

**REGULAR MEETING OF THE PLANNING & ZONING COMMISSION  
April 1, 2013**

**MINUTES**

**1) Residents to Address Commission (Non-Agenda Items)**

None

**2) Call to Order**

Vice Chairman Eastman called the meeting to order at 6:30 pm.

**3) Roll Call**

Present were Vice Chairman Eastman, Commissioners Hulseley, Craig, McAda, Village Attorney David Chavez and Planning & Zoning Officer Loretta K. Hatch. Chairman Garrison entered meeting after roll-call.

**4) Pledge of Allegiance**

**5) Swear in Commissioners Eastman and Craig.**

**6) Approval of Agenda**

Motion by Commissioner Hulseley to approve. Seconded by Commissioner McAda. Carried unanimously.

**7) Approval of the Minutes:**

Motion to table the approval of the March 4, 2013 Minutes until the May 6, 2013 Planning & Zoning meeting by Commissioner McAda. Seconded by Commissioner Craig. Carried Unanimously.

**8) Old Business**

**A. Violation and/or Breach of the Conditional Use Permit and Re-Evaluation**

1220 Bosque Farms Blvd. Bosque Farms Equities, LLC  
For the reason of multiple violations.

Commissioner McAda: Recused herself due to relationship with land owner.

Swear in:

- Nancy Fegan 1210 Bosque Farms Blvd., Bosque Farms, NM 87068.
- Denise Weston, Bohannon Huston 7500 Jefferson St. NE, Albuquerque, NM 87109.
- Charlie Fegan 1210 Bosque Farms Blvd., Bosque Farms, NM 87068.
- Scooter Haynes, Manager Bosque Farms Equities, LLC PO Box 9043, Albuquerque, NM 87119.
- Alan Wilson, Attorney for Bosque Farms Equities, LLC 8205 Spain Rd. N.E., Albuquerque, NM 87109.
- Bill Karr, WISE Recycling, 2525 Broadway SE, Albuquerque, NM 87102.
- Brian Caven 255 Gonzales Ln., Bosque Farms, NM 87068.
- Paul Benevidez 290 Gonzales Ln., Bosque Farms, NM 87068.

Mr. Chavez: With the exception of Mr. Wilson because he is an attorney of record he would be representing his client as an officer of the court he would already be sworn.

Before we start for the Commissioners information, there is an appeal that is pending. That matter will be heard before Judge Otero April 11, 2013. This hearing is separate and aside from that particular hearing.

Vice Chairman Eastman: The issue at hand is the Violation and/or Breach of the Conditional Use Permit and Re-Evaluation. Where there has been significant change in the physical extent, operation, or character or a permitted Conditional Use, the Commission may require a re-evaluation of the Conditional Use Permit. Significant change shall be determined by the Commission, based on the review of the Conditional Use Permit, which is why we are here tonight.

On May 7, 2012 Bosque Farms Equities, LLC was granted a Conditional Use Permit for the purpose of operating a recycling service center. The Planning and Zoning Commission approved the Conditional Use Permit with the following requirements, The noise levels, that the noise levels inside the building will be 88 decibels but will not cause or create a noise nuisance to the public. Driveways, the decision of the Planning and Zoning Commission to require two driveways for ingress and egress was hereby modified, the driveway for ingress and egress to the site as approve by the New Mexico Department of Transportation is hereby adopted. For anybody's information, the highway department said they can only have one. We had originally said that they should have two. But we have to go along with the Department of Transportation requirements. The applicant will comply with the DOT's correspondence of May 11, 2012 which is attached hereto and made part hereof. Compliance within ninety days from July 1, 2012. Fencing, that a solid seven foot fence will be placed along the sides and back of the property. That the applicant will contact the property owners, Mr. and Mrs. Fegan to reach an agreement on a fence as agreed by using a reasonable standard. The fence will be built in accordance with the Ordinance 10-1-5.D and G. Any security wire is to be extended to the inside of the property. Bosque Farms Equities, LLC has not fulfilled the above requirements of their Conditional Use Permit, therefore, we are having this hearing. The fence has not been built. The driveway has not been closed. An agreement has not been reached. And the noise level has been complained about by the neighbors. I guess the first thing to do is to have a representative from WISE Recycling or Bosque Farms Equities, LLC come up and tell us what the problem is.

Mrs. Hatch: Commissioner Eastman, may I? Thank you. We have the three issues here we are dealing with as far as the driveways are concerned, I did receive notification from NMDOT stating that they have reached an agreement with Bosque

Farms equities, LLC and they will be replacing those sidewalks/curb cuts themselves.

Vice Chairman Eastman: When?

Commissioner Hulse: April according to their letter.

Mrs. Hatch: Yes. There is a letter in your packet from DOT. April 11<sup>th</sup>. The date looks wrong there. I think they messed the year up.

Commissioner Craig: This is the letter dated March sixth?

Mrs. Hatch: Correct.

Vice Chairman Eastman: That says April 11, 2012.

Mrs. Hatch: It was dated and signed and notarized March 6, 2013.

Vice Chairman Eastman: I guess that's a typo.

Mrs. Hatch: Yes.

Vice Chairman Eastman: Who is going to come up and speak for WISE Recycling?

Mrs. Hatch: And. We also have the issue with the fencing. I did receive a letter or an e-mail from Bosque Farms Equities, LLC and it should be in your packet, dated March 21, 2013 stating that Bosque Farms Equities, LLC was unable to reach an agreement on the fencing with the Fegan's and therefore they had decided that they would use concrete masonry fencing and have the construction starting on April 1<sup>st</sup>.

Vice Chairman Eastman: Just up the north side?

Mrs. Hatch: Correct. Because part of what you wanted them to do in the findings was that they needed to agree with the Fegan's, I did contact the Fegan's and in your packet you will see a couple things that the Fegan's submitted and that was what the Fegan's believed was the original agreement that they had come to and also a copy of a letter from Bosque Farms Equities, LLC about the agreement on the fence. They stated to me that the reason that they have not signed this agreement is because there are a couple issues in the back saying that it was also going to be a complete release, waiver, discharge, accord, satisfaction and settlement of all claims, demand, counterclaims, defenses, liabilities and causes of action, well you can read it all here. This is what is keeping the Fegan's from signing this formal agreement with them. They don't feel that that has anything to do with what was required of them. The noise issue, at the Planning and Zoning Commission meeting held on February 4, 2013 the Conditional Use Permit application submitted by Bosque Farms Equities, LLC on April 17, 2012 and the attached statement of purpose and intent was reviewed by the Planning and Zoning Commission. The Conditional Use permit application represented the following, number one, there will no adverse impact on surrounding properties. The statement of purpose and intent represents the following, number one the intended use of the property will have no off-site impacts that are disruptive to contiguous properties. Number two, no crunching or packing of material will be done at the property, which means no loud noises. Number three, it is important to note that none of the materials purchased at the site will be organic, so there will be no foul odors coming from the property nor will there be any unusually

loud noise emanating from the property. The decision of the Planning and Zoning Commission was to defer the decision on whether the fact that this was stated in their statement of purpose and intent.

Vice Chairman Eastman: Yes. That was their statement of purpose and intent.

Mrs. Hatch: Whether the noise was an issue to be mitigated or the fact that this was part of their Conditional Use Permit and it was based on the fact of what they represented here and whether a new Conditional Use Permit needs to be applied for and issued. That being said.

Vice Chairman Eastman: WISE Recycling?

Mr. Wilson: The history of this property is incomplete as the Chairman has represented. This project had been given a building permit by the Village before the Conditional Use process even began. WISE Recycling is there under a building permit issued by the Village without any of these conditional use restrictions. I think that's important to keep in mind because my client as well as WISE have agreed to undergo this Conditional Use process in an attempt to try to identify community concerns and to accommodate them. For a year, this is my fourth trip to the Village, an attorney getting paid by the hour, my client has retained consultants, other contractors, we've tried to accommodate the various concerns and here we are again tonight dealing with exactly the same issues that we first addressed with the Planning and Zoning Commission a year ago, almost a year ago come May. Imposed upon us were some conditions that required the cooperation of other parties. Let me speak about the Fegan's, the neighbor's. It required them to agree, to cooperate, there was a reasonable standard, whatever that means. The Fegan's never tried to cooperate on this agreement. This notion that somehow or another they are not signing this agreement because it has release language in there, they had an attorney, I dealt with that attorney many times, that attorney has never once communicated as a concern to us. Tonight, the rendition that we just received from Loretta is the first time that I have ever heard that the general release language of the document is something that is holding up the agreement. It's the first that my client has ever heard of it. My client has contacted the Fegan's many times over the last year, not once have they said that's the only thing holding it up. To be ambushed by some argument that Mr. Fegan and Mrs. Fegan tonight want to make on that particular issue is simply not what this kind of proceeding is about. We can go through the rendition of efforts we have made to contact them, to contact their attorney, the number of time we have made phone calls that simply were not returned. The number of times we were told by the law firm, "Well we're trying to work something out with our clients", the Fegan's. And therefore we can't say anything right now. It's just been hide the ball and wait, and then wait until we get to a public hearing in order to object. So pursuant to comments that were made to us last time in which we were basically told that if we can't reach an agreement, we still have to get the thing built. We need that fence up. Mr. Haynes then sent the letter saying fine I can't reach agreement and here's a wall, it's solid, takes care of the issue, meets all the county ordinances, which were also requirements of the same provision in the Conditional Use, that it comply with ordinance requirements here in the Village.

Vice Chairman Eastman: Not County ordinance, but Bosque Farms ordinance.

Mr. Wilson: Bosque Farms ordinance, excuse me. And he is prepared to go forward with it. Now if Mr. Fegan tonight wants to say oh I want some change to the fence, this is the time to talk. With all due respect, dragging this thing out for a year and now claiming that for some reason he has a legitimate objection based

upon some wording in the document is in-artful at best and misleading to this group, possibly.

Vice Chairman Eastman: We do know that you have been in negotiation for quite a long time.

Mr. Wilson: More than that, we have made every effort we can to try to get it closed, to try to figure out what the problem was. Tonight is the first time I have ever heard that objection.

Vice Chairman Eastman: I see. And the noise?

