable for adoption.

23 The Zoning chapter, which is Chapter 3 of  
24 the plan begins with an opening statement as to how  
25 to use the plan, and so I think the best way to

1 describe this particular plan is to look at it as a  
2 sector development plan in that it identifies the  
3 particular area that it will manage, regulate, and  
4 also identifies the areas that will have the zoning  
5 districts, and then the uses that are allowed within  
6 each of those zoning districts. So, just to kind of  
7 help describe what this document is, I would equate  
8 it to a sector development plan.

9           So it does identify in the opening  
10 statement how to use the plan. So it provides for  
11 administrative instructions regarding the process  
12 for certain types of requests such as special use  
13 permits, conditional uses, variances and amendments  
14 to the zoning districts.

15           The Zoning chapter provides a set of  
16 definitions that are above and beyond what is listed  
17 in the Zoning Code. So what we really wanted the  
18 applicant to do was to refer to the Zoning Code for  
19 specific zone districts and not re-create the wheel.  
20 So if there were going to be any definitions, they  
21 should be above and beyond what is already  
22 identified in the Zoning Code, anything that would  
23 compliment this plan above and beyond what we have  
24 in the Zoning Code.

25           The Santolina B1 area will have 11 zoning

1 districts ranging in uses from low residential to  
2 industrial and business park-like development. Each  
3 of the zoning districts will correspond to a zone  
4 category within our existing Zoning Code or a zone  
5 district within the plan. Each district identifies  
6 uses that are allowed either permissively or  
7 conditionally and provides information such as  
8 building setback, building height, off-street  
9 parking, landscaping and usable open space  
10 requirements.

11 The Zoning chapter also contains a design  
12 standard section that mostly pertains to  
13 nonresidential development and land abutting  
14 designated major public open space areas I believe  
15 the map that Catherine showed earlier showed the  
16 open space.

17 So as was indicated by Ms. VerEecke, we  
18 will have some areas designated as open space.  
19 Those areas that are designated in green will be  
20 designated open spaces. We have some identified  
21 throughout the planned area and so the design  
22 standards are intended to protect the open space  
23 areas and they will apply to the development that is  
24 abutting the open space areas.

25 We recognize that amendments to the

1 subdivision ordinance will be required to allow the  
2 County's development review authority, the CDRA, to  
3 have review authority over the Level C plans and  
4 some of the projects with in the Level B1 plan.

5 Right now as established in the Zoning  
6 Code it indicates that any sort of development or  
7 approval for Level C plans requires it to be  
8 approved and reviewed by the CDRA. However, the  
9 CDRA is not structured in such away to allow for  
10 that sort of review process so we -- we recognize  
11 that and we understand that there are going to be  
12 some amendments needed to allow for that to happen.

13 These amendments will allow CDRA to serve  
14 as a hearing body for certain land uses, as I  
15 indicated in sites larger than 5 acres. Committee  
16 members of the CDRA include representatives of  
17 pertinent Bernalillo County offices such as Public  
18 Works, fire, and zoning, and the Water Authority.  
19 And the Planning Development Services Department  
20 will be working on these text amendments in the near  
21 future.

22 At this point I have no proposed changes  
23 to the findings and the conditions of the approval  
24 and will continue to work with the applicant to  
25 ensure that minor corrections to the plan associated

1 with grammatical and typographical errors have been  
2 completed.

3 With that, I stand for any questions.

4 CHAIRWOMAN O'MALLEY: Just for  
5 clarification. The CD what did you say?

6 MS. GARCIA: The CDRA it is the County  
7 Development Review Authority. It is the body that  
8 reviews the subdivision actions for Bernalillo  
9 County.

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

12 COMMISSIONER HART STEBBINS: Thank you,  
13 Madam Chair. You mentioned open space as part of  
14 this plan. There is a distinction between system  
15 open space and project open space, right? In the  
16 Level 1 development agreement for the Level A,  
17 wasn't there a pretty extensive discussion about  
18 what was -- maybe I am not using the right terms,  
19 but project open space versus system open space.

20 MS. GARCIA: Madam Chair, Commissioner  
21 Hart Stebbins, I would imagine that there was that  
22 discussion, however, I am not the right person to  
23 answer that specific question. I would defer that  
24 to Parks and Recreation.

25 COMMISSIONER HART STEBBINS: Okay. I

1 guess my question is the open space that you show is  
2 that system or project?

3 MS. GARCIA: I would imagine it is  
4 probably a combination of both. It is a dedicated  
5 zone for that area and it is dedicated open space,  
6 which would allow for a variety of uses that are  
7 typically common in open space areas.

8 COMMISSIONER HART STEBBINS: The reason I  
9 ask that question is I think it came down to a  
10 decision about who paid for it. So, at what point  
11 does that decision get made? Is that in the Level B  
12 development agreement?

13 MS. GARCIA: Madam Chair, Commissioner  
14 Hart Stebbins, I would imagine that yes, it will be  
15 decided within the development agreement.

16 COMMISSIONER HART STEBBINS: What we are  
17 looking at today doesn't clearly designate that open  
18 space as one or the other.

19 MS. GARCIA: Madam Chair, Commissioner  
20 Hart Stebbins, not with the Level B1 plan at this  
21 point in time, it just identifies the areas that the  
22 applicant has -- would like to have dedicated as  
23 open space.

24 COMMISSIONER HART STEBBINS: All right.  
25 Thank you. Thank you, Madam Chair.

1 CHAIRWOMAN O'MALLEY: Thank you.

2 MR. BARNEY: Good evening, Madam Chair,  
3 Commissioners. My name is John Barney. I am the  
4 Planning Manager for Parks, Recreation and Open  
5 Space. And I'm here to just give a quick summary  
6 about the parks open space and recreation facilities  
7 in -- that are shown in the plan.

8 Per Finding Number 20, we were satisfied  
9 that the Parks and Recreation level of service  
10 standards and requirements have been that which are  
11 part of our Parks and Recreation Open Space Master  
12 Plan which the Board adopted in the fall of 2015.  
13 They have met those standards.

14 I am going to just indicate on the map  
15 here where some of those facilities are or plan to  
16 be, I should say, because this is a schematic  
17 conceptual plan essentially at this point. But if  
18 you look at -- there is two major areas of open  
19 space. One is known as the Saha and it also  
20 includes some of the arroyo areas that go down into  
21 the edge of the planned area. There is also a piece  
22 of open space that is at the very western edge of  
23 the planned area and then there is some where  
24 community parks, which are these sort of larger  
25 squares and those are adjacent to those community

1 parks or some of the school sites. We also have  
2 recreation centers and planned aquatics facilities,  
3 and then you will see there is also some  
4 interstitial interior open space that connects all  
5 of those facilities together.

6 And then these green asterisks are  
7 essentially neighborhood parks. And then you look  
8 at -- in the plan you -- go to the right page  
9 here -- these are -- this is a portrayal to our  
10 level of service standards that comes directly from  
11 our Parks Recreation Open Space Master Plan. Which  
12 basically keys a number of facilities or a number of  
13 acres of different kinds of facilities to  
14 population. So, in other words, open space 20 acres  
15 per thousand people, et cetera, et cetera.

16 The way -- if you look at Page 17 of the  
17 plan, basically that shows how they're meeting that  
18 level of service. And I will just put a little  
19 yellow mark here. So what they are providing in  
20 this plan will be 761 acres of open space.  
21 Basically what they would be required as project  
22 infrastructure to have in this area to serve this  
23 part of the community would be 464 acres based on  
24 the projected build-out and the number of people  
25 that would be part of that build-out. So they are

1 providing more in plan than is actually -- than is  
2 actually required by our open space standards.

3 In terms of regional parks they are not  
4 providing any at this point in time. We -- the  
5 areas that are identified at Level A as regional  
6 parks will be dedicated at a different point in  
7 time. That is part of a subsequent Level B plan to  
8 the west or to -- I think there is another one to  
9 the south as well.

10 In terms of community parks they are  
11 dedicating 183.6 acres which they would be required  
12 based on our level of service standard. It would be  
13 46 acres, neighborhood parks. They are dedicating  
14 23 acres which corresponds to what they would be  
15 obligated to under our Parks Recreation and Open  
16 Space standard.

17 Also under our facility requirements,  
18 again, this is all based on if you look at the top  
19 here assuming 23,178 people, give or take, that is a  
20 projected build-out number, they would be required  
21 to do one and a half community centers, aquatics  
22 facilities. What they have agreed to do is they  
23 will actually provide two because obviously one and  
24 a half centers is not going to do anybody any good.  
25 They will actually be dedicating, designing, which

1 means designing, constructing and providing those  
2 centers turnkey to us. There will be two community  
3 centers and two aquatics facilities.

4 In terms of the fully inclusive  
5 playground, again, that was a facility that  
6 although, I don't think a final location had been  
7 identified, it would probably be part of that  
8 regional park that is going to be kind of dead  
9 center as shown in the Level A plan, or would be,  
10 that would be the most likely location for it.

11 So we, again, have decided to allow that  
12 to wait until the following phase, subsequent  
13 Level B plan. So that is how they are meeting our  
14 level of service standards. In terms of the  
15 sequencing and phasing and later on in the plan,  
16 basically these facilities are sequenced as apart of  
17 the level -- as part of the different residential  
18 areas so there are different residential areas come  
19 online and as in Chapter 8, you can actually see --  
20 let me see if I can pull that chart. So basically  
21 the neighborhood parks, the community parks, the  
22 community centers and aquatics facilities are all  
23 key to the residential area that they are actually  
24 located in. So it is a fairly comprehensive plan.  
25 We had several meetings with the applicant about

1 this to ensure that we would get what is needed to  
2 serve this population that is projected for the  
3 final build-out, and I feel pretty comfortable with  
4 that. We are -- obviously there are some things  
5 that will need to be worked out relative to, you  
6 know, the how, you know, the phasing will be worked  
7 out and who is paying for what piece of things.

