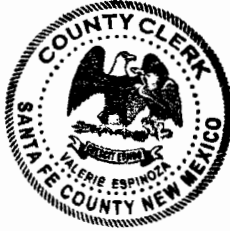


COUNTY OF SANTA FE)
STATE OF NEW MEXICO) ss

BCC MINUTES
PAGES: 155

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County Clerk, Santa Fe, NM

SANTA FE COUNTY

BOARD OF COUNTY COMMISSIONERS

REGULAR MEETING

January 31, 2012

Liz Stefanics, Chair – District 5
Kathy Holian, Vice Chair – District 4
Robert Anaya – District 3
Danny Mayfield – District 1
Virginia Vigil – District 2

SFC CLERK RECORDED 03/01/2012

SANTA FE COUNTY
REGULAR MEETING
BOARD OF COUNTY COMMISSIONERS

January 31, 2012

This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 1:10 p.m. by Chair Liz Stefanics, in the Santa Fe County Commission Chambers, Santa Fe, New Mexico.

Following the Pledge of Allegiance and State Pledge, roll was called by County Clerk Valerie Espinoza and indicated the presence of a quorum as follows:

Members Present:

Commissioner Liz Stefanics, Chair
Commissioner Kathy Holian, Vice Chair
Commissioner Robert Anaya
Commissioner Danny Mayfield
Commissioner, Virginia Vigil, Chair

Members Excused:

None

V. MOMENT OF REFLECTION

An invocation was given by Jennifer Jaramillo of the County Manager's office.

VI. APPROVAL OF THE AGENDA

- A. Amendments**
- B. Tabled or Withdrawn Items**

CHAIR STEFANICS: Are there any changes to the agenda?

KATHERINE MILLER (County Manager): Madam Chair, yes, there is one amendment to the agenda under item X. C. 1, it's just a change to the caption. The item is the same as is in your packets but it's just a change to the announcement in the caption.

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Just a minute. So it's a change to the language in item

C.1?

MS. MILLER: Madam Chair, yes, just to be inclusive of what was actually

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happening in the resolution.

CHAIR STEFANICS: Okay, thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I would ask that items XIV B.1 and B.2 be brought up after the approval of the minute, right after VII. That's items XIV B.1 and B.2.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Commissioner Holian was next.

COMMISSIONER HOLIAN: Madam Chair, I would like to add Commissioner Vigil as a co-sponsor of the resolution in Item XIV C.2 please.

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I would ask that resolution item C.1 be brought up after we talk about the consent agenda.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Holian, since it's your resolution.

COMMISSIONER HOLIAN: I would prefer not because there are some speakers who are intending to come and talk about that.

CHAIR STEFANICS: Okay, I think we're going to defer to the sponsor on that one. Any other changes to the agenda?

COMMISSIONER VIGIL: Move for approval, Madam Chair.

COMMISSIONER HOLIAN: Second.

The agenda was unanimously [5-0] approved as amended.

VII. APPROVAL OF MINUTES: December 13, 2011

CHAIR STEFANICS: Staff are there any changes?

COMMISSIONER HOLIAN: Madam Chair, I move for approval of the minutes of December 13, 2011.

COMMISSIONER ANAYA: Second.

CHAIR STEFANICS: Any discussion?

The motion passed by unanimous [5-0] voice vote.

XIV B. Recognitions

- 1. Proclamation Honoring and Recognizing Ben Lujan, Sr., Speaker of the New Mexico House of Representatives, for his Dedication and Resolute Commitment to Public Service on Behalf of the People of New Mexico and Santa Fe County (Commissioners Mayfield and Anaya)**

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair,

this is a recognition for a proclamation honoring and recognizing Ben Lujan, Speaker of the New Mexico of Representatives for his dedication and resolute commitment to public service on behalf of the Commissioners, people of New Mexico and Santa Fe County. I believe Commissioner Anaya, myself and Commissioner Vigil were sponsoring this, I could be wrong.

CHAIR STEFANICS: I believe it is all the Commissioners.

COMMISSIONER MAYFIELD: -- all of the Commissioners. So, Madam Chair, let me just pull up this resolution. I think Juan has it in circulation right now. Mr. Rios, are you here with that resolution?