Mr. Wilson: The noise.

Vice Chairman Eastman: Would you care to address the noise?

Mr. Wilson: Yes. We have tried to ascertain exactly what the noise issue is. You suggested to us last week that we get professional help, bring in a consultant, talk about it. Bohannon Huston is an organization I know is familiar to most of you. Denise Weston is an Engineer trained in this particular area. She's assessed the area, conducted a complete analysis of the noise levels, compared them to the threshold levels and the standards for residential purposes, commercial purposes and she has a report. She can summarize her findings, but in essence, the noise that is being generated from there falls well below any threshold, when you measure it from any residence in the area. So the question would be what further mitigation can be necessary? The fact that somebody doesn't want to hear noise is not itself give reason to declare it a nuisance or give reason to impose upon a property owner the expense of taking other mitigation effects. It's properly zoned, it's on a busy street, it's in an area where this type of activity is lawfully permitted. And as Mrs. Weston will tell justify her in a moment, the numbers that she gets in terms of the actual noise level, are not close to the thresholds that are typically recognized for this type of a zone and you can certainly ask the technical questions of her. The other one was the driveway. Similar to our situation with the Fegan's, the condition that was put upon my client was you have to deal with another party and get it done. Well, the other party as you all know is not always necessarily quick to work with, but we got it done, and as I represented to this group last month when I was here, there was an agreement to get the second driveway closed. To build the curb cut, to take care of that sidewalk along there and the Department of Transportation had indicated that they would take care of the work and the cost. But did not have anything in writing and so since then, the Department of Transportation has submitted in writing for your attention, which indicates that they are going to get it done and I believe it's this month.

Vice Chairman Eastman: Has your client put a chain or any blockade of any kind across that driveway in case somebody wanted to use it?

Mr. Wilson: You know I don't know. I will find out and he is here to testify and he can tell you. I would advise him not to do that. If he asked me for a legal opinion. Because that's creating a hazard that I would not ask a client to put on their property, but it may well be that he has done it in order to try to satisfy some concerns here in the Village, but I would not normally chain a driveway.

Vice Chairman Eastman: A lot of people do.

Mr. Wilson: I understand.

Vice Chairman Eastman: Of course if the fence was up it would be easy to do, chain the driveway, wouldn't it.

Mr. Wilson: Well now we have a plan, and let me mention one other thing because I don't want to leave anything open. We have this appeal going on and I haven't any idea what is happening on the appeal or when the decision is going to come down.

Vice Chairman Eastman: Okay. The appeal has nothing to do with this hearing tonight.

Mr. Wilson: It has something to do with the commercial aspect of this project and the burden that my client has been put under as a result of being asked to go through this Conditional Use process. Now we are not parties to that appeal either just as this group is not. If that appeal furthers litigation, and further complicates the matters between the three parties, which is the public, the Village and then my clients, it can have an impact upon what happens at that particular site. So that's all I mentioned is that's not resolved yet. Certainly this group can say that they don't want to take it into consideration, but it is a real fact out there.

Vice Chairman Eastman: Again, as I have in the past, that their own letter of application said they were not going to make noise that would disturb the neighbors. And there is a new piece of equipment that is being bought. Has it been delivered yet? We don't know the answer to that?

Mr. Wilson: Not yet.

Chairman Garrison arrived to meeting.

Vice Chairman Eastman: Okay at this point I am going to defer to our real Chairman.

Chairman Garrison: Continue with this, you started with it.

Vice Chairman Eastman: Alright. Is there anyone else from WISE Recycling that would like, Mr. Haynes do you want to address something or would your engineer care to discuss the issue of the noise?

Mrs. Weston: Good evening. As I was introduced I am Denise Weston. I am with Bohannon Huston. And just to give you a little bit of background, I have actually been doing noise analysis within the State of New Mexico for over twenty years. I recently updated the New Mexico Department of Transportation noise administrative directive and I have done some other pilot programs for Federal Highways. I came out to the site and did some noise measurements. Just to give an overview of noise, it is measured in decibels, units called decibels, and to give a comprehensive analysis of what noise levels sound like to the human ear we usually do those measurements over a period of time as well as analyze the peak levels at each location. To provide some baseline data I pulled together some information both on what Federal Highways allows for residential and commercial development and for commercial development it's 72 decibels just to give you a frame work for that at and for residential development it's 67 decibels. In addition to that to sort of give some other information I took a look at the Occupational Health and Safety Administration requirements to make sure there is no impact to human health and that threshold is 85 decibels for a period of 8 hours. If we look at this, and obviously there isn't a lot of data out there on this exact activity and noise thresholds but I wanted to give some baseline data that we can make a good

and professional comparison with. We did noise levels, we did noise measurements at three residential locations and in your packet you actually have a figure where those are identified. Residential location a, b and c, they are identified on there. I also did measurements at 100 feet, 200 feet, 300 and 400 feet away from the noise generating location, the site on the project site. We did measurements at the site. We did a combination of measurements with the action, the actual loading of the material, as well as when it was silent so we could get a comparison of what that differential might be. The measurements we took, we took them for about 2 to 3 minutes, which is totally acceptable to give a measurement of time, how long the noise levels that are going on, and like I said I did peak hour data as well. These were done on March 19 between the hours of 11:30 AM and 1:30 PM. The noise results, if you look at your summary here, are here for residence a and b, those noise levels both the equalized and the LEQ decibels were and the peak hour, not the peak hour but the peak time frame levels were below the 67 decibels identified for residential development by the Federal Highways, but the only location where it was higher was actually at residence c, but at that time there was actually a dog barking and this, I am comfortable with that analysis because I think it is really important when you go out and do your noise measurements to actually measure what is going on in the field at that time and understand the difference between the dog barking or if there is traffic going on and your ambient noise is your ambient noise, it's happening all day long. So it gives us a good analysis of what noise is actually generated by WISE Recycling and what noise is already happening as ambient noise in the area. So those levels with the dog barking did go up a little bit. You can notice without the action it is pretty quiet out there, I mean it is quiet. With the activity it is still totally acceptable within the thresholds of both Federal Highway expectations for noise as well as the OSHA expectations for noise with regard to human impact. We also, WISE Recycling did a staff log of exactly how long during the day this noise was happening. For 17 days and the average daily total was 71 minutes, consecutive maximum was 60 minutes straight and the longest daily total was 225 minutes. This isn't anywhere near OSHA's concern of 8 hours of constant noise levels, so that is just a summary of what is here and I am happy to answer questions.

Vice Chairman Eastman: On your little map here with the circles on it. What is residence c? Which one is it?

Mrs. Weston: If you turn it over residence c they are located on the other side a, b and c they are identified. The one with the concentric circles is because it's important to understand noise does not go from point a to b like exactly. So it gives you a sort of zone where you are going to hear that noise level throughout the day.

Vice Chairman Eastman: And the two residences to the west of a, b and c?

Mrs. Weston: I don't know people's names so I can't really apply names to these homes.

Vice Chairman Eastman: I'm not sure what names would be but these are people that are directly behind.

Mrs. Weston: We did not take noise measurements there but you can certainly make an expectation, that's why I did the 100, 200, 300 and we don't normally, when I do noise analysis, I don't do every single residence. I don't do every single unit. You make a decision. You make a choice and those the residence at that distance given all other factors that are relatively comparable then you actually apply that noise level to multiple residences. It's not standard practice to do

every single house. So you can assume that these houses here to the west, are going to be located with a little bit higher noise level.

Vice Chairman Eastman: Yes.

Commissioner Craig: That would be in a?

Vice Chairman Eastman: No. Not a, b and c, but the two that are directly behind. Directly south.

Commissioner Craig: Okay.

Vice Chairman Eastman: The two that are the closest you didn't take any noise levels. The three that are farthest away you did.

Mrs. Weston: I think, I believe those were the ones of particular concern. Yes. But like I said it's really standard practice not to do every single house.

Vice Chairman Eastman: Well I do understand that. It's just I would have expected you to do the ones that were the closest.

Commissioner Garrison: She did. Within 100, 200 and 300 feet

Commissioner Hulsey: All you have to do is draw your line here.

Mrs. Weston: Right.

Commissioner Hulsey: All we have to do is add this curve what the noise level increase is the closer you get to the centerline.

Mrs. Weston: So you can make the assumption.

Vice Chairman Eastman: Fifty-eight decibels then?

Mrs. Weston: Yes.

Vice Chairman Eastman: At 200 feet?

Mrs. Weston: Yes.

Vice Chairman Eastman: And 63 decibels very close to that.

Mrs. Weston: Right.

Commissioner Hulsey: What frequencies are we talking about? You're talking about an average?

Mrs. Weston: Uh-huh.

Commissioner Hulsey: And what frequencies are you using as an average?

Mrs. Weston: I wouldn't actually be able to answer that. We just, we use standard frequency analysis that the measurements use.

Commissioner Hulsey: Is it a white noise reference? Or is it a...



Mrs. Weston: That the FHWA...

Commissioner Hulsey: or a frequency reference?

Mrs. Weston: It's a frequency reference, but it is all calibrated, the machines are all calibrated to the requirements that FHWA requires for that analysis. So the machine that I used is dictated by Federal Highways.

Commissioner Hulsey: They have rules as to where you set your meter.

Mrs. Weston: Uh-huh.

Commissioner Hulsey: And what frequencies you are using with that meter, I would assume. You are either using a white noise or an average.

Mrs. Weston: And I just don't want to speak to that because I would have to pull the data off the machine and I don't want to give you any incorrect information. And I am happy to provide that to you and it is all calibrated to those expectations, but without that machine in front of me I don't to give you incorrect information.

Commissioner Hulsey: Noise Level increase between 100 and 200 foot is how many additional DB?

Mrs. Weston: You mean in general? Or what we found in this scenario? Because in general we would never make a statement like that, depending on what the noise generator was and what the ground condition was like, what the elevation differential was like, what the weather was like, what type of buildings or structures or walls are in the way. I would never make a general statement like that. What I can tell you is that if the noise doubles then people can hear that. A 3 decibel increase can be heard by the public.

Commissioner Hulsey: A 3 decibel increase is double.

Mrs. Weston: Can be heard by the public.