8 I mean, all from our perspective, though,  
9 every single facility here other than the open space  
10 is a project infrastructure and a substantial  
11 portion of that open space, at a minimum of 464  
12 acres is project infrastructure. It is meant to  
13 serve that community. The only discussion would  
14 really be about the amount of open space land, you  
15 know, sort of the difference, if you will, another  
16 300 acres and change that will then be a portion of  
17 that maybe, you know, will be the responsibility of  
18 the developer. But all of that potentially could be  
19 worked out in the development agreement. It is  
20 possible that all of it could be dedicated at this  
21 point, we don't know that.

22 I stand for questions.

23 CHAIRWOMAN O'MALLEY: Any questions, thank  
24 you.

25 MR. MEADOWS: Good evening, Madam Chair

1 and Commissioners. Richard Meadows. I am with  
2 infrastructure planning within the Public Works  
3 Division. So basically I am just going to summarize  
4 there are seven planned community criteria related  
5 to transportation.

6 So, I will come up -- the first one has to  
7 do with the -- that the Level B Master Plan conforms  
8 and follows the layout, the road network layout that  
9 was in Level A, which it does. And the applicant,  
10 we had asked them to update all the traffic modeling  
11 projections based on the 2040 metropolitan  
12 transportation plan, which they did.

13 The next criteria is that the Level B  
14 transportation analysis includes studies that show  
15 the projected demand by phase the existing and  
16 projected traffic demand. So, the applicant also  
17 did this. We have a finding that they submitted two  
18 Level B transportation reports. The first one  
19 modeled traffic conditions on collectors and  
20 arterials for 2025 and 2040, those are the two  
21 phases, and that they also provided the on and off  
22 site locations of impacts at the intersections for  
23 those years and the cost of mitigating those  
24 impacts.

25 The third criteria required by the PCC and

1 I am going to step back a bit, this is just a  
2 summary of what was -- what was found in those two  
3 studies that were performed that based on  
4 assumptions about jobs and housing, jobs and housing  
5 ratio, the overall transportation network performed  
6 well. It reduces the delay of travel time. It  
7 provides acceptable levels of service except for the  
8 20 or so intersections that we talked about last  
9 time. It reduces the vehicle miles traveled. The  
10 2025 and 2040, however, vehicle miles traveled did  
11 increase slightly. And I will get to that in just a  
12 moment. So, there is also a criteria that the  
13 traffic circulation system be identified, which it  
14 is, for 2025 and 2040, that was acceptable.

15 A criteria that roadway cross sections be  
16 provided for the different kinds of roadways. In  
17 this example we have got multiway boulevards that --  
18 that access the urban center. Okay. Then, there is  
19 a criteria that multiple modes be provided within  
20 the transportation system, the plan does that. And  
21 then that the plan identify performance objectives  
22 for increasing transit ridership as well as  
23 strategies for achieving a moment split.

24 So this is where that increase in BMT  
25 comes in. We ask that the applicant look at

1 strategies and they proposed travel demand  
2 management strategies. These are things that our  
3 transit agency can do, these are things that are  
4 incorporated into the master plan. Ultimately we  
5 have all kinds of facilities and then there will be  
6 strategies where we would need to work with  
7 employers located in different employment centers to  
8 work with their employees to encourage and  
9 incentivize them to use public transportation.

10 So as far as what the criteria for  
11 transit, there is a transit plan provided by 2040.  
12 There is a trails plan. I know you asked about this  
13 last time. There is a trails plan that is provided  
14 and I am almost done here. There is a criteria that  
15 the plan perform well, that all -- that there be a  
16 level of service D or better on all the roads and  
17 affecting area. So this is where last time we  
18 talked about where the locations where level of  
19 service D is not reached, and so there were about 20  
20 or so intersections where they will need to be  
21 mitigated to make them reach a level of service D.

22 The final criteria had to do with what are  
23 the projects that are going to be built and what  
24 mechanism of funding will be used. So this was a  
25 condition that was included with the CPC approval or

1 recommendation and that the applicant agent will  
2 provide to Public Works a list of 2025 and 2040  
3 transportation projects identifying the improvements  
4 to be built and the share of private, local and  
5 regional public funding needed to each project.

6           And tonight I would like to ask to make a  
7 minor change to this condition. There is something  
8 called the sequencing map or plan in the master plan  
9 and it needs a minor correction to it. Sequencing  
10 plan, looks like this, and we are just asking that  
11 they modify it to make it match more closely with  
12 what is in the transportation model that was  
13 submitted.

14           And with that I will stand for your  
15 questions.

16           CHAIRWOMAN O'MALLEY: No questions. So  
17 you pointed out some of the infrastructure that is  
18 needed to build the connectivity work and the egress  
19 from the site to the main, you know, to leave the  
20 site, et cetera and these are major infrastructure  
21 improvements, too, it seems like. So, the question  
22 that I have is I guess Mr. Gradi if you could answer  
23 this: So I am just -- so the obligations for,  
24 because I mean these are areas that have several  
25 districts, and they are taking a portion of the

1 gross receipts to pay for some of this  
2 infrastructure. Is that part of the development  
3 agreement as well getting back to Phase 1.

4 MR. GRADI: Chairman O'Malley, Members of  
5 the Board, we see that as being largely things that  
6 are going to be identified, discussed, and  
7 ultimately heard by the Board in the development  
8 agreement as we move forward. Because what we are  
9 trying to move through is try to see how determined  
10 the appropriateness of the recommended plan, largely  
11 the planning document from the County Planning  
12 Commission. Those other matters that you have  
13 mentioned, we are going to ultimately surface in the  
14 development but were not considered by the Planning  
15 Commission nor were they discussed with Staff at  
16 that level. So we view and that development  
17 agreement process is beginning, it is underway.  
18 There is a number of items that we have identified  
19 to be examined and ultimately brought before the  
20 Board in the development agreement.

21 CHAIRWOMAN O'MALLEY: Okay. And I was  
22 just wondering because every -- every adoption of  
23 resolution, you know, this creates the entitlement,  
24 the original and the master plan, and then this --  
25 so it pursues entitlements to property. And I just

1 wanted to know, you know, be very clear what our  
2 obligations in terms of future infrastructure. So  
3 you are saying now that we need something more, we  
4 will be competing with other, obviously, projects  
5 throughout the County.

6 MR. GRADI: Madam Chair O'Malley, that is  
7 something we are going to move and try to work  
8 through in the development agreement. I just want  
9 to note that the development agreement is a very  
10 important part of this plan, more than half of the  
11 plan. The how, the what, who pays the development  
12 will be addressed in that document.

13 CHAIRWOMAN O'MALLEY: Thank you.

14 MR. BRIGGS: Good afternoon, Madam Chair,  
15 Commissioners. My name is Don Briggs. I am the  
16 drainage engineer for Bernalillo County. To date we  
17 have received two drainage master plans for this  
18 development, a Level A plan and a Level B plan.

19 The Level A plan presented an analysis of  
20 the existing conditions and also a Level A concept  
21 for how the applicant is going to handle drainage  
22 for their development.

23 The Level B plan went ahead and did more  
24 of a site specific drainage for the Level B area.

25 I would like to touch a little bit on the

1 existing conditions in the area. This is a map, if  
2 I can get this on. This is a map of the area -- of  
3 the area that shows the existing bases.

4 The red area drains to internal  
5 impressions that are essentially plotted in that  
6 area.

7 This white area here drains to the east to  
8 AMAFCA facilities. There is the Westgate dam, the  
9 Borrego Dam and also the Don Felipe Dam.

10 The area to the south continues south  
11 through the Pajarito Mesa down to the Isleta  
12 reservation. They are small areas on the west side  
13 that drain out to the Rio Puerco.

14 The Level A conceptual plan somewhat  
15 honored these existing bases. It actually cuts off  
16 the drainage from the north of I-25 and retains that  
17 drainage north of I-25.

18 The rest of the area south of the  
19 Interstate actually pretty consistently follows the  
20 existing conditions.

21 The Level B plan, and I apologize I don't  
22 have a map for that plan. Our printer, we got  
23 issues this afternoon.

24 The Level B plan proposes more refined  
25 bases that are pretty much based on the road

1 locations for the Level B area.

2 It proposes storm drains, open channels,  
3 and ponds. And all of which are pretty standard  
4 stuff for this type of development.

5 It continues to drain these areas to the  
6 AMAFCA facilities. The internal drainage basins  
7 will still be maintained and the area to the south  
8 which drains to the Pajarito Mesa will be mitigated  
9 by the installation of retention ponds or detention  
10 ponds.

11 The facilities that go to the AMAFCA  
12 facilities. Okay. So essentially the Level B plan  
13 proposes storm drains in the streets, open channels  
14 that will be maintained by AMAFCA, large detention  
15 ponds and retention ponds which will be maintained  
16 by AMAFCA. The storm drains and streets will be  
17 maintained by Bernalillo County. That is pretty  
18 standard stuff. You know, as we accept a street we  
19 will go ahead and accept a storm drainage system in  
20 the street.

21 And this has been looked at by AMAFCA and  
22 accepted and also by myself.

23 With that I will stand for any questions.

24 CHAIRWOMAN O'MALLEY: Thank you. So the  
25 obligation of the developer is to maintain or the

1 drainage on site and if there is any off-site  
2 drainage AMAFCA is going to handle it to the, what,  
3 is it the east or -- not the east.

4 MR. BRIGGS: Okay. The developed flows,  
5 in other words, the extra flow that the developer is  
6 going to generate will go to storm drainage  
7 infrastructure which will be maintained by  
8 Bernalillo County and AMAFCA.

9 The only infrastructure that I see that  
10 the developer or storm drainage developer, storm  
11 drainage infrastructure that the developer will  
12 maintain will be associated with MS4 requirements.

13 If there is a subdivision that comes in  
14 and they are required to retain a water quality  
15 volume pond on their site, which may be the case, it  
16 may not be the case, that water quality volume could  
17 be maintained in a public structure.

18 But that would be the only situation where  
19 the developer would be required to maintain the  
20 drainage infrastructure.