Madam Chair, the proclamation will read:

Whereas, an era in New Mexico's valued politics is about to end with the announced retirement of Speaker of the New Mexico House of Representatives Ben Lujan; and

Whereas, the Board of Santa Fe County Commissioners wish to take this opportunity to extend our genuine and heartfelt appreciation to Speaker Lujan for many decades of public service on behalf of the people of the great State of New Mexico and the Santa Fe County during the past 42 years and elected public service; and

Whereas, Ben Lujan was born in Nambe, New Mexico, a son of a sheepherder and was the youngest of nine children; and

Whereas, Ben Lujan graduated from Pojoaque High School in 1954; and

Whereas, Ben Lujan has been married to his high school sweetheart, Carmen, for the past 53 years, having raised their four children, Shirley, Jacqueline, Jerome and Ben Ray; and

Whereas, Ben Lujan earned a living as an ironworker at Los Alamos National Laboratory; and

Whereas, public service is a noble calling involving a multitude of challenging and rewarding efforts whose end goal is to improve the quality of life for the citizens we serve; and

Whereas, in 1970 Ben Lujan was elected to serve on the Board of Santa Fe County Commissioners and then was elected in 1974 to serve on New Mexico's House of Representatives and in 1983 began serving as the democratic whip in the House and in 1991 Representative Lujan began serving as a House majority leader; and

Whereas in 2001, members of New Mexico's House of Representatives elected Ben Lujan Speak of the House where he has served as Speaker for 11 consecutive years; and

Whereas, Speaker Ben Lujan's hard work does not go unnoticed and the Board of Santa Fe County Commissioners wants you to know that we are proud of all that you have done to improve the quality of life for our communities in Santa Fe County; and

Whereas, even during these difficult times we have the pleasure of witnessing firsthand your determined commitment, tireless perseverance, care and steadfast resolve to continue working on behalf of the people of the great State of New Mexico.

Now, therefore, we find ourselves grateful for the opportunity to salute and thank you for all you have done on behalf of our state and county. And, we wish that this commemoration provides an opportunity for all citizens to pay tribute to your long-lasting

achievements and spirit in public service, and to express our deep appreciation for the many contributions you have made to our daily lives.

Now, therefore, be it resolved that the Board of Santa Fe County Commissioners who hereby proclaim February 2012 as Speaker Ben Lujan month in Santa Fe County. And we encourage all citizens to recognize the essential role of your public service.

Madam Chair, with that I will ask for comments from my fellow colleagues.

CHAIR STEFANICS: Is that a motion?

COMMISSIONER MAYFIELD: Madam Chair, I will move to approve this immediately but I would just ask if everybody would want to comment on this.

CHAIR STEFANICS: Yes, we'll take comments but I'll second that.

COMMISSIONER ANAYA: Second that as well.

CHAIR STEFANICS: I think we have several seconds. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Speaker Lujan, if you have driven on a road in Santa Fe County, drank water through a water tap, seen the acequia systems in Santa Fe County utilized for agricultural purpose, just about everything that you come in contact with in Santa Fe County the speaker, our speaker, has had an impact on. He spent his life working with his family and he continues to work with his family and the community. He was a staunch union man and still is a staunch union man and continues to support the initiatives and efforts of Santa Fe County and the entire State of New Mexico.

I'm proud to say that he is one that has worked with Santa Fe County and the community and that I follow as a County Commissioners, as we all do sitting on this bench, something that he was and is very proud to be a County Commissioners for Santa Fe County.

So, Mr. Speaker, we know that you're going to continue to fight for us as the Speaker of the House but we also know that you're going to continue to fight for us in your communities and God speed to you and your current challenge that you're going through right now. We thank you for your service to Santa Fe County and your continued service to the State of New Mexico.

CHAIR STEFANICS: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Commissioner Anaya and the proclamation have testified to Speaker Lujan's many legislative accomplishments. But I would like to speak of an achievement that I personally feel very strongly about. It was with great sadness that I heard about at the opening of the legislative session Speaker Lujan's struggle with cancer that was almost certainly brought on by exposure to asbestos. And the reason that it really hit home for me is that a little over a year ago I lost a very dear uncle to that same disease. He had lung cancer that was brought on by the fact that he was a welder early in life and was exposed to asbestos. It's true that the people at the laboratory deal with many dangerous and toxic substances and they do many dangerous things there particularly people who work in laboratories and people who deal with building the infrastructure at the laboratory. And many of the people who work there until recently have not fully even, I think, understood the dangerous substances that they were

exposed to. And I would like to recognize the incredibly important contribution by Speaker Lujan to the people in our community. He, through his role in the legislature and \$125,000 state appropriation helped to fund the Office of Nuclear Workers' Advocacy. This is an office that helps workers file claims to the Department of Labor when they have health related issues. And I'll have to say I knew many, many people at the laboratory who did have health related issues that indeed were caused by the kind of work that they did there and they had a really difficult time prior to opening this office of getting through the bureaucracy and getting the help that they were actually entitled to from the federal government.