Commissioner Hulsey: It is double the noise level.

Mrs. Weston: Uh-mmm.

Commissioner Hulsey: But it decreases as you go away, that is what I was trying to set a reference to is to your 100 foot is 63.

Mrs. Weston: Correct.

Commissioner Hulsey: And if you go to 300 you should have lost 12 DB and you didn't lose 12 DB, so it's not.

Mrs. Weston: But it's not, but it doesn't work that way. It's not actually that exact.

Commissioner Hulsey: Okay.

Mrs. Weston: It's not a straight line. Because there is too many ambient factors.

Commissioner Hulsey: I disagree. So we will go on.

Vice Chairman Eastman: John?

Commissioner Craig: I don't have any questions.

Vice Chairman Eastman: Dan?

Chairman Garrison: I am confused about you not being able to draw an inference from that because your data presents an inference. You say at 100 feet is 63, at 200 is 58, at 300 it's 51. That is presenting a reference to us.

Mrs. Weston: It is but not a straight line reference, it's not going to tell you exactly if you double the distance you are going to get a 30% increase of noise. It doesn't actually work like that.

Commissioner Hulse: Have you done any Federal projects where you are setting up a tower and getting a response from one location 300 feet away?

Mrs. Weston: Setting up a tower or setting up a noise measurement?

Commissioner Hulse: Setting up a tower that's making noise and measuring it.

Mrs. Weston: No. Now, you can take the measurements that were taken for the 100, 200, 300, 400, yes did it end up being, you know they actually give you these concentric circles, but you also have in addition the three specific locations, sort of validate or continue to support that distance. The noise measurements at that distance.

Vice Chairman Eastman: So if I understand this chart correctly, on properties a and b without action, meaning nobody is doing anything at WISE Recycling, the ambient noise level is it 45, 48, 51, 55?

Mrs. Weston: Yes. Even with the dog barking.

Vice Chairman Eastman: Even with the dog barking. And you said that 3 decibels increase is noticeable.

Mrs. Weston: Uh-Hmmm.

Vice Chairman Eastman: So for property a we have 6 decibels increase. And on property b we have 7 decibels increase. So that is basically what we are talking about.

Mrs. Weston: You're going to hear an increase in noise. There is no doubt about that. But whether that noise is considered a nuisance based on standard thresholds or not is the discussion piece. But, absolutely this data shows that you will hear an increase in noise.

Vice Chairman Eastman: Okay. I kind of knew that.

Mrs. Weston: Exactly.

Vice Chairman Eastman: Anyone have any more questions to ask Mrs. Weston?

Commissioner Craig: I am looking at the concentric circles and I took the liberty of taking a, b, c from the other page and labeling those same units.

Mrs. Weston: Uh-Hmmm.

Commissioner Craig: On this concentric circle diagram and all three of those residences are pretty much in the outer ring of that concentric circle, which I am not sure how far away that is. Are the concentric circle's measured? Are they 100 feet?

Mrs. Weston: They are approximately. So if you notice it's actually, and these measurements were taken in the front yard, you know, outside the property line, so they were a little bit closer to the 300 foot ring, but the rest of the property sits in the 400 foot ring and so you are looking at the information on the concentric circle figure is LEQ data not Peak Time data. So it's the 51 and 58. So it gives you some perspective there and then obviously see it skewed a little bit with the dog barking. They fit on the edge between the 300 and the 400 foot.

Commissioner Craig: It looks to be really close. Yeah.

Mrs. Weston: Yeah.

Commissioner Craig: So we could say that to some degree, that concentric circle, that last one the blue one, it looks like most of the residences are within that circle except for the ones that are right next to the property. And so we are saying that the noise levels are well, at c there was a dog barking so, they were higher than b, so we could anticipate that those levels might be a little lower if there was no dog barking.

Mrs. Weston: Yeah. They would be comparable to b because the distance is relatively comparable.

Commissioner Craig: Maybe even a little bit lower. Well, yeah they are comparable. You are right.

Mrs. Weston: Right.

Commissioner Craig: But that is about 3 to 4 hundred feet away. Okay.

Vice Chairman Eastman: Mrs. Hatch? I have a question for you. On these properties down Gonzales Lane, how far back does the commercial extend?

Mrs. Hatch: How deep is that first lot?

Vice Chairman Eastman: How deep is the commercial?

Mrs. Hatch: In feet, I couldn't tell you without going and measuring it. But on this diagram it's going to be second building back. The first building you see in the blue ring is Jiffy Lube. The one behind that is another commercial use building and then you see the two little houses that are residential there?

Vice Chairman Eastman: Yes. But my question is are those two little houses residential or are they sitting in a commercial zone.

Commissioner Hulsey: They are commercial.

Mrs. Hatch: They are residential.

Vice Chairman Eastman: I am getting two stories here. I have a question about that. If you look at the map it looks as if they are commercial.

Commissioner Hulsey: They are both commercial.

Chairman Garrison: They may be used as residences.

Mrs. Hatch: I can go and double check on the zone map.

Commissioner Hulsey: The zone map is right here.

Vice Chairman Eastman: Yeah I'm looking at it.

Commissioner Hulsey: We have our zone map. A virtually straight line across there is pink which is commercial and it is the same depth as best I can tell as WISE Recycling.

Vice Chairman Eastman: Forgive us on this. These maps are very small.

Mrs. Hatch: And that is why I am saying it would probably be faster if I could run and take a look at the official map.

Commissioner Hulsey: Right. That would be fine.

Vice Chairman Eastman: Yes would you do that? Mr. Fegan, would you like to come up and have a word.

Mr. Fegan: Sure.

Vice Chairman Eastman: Commissioner Hulsey has a question for you.

Mr. Fegan: Okay.

Commissioner Hulsey: Your property in front of your house and everything, is all of that property commercial?

Mr. Fegan: Umm, I know that I haven't seen a plat of it changed so I know that we built our building in the back and I am not sure if it is Special Use or if they re-zoned the whole front commercial, so I am not positive. That's an unbelievable answer but, I don't know that for sure.

Commissioner Hulsey: I am assuming that the State property where the drain is at is residential or it's whatever it is used for, looks like a straight line going across your property. I was just asking.

Mr. Fegan: You are talking about the straight line going through our property in the very back there? Or?

Commissioner Hulsey: No. The one...

Mr. Fegan: Between us and WISE?

Commissioner Hulsey: Behind the two residences.

Vice Chairman Eastman: Probably 200 feet.

Mr. Fegan: Where they put in the drainage pond?

Commissioner Hulsey: Yes.

Mr. Fegan: That's right behind the WISE land.

Commissioner Hulsey: Right.

Mr. Fegan: And then it protrudes south.

Commissioner Hulsey: And their property is commercial all the way back to the back of their property.

Mr. Fegan: Well it was originally commercial I believe that even when Villareal had that when they changed that over the property that the drainage pond was on was his originally so he had to make sure because he owned the houses so he had commercial and he had residential. So I don't know, you know I am not swaying this one way or the other but I don't know if the drainage pond originally was commercial or residential. I would almost think the drainage pond directly to my side to the east of it would have been, and I am only guessing, trying to use my head here right, because that would have been commercial then, but the other side of the drainage pond would have been residential. It's double wide.

Vice Chairman Eastman: Yes. That makes sense. I was just trying to figure out how far back the commercial extends. Loretta?

Mrs. Hatch: To the State pond.

Vice Chairman Eastman: It goes all the way back to the pond?

Mrs. Hatch: Yes. Including the pond.

Vice Chairman Eastman: Includes the pond. So the two houses in question are on commercial land.

Commissioner Hulsey: Right.

Vice Chairman Eastman: Thank you that's what I wanted to know.

Commissioner Hulsey: Thank you.

Vice Chairman Eastman: Mr. Fegan did you have anything further you wanted to comment on other than the question as long as you are up here?

Mr. Fegan: Yeah. Sorry I didn't know if you were just asking me a question. I have a couple things. I don't have them in any order. The last time we were here Mr. Hulsey and I were talking about this fence thing and I think that's where it came to an end, not over that, just where the conversation did, but what we were talking about is, and I want to get the fence thing done first here is, I had spent a great deal of time on this fence issue and it would be worth it to ask Scooter about this. I did all the initial work on how much it costs for block, white block, red block, the concrete, the plastic panels in the middle of it, and I sent all of that to him with all the prices on it. What real cost was on it. And then he came back and said hey what do you think about we fill it back up, instead of using the plastic we fill it up with pro-panel. And to save money I agreed with that because from 40 feet you don't know the difference if it's plastic or pro-panel. Now, Mr.

Hulsey was mentioning the last time we were speaking, due to, I think, help me if I am wrong here, the people on the other side of this property were talking about where they are dropping these metals extremely close to their fence, and I am just refreshing everybody's memory, so at that point in time actually we were discussing how that pro-panel might amplify the noise and it may very well do that but, we were also talking about it wasn't a Fegan issue only it was the entire thing, is the requirement of this kind of business and the city isn't really ready for that and that's where we are at the fence issue. And I think your issue was you were discussing the actual metal going through the chain link entering into these people's back yard. And I think that's where we came to the end on did it need to be an entire block wall or whatever. Now the only thing I have to add to that is when the attorney mentioned that I wasn't dealing with them, I am the one who put all of the leg work into this fence thing and yes we did not come to an agreement because what we agreed upon and what it got to had changed. So at that point I stopped. I think that that's my story on the block wall. I think Scooter can answer did I do any foot work on putting those pieces together and maybe not for him. So moving on, the openings on their driveway, everyone says there are two, but there are three.

Vice Chairman Eastman: Well the one that is right there by the drain and that's again that's State Highway Department and there is not a lot that, there's nothing that anybody can do about that.

Mr. Fegan: No, no, I am just asking because there's three and you see where I am going here, is that opening theirs or I mean they can't say that it is State Highway, and we don't have to fix it. It's an opening or can they call it State Highway but now they can call the property theirs to use for drainage. I mean...

Vice Chairman Eastman: It's my understanding that is the drainage.