21 CHAIRWOMAN O'MALLEY: What about retention  
22 ponds and detention ponds?

23 MR. BRIGGS: Retention ponds and detention  
24 ponds, as they are proposed, will be large and the  
25 storm drain system collects the water from the

1 development, sends it down to the large detention  
2 ponds or retention pond.

3 And those facilities will be publicly  
4 maintained. They will be constructed by the  
5 developer.

6 CHAIRWOMAN O'MALLEY: All right. Are  
7 there any questions?

8 Thank you very much.

9 MR. MEADOWS: Madam Chair, and  
10 Commissioners, Richard Meadows again. I am speaking  
11 tonight for Dan McGregor who can't be here. This is  
12 in terms of the natural resources and for water  
13 element of the plan. Within the County's master  
14 planning and land use review process, the Natural  
15 Resource Service program has a responsibility to  
16 ensure the proposed plans have the potential to  
17 establish appropriate design criteria and measures  
18 to provide for compliance with the County's water  
19 availability requirements, water conservation  
20 programs, wastewater management requirements and  
21 with storm water quality design and criteria.

22 The NRS program functions in that role  
23 even if the planned water or wastewater supplier has  
24 been identified as the ABC Water Utility Authority  
25 and continues to do so up to the time of the

1 issuance of a certificate of occupancy. Average  
2 time water use and conservation become the  
3 responsibility of the Water Utility Authority.

4 Absent the Water Utility Authority's  
5 willingness to engage and provide definitive  
6 comments in the County's Level A or B plans the  
7 County has an obligation to perform such reviews to  
8 ensure compliance with County ordinance and policy  
9 and also as best it understands the Water Utility  
10 Authority's overarching plans and water management  
11 strategies.

12 In doing so the Natural Resource Services  
13 program is guided by the planned communities  
14 criteria.

15 The various findings and conditions that  
16 have resulted at both Level A and those that are  
17 provided as recommendations for Level B are the  
18 result of that review process and the basis for  
19 Staff's support of a recommendation for approval.

20 On May 22, 2012, the BCC reestablished the  
21 planned communities criteria to provide guidance by  
22 which developers can prepare community master plans  
23 and provide a framework for review of those plans.  
24 In doing so, the BCC also approved an addendum to  
25 the PCC which calls out the establishment of the

1 Albuquerque Bernalillo County Water Utility  
2 Authority. These changes in government structure  
3 shall be recognized through the review process for  
4 any master plan submittal within the County.

5 Without directing changes to the PCC with  
6 respect to the Water Utility Authority, the addendum  
7 to the criteria recognizes the Water Utility  
8 Authority is the appropriate review agency at all  
9 levels of the review process. However, the addendum  
10 does not direct how recognition is to occur nor does  
11 it direct which, if any, of the criteria should be  
12 waived or modified, nor does it indicated which, if  
13 any, of the criteria might be deferred to a lower  
14 planning level, nor does it direct how or when  
15 reviews from the Water Utility Authority are to be  
16 addressed.

17 For the Level A criteria on Page 36, the  
18 PCC states the developer needs to provide  
19 identification and depth to groundwater, proximity  
20 to production wells, documentation of physical and  
21 legal water availability, quantity and quality and a  
22 strategy for wastewater.

23 With regard to identification and depth to  
24 groundwater, the developer stated intent and basis  
25 for a Level A approval was the presumption of water

1 being provided by the Water Utility Authority.

2 The developer also identified in its  
3 conceptual supply plan and wastewater plan one  
4 possible scenario for utilization of the utility  
5 authority's infrastructure and capacities. The  
6 utility authority has yet to voice its support or  
7 opposition to that particular approach.

8 In the findings for Level A the CPC  
9 recommended and the BCC found that water  
10 availability and cumulative impacts were taken into  
11 account and in both Finding 17 and 18 of the  
12 determination of physical and legal availability  
13 water had been met based on a July 29, 2014 letter  
14 from Mark Sanchez which indicated that the Water  
15 Utility Authority was capable of serving the master  
16 planned community but contingent upon the  
17 developer's ability to comply with the Water Utility  
18 Authority's current guidelines, policies, and  
19 ordinance.

20 In that letter Mr. Sanchez further  
21 recommended that the Level A plan be approved on a  
22 condition that the developer successfully executes a  
23 development agreement with the Water Utility  
24 Authority for the master plan. Mr. Sanchez also  
25 identified that the developer will need to provide

1 significant infrastructure improvements and  
2 expansion will need to occur at no net expense to  
3 the existing ratepayers. Therefore, Santolina will  
4 need a sustainable self-sufficient development in  
5 terms of water and wastewater treatment resources.

6 In accordance with Mr. Sanchez's  
7 requirement for a development agreement, PCC  
8 requirements regarding development agreements  
9 directs that a Level A development agreement be  
10 developed in accordance with the community master  
11 plan.

12 To outline that infrastructure service  
13 agreements that cover the phasing of the master plan  
14 and services and facilities and a designation of  
15 financial operations and management responsibility  
16 over time.

17 The footnote to this item specifically  
18 calls out parties to each level of development  
19 agreement that could include the developer, the City  
20 of Albuquerque, APS, AMAFCA, and others as being  
21 necessary.

22 In recognition of the Water Utility  
23 Authority's concerns and related criteria, the CPC  
24 recommended and the BCC approved a number of  
25 conditions. Three conditions or four conditions.

1 Condition 8 that prior to approval of any Level B or  
2 Level C planning document the applicant will provide  
3 a fully executed development agreement.

4 Condition 11 in accordance with the County's Level A  
5 development it should be resolved that the Water  
6 Utility Authority and applicant prior -- it should  
7 be resolved prior to any Level B or Level C  
8 approval. And the last one dealt with content and  
9 explanation of the plan in recognition of the  
10 various Water Utility Authority planning and  
11 management strategies considered by Staff to have  
12 been addressed during the Level B proceedings.

13 For Level B criteria and the government  
14 and public services, Item 2 calls out facilities  
15 plans including the location, phasing of water  
16 systems, sewer systems, drainage systems and  
17 mobility systems and for statements of water  
18 availability and availability of public services,  
19 including liquid and solid waste management covering  
20 each of the phases of the Village -- of the Villages  
21 in the master plan.

22 During CPC hearings it was recognized that  
23 the timing for the County approval processes and the  
24 Water Utility Authority review and development  
25 agreement process were not synchronous, consequently

1 in recognition of the Water Utility Authority, the  
2 need for review of the proposed master utility plan  
3 and practical constraints of Condition Number 8 and  
4 the CPC recommended bifurcated approval process in  
5 Finding Number 19 and Condition 5, to which the  
6 applicant is now objecting.

7 Recommended Condition Number 6 stands  
8 independent of this Finding 19 and Condition 5. It  
9 calls for a conditional approval with delay in  
10 effective date pending the applicant providing a  
11 fully executed development agreement with the Water  
12 Utility Authority.

13 In our best, Staff strongly recommends  
14 that Condition Number 6 be retained as a condition  
15 of approval.

16 At this juncture Natural Resource Services  
17 Staff is particularly concerned that there is no  
18 assurance from the applicant nor from the Water  
19 Utility Authority that Level A or Level B master  
20 plan is acceptable to the Water Utility Authority.

21 Without a development agreement in place  
22 and without concurrence with the master utility  
23 plans NRS Staff cannot assure the Commission that  
24 the phasing and water reuse and self-sustainability  
25 provision in the level A Master Plan will be

1 implemented within this Level B plan as currently  
2 provided.

3           If the Level B plan is approved by the BCC  
4 without Condition Number 6 and subsequently the  
5 Water Utility Authority requires significant changes  
6 to the Level B utility master plan, the applicant  
7 may have to reopen the master plan process for  
8 approval of those necessary changes or a condition  
9 may be created wherein the applicant may drive the  
10 County to accept a development strategy and approach  
11 with which the Water Utility Authority is not in  
12 agreement.

13           Given this concern it does not seem  
14 prudent to approve the Level B plan unconditionally  
15 nor to allow the applicant to proceed to Level C  
16 planning efforts until these outstanding issues are  
17 resolved.

18           Sorry for the long-winded presentation.

19           CHAIRWOMAN O'MALLEY: I appreciate that.  
20 Thank you very much. This brings up the issue  
21 really early, but something that we need to discuss  
22 and that is that the Level A Master Plan was  
23 approved with this condition and so which begs the  
24 question and I think folks have asked that. Is our  
25 agenda for approval and of course that is something

1 we are going to have to deal with, there is also an  
2 appeal process, so it begs the question why we --  
3 why are we hearing this plan prior to that being  
4 dealt with, so I want an answer.

5 MS. ARMIJO: Madam Chair, Members of the  
6 Board, my name is Mayling Armijo. I am the director  
7 of the Economic Development Department. The firm  
8 impact data source was engaged by the County to  
9 conduct an economic and fiscal impact analysis. The  
10 analysis quantified the impact that districts would  
11 have on the economy of the County and the cost of  
12 benefits for the County over the first 50 years of  
13 the project's construction and operations.

14 CHAIRWOMAN O'MALLEY: Just a moment,  
15 please. I had asked that question prior to your  
16 presentation. I'm sorry, it is -- you are going to  
17 come up real soon, but that is something we are  
18 going to have to deal with. So I have that question  
19 as to why that is before us. Why are we having a  
20 presentation on a plan and it is on for approval if  
21 we do not have that resolved with the Water  
22 Authority who approved the Master A -- the Level A  
23 Master Plan with that condition and now we have it.  
24 So this is my concern. Let's not mess this up.  
25 Okay? Let's not mess up the rules and procedures.

1 Let's do what we are saying we are going to do.  
2 Because then there is a lot of people get upset  
3 about it and this is a very public process, so let's  
4 follow our own procedures. That is my point. Are  
5 you going to address this? Is that what you're here  
6 for?