I would like to quote Speaker Lujan because I think he beautifully expressed exactly how I feel about this topic. He said, "I believe it is the duty of the State of New Mexico to advocate and assist nuclear workers who have been exposed to toxic substances which has adversely affected their bodies, livelihood and quality of life. The current system requires laypeople to navigate through a difficult bureaucracy" and that is so true.

Speaker Lujan has been a powerful voice for all of those people who have worked at the lab, who have sacrificed their health by working at the lab and yet have often been ignored. I feel that Speaker Lujan is truly one of our local heroes.

Thank you.

CHAIR STEFANICS: Thank you very much. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Everything that has been said, I echo those sentiments. You know there isn't an area or a discipline that you can't discuss without discussing the impact that Speaker Lujan had in it. I'm thinking of athletics and his impact to his community with that. One thing I do remember about Speaker Lujan when I first came on the Commission is just how large his legacy is and how many, many people he has touched and how many lives he has touched. He knew my mother, my father; he remembers little incidents, like my mother selling tickets, raffle tickets, for a campaign for him. He truly as a human being is unmatched. He's a legacy in his own time. He's truly a living legend.

And I want to make comment about Carmen. Carmen who has been at his side through and through and Carmen who I first met before I even met Speaker Lujan. What a wonderful woman she is. How fortunate they are to have met and found and been with each other through thick and thin. And I just want to say if the Speaker is out there listening that I pray for him. I pray for Carmen. I pray for their entire family. I do believe his strength will see him through many an adversity and I foresee that the adversity that he faces now is probably going to be the biggest struggle in his life but I want him to know that there are so many people that are lifting him and his up in prayer. Thank you.

CHAIR STEFANICS: Thank you. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you and thank you for allowing us to bring this resolution forward. I have been fortunate to be a neighbor of Speaker Lujan and also to have him serve me and my family as our representative. I can just say that Speaker Lujan, Carmen Lujan they are pillars of our community. You will see them steadfast in church. You will see them in the stores. You will see them at sporting events. They are there day-in and day-out everyday within our community and they really are –

Speaker Lujan really does make the effort to take care of everyday people and everyday lives and he understands what the impact of our decisions as elected officials are on everybody.

So, again, Madam Chair, my heart goes out to their family. I wish them the very best. I also wish everybody who is suffering with this dreadful disease of cancer or any other disease out there the best. And with that I just want to thank Speaker Lujan for his dedication and service to our public. Thank you.

CHAIR STEFANICS: Thank you. The comments I would like to make about the Speaker when I first was running for my seat in the state senate and the Speaker came to me and said, Well, who are you and why are you running? Where did you come from? And after we became friends he made it very clear to me that he cared about the people. And he was not to be judged by what he looked like. That he was a very progressive person. He cared about choice. He cared about gay rights. He cared about the poor people in this community. He still continues to care about all of things and he's made his leadership quite clear about all of that in his leading of the house and also his vote.

And the other thing that happened, when I became a County Commissioner, even though I don't represent that district, he called me up and he said, Remember, Liz, no new taxes. And I said we'll have to see about that. We'll have to see what it is the County needs but we will also take into account all the people here that would be stressed by new taxes. So that was his concern when I first came into office. And that just exemplifies his looking out for all the working people in our community.

It is my hope, before we take this vote, it is my hope that we'll approach the house to see if we can also present this resolution to him on the floor of the house.

The motion passed by unanimous [5-0] voice vote.

[The DVD for presentation experienced audio problems and the Commission continued with the next agenda item.]

VIII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIR STEFANICS: Are there any consent calendar withdrawals?

COMMISSIONER MAYFIELD: Madam Chair, mostly for informational purposes I have read through it but I'm going to ask for a few consent items to be pulled off. Under IX.A.1 I would like to have. Under resolutions I would like to have 1, 2, 4, 6 and 7 discussed.

CHAIR STEFANICS: I'm sorry. Under resolutions so that is Item IX B. 1, 2, 4, 6, and 7. Is there anything else from the Commission?

COMMISSIONER HOLIAN: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER HOLIAN: I move for approval of the consent calendar

minus the withdrawn items.

COMMISSIONER MAYFIELD: Second, Madam Chair.

The motion passed by unanimous [5-0] voice vote.