Mr. Fegan: But I understand what you are saying, and I know I am saying this wrong, but this other opening is possibly 10-12 feet wide maybe 15. The third opening which you are calling State property. But how did I ever get involved in the fence being torn down that's my fence along State property/land? Meaning that is this now their property? Because this opening comes into play. Is this their property or is it State property and if it is State property, do they get to use it or do I get to use it? Meaning...

Vice Chairman Eastman: I can't answer that.

Mr. Fegan: That's what's become their drainage area. It's been widened.

Vice Chairman Eastman: It's been a drainage area.

Mr. Fegan: It used to be a drainage area but now it is widened and it's become their drainage area. I am just, I have nothing to say. I have no comment I am just saying in that do they...

Vice Chairman Eastman: Mr. Chavez, can you answer?

Mr. Chavez: Yeah. On the drainage issue, it is not before the planning and Zoning Commission tonight and it is not an Agenda item. You are raising a new issue and what is really significant to do tonight is stick with the three issues that we are talking about and the one issue that we really want to hear from you about is this fence because I hear you say there was an agreement and you are in agreement with this fence. We've got a letter from Mr. Haynes saying they are going to

proceed with the construction of a seven foot concrete masonry fence which does meet the Village requirements. We want to know, the Village wants to know, are you in agreement with that? Yes or no?

Mr. Fegan: It's really not yes or no. I'm sorry. When we talked about this, I just want to make sure I am not, the discussion on the fence is where is the fence then? Meaning does this block wall built were my property line is where they tore down my fence, that's a different issue maybe. Or is it built on the other side of the State property. That's what I'm talking about is the fence. I am not wandering off.

Mr. Chavez: Let's get to the fence itself. The material itself. The construction. Then we can talk about the placement of the fence. On the construction and the materials you were going to come to an agreement based on reasonable standards as to a fence. They've proposed a block wall fence that seems to be in line with your initial agreement, I understand the agreement had some language that dealt with the appeal which is what you opposed, but it seems as though that fence was agreed upon. The Village wants to know if you are in agreement number one with the fence that I have just indicated, that Mr. Haynes has indicated that he build, and if not, what are you suggesting?

Mr. Fegan: And that, I need some help here. The last time we were here talking, the fence that we were actually discussing building Mr. Hulsey was talking about may become a safety issue. And then, so now we're talking about an entire block wall, so this is something you're involved in so I don't what to tell you there.

Mr. Chavez: Because the Village will make a decision.

Mr. Fegan: Yes.

Mr. Chavez: Without your input and you recall when we had these various discussions that you were going to talk to the Haynes' to come to an agreement as to what, using a reasonable standard, and the Haynes', I will just use that as the parties who have the Conditional Use Permit, have agreed to put up this fence, a concrete masonry fence. It seems to be reasonable. The question is what else do you believe, if it is reasonable or not, if you think it is unreasonable, what are you asking them to do more than that?

Mr. Fegan: The only clarification I think I need on what you are discussing right now is first of all we did agree on a fence. Then when it came out in writing it was different so that stopped that but still let's move on. What we are discussing right now is, are we discussing my fence or your fence? Meaning that are we discussing putting the fence back on my property or are we discussing putting the fence between the State land and their land?

Mr. Chavez: This is really a simple question. It is very clear. Under the Planning and Zoning ordinance, or the Conditional Use Permit that was established, over a year ago, May 7, 2012. You have had almost a year.

Mr. Fegan: You are saying I have?

Mr. Chavez: You have had from the time that the Planning and Zoning approved this, it provided on item B. that the applicant will contact the property owners, you and Mrs. Fegan, to reach an agreement on a fence as agreed by using a reasonable standard. It's very simple. They gave you, the Commission gave you,

and the Council gave you, the opportunity to come up with something fair and reasonable.

Mr. Fegan: Yes.

Mr. Chavez: And here we are a year later and you are here today saying well we agreed on something, we didn't agree on something. You've heard Mr. Wilson, their Attorney, point out what they are agreeable to do. If you don't have a position with regards to what the Haynes' are suggesting is a reasonable standard of putting this fence up, a seven foot fence, then I would imagine that the Commission is going to consider that as being reasonable and approve it. So what they are asking you to do is express your opinion concerning that. This is your opportunity.

Mr. Fegan: Okay. I think I understand what you said. The very first fence agreement came with the stipulation of we couldn't pursue any of the other problems we had with WISE Recycling. I didn't hear that in your conversation.

Mr. Chavez: That's right. We are strictly dealing with the fence.

Mr. Fegan: But it was in mine. I just want to let you know. You can't make mine up as you go I am not being hostile, I am just saying that when it came to me there was an offer you can do this if you do that. Now I don't do any of those stipulations with any of you and I never will. I just want to let you know. That stopped me from making the decision, please let me speak.

Vice Chairman Eastman: Mr. Fegan.

Mr. Fegan: But you know he interrupts me that happens all, I just want to let you know. I answered, we came to an agreement and then it came with other stipulations and you forget about those but what do you want me to do there?

Vice Chairman Eastman: May I clarify.

Mr. Fegan: Yes.

Vice Chairman Eastman: On this settlement agreement which was made sometime in November, that you have not yet signed. That your objection rests solely on the fact that they want a release from all future appeals.

Mr. Fegan: There's two things. He changed what we originally agreed to and they added that stipulation.

Vice Chairman Eastman: Okay, well we don't have anything to do with that.

Mr. Fegan: That's correct. Because it was something different, that I was just letting you know that when you ask that question that is a very simple answer isn't it.

Commissioner Hulsey: The question that you came up a while ago that we need to get answered is that the present chain link fence that is there is going to be replaced with a fence and it is going to be on the State property and your property and then WISE property and your property.

Mr. Fegan: Right.



Commissioner Hulsey: In other words there was a drain field there and that's seven foot or whatever it is, is for maintenance. That's on the piece of chain link that was there before or the little hole that was there, that grows weeds, WISE extended that to get their drain pond, so that piece of property is either part of the State or it is part of whatever agreement was made with the previous owner. So the fence will cover that...

Mr. Fegan: Both.

Commissioner Hulsey: Both.

Mr. Fegan: Okay.

Commissioner Hulsey: Yours and theirs.

Mr. Fegan: You see my question earlier, that was the simple answer we needed is you have a third driveway is that theirs or do they get to claim both ways, and they do.

Commissioner Hulsey: Yeah. They extended the drain field to get their drain field to come into compliance.

Vice Chairman Eastman: So the fence will be at the property line? WISE's property line.

Mr. Fegan: That's correct. Well their property lines is now on my property line and it's not the State any more. That was kind of my first question on the third entrance.

Vice Chairman Eastman: You share a property line.

Mr. Fegan: You can see where I was going. It's...

Commissioner Hulsey: It's a maintenance driveway.

Mr. Fegan: Yeah but, I still, you get to call it both ways. It's the State's when it's the opening, it's theirs when they get to move the fence where they want. And I'm okay with that as long as that's the answer. I'm okay right now.

Vice Chairman Eastman: Alright.

Commissioner Hulsey: That other green field is still under the same maintenance that there was before. So I'm not sure exactly how the property was bought.

Mr. Fegan: I maintained it before usually so anyway, okay that was my answer. I just wanted to see if it was both ways and it is. My assumption is correct right?

Vice Chairman Eastman: Alright.

Commissioner Hulsey: Wait a minute. According to the issue that was before us not the complete fence, just that portion.

Mr. Chavez: I understand that the fence is going to be built on the Haynes' property. Is that wrong?

Mr. Haynes: No. that is correct. We built it on our property.

Mr. Chavez: Are you building on the State property?

Mr. Haynes: No. We own the property to Mr. Fegan's property line. The State, it has an easement and it is a right-of-way. That's all.

Mr. Fegan: So now they have three openings. There you have it.

Commissioner Hulseley: No, no, no. The State has that opening.

Mr. Haynes: We will be building on our property.

Commissioner Hulseley: They are building...

Vice Chairman Eastman: Mr. Fegan please.

Mr. Fegan: I'm sorry but I'm just being honest. Okay. That's still your decision. Whether it's their property or the State's.

Vice Chairman Eastman: Thank you.

Mr. Chavez: No, wait. They had their surveyor from your surveyor showing that that fence is built on your property.

Mr. Haynes: There already property corners staked. I am a registered surveyor and the fence would be inside those property stakes.

Mr. Chavez: So the fence is going to be built on WISE property.

Vice Chairman Eastman: WISE property.

Mr. Chavez: With a survey that will be submitted with their fence proposal.

Vice Chairman Eastman: I think they've already submitted a survey when they first came in for their Development Review, but as long as it is inside their property line. Alright.

Mr. Fegan: I just have a couple other things. So they have bathrooms onsite?

Vice Chairman Eastman: Pardon?

Mr. Chavez: Before we get off the fence issue, so there is not an issue that you are raising any further on the construction of this fence, because you talked about the placement of the fence, we have thoroughly discussed that. And now the issue was that the Village wanted to hear from you is there any objection you have to this seven foot fence that they are proposing to the Village? To be in compliance with their Conditional Use Permit.

Mr. Fegan: And I don't think I do.

Mr. Chavez: Okay great and that's the fence issue. It's going to be resolved then.

Vice Chairman Eastman: Okay.

Mr. Fegan: Alright.

Vice Chairman Eastman: And you were about to say what?

Mr. Fegan: So they have bathrooms as part of their building plan. Do they have bathrooms?

Vice Chairman Eastman: this is not an issue tonight.

Mr. Fegan: So their employees can stand out in the parking lot and go to the bathroom? Can I bring that up? I'm okay with it. Just tell me.

Vice Chairman Eastman: The building is built. And it was built according to proper standards.

Mr. Fegan: Because I can loan them a bathroom if I need to. I even have an outhouse. Now I have two things is all. Of course we talked about their having their semi-trailer on the concrete pad and you know they are up to five semi-trailers just to bring that to your attention. The safety issue that we have today there, now this could be new or old, you have got to decide yourselves, if you want to bring this up, there is a huge, looks like a fuel tank there. And it may be a water tank, but it looks like it holds somewhere around, I'm guessing this, because we fill water trucks up a lot, it looks like a four to six thousand gallon tank there. You know if that is a fuel tank we are all going to be gone. I am just bringing it to your attention. It is not up for discussion. I don't need an answer. I am just letting you know. And it, we have, my wife I'm sure will be up here with a picture of it. There is also if that's not, there's a propane tank laying there, there's just.