7 MR. PAUL: Madam Chair, Roger Paul, Deputy  
8 County Manager for Public Works.

9 You have identified exactly the situation  
10 that we find ourselves in. The procedures and  
11 policies that are approved with the PCC call for  
12 certain processes to follow because the Water  
13 Authority did not exist and was not adequately dealt  
14 with when the --

15 CHAIRWOMAN O'MALLEY: Did someone  
16 interrupt you, okay? Because we approved the  
17 Level A Master Plan with that condition. We didn't  
18 go back and say, hey, you know, argue that point, we  
19 approved it to say that we were going to...that was  
20 stated by the last one. That is what we approved.  
21 We didn't go back in and make any changes and say,  
22 hey, maybe it is because of what was established.  
23 No, we just approved it like that. So, that is my  
24 concern is that we are not following what we  
25 approved.

1           MR. PAUL: Madam Chair, Commissioners, the  
2 Level A Master Plan included the findings and  
3 conditions that to the best of our knowledge and the  
4 Water Authority's knowledge at the time was adequate  
5 to allow for the subsequent Level B plans to be  
6 presented. In their subsequent review they feel  
7 like that their procedures may not adequately comply  
8 with the findings and conditions that were approved  
9 with the Level A. That determination has not been  
10 finally made by their legal staff nor their upper  
11 administration.

12           We further, at County level, recognized  
13 that there are some differentiation approval  
14 processes that the Water Authority has that what was  
15 approved and agreed upon at the Level A both at  
16 Staff level and by the BCC that may not be  
17 followable -- that's not a word -- may not be  
18 capable of being followed through this Level B  
19 process.

20           We have met with the Water Authority  
21 several times. In fact, I just met with John Stomp  
22 this morning attempting to work out the process by  
23 which we can move forward. We believe that the  
24 conditions and -- that we have placed on this  
25 Level B approval provides for a process that can be

1 followed, that will meet the intent of the approval  
2 at Level A.

3 The Water Authority has not yet determined  
4 that that is, in fact, the case. They are doing  
5 their due diligence to make sure that if what has  
6 been proposed and included in the CPC recommendation  
7 of approval will be processing appropriately through  
8 Water Authority process.

9 I apologize for not being able to give you  
10 a definitive answer, but we don't have a definitive  
11 answer, the Water Authority does not have a  
12 definitive answer. We believe that the process that  
13 has been identified in the proposed recommendation  
14 from CPC does match the intent of the Level A  
15 approval.

16 CHAIRWOMAN O'MALLEY: Commissioner Johnson  
17 and then Commissioner Hart Stebbins.

18 COMMISSIONER JOHNSON: Thank you, Madam  
19 Chair. Out of curiosity, I had some discussions  
20 with Mr. Sanchez earlier and I think the intent of  
21 that provision to have an executed development  
22 agreement was a good one for the Board to place in  
23 there, however I am not sure that we understood  
24 fully what the implications of that language was or  
25 the language were.

1           So, the question I have for you is what is  
2 required, or do you know, what is required for the  
3 Water Utility Authority to evaluate to know where  
4 the system should be and what the requirements would  
5 be for providing wastewater and water to this  
6 Level B1 plan? My understanding is, and correct me  
7 if I am wrong, is that you kind of have to have the  
8 plan before you can make a determination of whether  
9 the water is available.

10           MR. PAUL: Madam Chair, Commissioner  
11 Johnson, a full evaluation of the Master Plan to  
12 define all of those elements are within the Water  
13 Authority's process. Their concern is that without  
14 a formal zoning approval which establishes the  
15 zoning criteria, the zoning footprint,  
16 identifications of the full Level B area, it does  
17 not allow them by their process and that is what  
18 they told me. I have not gone through to attempt to  
19 understand all of the Water Authority's policies and  
20 procedures. I am telling you I am relating what is  
21 being told to me, effectively what was told to me by  
22 Mr. Sanchez, is that they need to have BCC approval  
23 of the master plan before they can complete their  
24 development agreement preparation.

25           They cannot take it to their Board without

1 that in place.

2 There is some consideration that the  
3 strict interpretation of Condition 8 from the  
4 Level A approval does not allow for that to happen.

5 We are working with them to try to  
6 identify can they follow the process that was  
7 presented and approved with the CPC recommendation  
8 or do they need to come back to the Board, the BCC  
9 and request that there is a -- a nexus that can't be  
10 bypassed and request that the Board reevaluate the  
11 Issue Number 8. They have not made that  
12 determination yet. We will be meeting with them to  
13 see whether their legal staff concurs with our  
14 approach that has been identified and can they work  
15 through their process which is, again, outside of  
16 our control.

17 COMMISSIONER JOHNSON: So I guess maybe I  
18 should pose it this way: Let's say we are able  
19 to -- they find a way within the process to accept  
20 this plan before we approve it to look at this plan.

21 Say it comes back here and we make  
22 amendments and change some of the zoning involved  
23 that significantly impacts the delivery of water and  
24 wastewater services to the plan itself or the areas  
25 covered by the zoning and the plan, say we change

1 some zones. Their work would be invalid at that  
2 point, correct?

3 MR. PAUL: Madam Chair, Commissioner  
4 Johnson, there is a possibility that some of the  
5 work that is done to establish a development  
6 agreement between the developer and the Water  
7 Authority may need to be amended if, in fact, that  
8 happens.

9 It's rare that the BCC makes such  
10 significant changes to a Master Plan that it would  
11 affect the amount of water, it more likely to affect  
12 the phasing of the improvements that need to be  
13 constructed by the developer to serve the Level B  
14 Master Plan area.

15 That is -- their primary concern is not  
16 that -- assuming that the baseline elements that  
17 need to go into the water agreement with the Water  
18 Authority and the developer related to provisional  
19 water rights, provision of financing. The primary  
20 concern the Water Authority is, is that. I don't  
21 believe that they are concerned that the BCC is  
22 going to make such sweeping changes at the level  
23 plan that is prepared is going to need dramatic  
24 changes. If there are minor changes that need to be  
25 made, there may need to be an amendment to whatever

1 the document that is finally prepared and agreed to  
2 by the Water Authority will be.

3 COMMISSIONER JOHNSON: Mr. Paul, policy  
4 clearly contemplates that condition. In other  
5 words, they want the approved plan before they do  
6 the work to say yes or no to go through the entire  
7 development agreement process. They want that  
8 completed plan so they know where and what and how  
9 much they are going to be serving in that area  
10 before they get through the development agreement  
11 process. So whether or not it can be done based on  
12 the plans that we have before us and unapproved is  
13 really immaterial to what their poles are. And a  
14 change of policy would require that going before the  
15 Water Utility Board to make an exception or change  
16 to the policies of the Board, which I am not sure is  
17 really good for the Water Utility Authority. So if  
18 we do a strict interpretation as you have mentioned,  
19 we are stuck where we can't approve it and they  
20 can't enter into a development agreement, which  
21 means it kills the project completely which some  
22 folks in this room might really love, but that is  
23 not really fair to the developer or anybody else and  
24 the landowners.

25 MS. PARK: Madam Chair, may I respond?

1           MR. PAUL: Madam Chair, Commissioners your  
2 statement that it kills the project, I don't know  
3 that that is particularly germane. There can be a  
4 revisiting of the Level A condition that is  
5 predating this problem to see if that can be  
6 revised, effectively reopen the Level A plan to  
7 address that issue. That is what the Water  
8 Authority is evaluating is do they need to make that  
9 request of the Board to say our process is not going  
10 to accommodate the condition as it is currently  
11 written and will the Board consider revising that to  
12 a process that will work within what the Water  
13 Authority's procedures and policies call for and  
14 what the PCC criteria that we work under is needed.

15           COMMISSIONER JOHNSON: Maybe what I need  
16 to do is maybe address this to legal. Is there a  
17 process whereby we can tentatively agree to approve  
18 this plan to allow the Water Utility to proceed with  
19 a development agreement pending the determination or  
20 execution of that development agreement?

21           ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
22 Chair, Commissioner Johnson, I think that the  
23 problem with doing sort of a hypothetical or a  
24 tentative or contingent approval is that it may  
25 throw it back into the same situation that we are in

1 with the Water Authority then saying, well, we still  
2 don't have a plan approval. That said, I think --  
3 so I think that that may just create or perpetuate  
4 the same problem that we have. I think an answer  
5 as, Mr. Paul mentioned, the possibility of amending  
6 Condition 8 in Level A. I think that is something  
7 that this Board could do. There is a question of  
8 how do you it.

9 COMMISSIONER JOHNSON: That was going be  
10 my next question.

11 ASSISTANT COUNTY ATTORNEY GARCIA: I think  
12 there are a couple of options that you have on that,  
13 but as things stand now, I think that my  
14 recommendation would be to avoid doing anything that  
15 is like a tentative or contingent approval because  
16 just for that reason, that the Water Authority would  
17 say, "We need a final approval."

18 COMMISSIONER JOHNSON: That kind of kicks  
19 the can down the road. All right. Thank you, Madam  
20 Chair.

21 CHAIRWOMAN O'MALLEY: Commissioner Hart  
22 Stebbins.

23 COMMISSIONER HART STEBBINS: Thank you,  
24 Madam Chair. So I think maybe that did answer my  
25 question. Is there any point in moving forward at

1 this point in time if we don't have an answer to  
2 that question about Condition Number 8 and a  
3 Level A?

4 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
5 Chair, Commissioner Hart Stebbins, I think it is up  
6 to the Board if you want to proceed and hear more.  
7 I think one of the options that you have is that you  
8 could send back the question on the Level A to the  
9 CPC so that the CPC could address Condition 8 in  
10 Level A. I think the language in the County's  
11 ordinance leaves room for the -- for the Board of  
12 County Commissioners to address that condition on  
13 the Board's own initiative.

14 The reason that I think that -- the reason  
15 I think that is that it says that Master Plans are  
16 adopted by the BCC. A -- kind of a more  
17 precedential way of doing it would be to send it  
18 back to the CPC because that is where the thing  
19 started. So that is also an option that is lurking  
20 for the Board, but I think both options are good.  
21 It may be more consistent to have the CPC address it  
22 first.