IX. CONSENT CALENDAR

A. Miscellaneous

1. Request Authorization to Enter into a Lighting Agreement with the New Mexico Department of Transportation (NMDOT) for Installation of Roadway Lighting on NM 599 and Santa Fe County Road 62 Interchange (Transportation & Solid Waste Division/Robert Martinez)
ISOLATED FOR DISCUSSION

B. Resolutions

1. Resolution No. 2012-__, a Resolution Requesting an Increase to the General Fund (101) to Budget Property Rental Revenue Received to be used for Maintenance Costs for the Santa Fe County Fairgrounds / \$1,000 (Public Works/Projects & Facilities/Teresa Martinez)
ISOLATED FOR DISCUSSION

ROBERT MARTINEZ: Madam Chair, Robert Martinez, Transportation & Solid Waste Division Director, I stand for questions.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair, Mr. Martinez, having read through this, this is going to an area that is eventually going to be annexed by the City of Santa Fe?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is correct.

COMMISSIONER MAYFIELD: So, and I guess it wasn't clear to me who is going to incur this cost going on after the annexation? Is Santa Fe County going to pay for this in perpetuity? Is the City of Santa Fe going to pay for this?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the process is for the local entity to enter into a lighting agreement with the DOT prior to going into construction. I'm guessing that the construction of the interchange will take about a year so in the event that the annexation takes place prior to the construction being completed and being turned over to the County, the City would take over this interchange for these lighting, luminaires and any other associated maintenance of the intersection as far as lighting. So it may or may not be the responsibility of the County if the City annexes within this next year.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, maybe Mr. Ross, what if the City doesn't annex this in the next year is it going to be our cost to incur forever?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, I would defer that to the County Attorney.

COMMISSIONER MAYFIELD: This is Phase 2 of the annexation agreement with the City.

STEVE ROSS (County Attorney): Madam Chair, Commissioner Mayfield, it depends on what the lighting agreement says, I don't have it in front of me, on that topic.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, I believe the lighting agreement says that when the City annexes then this would revert to the City of Santa Fe.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, not to split hairs but where is that in the agreement?

MR. MARTINEZ: Under section 14, the term, it says in the last sentence, The public entity anticipates that the property at issue with this project will be annexed by the City of Santa Fe which will require termination of the agreement. The public entity shall provide 60-days written notice of termination.

COMMISSIONER MAYFIELD: So, Madam Chair, Mr. Martinez, or Mr. Ross, the way I read that is that we would have to terminate this then as a public entity when the City fulfills their annexation commitment?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is correct.

COMMISSIONER MAYFIELD: Okay, and Madam Chair, Commissioner Mayfield, is this where all the accidents are happening on 599?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is correct. There is at-grade intersection at this location right now.

COMMISSIONER MAYFIELD: Okay, are there any thoughts of lights that flash?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the DOT – well, actually, the County installed the flashing lights at this intersection about a year ago. And the construction of the interchange is supposed to take place in April.

COMMISSIONER MAYFIELD: Thank you, Madam Chair and thank you Mr. Martinez.

CHAIR STEFANICS: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Thank you, Robert. I just have to ask this question, since the City probably will end up with the bills for this, is there any chance for having them contribute something to actually putting the lights in so we could possibly get the LED lights?

MR. MARTINEZ: Madam Chair, Commissioner Holian, the City was at the meeting that the County was with the DOT when we were discussing the specifications of this interchange and at that time the City was not interesting in contributing the additional \$150,000 for LED lights at this interchange.

COMMISSIONER HOLIAN: Thank you, Robert.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, just a quick overview for the public hear and those listening in, this is a Metropolitan Planning Organization project. This is the interchange that will ultimately have an overpass on it and be much more safe and it's the lighting associated with that overpass and that overall interchange.

The question that I have, Mr. Martinez, and a lot of our employees and public access the public works facility not off of that interchange but using the route that goes in the riverbed; has staff had any discussions associated with an access point in recent months that is closer to the public works facility or has that not been on the table at all?

MR. MARTINEZ: Madam Chair, Commissioner Anaya, the NMDOT hired, I'm not sure if it's Bohannon Huston to do a 599 corridor study but that was one of the projects that was placed on the list but it didn't have as high a priority as the 599/62 interchange or the other intersection further east which is known as the County Road 70 connector.

COMMISSIONER ANAYA: No, Madam Chair, Mr. Martinez, I'm not bringing it up in any way to contradict this project. This is a necessary project for many reasons but I would like to sit down with you as we go into this next cycle and then we will get more updated on some of the historical aspects of the corridor. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Is there a motion to authorize this?

COMMISSIONER HOLIAN: So moved.

COMMISSIONER ANAYA: Second.

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The motion passed by unanimous [5-0] voice vote.