Vice Chairman Eastman: Mr. Fegan, we are dealing with three issues tonight relating to the Conditional Use Permit. The fence.

Mr. Fegan: Okay.

Vice Chairman Eastman: The noise and the driveway.

Mr. Fegan: Okay. Then I have one last thing. With the noise. I would like you to ask the lady that did this study, and I may say this wrong, but I think I, it's a different way that you can present it to them, is if you have an earthquake, and you are inside a home, what are the decibels? Being that everybody gets, their all getting led around here the noise level. But I am telling you right now whatever distance my house is away, when the dishes are shaking on the counter tops and in the cabinets that is not a noise issue because it is just the dishes rattling. But shaking a concrete pad is a total issue. She will have an answer for that I think. I think we should do some research and that's going to regard what other people I think have to say tonight when it comes to noise. So everybody's getting lost in decibels and it is a different tone. And she probably will have an answer and maybe you could ask her that question and that would be a great test to do.

Vice Chairman Eastman: Thank you Mr. Fegan.

Mr. Chavez: So, just for clarification Mr. Fegan, what you are talking about is vibration. Is that what you are talking about?

Mr. Fegan: I believe so.

Mr. Chavez: I don't know. I am asking.

Mr. Fegan; Yeah, I would believe, I believe vibration would be...

Mr. Chavez: That's what your, okay.

Mr. Fegan: Yeah. Because when everybody here keeps saying things are shaking in their houses and then it gets switched to decibels the big thing, don't get me wrong there noise associated with it too but the noise isn't what's shaking the things in their houses it's the concussion of when the material lands at the bottom of the storage containers. And that's going to be a different noise. And I believe it will be a different DBU. But I'm definitely not the person, I deal with lots of noise but I'm not the expert on reporting on it. But I think , and I don't know what the cost would be associated with running that test. I would be interested in putting some money towards that test if you would like, just to help off-set the expense. And she will have all those answers. I would think.

Vice Chairman Eastman: Does anyone else up here have any questions for Mr. Fegan?

Mr. Fegan: Awesome. Thank you.

Vice Chairman Eastman: Thank you Mr. Fegan. Mr. Haynes.

Mr. Haynes: Yes Ma'am.

Vice Chairman Eastman: The last time we talked one of the items under discussion was whether or not your employees would be dropping amounts of steel into the metal containers and them smashing it down, and you said that you were going to talk to your employees ...

Mr. Haynes: Let's be very clear that they are not my employees. I am the owner of the property not the operator of the business.

Vice Chairman Eastman: Alright then, I should talk to him. That's you.

Mr. Haynes: Do you have any other questions for me?

Vice Chairman Eastman: Do we any other questions for Mr. Haynes.

Commissioner Craig: Not at this time.

Vice Chairman Eastman: Mr. Hulsey does.

Commissioner Hulsey: Has the fence issue been resolved as far as you are concerned?

Mr. Haynes: As far as I am concerned with this Commission's approval the fence issue has been resolved.

Commissioner Hulsey: So the letter that you have written us is that you are going to put up a block wall on your property on the north portion of your property.

Mr. Haynes: On the north property line from the existing cross fence that exists on the west end of my property where the gates are for the business, to the east property line. On my, on Bosque Farms Equities property, a seven foot concrete masonry unit wall and to be clear, Loretta did say that construction would commence today, it said the week of April first, which we can maintain.

Commissioner Hulsey: So you are going all the way around your property?

Mr. Haynes: No Sir. That's not what that letter says. The letter says along the north side of the property. The rest of the property is already fenced in a solid fence.

Vice Chairman Eastman: According to the old ordinance.

Mr. Chavez: And Commissioner, the CUP was issued to Bosque Farms Equities, LLC that's the responsible party. Regardless of who that entity is in a relationship with the CUP is issued to that entity, and that entity is required to comply with the standards of the Conditional Use Permit.

Vice Chairman Eastman: Okay. So what you are saying is, it is his responsibility to make sure that his employees comply.

Mr. Chavez: The leasee's, that there is compliance because the party that would be subject to any modification of the CUP would be Bosque Farms Equities, LLC and if I misstated I will let Mr. Wilson correct me.

Mr. Wilson: I think that is correct.

Commissioner Hulsey: Yes.

Vice Chairman Eastman: Okay. Mr. Karr, could we have you up here?

Commissioner Craig: I had a question.

Vice Chairman Eastman: Oh I am sorry.

Commissioner Craig: On the Conditional Use Permit it says that a solid seven foot fence will be placed along the sides and the back of the property. How is that not a part of your fencing project? In other words you are putting a solid block wall on the north side of the property, but now what about the east and the west? Or the east and the south.

Mr. Haynes: The east and the south are already fenced with a solid fence.

Commissioner Craig: But it says, well...

Vice Chairman Eastman: Commissioner Craig.

Commissioner Craig: Yes.

Vice Chairman Eastman: That fence was put up under the old ordinance and it is called a visual barrier fence.

Commissioner Craig: Yeah. Okay.

Vice Chairman Eastman: Unfortunately.

Commissioner Craig: Well, okay, I certainly can abide by that if I have to. I guess.

Commissioner Hulsey: Is it a seven foot fence?

Mr. Haynes: To my knowledge it is a seven foot fence.

Commissioner Hulseley: The chain link?

Mr. Haynes: No.

Commissioner Hulseley: The cover is a seven foot fence?

Mr. Haynes: The chain link is a six foot fence and the visual barrier is seven foot.

Commissioner Hulseley: We agreed on a seven foot fence. So we need a seven foot fence all the way around the property.

Mr. Haynes: I am not in a position to answer that. I would have to go back to the old ordinance, but I believe the visual barrier..

Commissioner Hulseley: What the old ordinance was, you will need to do some research.

Mr. Haynes: Fair enough I will do additional research then.

Vice Chairman Eastman: How is the visual barrier, netting, held up if the fence isn't seven feet tall?

Mr. Haynes: There is a top rail member that the visual barrier is attached to that is at seven foot.

Commissioner Hulseley: Yeah.

Vice Chairman Eastman: But the chain link itself goes up to six?

Mr. Haynes: And the reason that was designed that way is because this Commission's desire was to have the barbwire or any security wire to the inside, therefore the six foot chain link fence exists with the security wire to the inside that actually is higher than the chain link fence itself. The visual barrier covers all of that at a seven foot height.

Vice Chairman Eastman: Thank you. Mr. Karr.

Mr. Karr: Yes Ma'am.

Vice Chairman Eastman: Alright, my first question is this, did you talk to the employees concerning dropping metal into the metal containers and smashing it down with the machinery?

Mr. Karr: Yes Ma'am. We've cut our ship weights in half.

Vice Chairman Eastman: Cut your what in half?

Mr. Karr: Ship weight, the weight of the container has been cut in half because we are no longer compressing it.

Vice Chairman Eastman: Okay. Commissioner Hulseley.

Commissioner Hulseley: Are you compacting it still?

Mr. Karr: In the containers?

Commissioner Hulsey: Yes.

Mr. Karr: No. Very little. If it is sticking above we have to move it.

Commissioner Hulsey: In other words, you are not raising your unit up and slamming it back on the ground anymore.

Mr. Karr: They better not be.

Commissioner Hulsey: That's our earthquake. So you are not shaking the ground anymore? Ever since the...

Mr. Karr: I am not there 24 hours a day but my instruction to them is to be as quiet and as peaceful, less compaction, do what you can to try to mitigate the noise to the best of your abilities. Something that I was going to show you, we do have the new machine in town. Doing research, we went back and we ordered a different type of grapple that does not cause, it's more noise friendly, more user friendly because instead of a curved piece they are square arm so it kind of scoops underneath it, kind of like have you ever seen where they grab logs? So we can set it in there and it is a rotator, it is a rubber tire machine. I think a lot of the compaction is because of those steel tracks hitting the ground. This will be a rubber tire without riggers machine which I have an example I can show you if you like to see it.

Vice Chairman Eastman: I think the guys would like to see it.

Mr. Karr: Sure. I apologize. I didn't bring more copies.

Vice Chairman Eastman: And when do you take possession of this?

Mr. Karr: I hope to have it all in place by the end of this month, and operational. This is the type of grapples, more of a square kind.

Commissioner Hulsey: Right.

Mr. Karr: And it is going to a rubber tire excavator machine, compared to what we have. So it will get off the tracks and the grapple is square so it kind of goes under instead.

Commissioner Craig: These out-riggers are going to be on this machine?

Mr. Karr: They will. Any movement will be on the rubber instead of the tracks moving.

Vice Chairman Eastman: That stabilizes it?

Mr. Karr: Yes Ma'am.

Vice Chairman Eastman: Okay. Well I will say from personal observation, I went over down to Gonzales Lane last week and sat for 15 or 20 minutes and listened and watched and they did not compact. And they were operating at that time. They were picking it up and putting it in a container.

Mr. Karr: Occasionally something will slip and drop, and it's, you know we can't 100%, look we want to go forward with what, you know we are looking at everything we can to help this project. To help satisfy the neighbors, the Commissioner, everybody. We will take it one step at a time until we can get it, there's always going to be some noise.

Vice Chairman Eastman: I also noticed that you had a semi driver bringing in an empty and getting ready to take out a full, which I presume you do that about every day.

Mr. Karr: Every day. We try to clean the pad off every day. We brought in some extra containers last week because the place that we deliver steel to is closed Good Friday and Easter so we didn't want to have too big of a pile so we brought in some extra containers so we could keep it contained. Then we pulled them out today and the second extra one will be gone tomorrow. Normally he, like I say we are not running 8 hours a day out there. It is a very minimal time. We are trying our best to so whatever we can. The steel, there's nothing left there. We turn that steel over every week, at least 2 or 3 times.

Vice Chairman Eastman: Thank you. Is there anyone that wants to ask a question?

Commissioner Hulseby: With the activity you had today, have you got all of the steel everything you unloaded today or bought, have you gotten it off of your concrete pad and in a unit or are you sitting and waiting to throw it in your dumpsters?