23 You will hear an argument against that.  
24 An argument against that might be that this Board is  
25 the Board that actually adopted Condition 8 at

1 Level A, so that is a consideration which you may  
2 also want to review.

3 MS. PARK: Madam Chair, may I respond?

4 CHAIRWOMAN O'MALLEY: No, you may not.  
5 And please -- she has the floor.

6 COMMISSIONER HART STEBBINS: Because -- so  
7 Condition Number 8 in the Level A agreement clearly  
8 is an issue here, but I also notice that there is  
9 language in, you know, this plan, this B, Level B  
10 Master Plan that seems to say the exact same thing.  
11 So, you know, Condition Number 19 says that, you  
12 know, the agreements of Water Authority, quote,  
13 "Would be presented as part of the initial request  
14 to the BCC for a Level B approval."

15 And then condition, what, Condition  
16 Number 5 says the same thing even, you know, in  
17 talking about the two-step process still says the  
18 applicant should submit to the planning Staff  
19 preliminary drafts of the subject Water Authority  
20 related documents... prior to a Level B Master Plan  
21 final hearing. So I don't know if this is  
22 considered a final hearing, but it seems to me we  
23 cannot even -- so we have got the problem, the  
24 Level A agreement and then the language in this  
25 Level B proposed Master Plan, both of which require

1 that before our consideration. So I guess, let me  
2 just clarify what you have said. So we could at  
3 this point in time send or make a request to the CPC  
4 that they revisit that Condition Number 8 and then  
5 revote on that and then we move forward with this  
6 process, would that be the steps?

7 ASSISTANT COUNTY ATTORNEY GARCIA: Well,  
8 Chair O'Malley, Commissioner Hart Stebbins, I think  
9 it is going to be up to the Board how you want to do  
10 the logistics or the mechanics of it, the process.  
11 That is an option, though, where you send it back to  
12 the CPC, let the CPC address Condition 8 or ask them  
13 to do that. That is an option that you have.

14 Again, I think it is going to be up to the  
15 Board if you want to hear more of Level B or while  
16 it's -- part of it is a CPC or there is a multitude  
17 of options that are open to you.

18 COMMISSIONER HART STEBBINS: Thank you,  
19 Madam Chair.

20 MS. PARK: Madam Chair.

21 CHAIRWOMAN O'MALLEY: Okay. So, you have  
22 just mentioned that we make this decision, not the  
23 CPC. So this is a decision that was made by the  
24 Commission. So to me, I think the cleanest thing to  
25 do is to resolve this issue by either, you know,

1 getting something from the Water Authority but it  
2 sounds like we are in a circular thing here, or  
3 making that amendment to the Level A Master Plan,  
4 which would be a process. I don't know how fast  
5 that would be, but that is an amendment and that  
6 because we made that decision originally to come  
7 back to us and we take responsibility for that  
8 decision. So there would be an amendment to address  
9 that issue. And then which, you know, I don't like  
10 to get into this, but it begs the question as to why  
11 this is even before us having that not being  
12 resolved with an item on the agenda for approval.

13 Now I was going to bring this up prior to  
14 approval because you have an appeal process. So, I  
15 think that that is probably the cleanest thing to  
16 do. We are going to have to be very careful with  
17 procedure here and process. That is the big issue.

18 The other stuff is, you know, well, there  
19 are so many things, the park ought to be somewhere,  
20 but this is process. This is very important. I do  
21 not want to get into any legal problems. So I think  
22 that could be the cleanest thing to do and I would  
23 like to know if you would advise that.

24 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
25 Chair, I think Staff preference and recommendation

1 would be that Condition 8 go back to CPC. And the  
2 rationale for that is it is consistent with how  
3 things came up with Santolina from Level A initially  
4 going through the CPC and those things being fed  
5 through the CPC.

6 That said, I think there is room in the  
7 ordinance to do what you have suggested. So I think  
8 you have options. I think the preferred option by  
9 Staff would be to send that part back to CPC and let  
10 CPC make a recommendation about it. But again, I am  
11 giving you the option that I think that the  
12 ordinance does leave room for this Board dealing  
13 with Condition 8 at a Level A. The main thing that  
14 this Board would have to do is present notice of any  
15 amendments that it intended to do with Level A.

16 CHAIRWOMAN O'MALLEY: Commissioner  
17 Johnson.

18 COMMISSIONER JOHNSON: Thank you, Madam  
19 Chair. My question would be along those lines you  
20 have given us a couple of options we can make the  
21 amendment here, we can send it back to the CPC for  
22 amendment.

23 Under our publication rules we are looking  
24 at the B1 level, Level B1. B1 Level, we are looking  
25 at the Master Plan, B1 Master Plan. Moving on, can

1 we make any adjustments to the Level A plan in this  
2 proceeding at this time?

3 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
4 Chair, Commissioner Johnson, I recommend no, at this  
5 point. I think that you can do it if you notice it  
6 for a hearing that is down the road within the  
7 proper timeframe. I think you can do that. But I  
8 don't think that you can do it here at this present  
9 hearing without notice.

10 COMMISSIONER JOHNSON: That is kind of  
11 what my gut told me and I agree with Commissioner  
12 O'Malley, I want to be very careful about process  
13 here. You have got a comment or two. We have  
14 allowed the opposing party to say a few words  
15 earlier and you haven't. Could you -- do have any  
16 opinions on this and I will ask you as well, ma'am.  
17 Okay?

18 MR. SALAZAR: Thank you. My name is John  
19 Salazar. I'm here representing the applicant,  
20 P.O. Box 1888, Albuquerque, 87103.

21 Madam Chair, Members of the Commission, I  
22 do have a comment and there is a conundrum here,  
23 there is no question, because of Condition 8 which  
24 indicated that before you would approve a Level B  
25 plan the applicant needs to come back to you with a

1 development agreement with the Water Authority.

2 That was a condition you placed on the Level A plan.

3 Now, there is a couple of points there.

4 First of all, you -- if we just take Condition 8 as  
5 it is, you can't approve the Level B plan until you  
6 get the agreement with the Water Authority, however,  
7 you can consider the Level B plan until we get an  
8 agreement with the Water Authority.

9 So you are entitled to proceed with this  
10 hearing and if Condition 8 stays in place, you  
11 simply can't make -- you can't approve it. Now,  
12 here is the thing about Condition 8, and it also  
13 goes to Condition 9 and Condition 11. You approved  
14 each of those conditions when you approved the  
15 Level A plan, however those are not Level A  
16 conditions.

17 They have nothing to do with the Level A  
18 plan. They are Level B conditions because each of  
19 those conditions says before we can approve the  
20 Level B you have to bring us the agreement with the  
21 Water Authority. If they were there or not, it  
22 affects the Level A plan in no way. The Level A  
23 plan stands regardless of Conditions 8, 9, and 11.

24 Now, the good news is because you are the  
25 body that imposed Conditions 8, 9, and 11, you are

1 the body that can remove them. You don't need a  
2 recommendation from the CPC. You placed them on, on  
3 the level -- at Level A you placed them on the  
4 Level B plan approval process. So, you could --  
5 you're in the Level B process. They are only  
6 procedural requirements, they are not substantive  
7 requirements. They simply say before we will  
8 approve the Level B you have to bring us a  
9 development agreement with the Water Authority.

10 So, you could decide in connection with  
11 your Level B approval, if you were to proceed that  
12 way, that you would simply not continue, you  
13 would -- you would not continue Conditions 8, 9, and  
14 11 because they are not necessary. What you could  
15 do is say -- and here is the other thing. You  
16 don't -- we don't really need the agreement with the  
17 Water Authority to get a Level B approval because we  
18 can't do anything with the Level B approval. We  
19 cannot build anything. So, really, looking back in  
20 hindsight that condition should have been placed on  
21 Level C approval at the earliest and possibly even  
22 before building permit because before we can get a  
23 building permit we have to come back and get a  
24 Level C approval.

25 So, if you were even going to have that

1 condition, it should apply before a Level C  
2 approval. So, an easy amendment to resolve this is  
3 to simply amend Conditions 8, 9, and, 11. And to  
4 amend them so that you provide that wherever the  
5 reference is to Level B approval it should be a  
6 Level C approval as to 8, 9, and 11. It is a very  
7 easy amendment. Nobody is put at risk because  
8 nobody can develop without water. I mean, you  
9 really do have a fail-safe here because until the  
10 Water Authority approves an agreement with the  
11 developer, there will be no development. And so...

12 COMMISSIONER JOHNSON: Mr. Salazar, I  
13 think I agree with Commissioner O'Malley in this  
14 case. I think this is our mess and we need to clean  
15 it up here and not necessarily send this back to the  
16 CPC, as we created it.

17 I also agree with Staff that I don't think  
18 we can do that here in any proceedings that we  
19 noticed as a Level B proceeding. If we had noticed  
20 this to take up the amendment as part of the Level A  
21 I think we could proceed tonight, but we didn't do  
22 that and that wasn't part of our notification.

23 Now, I did say that I would let -- I don't  
24 want to refer to her this way, but opposing counsel,  
25 if you will, a few moments to make a quick argument.

1 And remember this is a policy matter folks, so we  
2 are just trying to gather information based on how  
3 we are going to implement policy or approve policy  
4 in this setting.

5 MS. PARK: Madam Chair, Commissioner  
6 Johnson, this is -- Jaime Park, attorney for the  
7 Environmental Law Center.

8 Madam Chair, Commissioner Johnson, this is  
9 the exact reason why we first requested that Level B  
10 proceedings be deferred. It was the exact reason  
11 why we also asked this Board to hear our appeals  
12 first before this incomplete Level B Master Plan.

13 Furthermore, Commissioner Johnson is  
14 correct, you need to do public notice if you are  
15 going make any amendments to these conditions of  
16 approval. And next, but most importantly, is that  
17 even if this Board were to get rid of these  
18 conditions of approval, the applicant still needs to  
19 provide information about water serviceability and  
20 water availability and detailed facilities plans for  
21 water, sewer and drainage. And the mechanism for  
22 doing so is a fully executed development agreement  
23 with the Water Utility Authority.

24 So, if this Board gets rid of  
25 Conditions 8, 9, and 11, you still have to have the

1 applicant provide that information pursuant to the  
2 planned communities criteria Level B Master Plan  
3 requirements.