CHAIR STEFANICS: The motion has passed and I'd like to recognize County Councilor Chair Sharon Stover from Los Alamos for joining us. I know she is here for some later in the agenda but thank you very much for coming. Do you have any other commissioners or elected officials with you?

SHARON STOVER: At this point, no.

CHAIR STEFANICS: Thank you very much for being here.

XIV B. 2. "Home Town Heroes" Acknowledgment and Recognition of Chris Madrid, "The Best in the Business, Blacksmiths" (Commissioners Anaya and Commissioner Mayfield)

[A video of "Home Town Heroes" was shown with Chris Madrid winning the best blacksmith in America.]

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Commissioner.

COMMISSIONER ANAYA: Madam Chair, I know that took a little time but I think that was a little time well spent. I just want to quickly say that Mr. Madrid I think shows everybody that's here and watching on TV and otherwise that persistent and training – he does a lot of training and I can tell you that I know it from first hand watching him – but that work ethic and ability comes from a good upbringing. His parents Patricia Miller and his father our Under Sheriff Ron Madrid is with us today. Ron, stand up you deserve a round of applause as well.

I'm going to turn it over to Commissioner Mayfield and then Chris I'd like you to come up and share a few words of wisdom for us.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. And, Mr. Madrid, that was great. I was hoping our County fire department would have been there too Commissioners for your little shoe incident to put it out there and show them how efficient we are. Great job, phenomenal. I saw your competitors over there were giving you the kudos you deserve. Thank you, and it was just pretty inspirational to see. I even saw what I thought was a lot of adrenalin in the audience when they were watching that show so great job.

CHAIR STEFANICS: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I would just like to say thank you to Commissioners Anaya and Mayfield for bringing this forward because if I had done it, it probably would have been a conflict of interest or something like that since Chris Madrid is our farrier and he's a really good farrier. My husband often tells me what a genius you are Chris. And I would like to congratulate you on your very impressive achievement and say that we are truly lucky in Santa Fe to have such talented people like you. I also want to let you know that my New Year's resolution this year I will not overfeed our

horses. Just like you told me. So, anyway, thank you and congratulations.

CHAIR STEFANICS: Thank you. On behalf of the entire County Commission we'd like to congratulate you and the national honor that you have received and I believe we have a certificate that we'd like to present you so we're going to come down if you would please come forward.

It might have been easier for you to do a demonstration, but we've asked you to say a few words.

CHRIS MADRID: I just want to say thank you to Kathy Holian and Robert Anaya. Robert is a really good friend of mine and client, Kathy. That was one contest of five contests they go through. It's a season that we do and that was the second to the last contest to the season. I'm preparing right now to go to Kentucky next month and that's a four-man shoeing and everything is handmade just like you seen out of the [inaudible]. It's just a passion of mine and I'm going to keep working hard.

CHAIR STEFANICS: Well, congratulations and we wish you well in Kentucky. Thank you very much for coming today.

[Chris Madrid received a standing ovation]

IX B. Resolutions

- 1. Resolution No. 2012-8, A Resolution Requesting An Increase To The General Fund (101) To Budget Property Rental Revenue Received To Be Used For Maintenance Costs For The Santa Fe County Fairgrounds / \$1,000 (Public Works/Projects & Facilities/Teresa Martinez)**

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER ANAYA: Madam Chair, if I could just quickly, Under Sheriff Madrid, if I could just quickly, we had a very dramatic event here in recent days and I want to say to you that the Santa Fe County Sheriff's Department did a good job in capturing Arturo Anaya that committed the crime but I want to tell you, Under Sheriff Madrid, you and your staff, Commissioner Mayfield and I and the whole Commission, we're very thankful for the work and doing what you did to capture him and so - I'm sorry, Madam Chair.

[Applause]

CHAIR STEFANICS: Thank you very much.

COMMISSIONER HOLIAN: Madam Chair, could I -

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Ms. Martinez, I needed this as a caveat to bring up entrees for maybe how we are using those dollars that are generated by the County fairgrounds. So as I understand people lease our County fairgrounds on the off-season and the on-season and this money needs to be placed into our general fund account and you won't have to do an operating transfer so the fairgrounds can use this

money.

MS. MARTINEZ: Madam Chair, Commissioner Mayfield, that's correct. It brings in – in earlier years we bring in right about \$5,000 a year. Last year it brought in about \$11,500 and every time they have a maintenance issue we'll bring in a resolution so that you can see how the funds are being used but this is for fixing of several doors.