Mr. Karr: I was not by there this evening. It was late but normally he will load it in the morning right before they come and pick it up. The pad I did notice didn't have a whole lot of steel on it so the containers may be full already.

Commissioner Hulseby: Okay. But you are trying to keep it off the ground as much as you can?

Mr. Karr: To be honest with you, it doesn't make me any money sitting on the pad so I try to move it as quick as I can.

Commissioner Hulseby: Okay.

Vice Chairman Eastman: Alright. Are there any other members of the audience that would like to address the Commission on this issue? Sir? And what was your last name again?

Mr. Benevidez: Benevidez. Yeah my name is Paul Benevidez at 290 Gonzales Lane. Another thing I wanted to ask is when they measured the sound on this thing, I mean, were they aware that they were being recorded and checked? I mean, were they being extra careful or is this going to be an ordinary surprise kind of deal. You know, I mean, of course if they are expecting to be recorded they are going to be at their best behavior.

Vice Chairman Eastman: You mean WISE Recycling?

Mr. Benevidez: Yes.

Vice Chairman Eastman: Did they know that the engineer was coming out? I don't know.



Mr. Benevidez: Yeah, I mean, if they are out there of course they are going to be as quiet as possible and delicate, you know, I'm not trying to say they are not trying to do their work but I mean of course they are going to be quieter.

Vice Chairman Eastman: Mr. Chavez?

Mr. Chavez: Excuse me Mr. Benevidez. Where do you live in relationship to WISE?

Mr. Benevidez: Directly behind it.

Mr. Chavez: Alright. What are the concerns that you wanted to raise before the Commission tonight?

Mr. Benevidez: Well, the noise is just...

Mr. Chavez: Okay, is it noise or vibration or both?

Mr. Benevidez: It is both.

Mr. Chavez: Alright. Why don't you address the noise and the vibration to the Commission and if you have seen a decrease in the noise and vibration as indicated by Mr. Karr, the representative from WISE Recycling in the last, I don't know what time period he said but...

Mr. Benevidez: Well, I work pretty much all day so I really don't get to stay home to hear all the noise. My wife she is off and she hears it all day and it's really, really bad. I have a two year old he tries to take a nap and there is noise and it just wakes him up, it's like boom, boom you know. It sounds like thunder. It sounds like thunder and something hitting the ground real close. It shakes the walls, it is really loud. And you take him outside you know, he want to play outside he loves to be outside, you take him outside and you hear the boom and he gets scared, aaagghhh, and he wants to run inside. It's like well you know, it's not even enjoyable for him, you know being outside. As a 2 year old boy he shouldn't be afraid to be outside.

Vice Chairman Eastman: Again, I tried to determine which house are you at.

Commissioner Hulse; Are you east or are you south?

Mr. Benevidez: I am directly behind it. It's maybe southeast. It's mostly east.

Commissioner Hulse; So you are all the way on the other end .

Mr. Benevidez: Right next to the Fegans.

Commissioner Hulse; Right.

Vice Chairman Eastman: Oh you are next door to the Fegans.

Mr. Benevidez: Yes. Just south of the Fegans.

Mrs. Hatch: Property b.

Vice Chairman Eastman: Okay property b.

Mr. Benevidez: Yeah.

Vice Chairman Eastman: So you are in the 400 foot circle. Okay.

Mr. Benevidez: And another concern I have too is if we ever do get rain that you know how water is, if it sits on those puddles those ponding areas that sound is even going to amplify that much more. So I don't know if they can put maybe trees or I don't know what other kind of sound muffling stuff they might be able to do. It would be great if they was a way they could contain the, put in a building or something, but I don't know. All I know is it is really loud.

Vice Chairman Eastman: Any other questions for Mr. Benenvidez?

Commissioner Craig: I do. You testified before us before.

Mr. Benevidez: Yes.

Commissioner Craig: So comparing then and now what is the difference?

Mr. Benevidez: Like I said, I'm not home. I'm at work every day.

Commissioner Craig: Well, I mean if you are not home then how can you say?

Mr. Benevidez: Well I am sometimes, I know I'm not there all day long. My wife is there all day long, she hears it all day long.

Commissioner Craig: So there is no difference or there is a difference?

Mr. Benevidez: I think sometimes it is quieter, but other times it is very loud so I don't think there is much difference, no. From what I hear, I haven't heard any real difference.

Commissioner Craig: Okay.

Vice Chairman Eastman: Thank you Mr. Benevidez. Anyone else? Yes Sir? And you would be Mr. Caven? Yes Sir?

Mr. Caven: Hi. Sorry, I just came to say that the noise level honestly...

Mr. Chavez: Will you identify yourself?

Mr. Caven: Oh, I am sorry. I am Brian Caven.

Mr. Chavez: And your address please.

Mr. Caven: 255 Gonzales Lane. I am the one actually just due south of the first pond.

Mr. Chavez: Maybe we should identify your house.

Mr. Caven: Yeah. I am right here. Red truck. Just west of c.

Vice Chairman Eastman: Okay. He is unmarked just west of c.

Mr. Chavez: Why don't you circle that and put a c on it so we know where.

Mr. Caven: Yes, little red truck there.

Vice Chairman Eastman: Okay.

Mr. Caven: It's 255 Gonzales Lane and I don't know if I said that or not.

Commissioner Craig: You did.

Commissioner Hulseby: So he is in the 300.

Mr. Caven: Yeah. Probably the first house that is non-residential commercial. Regarding the noise, it is not much different at all in fact I wanted to say that I have called Loretta a few times asking if they lost their business license because it sounds like they are trying to make more noise. There is something...

Vice Chairman Eastman: Like they are trying to do what?

Mr. Caven: Trying to make more noise. There is something they are doing there that is like a high kang sound like it honestly sounds like someone is out there with a huge sledgehammer just banging on those big empty things over, and over, and over, and over. And there is no, the tractor is not even, the grappler is not even moving. So.

Vice Chairman Eastman: Are you sure that noise is coming from WISE Recycling?

Mr. Caven: Yes. Because I have gone outside and it is like right there. I don't know anyone else in the area that makes that kind of noise.

Vice Chairman Eastman: Okay.

Mr. Caven: I mean I deal, well you know, I have what's his name right next to me and he makes noise moving stuff around with his little tiny diesel lifter but it's, Jakie, it is not an issue. No it's loud and it will go on for about 20 minutes or 30 minutes at a time. It literally sounds like someone just banging on those things with a sledge hammer over and, like every 2 or 3 seconds. I don't know what it is but with regards to them dropping stuff. They are still pressing stuff in there. They are not slamming it down any more, but what they're doing now, what I have seen is moving, picking up the heaviest object at the very end, like a tractor frame, heavy, heavy stuff, and just dropping it right on top to try to get it to compact. Just Saturday I was in my house in the far back corner of the house in the bedroom and they dropped something so loud the concussion actually hurt my ears. Like whooo. It was really, really loud and I don't know what it was that they dropped in there but it is no different. It really isn't at all. The ground moved, shook underneath, my son was home last Monday sick and it was the same thing. He is just sitting there shaking his head going oh my gosh. Our bird id freaking out flying around the cage. It is loud. The ground is still moving. So they are not physically pounding it down any more, but they are still, it is the same thing. I will go out there and he will have tons of stuff on that pad and he will literally grab the front of that bucket and just go krrrrr and move it like you know 10 15 feet over. It just sounds like a war zone there's no, the decibels mean nothing basically to me. I am sorry. And I grew up going to loud concerts so.

Vice Chairman Eastman: Any other questions for Mr. Caven?

Mr. Caven: That's it?

Mr. Chavez: How would you describe the vibrations?

Mr. Caven: Like an earthquake. I lived in San Francisco for ten years and when you get the rolling earthquakes that will go through there, just one real quick, boom, everything would just kind of, like, slam.

Mr. Chavez: And how often do you get the vibrations?

Mr. Caven: I work until, I don't get home until 2 in the morning so a lot of times I am trying to sleep and I get woke, I wake up and I'm like, uh god and I go back to sleep. Today they started at eight o'clock in the morning I am not exactly sure what the timeframe is for noise ordinances but, they were moving around stuff at eight o'clock in the morning. It is not as bad as an earthquake. I've been in some pretty big earthquakes but the ground moves. It literally, I can feel it on my feet. Like Paul is leaving now but plates and glasses shake literally. So it is significant. I don't know about, I think a hundred feet away, does that say? I've never actually measured it.

Vice Chairman Eastman: You're in the 400 foot circle.

Mr. Caven: Yeah. It is significant. I mean I feel it under my feet. I am just west of c.

Commissioner Craig: According to this you are about 400 feet away.

Vice Chairman Eastman: Yeah, he is in the 400 foot circle.

Mr. Caven: Four hundred feet?

Commissioner Hulse: He's at the edge of the 300.

Vice Chairman Eastman: Barely.

Commissioner Craig: Right on the border of 3 and 4.

Mr. Caven: Well that's pretty significant. Maybe I am thinking a 100 yards. That's it, it's just nothing has changed as far as I, it literally has not changed. I am there during the day. It's significant.

Commissioner Craig: Let me ask this. Do you find it more in the morning or...

Mr. Caven: No. All day. It typically is in the morning. I can actually tell what's going to happen when I am coming home at night and I can see how big their pile is. I know what time they are going to start and how long it is going to last. That's just the way it is. It's business.

Commissioner Craig: It could be any time of the day?

Mr. Caven: It happens all day. They don't stop. I don't know what the hours come from, but I am there all the time and it happens all day long. He'll start up, get that thing going, doing stuff for about 20 minutes and stop for 10 to 15 minutes then it will start up again and then it will stop again. It is all day. Consistently. The loud booms it totally depends on what people bring in, I mean, there's transmissions, there's all kinds of, there's, I don't know if there's any regulation

at all on this stuff but people just bring in whatever there is on the trailer, it gets dumped on the ground, they scoot it around and pick it up and just drop it in bins and haul it off. I don't know how it is not an industrial business per se. I don't see how it is even commercial. How their zone got, it's an industrial business I think.

Vice Chairman Eastman: We don't have an industrial zone in Bosque Farms.

MR. Caven: I know that's why I am curious how they got it in the first place.