4           Additionally, this Board adopted  
5 Conditions 8, 9, and 11 to affirm and implement  
6 Section 6.2.5 of the Level A development treatment.  
7 That section of the development agreement deals with  
8 water and it says that, yeah, water issues are  
9 supposed to be resolved between the applicant and  
10 the Water Utility Authority.

11           By the Board imposing Conditions 8, 9, and  
12 11 they are not creating a shadow Water Authority  
13 that the applicants have alleged in -- while they  
14 have actually filed a motion themselves to remove or  
15 revise Conditions 8, 9, and 11. They have also  
16 filed an appeal of the Planning Commission decision,  
17 which has not been properly noticed as well.

18           So, the applicant's argument that these  
19 conditions are somehow in conflict with  
20 Section 6.2.5, the development agreement, is without  
21 merit. And furthermore, this argument that the  
22 applicant presented in its filings and I think the  
23 County has touched on this that the 2012 planned  
24 communities criteria addendum somehow removed the  
25 planned communities criteria requirements for the

1 applicant to provide information about water  
2 serviceability, availability, detailed facilities  
3 plans on water drainage and sewage are somehow gone  
4 with this 2012 addendum. That is incorrect as well.

5 The face of that addendum doesn't say that  
6 and in New Mexico case law does not favor amendment  
7 by implication, which is what the developers are  
8 asking you to do. But ultimately if this Board were  
9 to decide yes, let's get rid of these conditions of  
10 approval applicant is still required to provide this  
11 information under the planned communities criteria.

12 COMMISSIONER JOHNSON: Well, some of that  
13 maybe accurate. I do believe that the Board here  
14 never intended to create an infinity loop through  
15 the developer that never allowed them to breach it.  
16 And I believe we have through, particularly Finding  
17 Number 8 or Condition Number 8 where we expected the  
18 Water Utility Authority to review a plan that hadn't  
19 been approved and doesn't exist to then give us  
20 detailed information or create a detailed  
21 development agreement that is on a plan that has yet  
22 to be approved.

23 So you have created this how do we get out  
24 of this loop type of situation and that is what we  
25 are trying to address here. That wasn't the intent

1 of the Board to create a barrier that this plan  
2 would never go forward. What we were trying to do  
3 and I was here, so I remember what I at least was  
4 intending to do was to make sure that we had water  
5 in place before anybody was out there digging up  
6 land or putting in infrastructure, but that requires  
7 a plan first. It is like building a house, you have  
8 got to have your blueprints, you have got to have  
9 your plans for the house before you just start  
10 throwing wood up or formed concrete or putting in  
11 electrical, otherwise you don't know how much or  
12 where or how much it is going to cost, where you are  
13 going to put things. All of that is kind of  
14 important. And this is in where you are going to  
15 put things phase, not do we have enough water phase.

16 MS. PARK: Well, Madam Chair, Commissioner  
17 Johnson, what is also important to note is that, as  
18 you so rightly state, you didn't intend to create  
19 this loop. These conditions of approval were based  
20 on statements provided by the executive director and  
21 the chief operating officer of the Water Utility  
22 Authority. It is in the record. What is in the  
23 record is that the Water Utility Authority can  
24 proceed with the development agreement between the  
25 applicant and itself after approval of Level A

1 Master Plan.

2           What County Staff has presented and what  
3 Mr. Salazar may present in regards to the current  
4 position of the Water Utility Authority, that is not  
5 in the record. What is in the record is that the  
6 Water Utility Authority has the ability to proceed  
7 with the development agreement at this point and  
8 that is important. You have to base this on the  
9 record, what is in the record.

10           COMMISSIONER JOHNSON: So we could proceed  
11 by your argument with approval of the Level B1 plan  
12 because they said they had enough water.

13           MS. PARK: That is incorrect,  
14 Commissioner.

15           COMMISSIONER JOHNSON: That's what it  
16 sounds like.

17           MS. PARK: We actually did not say that.  
18 Commissioner, the record reflects --

19           COMMISSIONER JOHNSON: You probably didn't  
20 mean to say that, but that's what it sounds like.

21           MS. PARK: -- that record reflects that  
22 the Water Utility Authority has not provided  
23 statements of availability or serviceability, that  
24 the Water Utility --

25           COMMISSIONER JOHNSON: I am not sure I

1 agree with that statement.

2 MS. PARK: Look at the record,  
3 Commissioner Johnson. Thank you.

4 COMMISSIONER JOHNSON: All right. Thank  
5 you.

6 CHAIRWOMAN O'MALLEY: So -- you have the  
7 floor, so please continue.

8 COMMISSIONER JOHNSON: I am trying to not  
9 drag this out. I'm trying to get to a position  
10 where we know how to proceed. Mr. Salazar, make it  
11 very quick. Okay?

12 MR. SALAZAR: Yes, I will. And just to  
13 show you how convoluted this conundrum has become is  
14 I have got before me Mark Sanchez's letter to the  
15 Planning Commission of July 29, 2014 and in the  
16 letter he said in the last paragraph, "If the  
17 Santolina Level A Master Plan is approved by the  
18 Bernalillo County Commission, only then will the  
19 Water Authority Staff proceed in negotiating a draft  
20 development agreement with the developer."

21 Now, they said that is why everybody  
22 thought at that time when you put the Condition 8  
23 condition on, you would be okay because they said if  
24 you do the A we will start negotiating the  
25 development agreement with the developer.

1           Then what happened you did that, you put  
2           on Condition 8 and then the Water Authority changed  
3           its position and said we won't do the development  
4           agreement with the developer until you approve  
5           Level B. So the Water Authority changed the rules  
6           on the Commission and the Commission acted in good  
7           faith in opposing and in reliance in large part on  
8           this letter but now there is a problem but the  
9           Commission can fix it by dealing with the conditions  
10          that require a development agreement for Level B.

11           COMMISSIONER JOHNSON: I agree. There was  
12          some misunderstanding certainly between the two  
13          entities. Thank you, Madam Chair.

14           CHAIRWOMAN O'MALLEY: So I think that  
15          rather than try to fix this now, I think we need to  
16          think about this a little bit about how we are going  
17          to proceed with this. And I hope that we can --  
18          cool heads will prevail and we will figure out how  
19          to do this, which is that we follow correct  
20          procedures in moving forward, that we resolve this  
21          issue and, you know, I think that hopefully we are  
22          smart enough to figure this out.

23           We can't operate on intent and try to  
24          imagine what could have happened or imagine what  
25          people are thinking. We have to follow our own

1 procedures and we have to get this straightened out  
2 and we have to do -- we have to do it correctly is  
3 my thinking.

4           So we have a writ of process of a  
5 presentation and that idea of a presentation, of  
6 course, is to get as close as possible right before  
7 approval, which is my concern. And there is nothing  
8 wrong with having a presentation, however it is  
9 premature at this point since we don't have this  
10 thing resolved between the Water Authority. And I  
11 have to agree that the idea was not to create a  
12 situation where we don't resolve something and it  
13 just keeps going, keeps going and keeps going.

14           This -- the owner of this property has  
15 certain entitlements, entitlement A. It is moving  
16 forward as in the process, we have a process in  
17 place and they are moving forward within that  
18 process. So, it is up to us to make sure that we  
19 follow the correct procedures.

20           And so to blame the Water Authority, the  
21 developer, whatever, that doesn't help. I think  
22 what we need to do is get our house in order. So,  
23 we have -- how does this work because I think we  
24 need to defer this until we resolve this issue. So  
25 I am looking for advice from anyone.

1           COMMISSIONER JOHNSON: Madam Chair, if I  
2 may, maybe that perhaps the best course of action  
3 here is to continue this proceeding to a date  
4 certain perhaps.

5           CHAIRWOMAN O'MALLEY: Well, I would agree  
6 with that except that we have -- we started a  
7 process, Commissioner Johnson, which we shouldn't  
8 have started. Really, we shouldn't have.

9           COMMISSIONER JOHNSON: Regardless we are  
10 there now and we can't undo that.

11          CHAIRWOMAN O'MALLEY: I think we started a  
12 process and I think we need to start the  
13 presentation the way -- or else I think we are going  
14 to get ourselves in a little bit of a sticky wicket  
15 again.

16          COMMISSIONER JOHNSON: I would defer to  
17 legal as to whether or not, Madam Chair, that we are  
18 in any sticky wickets. We are obviously in a deep  
19 hole --

20          CHAIRWOMAN O'MALLEY: We're in a sticky  
21 wicket.

22          COMMISSIONER JOHNSON: -- I don't know how  
23 stuck we are. That is the whole point is to get us  
24 unstuck.

25          ASSISTANT COUNTY ATTORNEY GARCIA: Madam

1 Chair, Commissioner Johnson, I think a continuance,  
2 if it was the Board's pleasure to do it that way,  
3 would keep us from having to rehear anything we have  
4 already heard. That may be an option with  
5 instructions about what the Board wants us and  
6 Planning Staff to work with the developer on in  
7 terms of a resolution to this problem.

8 COMMISSIONER JOHNSON: Would a  
9 continuance, Mr. Garcia, allow us to add the issue  
10 of the Level A findings and conditions?

11 ASSISTANT COUNTY ATTORNEY GARCIA:  
12 Commissioner O'Malley -- Madam Chair, Commissioner  
13 Johnson, what I would recommend on that is that the  
14 applicant submit an application to that effect, and  
15 I think that at this point it should be -- we need  
16 some direction from the Board, though, about whether  
17 they want it to come from the CPC or whether the  
18 Board wants to address it here. Staff's  
19 recommendation would be that it come from the CPC,  
20 but again, I think it is something that the Board  
21 can deal with.

22 COMMISSIONER JOHNSON: So we are looking  
23 at three options, continuance, deferral, and remand.  
24 What procedurally is the difference? Obviously,  
25 continuation -- continuance would imply we don't

1 rehear this, deferral would imply that we did. Are  
2 there any downsides to a straight deferral versus a  
3 continuance and then a remand would obviously be a  
4 form of deferral with a CPC process.