COMMISSIONER MAYFIELD: Thank you, and, Madam Chair, Ms. Martinez and maybe this is more of a question for Manager Miller or somebody – but one of the questions I have brought with this and I know and I'm going to bring it up with our community centers too, as far as youth, I know we can't violate the anti-donation clause, we need to get these facilities especially if they're an enterprise facility to generate some revenues, but one thing I wanted to bring forward or at least start a discussion on and this gave me the entrée to do it, is if, such as our senior centers in Santa Fe County, they used to have an annual dance with the City of Santa Fe where they had it I think at the center and they're also looking at having one now with Santa Fe County but I think one of the problems or dilemmas is that they have to pay a lot of money to the fairgrounds to have this and, again, I don't want to violate any anti-donation clause but if we could figure out a mechanism to allow certain, maybe, I don't know, Katherine, I'll defer to you. I think you see what I'm trying to do.

MS. MILLER: Madam Chair, Commissioner Mayfield, that's dance is put on by the County and the City together. So I believe one of the staff had asked me about that and I said if it's an event that we're putting on we don't rent our own facilities. So I believe in that particular issue because somebody did bring it up to me around the time that you brought it up at the last Commission meeting and I said our own public entity that's not an issue. If the City or the County is sponsoring it so there wouldn't be a charge of it if we're the ones actually hosting the event. And then also I think we ought to and I brought this up, making sure that there are provisions within the resolution and the policy that allow us to do things for either County employee events as well because I don't think that option is in there right. But on the seniors dance and I think there's another event being sponsored by our seniors program and they would not be charged.

COMMISSIONER MAYFIELD: Great, and, again, I don't want to take any money out of our fair commission whatsoever, but on certain services if we can try and make that a little more economical for people to absorb.

Thank you. Thank you, Madam Chair. With that I'll move for approval.

COMMISSIONER ANAYA: Second.

CHAIR STEFANICS: There's a motion and a second. Any further discussion?

The motion passed by unanimous [4-0] voice vote. [Commissioner Holian was not present for this action.]

IX. B. 2. Resolution No. 2012-9, A Resolution Requesting to Reverse the Operating Transfer from the General Fund (101) to the Water Enterprise Fund (505) for the Cuatro Villas/Greater Chimayo Interconnection Project Which Will be Funded by Bond Proceeds / \$2,000,000. (Public Works/Utilities/Teresa Martinez)

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Ms. Martinez, thank you. The reason I bring this up and this is a chunk of change that is coming out of some bond proceeds, \$2 million; and I know we've had some discussion at least this past year, this is for both the water interconnect between Cuatro Villas which includes Sombrillo, Arroyo Seco area and the Chimayo Greater Water Association. I know there were some issues as far as how that money was allocated and how it was to be allocated. Second question, Ms. Martinez, I thought this money was out of a prior bond not the 2011 bond.

MS. MARTINEZ: Madam Chair, Commissioner Mayfield, the bond that we're referring to had two different sales. There's a 2009 sale and a 2011 sale. Portions of proceeds were received in the 2009 and then the remainder would have been received in the 2011 sale. It's the same bond but the sale takes on the year when it is actually sold. So these are the respected for both the Great Chimayo and for Cuatro Villas. Initially it was thought that the project would move quicker and we loaned the water fund or utility fund if you will the proceeds so that we would not halt the project and then negotiations occurred, changes in staff occurred and we actually had the bond sale occur where we got the lion's share of the money. So the money is available in bond proceeds and we did not have to actually use the loans. So we've just trying to make the two funds whole.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Ms. Martinez, maybe I'm not understanding then. So did they receive any of the \$2 million from the 09 bond sale or no? They will receive a full \$2 million from the 011 sale?

MS. MARTINEZ: Madam Chair, Commissioner Mayfield, I believe it was \$500,000 from 09 and the remainder from 2011.

COMMISSIONER MAYFIELD: So it was 2.5 and that went 250 a piece or do you know how that accounting was?

MS. MILLER: Madam Chair, Commissioner Mayfield, there was an original to Great Chimayo \$500,000 and then there was another \$500,000 in a JPA and then there's another 250,000 with Cuatro Villas, leaving 1.250 million to be still depending on where it's to go. We've met with both Cuatro Villas and Chimayo working on an arrangement and they're just now getting back to us how we portion the remaining. And they we're going to bring back a JPA to the Commission for approval between the County, Cuatro Villas and Chimayo for the remainder of it.

This budget adjustment married up/cleans up the loan between them but in total the bond question that went to the voters was for \$2.5 million and a total when we allocate it all to the JPA's would still equal \$2.5 million.

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COMMISSIONER MAYFIELD: Okay, great, and, Madam Chair, Ms. Miller, thank you for working on this. I know it was a little confusing.