Vice Chairman Eastman: It is a commercial business. It doesn't seem like a commercial business. I've never seen anything else in Bosque Farms that makes that much noise. And I am used to the tire shop with their, those things are plain loud so. That's it.

Vice Chairman Eastman: Thank you Mr. Caven. Mr. Karr one more question for you please, or at least one for me.

Mr. Karr: Yes Ma'am.

Vice Chairman Eastman: What is the sound that he is describing, constant booming, boom, boom, boom?

Mr. Karr: I am not aware of it. I will have to go and see if I can find it myself to be able to, honestly I don't know.

Vice Chairman Eastman: What else do you do on the property when the machinery is not picking up metal and putting it into the bins, what else is going on?

Mr. Karr: Customers are unloading steel by hand out of a pick-up onto the pad or the trunk of a car or a trailer. But it's stuff they are physically able to pick up by hand and drop off the back. That's the only thing I can think of. They don't load the boxes by hand at all so, to be honest with you, I don't know.

Vice Chairman Eastman: Alright. Thank you. Anybody else have question for him? Alright. We have thrashed this out.

Mr. Chavez: Commissioner, I think Mrs. Fegan.

Vice Chairman Eastman: Mrs. Fegan?

Mrs. Fegan: Yes, I would appreciate it. Nancy Fegan 1210 Bosque Farms Blvd. I guess my concern with the noise discussion is per Mr. Karr and a few others in the May 7<sup>th</sup> meeting of 2012 there wasn't supposed to be a noise issue. There was supposed to be some noise inside the building. There was supposed to be one door and a quote from Mr. Karr in that meeting, "it runs so sporadically, you'll never notice the noise", just talking about the crusher inside the building. So all this exterior stuff, all the stuff that is now being, with the neighbors that we have to put up with, and I am sorry I appreciate your job and stuff, but you don't live there. you are not hearing that stuff.

Vice Chairman Eastman: Ma'am please address the Commission.

Mrs. Fegan: Sorry. I mean we live there. This is our home. This is these guys homes. They have their kids there. If you are not there you don't get it. You know, and I don't know how to make, and I understand they have a business, and they want to make money, but the noise should not even be an issue. This type of

noise should not be an issue. That was not what they said when they went in in the first place. And I am going to show you guys a couple pictures and I realize it is not one of the three items...

Vice Chairman Eastman: Then we don't...

Mrs. Fegan: But...

Vice Chairman Eastman: In our...

Vice Chairman Eastman: I'm sorry Mrs. Fegan we have to deal with the three items here.

Mrs. Fegan: At the meeting 2 months ago when Mr. Chavez was not here, and their attorney had an opportunity to speak and the rest of us were cut off, I had this information then. So I believe it would have been one of the items, but because we were cut off and not allowed to speak that night.

Vice Chairman Eastman: I don't believe, I think I have been to every meeting, and I don't recall that anybody's been cut off from speaking. I mean eventually, we are to the end of the conversation.

Mrs. Fegan: No, we were all here and the message.

Mr. Chavez: Here, why don't we do it this way. Number one is the Planning and Zoning Commission never intends cut anybody off. If you felt that way, we apologize for that happening. So you wanted to bring up a couple other issues.

Mrs. Fegan: One.

Mr. Chavez: We are here, one other issue, so let's just go ahead and have you bring it up and then we can at least hear it. We are not saying it is part of tonight's ability that we can make decision on, because we are not here on it but, if you would like to address something else then we certainly hear it.

Mrs. Fegan: It addresses what the original Conditional Use Permit included.

Mr. Chavez: So why don't we mark that as, we have had the noise diagram probably as exhibit one tonight. And that included the, were we marked the two residents homes that came up to talk, so we have marked that. And now it seems like we now have another exhibit, attachment or exhibit two. Was there anything else Mr. Wilson? We had, I think those are the two attachments for this evening.

Mr. Chavez: I think that is all we have for tonight. So let's mark that as attachment two, that way we can at least have them in the record.

Mrs. Fegan: And I took those, the top two at 5:30 this evening so it is very recent. And a quote from their May 7<sup>th</sup> 2012 meeting, that Mr. Wilson was not their representing attorney at the time but it was Mr. Myers, and the quote again from that meeting, "they will never be storing or dumping anything directly on the ground".

Mr. Chavez: And what does this show? These photographs?

Mrs. Fegan: It shows metal again on the ground and I have numerous photos from the past months showing things on the ground.

Mr. Chavez: Okay.

Mrs. Fegan: And with the high winds and stuff the piles are a little scary some times.

Mr. Chavez: So.

Mrs. Fegan: They are not on the pad as they were supposed to be.

Mr. Chavez: Okay. So that's not for consideration tonight, but it's part of...

Mrs. Fegan: It's part of their Conditional Use Permit.

Mr. Chavez: Conditional Use Permit and so we received that information from you.

Vice Chairman Eastman: Does anyone have any questions for Mrs. Fegan?

Mr. Chavez: Mrs. Fegan, would you describe, you have talked about noise.

Mrs. Fegan: Yes.

Mr. Chavez: Now, would you describe further are you hearing the noise the vibration and just address it. I am just asking a question so it is clear as to what the concerns are.

Mrs. Fegan: Okay. On Friday I was home in the office all day long and twice I walked out to see what was going on. Because it was noise, I mean just like the boom type of noise and feeling the building do it's little vibration thing. Now I only physically walked out twice, but there were times throughout the day that, like you sit there and shake your head and you just go wow. You know, and that is not how we should live.

Mr. Chavez: Mrs. Fegan you are there every day or is it...

Mrs. Fegan: I am not home every day. But there were, just this last Friday alone, like I said there was the two times that I physically walked out to see what was going on and there is probably four to five other times that, and not just like, you know some mild thing, something that when I am focused on my work it distracted my attention away from what I was doing. And I am not the nearest place to their activities.

Mr. Chavez: And do you also have vibrations in your home?

Mrs. Fegan: Yes.

Mr. Chavez: and describe that.

Mrs. Fegan: I mean it shakes and I don't know how to scientifically describe it, but all I know is as a human, when you feel the pulsing that's what it is.

Mr. Chavez: Have you asked Mr. Karr to, have you called Mr. Karr up and addressed this issue to him?

Mrs. Fegan: No I have not.

Mr. Chavez: Would you be amenable to having Mr. Karr go to your property and actually observing what you are describing or do you not want him there at all.

Mrs. Fegan: I don't know.

Mr. Chavez: I don't know if he would I am just asking the question.

Mrs. Fegan: I don't think that is appropriate. I mean the noise and the vibration is not just felt by me and I am not unfortunately the people who live closer are not here this evening. I don't, this issue should not even be happening. This was not discussed in the original Conditional Use Permit what they said they would be doing.

Mr. Chavez: And Mrs. Fegan, where is your house located on the diagram? And if you can put an f there, let's circle the one we have been using. Let's circle and put an f on it.

Mrs. Hatch: It's a.

Commissioner Hulse: Yeah.

Vice Chairman Eastman: House a.

Mr. Chavez: Okay you are a, so let's just put a

Mrs. Fegan: Well that's our office.

Mrs. Hatch: Oh that's the office. So we will put

Mrs. Fegan: So we are actually.

Mr. Chavez: And why don't you circle your home.

Mrs. Fegan: That's the home there.

Vice Chairman Eastman: This is the house?

Mrs. Fegan: that's the house and that's the office.

Vice Chairman Eastman: Okay.

Mrs. Fegan: And I was not there when the woman was there with the thing but, my neighbor told me that they were over by the horse stalls doing the test which is even further away.

Vice Chairman Eastman: Thank you Mrs. Fegan.

Mrs. Fegan: Thanks.

Vice Chairman Eastman: Commissioners, I think we have discussed this at length for an hour and a half now, more.

Mr. Chavez: Commissioner I would just ask if any of other party if they would like to have an opportunity to respond to any thing that was discussed. Mr. Wilson?



Vice Chairman Eastman: Alright. Is there anyone who wants to rebut, or comment on anything anybody else has presented this evening?

Mr. Wilson: Just one moment. Briefly.

Mr. Chavez: Would you please state your name again?

Mr. Wilson: Yes. I am Alan Wilson the attorney for the owners. The big issue with regarding the noise the last time I was here about a month ago, was there was no demonstrative way of saying what we were talking about. I thought correctly so Commission asked to get some sort of objective person in there to study it, to take a look at it, to propose if appropriate mitigation efforts, we have done that. We have presented it to you. The reason that decibels are used is because that is how you measure sound. The Conditional Use talks about sound. Talks about 80 decibels. Talks about on the location, it talks about becoming a nuisance. It doesn't define what a nuisance is, but nuisance is a common term. We look at it all the time. We have thresholds, we have standards that all construction projects all that activities all noise generating activities around human beings is being measured by. You have had testimony about that. The wall issue has been completely addressed. Once again, heard brand new comments from the Fegan's tonight. Never heard them before. Never heard that for some reason or other she's concerned because things are being stored on the ground. Obviously their effort is just simply to try to pick at everything they don't think this place is doing right in order to try to discredit this business. I just care about the Conditional Use and the items that we have indicated to the Village that we are willing and are trying to accommodate. You will notice on the agreement that Mr. Fegan said included stuff that he didn't want therefore he said no to it, first time I have heard that tonight. You will also notice that there's an additional agreement at that which case he was going to get paid five thousand dollars, this Village did not require that, he asked for it. The Haynes agreed to pay it to him so that he could extend the wall on his own property. That didn't come out of thin air. It was sent to him and his attorney in November this is the first time tonight that he has indicated these objections. And as you saw on trying to answer questions about if the wall presently proposed is acceptable, no direct line between yes and no with Mr. Fegan. Now you know why Mr. Haynes was unable to get an agreement with him for a year. The operators are concerned about the neighbors. These issues that have been raised, we can't objectively demonstrate them. We cannot quantify them because the quantities of sound suggest something else. But they are neighbors and they are here to accommodate and to deal with all the neighbors. I suggest that the environment to do that is face to face, on a day to day basis. Demonstrate what the problem is and get it resolved and not to constantly be coming back to some kind of municipal public hearing. Sot that is all that I have unless you have further questions.