5 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
6 Chair, Commissioner Johnson, I will try to give you  
7 an orderly answer. I think if you continue it you  
8 will want to request an application from the  
9 applicant for an amendment to Level A. Specifically  
10 that way.

11 If you want to send it back to the CPC,  
12 then it will just be just that, a remand to the CPC.

13 And in terms of a deferral, I think Chair  
14 O'Malley had in mind that it would be that it would  
15 be deferred for a period of time until the matter  
16 could be addressed.

17 Now, Chair O'Malley, don't let me --  
18 clarify my impression of that. I think those are  
19 the three different ways that we are looking at.

20 COMMISSIONER JOHNSON: So the deferral  
21 would then, we would come back and start the hearing  
22 process all over again and do the presentation all  
23 over again. Am I understanding that is proper?

24 ASSISTANT COUNTY ATTORNEY GARCIA: Chair  
25 O'Malley, Commissioner Johnson, I think ordinarily,

1 yes, with deferrals that you kind of do start from  
2 the beginning.

3 COMMISSIONER JOHNSON: Hit the reset  
4 button.

5 ASSISTANT COUNTY ATTORNEY GARCIA: Yes.

6 CHAIRWOMAN O'MALLEY: So the two things  
7 are, I am just concerned about process here. I want  
8 to go back to that because I think we started  
9 something that we shouldn't have started in terms of  
10 a presentation, so that is why the reset button.

11 And the second is, is that the way this  
12 works that the applicant then would have to request  
13 a -- so we open our -- how does this process work  
14 for the change that we are asking for? I know this  
15 is odd stuff, I mean, it is kind of hard to put you  
16 on the spot here and maybe we don't resolve that  
17 right this minute, but we need to figure out how we  
18 address this issue.

19 ASSISTANT COUNTY ATTORNEY GARCIA: Chair  
20 O'Malley, I did want to -- my boss reminded me of  
21 the fact that one of the reasons that we had to  
22 start this is because of the time requirements in  
23 the ordinance that you have to hear appeals or  
24 recommendations from the CPC on a matter that came  
25 up from the CPC to the Board. So we did have to

1 start it.

2 CHAIRWOMAN O'MALLEY: You start the  
3 appeals but not the approval of a plan, right?

4 ASSISTANT COUNTY ATTORNEY GARCIA: Well, I  
5 think my understanding was that we did have to start  
6 this because it is a recommendation from the CPC and  
7 we have to start it within 90 days so...

8 CHAIRWOMAN O'MALLEY: And there is no way  
9 to address -- so let me just ask you this question.  
10 There was no way for us to address that and say we  
11 have not resolved this issue, we would like to defer  
12 it even though it goes against your -- could we have  
13 done something like that?

14 ASSISTANT COUNTY ATTORNEY GARCIA: I think  
15 you could have deferred it or remanded or continued  
16 it as long as we got it started within the 90 days.

17 CHAIRWOMAN O'MALLEY: My recommendation  
18 would be deferral and then the other issue would be  
19 to get a -- and you're saying that the appropriate  
20 approach would be for the applicant to request a  
21 change to the master plan or the decision that was  
22 made.

23 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
24 Chair, I think so and then that way we can notice it  
25 properly.

1 CHAIRWOMAN O'MALLEY: Commissioner  
2 Johnson.

3 COMMISSIONER JOHNSON: Thank you, Madam  
4 Chair. I just want to make sure I am understanding.  
5 So of the three options remand,  
6 continuation/continuance and deferral and the way I  
7 understood it when we were talking a moment ago is  
8 that if we continue the proceeding then we need an  
9 application from the developer to make a change to  
10 Level A findings and conditions. Is that also true  
11 with a deferral?

12 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
13 Chair, Commissioner Johnson, I think with a deferral  
14 you don't have to have that at this point in time,  
15 but eventually we are going to have to have  
16 something if there is going to be any amendment. We  
17 are going to have some kind of an application from  
18 the applicant if there is going to be any amendment  
19 to Level A.

20 COMMISSIONER JOHNSON: So basically a  
21 continuance and a deferral are functionally the same  
22 in this case. Is there any legal reason to call it  
23 one or the other? We obviously have already started  
24 and complied with our ordinance. I know that  
25 continuations in the way we handled the Level A plan

1 and that would be consistent with how we handled  
2 things in the past.

3 ASSISTANT COUNTY ATTORNEY GARCIA: Chair  
4 O'Malley, Commissioner Johnson, ordinarily what you  
5 mean by continuance is that you are just continuing  
6 something.

7 COMMISSIONER JOHNSON: Understood.

8 ASSISTANT COUNTY ATTORNEY GARCIA: In time  
9 and a deferral, how we usually handle them with the  
10 CPC and also before the Court is that you defer the  
11 start of something, the initial hearings and the  
12 initial presentation.

13 COMMISSIONER JOHNSON: Really that train  
14 has left the station already. It really is more  
15 proper to do a continuance.

16 ASSISTANT COUNTY ATTORNEY GARCIA: Chair  
17 O'Malley, Commissioner Johnson, that's up to the  
18 Board. I think a continuance would allow you to  
19 just continue what you have done and not have to  
20 redo anything else that you've already done.

21 COMMISSIONER JOHNSON: Which we have only  
22 heard a portion of the Staff presentation at this  
23 point. That would be my recommendation, the parties  
24 would still have their opportunity to make their  
25 arguments, then we can hear those in full. That

1 would be my recommendation. Obviously it is up to  
2 the Board. Thank you, Madam Chair.

3 CHAIRWOMAN O'MALLEY: Well, I think that  
4 technically and procedurally we should do what I  
5 would call a reset, but I am going to just make that  
6 and it could fail or whatever. I am going to make  
7 a -- I am going to move deferral of this one item  
8 and we will defer it for -- how long do you think we  
9 need to defer it in order to deal with -- well,  
10 first I guess we're going to deal with this  
11 application thing and we've got to make sure that  
12 that process is also very clean and that we don't  
13 try to do something that would violate our own  
14 processes again.

15 MR. GRADI: Madam Chair, Members of the  
16 Board of County Commissioners, if the applicant  
17 agrees to submit for an amendment to the Level A  
18 Master Plan Condition Number 8 and it goes and that  
19 submittal starts with the CPC, that would -- if they  
20 submitted at our next application deadline, that  
21 would be heard by the CPC in early June. If it is  
22 something that they resubmit and apply and we notice  
23 appropriately and it comes to the Board, that could  
24 be much sooner, possibly the next hearing, so that  
25 should give you an idea of the timeline depending on

1 which approach you take, whether it is you feel  
2 appropriate to begin at the CPC or it can come back  
3 to this body before you.

4 CHAIRWOMAN O'MALLEY: So Commissioner  
5 Quezada.

6 COMMISSIONER QUEZADA: Madam Chair, does  
7 the CPC make this decision, though? You are sending  
8 it back to the CPC to do what, to look at it and  
9 then send it back to us?

10 MR. GRADI: Chairman O'Malley,  
11 Commissioner Quezada, the CPC makes a  
12 recommendation. So our direction was that since so  
13 far everything in this process has originated with  
14 the CPC everything has been done for the most part  
15 through the CPC, that that would be the safest way  
16 to build a record and move it back up to the Board.  
17 But you have also heard from counsel that the BCC  
18 could also amend that Level A Master Plan as well,  
19 but the CPC, just to make it clear, makes a  
20 recommendation that would be affirmed or not by the  
21 Board of County Commissioners. I don't know if that  
22 answers your question specifically.

23 COMMISSIONER QUEZADA: One other question  
24 real quick. So when you put out an amendment for  
25 something I know I have been into a lot of School

1 Board meetings where we just had an amendment right  
2 then and there, we didn't have to put it up for, you  
3 know, to the public and post it for the public. I  
4 mean, when we come into a meeting we come in with an  
5 amendment saying, you know, we saw what you wanted  
6 to do, I would like to put an amendment forward now  
7 and we can either vote on the amendment or decline  
8 the amendment and move forward on the item.

9 Now is the reason why we are not able to  
10 do that is because it has already been voted on?

11 MR. GRADI: Yes. Madam Chair,  
12 Commissioner Quezada, let me try to be a little more  
13 clear. So I think if we were -- with this Level A  
14 plan, which we are hearing today, which is still  
15 life, so to speak, this has been advertised, it's  
16 been posted and it is the item that has been  
17 identified to be testified on. That is certainly  
18 something this Board can make an amendment on.

19 Amending the Level A plan is something  
20 that has already begun and been finished and the  
21 book has been closed. So that is a separate plan  
22 that would have to be reopened and amended and then  
23 brought forward. So that -- I hope I am answering  
24 your question. It is something that has already  
25 been decided and the idea would be that we open it

1 up specifically for that particular condition.

2 COMMISSIONER QUEZADA: So the CPC would  
3 have to open it up?

4 MR. GRADI: The CPC could open that up  
5 because that where that plan originated initially  
6 and that is part of the -- the Board of County  
7 Commission delegates the authority to the County  
8 Planning Commission to amend -- to work on plans,  
9 move them, take testimony and then move them to the  
10 Board. So you have heard that that is one of the  
11 options of Staff. Legal has also mentioned that it  
12 probably be amended through the Board of County  
13 Commissioners, but I just want to make it clear it  
14 is a separate plan document that has already been  
15 initiated and approved and has been in place for  
16 over two years now.

17 CHAIRWOMAN O'MALLEY: Commissioner  
18 Johnson.

19 COMMISSIONER JOHNSON: Thank you, Madam  
20 Chair. I think with that in mind, I agree with  
21 Commissioner O'Malley on this. I think we need to  
22 clean up our own mess that we created in this  
23 particular case. So, we never had a second on your  
24 motion, so I will make one now. That we defer this  
25 item until the next Zoning meeting or pending the

1 applicant's -- an application to address the Level A  
2 item finding and conditions, specifically Item 8,  
3 but allow them to make that application. If they  
4 don't make it in time for our notification then, of  
5 course, we couldn't take it up here. I agree with  
6 you that this is improper for us to move forward  
7 with an amendment on this item given that we have  
8 not noticed that and don't have an application at  
9 hand. So that would be my motion.