Last question, and this may not be a popular question that I ask, but in light of some road work that we were doing up there in the Chimayo and my understanding, and whoever can answer this question, is that in able for us to participate with these water associations we have to have some sort of interest or ownership within these associations; am I, can you explain that to me, please?

MS. MILLER: Madam Chair, Commissioner Mayfield, the issue is when we allocate the funding for these, part of our agreement is to show that asset as part of our fixed assets and so when – the project that they might do might be something much greater than that and then there's a component of it that we're funding and we will show based on those being County funds, we'll show that on our fixed assets as part of our asset group. Right, Teresa?

MS. MARTINEZ: That's correct.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, Mr. Ross, then why then if the board, if they have a board, they're going to take positions, those positions may put us as a county in a position. If we're engaged in this why don't we ask for a seat on those boards at least through some County representation?

MS. MILLER: Madam Chair, Commissioner, that's not been something that [inaudible] but I'm not sure that we can because we're not part of the mutual domestic.

MR. ROSS: Madam Chair, Commissioner Mayfield, mutual domestic water associations are a product of fairly old statutes that are actually repeals. They're not on the books any more. You can't create a mutual domestic now. And my recollection is that board members who serve on mutual domestics have to be elected. So arguing for a seat, a county seat, would kind of be contrary to the enabling statute.

COMMISSIONER MAYFIELD: Well, Madam Chair, Mr. Ross, could we not argue for an ex-officio member just so we can see what the board may commit the County into doing in the future?

MR. ROSS: That's kind of what we're doing with the JPA. We have a committee, a technical committee, that interacts with both water associations.

COMMISSIONER MAYFIELD: Okay.

MR. ROSS: I think the appointment of an ex-officio member might present the same problems as I've just described as appointment of a real member. So right now we have a strong participation in the operations of these facilities, the facilities that we contribute to through the technical committee.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Steve, I'll discuss this with you and some more detail. Thank you, Madam Chair. With that I'll move approval of the resolution for, resolution 2012-09 to transfer \$2 million to the general fund for the water enterprise fund 505, Cuatro Villas/Greater Chimayo interconnection project.

CHAIR STEFANICS: Thank you. Is there a second?

COMMISSIONER HOLIAN: Second.

The motion passed by unanimous [5-0] voice vote.

IX. B. 4. Resolution No. 2012-10, a Resolution Confirming the Vacation and Abandonment of a Drainage Easement on Property Located at 3205 and 3219 Agua Fria Street (Transportation & Solid Waste Division/Robert Martinez)

CHAIR STEFANICS: Mr. Martinez.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, I stand for questions.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Mr. Martinez I read the resolution. Just so I understand whenever Santa Fe County and I guess staff is the one who made the recommendation to the landowners to come and ask for this request from the Commission to grant the abatement of this, the removal of the -- let me see what is it that you guys are asking for -- the easement. My question is, did we pay for this easement to these landowners?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the present owners bought the property with the easement that was existing. So we did not pay these current landowners anything. I'm not sure when the original easement was acquired and how it was acquired but it was acquired a long before the current residents purchased this property.

COMMISSIONER MAYFIELD: But, again, we don't know if we paid the original owners for this easement?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is correct. I cannot tell you today how that easement was acquired.

COMMISSIONER MAYFIELD: Mr. Martinez, just so I understand. Let's say we have any other future, and I know we'll have many, does this standard go out to every adjacent landowner saying, Guys, look, you can petition this Commission and ask for us to remove our easement requirements. How are those landowners and homeowners informed of this?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, these are done on individual basis. If there's a drainage easement or an access easement residents come to the County as these residents did asking the County to abandon these particular easements. Because of Agua Fria Phase III, we determined that this drainage easement was not longer needed because the storm drainage system that was constructed as part of Phase III would be conveying the drainage from Agua Fria to the Santa Fe River. To answer your question, these were done individually on a case-by-case basis when residents feel that an easement may no longer be needed.

COMMISSIONER MAYFIELD: But the only way they arguably know that is if they speak with you guys right?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is correct. They were aware of the project, Agua Fria Phase III, they attended the public meetings and at that time we gave the public a status of what the project would entail and when it was told to them that the storm drain system would be installed they then approached the County to vacate the drainage easement on their property.

COMMISSIONER MAYFIELD: Thank you. And, then, Madam Chair, Mr. Ross, there's no issue with anti-donation clause with doing this? It's on private property?

MR. ROSS: Madam Chair, Commissioner Mayfield, no.