Commissioner Hulsey: I've asked my questions in relation to the average that I need to know, how long was the meter running? Was it running the full seventy-two hours? What hours was it operating?

Mrs. Weston: We ran it for about three minutes.

Commissioner Hulsey: Three minutes for what?

Vice Chairman Eastman: Wait just a minute. Are there any more questions for Mr. Wilson?

Chairman Garrison: I have a statement. From the February fourth Planning and Zoning Commissioner meeting when we re-evaluate it was noise number one, noise, proof of the mitigation of the noise and vibrations. I want that clarified to you so you hear it tonight. Vibrations.

Mr. Wilson: I'm looking at the Conditional Use Permit Sir and what it requires and what it goes, these comments about noise and vibration are as far as I know the same problem. But we have not been able to identify specifically what is causing these complaints about vibrations in the homes.

Commissioner Hulsey: We know where the vibrations are coming from.

Chairman Garrison: May I ask a question of Mr. Caven?

Vice Chairman Eastman: Okay.

Chairman Garrison: Mr. Caven were you hearing or experiencing the vibrations prior to the location of WISE Recycling at this location?

Mr. Caven: Before they moved in?

Chairman Garrison: Yes.

Mr. Caven: No.

Chairman Garrison: Okay. Thank you.

Vice Chairman Eastman: Alright, any more questions for Mr. Wilson? I am asking the Commission. Alright then, Mrs. Weston.

Mrs. Weston: I believe your question Commissioner Hulsey was how long was the meter running, and we ran the meter for approximately three minutes at each location and that is a totally acceptable process that the same we do anywhere from three to ten minutes when we do a traffic analysis and other noise studies as well. And the action was happening during that time.

Mr. Chavez: Mrs. Weston? You've heard the discussion of noise and vibration and when you gave your statement and your opinions did that address both these concerns, or these other people testified to, they have testified they have heard noise, loud noises and then the vibration issue. Does the decibels study which you preformed, how does that correlate to noise as well as vibration?

Mrs. Weston: The study that we completed was only on the noise levels based on decibel units it does not evaluate the vibration levels.

Mr. Chavez: Did you do any studies that take into consideration any of the vibration issues that these various individuals that testified tonight about.

Mrs. Weston: Not at this time. We did not. It's a different measuring unit.

Vice Chairman Eastman: Thank you Mrs. Weston. Is the Commission ready to make a motion?

Commissioner Hulsey: The issues at hand. Let's start with the fence. They have agreed, the owners have agreed to provide a seven foot block wall fence across

the north property line. The fence that's going to go from the westerly portion of that toward the building is that going to be block or is that going to be chain link?

Vice Chairman Eastman: Block. On the north side of the property. Along Mr. Fegan's driveway.

Commissioner Hulsey: On the west from that to the building.

Vice Chairman Eastman: I don't know. We have a little map here of the fence.

Commissioner Hulsey: The four foot fence would be related to anything in front of the structure. Is that correct?

Mrs. Hatch: Commissioner? The block wall will extend from the existing cross fence located approximately forty feet from the west property line. In order for them to be in compliance with our setbacks and our visual barriers they are going to be set back forty feet from the west property line. Does that answer your question?

Commissioner Hulsey: What is the west property line? Right now. Is it thirty foot?

Mrs. Hatch: Can you elaborate?

Commissioner Hulsey: Is the building built on the thirty foot that we normally have?

Mrs. Hatch: No it is further back I believe. It's more than forty. I don't have the plans right in front of me I don't know if they happen to have a copy. No.

Commissioner Hulsey: The gate entering the property is that going to be, is the fence going to be a block wall fence on the north-west part of the building and the property line.

Mrs. Hatch: Yes.

Commissioner Hulsey: It's going to be a block fence?

Commissioner Graig: It looks like it's going to be chain link.

Mrs. Hatch: No. The block wall is going to extend from approximately forty feet back from the west property line. And extend all the way to the east property line. Where the fence is to enter the property will be there to the building. So there will be no visual barrier. Correct. There will be no visual barrier within that front forty foot setback.

Vice Chairman Eastman: Right. We didn't want a visual barrier there.

Mr. Chavez: So that seems to be the fence issue, Commissioner? You want to take each item and build on that? Or do you want to do it as a...

Vice Chairman Eastman: I think I would like to this as one motion.

Mr. Chavez: One motion.

Vice Chairman Eastman: The issue before us is, are we going to rescind their Conditional Use Permit or allow it to continue. Under that are three sub items, the

fence, the driveway and the noise. And so I don't think we ought to handle them separately. Unless it is the will of the Commission to do that. I mean if you want to make a separate.

Mr. Chavez: Well I think it should be done together too, I just wanted to clarify that. Just ask the question.

Vice Chairman Eastman: The question is, whether we up hold their Conditional Use Permit, or rescind their Conditional Use Permit. Have they violated it or have they not?

Mr. Chavez: And you can also certainly table this until you obtain, if you feel that additional information is warranted. That also is another option before the Commission. And come back whenever you so decide to put it on the agenda to make a decision on.

Vice Chairman Eastman: Next meeting would be May 6<sup>th</sup>. Personally I am not in the mood to extend this issue any longer. We have thrashed it out at every meeting for a year, but if the Commission doesn't make a motion.

Commissioner Hulsey: I would recommend that we get another look at where the noise is coming from. Three minutes at each position is that correct? Three positions, that's fifteen minutes of operation.

Vice Chairman Eastman: Okay, your motion is?

Commissioner Hulsey: My motion is that we table this but we want additional information on the noise and the vibration. I have been over at the church many, many, many hours. I haven't felt any vibration since the time that they said they would no longer compact and that's been for at least six weeks.

Vice Chairman Eastman: Is there a second to the motion?

Commissioner Craig: Second.

Vice Chairman Eastman: Alright, now we are in the discussion.

Commissioner Hulsey: I haven't felt any vibrations over there.

Vice Chairman Eastman: Any other discussion? I have not spent many hours over there but I did spend a period of time and there was no vibration at that time and they were operating. There was noise it was not excessive. Alright the motion is to table until when?

Commissioner Hulsey: Our next business meeting.

Vice Chairman Eastman: Until our next business meeting and request more information on noise and vibration. There has been a second to the motion. All those in favor?

Commissioner Hulsey: Aye.

Commissioner Craig: Aye.

Chairman Garrison: Aye.

Vice Chairman Eastman: No. Motion carries.

Motion passes with a 3 to 1 vote with Commissioners Hulsey and Craig as well as Chairman Garrison voting yes. Vice Chairman Eastman voting no.

Vice Chairman Eastman: Alright. We will put this off for another month. Did you need a roll call? I voted no.

Chairman Garrison: Do you need a roll call?

Commissioner Hulsey: Aye.

Vice Chairman Eastman: No.

Chairman Garrison: Aye.

Commissioner Craig: Aye.

Mrs. Hatch: Thank you.

Vice Chairman Eastman: Alright. For those of you patiently waiting, let's get on with the next item on the agenda which is Henry and Kathy Holmes with their minor Subdivision.

Commissioner McAda rejoins the meeting.

**9.) New Business**

**A.) Request for Minor Subdivision as per Ordinance 10-2-16**

Sections 11 & 12 Township 7 North Range 2 East Lots 19 & 20

By Henry & Kathy Holmes

For the purpose of constructing an Adult Assisted Living Village.

Sworn in:

Henry Holmes Applicant, 1295 Calle del Oro, Bosque Farms, NM 87068  
David Soule, PE Rio Grande Engineering, 1606 Central Ne, Albuquerque, NM

Discussion on the purpose of the subdivision. The subdivision is requested by the lending institution so that each structure will have its own piece of property until the balance is paid off at which time the owners will dissolve the property lines making it one lot with three structures on it.

The plat currently reads as two lots totaling 1.6048 acres. The request is to split the property into 3 lots. Lot 19-A being .6650 acres. Lot 19-B being .4697 acres. Lot 19-C being .4697 acres. There will be a forty foot easement given for access between lots 19-B and 19-C.

Applicant's projected time to completion is 3-5 years.

There was some question by the Commission as to whether the lot size was adequate. Village ordinance states that a lot must be a minimum of  $\frac{3}{4}$  of an acre for a Residence. The Planning and Zoning Officer and applicant argue that it is a commercial lot. Village ordinance states that the minimum lot size for a commercial lot shall be  $\frac{1}{4}$  of an acre. The Commission would like the Council to give consideration to the lot size when making their decision.

There is not a recommendation on parking in our current ordinance that deals with an assisted living facility. The Commission would like for the Council to give parking special consideration and make a recommendation when making its decision.

A motion was made by Commissioner Hulsey to recommend approval of the subdivision to the Council with consideration given to lot size and parking.

Chairman Garrison seconded the motion.

Motion passed unanimously.

- 9.)**            **New Business**  
                 **B.) Request for a Conditional Use Permit as per Ordinance 10-1-13**  
                 235 Bosque Farms Blvd.  
                 By Melissa Salazar-Serrano  
                 For the purpose of Used Vehicle Sales Lot.

Sworn in:

Melissa Salazar-Serrano Applicant, 91 Bonita Lp., Los Lunas, NM 87031

Discussion on the request for the Conditional Use Permit, the purpose of which is for a used vehicle sales lot.

Applicant will be closing down the boutique Los Plebes and opening up a used car lot at the same location. The Commission found the application to be complete. Commission found the property to be adequate and in compliance with the village of Bosque Farms Ordinances.

The applicant states that she will have anywhere from 6 to 10 vehicle on the lot.

Commissioner McAda made a motion to approve the Conditional Use Permit application for 235 Bosque Farms Blvd. for the purpose of a used vehicle sales lot.

Chairman Garrison seconded motion.

Motion passed unanimously.

**9) Monthly Report**

Mrs. Hatch gave monthly report for the month of March.

**13) Adjourn**

Commissioner Hulsey moved to adjourn the meeting at approximately 8:50pm. Commissioner McAda seconded. Carried unanimously.

**PASSED, APPROVED AND ADOPTED ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.**

\_\_\_\_\_  
Chairman, Dan Garrison

ATTEST:

\_\_\_\_\_  
Planning & Zoning Officer, Loretta K. Hatch