10 CHAIRWOMAN O'MALLEY: Okay. So we also  
11 have to understand that we have, you know, they are  
12 going to make the application but then we have to  
13 make a decision about the application, too. So we  
14 are not going to make a decision or hear the plan  
15 until there is a decision made on this one  
16 amendment, too. But we can -- when that comes up we  
17 can certainly hear that.

18 When is the next zoning meeting?

19 JULIE ANNE BACA: Tuesday, May 9 at  
20 3:00 p.m.

21 CHAIRWOMAN O'MALLEY: There is a motion  
22 and a second stated.

23 COMMISSIONER JOHNSON: I made a motion  
24 very similar to defer this item to the next Zoning  
25 meeting pending the applicant making application to

1 change the Level A findings and conditions which is  
2 an extension of the motion that you made. Is there  
3 a second?

4 CHAIRWOMAN O'MALLEY: I guess I second  
5 that motion.

6 COMMISSIONER HART STEBBINS: Madam Chair,  
7 just before we vote, let me just make sure I  
8 understand the process. So this particular item,  
9 which is approval of the Level B Master Plan is  
10 being deferred to the next Zoning meeting with the  
11 assumption that we will address the Level A  
12 amendments at an Administrative meeting in the  
13 meantime or...

14 CHAIRWOMAN O'MALLEY: I think the idea, if  
15 I may, was just to put it there. It could end up at  
16 the next -- it would have to be at the  
17 Administrative meeting, right? We would have to  
18 have this decision at the Administrative meeting or  
19 at the Zoning meeting, which one?

20 JULIE ANNE BACA: It would be at the next  
21 Zoning meeting.

22 CHAIRWOMAN O'MALLEY: We may not have that  
23 information, in which case we will have to defer it  
24 again.

25 COMMISSIONER HART STEBBINS: Because this

1 motion does suggest that the applicant will go to  
2 the Zoning Board.

3 COMMISSIONER JOHNSON: Madam Chair, if I  
4 may.

5 CHAIRWOMAN O'MALLEY: Just a moment. That  
6 they are --

7 COMMISSIONER HART STEBBINS: That they are  
8 going to reapply to the Planning Commission. So,  
9 what is the schedule of that?

10 COMMISSIONER JOHNSON: Madam Chair,  
11 Commissioner Hart Stebbins, that the motion did not  
12 contemplate return to the CPC. It contemplated  
13 return just to the BCC, but it was pending the  
14 application -- the applicant making an application.  
15 So, this item shouldn't come back before us until  
16 the applicant makes that application but it did not  
17 contemplate in that motion returning this item to  
18 the CPC.

19 COMMISSIONER HART STEBBINS: The applicant  
20 would make -- would reapply to the CPC on the issue  
21 of the conditions of the Level A?

22 MR. GRADI: Chairwoman O'Malley,  
23 Commissioner Hart Stebbins, I think what is  
24 confusing is that the motion that Commissioner  
25 Johnson made was that the applicant apply directly

1 to the BCC for amendment of the Level A Master Plan,  
2 which is unusual because we really don't have a  
3 process for that. Up until now everything has come  
4 to the Board of County Commissioners has come up  
5 through the CPC so that is one.

6 CHAIRWOMAN O'MALLEY: Amend your motion.

7 COMMISSIONER JOHNSON: Madam Chair, I'm  
8 sorry, you still have the floor, Commissioner.

9 COMMISSIONER HART STEBBINS: It is still  
10 not clear to me whether this motion includes sending  
11 anything back to the CPC whether the Level A or  
12 Level B. I guess Commissioner Johnson you are the  
13 right one to answer that.

14 COMMISSIONER JOHNSON: Thank you, Madam  
15 Chair. Commissioner Hart Stebbins, the -- as I  
16 understood and perhaps I understood wrong, it is  
17 very possible, that we could, pending an application  
18 from the applicant handle those findings and  
19 conditions directly here without sending it back to  
20 the CPC, which is what my motion contemplated. I,  
21 you know, I don't know what that process is but that  
22 is what I understood from Staff, so if I am wrong, I  
23 may be.

24 ASSISTANT COUNTY ATTORNEY GARCIA: Madam  
25 Chair, Commissioner Johnson, that is probably my

1 fault. I understood that -- I didn't understand  
2 that you could only apply directly to the CPC. So,  
3 it sounds -- it sounds to me that Staff is far more  
4 comfortable with an application going to the CPC  
5 than coming from you-all.

6 COMMISSIONER JOHNSON: So what you're  
7 really telling me at this point is that we can't  
8 hear this directly as an amendment as a matter of  
9 process and procedure and --

10 ASSISTANT COUNTY ATTORNEY GARCIA: I think  
11 that the ordinance allows for the BCC to -- just by  
12 its own terms, the ordinance allows for the BCC to  
13 consider this sort of thing. In terms of the  
14 structure that we have and the process that we have  
15 had in the past, the CPC is where these matters  
16 originate and the process is the application goes to  
17 the CPC and then up to the Board.

18 COMMISSIONER JOHNSON: We have had a  
19 little legal huddle over there. Is there anything  
20 different than what came out of the confab?

21 COUNTY ATTORNEY MARTINEZ: Madam Chair,  
22 Commissioner, I think it still returns to and is the  
23 recommendation of Staff and counsel that the  
24 amendment to the Level A plan go through the process  
25 of the CPC because that is how it was set up. This

1 issue before you, the approval of Level B stays  
2 before you and one way is to defer it and you could  
3 honestly keep deferring it or continuing it until  
4 there is a resolution of the Level A issue, but that  
5 process, that resolution probably best happens  
6 through the CPC just because it is the process we  
7 have always done and it is a process that is set up  
8 to create that opportunity to speak and opportunity  
9 to make the recommendation. We don't even know,  
10 quite frankly, what the recommendation would be of  
11 the CPC and the interesting thing and the process  
12 part of it is the recommendation of the CPC then is  
13 easily noticed so that you know you have a  
14 recommendation from the CPC, the parties on both  
15 sides understand what that recommendation is and  
16 that becomes notice back to the BCC.

17 COMMISSIONER JOHNSON: Madam Chair, I go  
18 ahead and amend my motion in the following manner.

19 COMMISSIONER HART STEBBINS: I think I  
20 still have the floor.

21 COMMISSIONER JOHNSON: You still have the  
22 floor, yes, Commissioner.

23 COMMISSIONER HART STEBBINS: So that does  
24 answer my question. Thank you, Ken. So is it your  
25 motion and you seconded it or the other way around?

1 Okay. So I am just going to say I won't support the  
2 motion as presented because I think we really should  
3 take our Staff's recommendation. So, but if you  
4 will consider revising your proposal, I will  
5 certainly support it. Thank you, Madam Chair.

6 COMMISSIONER JOHNSON: Thank you, Madam  
7 Chair, I appreciate it, and I will try and make this  
8 a little clearer than I have the last few times.

9 After having more information from Staff  
10 it really doesn't seem like we have any other way  
11 out. Madam Chair, I move that we defer this item  
12 until we have received that application through the  
13 CPC process of the Level A Master Plan and can hear  
14 those items concurrently and properly notice them.

15 CHAIRWOMAN O'MALLEY: There is a motion  
16 and a second. I guess I am the second.

17 All those in favor say aye.

18 ALL MEMBERS: Aye.

19 CHAIRWOMAN O'MALLEY: Opposed say no.

20 (5/0 Vote. Agenda Item 6B approved for  
21 deferral.)

22 CHAIRWOMAN O'MALLEY: Did we have anything  
23 on the agenda that was not --

24 COUNTY ATTORNEY MARTINEZ: I would clarify  
25 that the application being a recommendation.

1 CHAIRWOMAN O'MALLEY: Yes, it is a  
2 recommendation.

3 MS. PARK: We have our appeal.

4 CHAIRWOMAN O'MALLEY: Is that it?

5 MS. PARK: Madam Chair.

6 CHAIRWOMAN O'MALLEY: Just a moment,  
7 please. Please don't interrupt. Thank you. What  
8 is next?

9 MR. GRADI: Madam Chair, that would  
10 conclude -- ultimately we would bring this back  
11 after the recommendation from the CPC having  
12 addressed the issue of the Level A Master Plan  
13 condition that is causing so much confusion and at  
14 that point the rest of this Level B Master Plan will  
15 be heard along with the appeals.

16 CHAIRWOMAN O'MALLEY: Along with the  
17 appeals.

18 MR. GRADI: And the protest, the appeals  
19 and any other protest and this legislative.

20 CHAIRWOMAN O'MALLEY: Is that legal's  
21 opinion because I don't want to mess this up even  
22 further. So in terms of the appeal do we have to  
23 hear this appeal today or now or can we defer it  
24 with the other stuff?

25 ASSISTANT COUNTY ATTORNEY GARCIA: Chair

1 O'Malley, I don't think we have to hear the appeals  
2 now.

3 CHAIRWOMAN O'MALLEY: All right. So --

4 COMMISSIONER JOHNSON: Madam Chair, just  
5 one more question. Since we were really on Item 6B,  
6 do we need to defer Item 7A or is it understood that  
7 that applies to all of this?

8 CHAIRWOMAN O'MALLEY: Then that is a  
9 different thing.

10 COMMISSIONER HART STEBBINS: Madam Chair,  
11 I move we defer Item 7A --

12 CHAIRWOMAN O'MALLEY: Second. We have a  
13 motion and a second to defer Item 7A as stated. All  
14 those in favor say aye.

15 ALL MEMBERS: Aye.

16 COMMISSIONER HART STEBBINS: -- to our  
17 next meeting.

18 CHAIRWOMAN O'MALLEY: The motion carries.

19 (5/0 Vote. Agenda Item 7A deferral  
20 approved.)

21 CHAIRWOMAN O'MALLEY: I appreciate  
22 everybody coming and I'm sorry. Thank you. Meeting  
23 is adjourned.

24 (Proceedings concluded at 7:22 p.m.)

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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.

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