COMMISSIONER MAYFIELD: Okay, thank you for that. And, then second question is why, why is this coming to us in a consent item? Do we not have to take formal action or I guess that's a consent item and that's considered formal action also.

CHAIR STEFANICS: That's right. There are several items on this consent calendar that warrant discussion if individuals desire. But if we feel that there's enough materials and presentation we can approve resolutions through consent.

COMMISSIONER MAYFIELD: Okay. Thank you, Madam Chair. Thank you, Mr. Martinez. And, I'll move approval of Resolution -- whatever number we're on there.

CHAIR STEFANICS: 2012-10.

COMMISSIONER MAYFIELD: 2012-10.

CHAIR STEFANICS: Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIR STEFANICS: Any further discussion?

The motion passed by unanimous [5-0] voice vote.

- IX B. 6. Resolution No. 2012-11, A Resolution Requesting an Increase to the Fire Operations Fund (244) to Budget a Contribution Received from Edward A. Oberzut / \$250 (Public Safety/ Fire/Teresa Martinez)**

COMMISSIONER MAYFIELD: Madam Chair, I just wanted to give recognition to Mr. Oberzut and thank him for giving our fire department some much needed money to help with our public safety efforts. That's all I want to do. Do we give a formal recognition to these folks?

INTERIM CHIEF SPERLING: Madam Chair, Commissioner Mayfield, yes, I send them a letter thanking them on behalf of the fire department.

COMMISSIONER MAYFIELD: Great, thank you, Mr. Oberzut, thank you.

CHAIR STEFANICS: So, is there an approval?

COMMISSIONER MAYFIELD: Madam Chair, I'll move resolution 2012-

11.

COMMISSIONER HOLIAN: Second.

The motion passed by unanimous [5-0] voice vote.

- XI. B. 7. Resolution No. 2012-12, a Resolution Requesting an Increase to the Fire Operations Fund (244) to Budget a Youth Conservation Corps Commission Grant Awarded through the NM Energy, Minerals and Natural Resources Department / \$149,814 (Public Safety/Fire/Teresa Martinez)**

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Again, just for awareness. Madam Chair, Chief Sperling, how are we going to go out and recruit these young gentlemen and ladies for this project?

INTERIM CHIEF SPERLING: Madam Chair, Commissioner Mayfield, we'll advertise as we would for any position through the process of Santa Fe County. Plus I have put the word out to all of our volunteer districts, all of their membership, their families, everybody who is associated with the Santa Fe Fire Department that we're looking for 10 strong, young men and women between the ages of 18 and 25 to participate in this program. So we try and get the word out through all of our different channels associated with wildland and fire department.

COMMISSIONER MAYFIELD: Great. Madam Chair, Chief Sperling, if we're approaching – to receive some individuals currently in our volunteer system, could they receive some CRE for this also that helps them meet the many continuing education requirements that they need?

INTERIM CHIEF SPERLING: Madam Chair, Commissioner, they can if they participate in particular deployments for wildland fire complete task that lead to certification in wildland fire.

COMMISSIONER MAYFIELD: Great, Madam Chair, and Chief Sperling congratulations on this grant.

INTERIM CHIEF SPERLING: Thank you, Commissioners, appreciate it.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I think this is one of those items that's on consent because I don't think there would be any disagreement but in the future I think I'd like to actually see this one as a regular agenda item because I think this really goes to the core of us and you Chief, with all of the volunteers and all of your leadership work to create an environment where people have a process to get into the fire service and still around and I know you actually had those volunteers that actually went through this program that some of them are now paid staff for the County. So I echo the comments that have already been made by yourself and Commissioner Mayfield and would just say to put it on as a regular item just so that we can let the public know that there's an opportunity out there for the kids to apply for and participate in and that there's a stepping stone on up to possibly being in the paid staff as well, if not a volunteer.

CHAIR STEFANICS: Thank you. Is there a motion?
COMMISSIONER ANAYA: So moved, Madam Chair.
COMMISSIONER MAYFIELD: Second, Madam Chair.
CHAIR STEFANICS: Thank you.

The motion passed by unanimous [5-0] voice vote.

X. STAFF AND ELECTED OFFICIALS' ITEMS

A. Finance Department

- 1. Resolution No. 2012-13, a Resolution Requesting an Increase to the Road Projects Fund (311) to Budget the 2011/2012 Cooperative Program Funding Agreements Awarded Through the New Mexico Department of Transportation for Various County Road Improvement Projects / \$255,683 (Public Works/Transportation & Solid Waste/Teresa Martinez)**

MS. MARTINEZ: Madam Chair, this resolution will basically budget our respective authority and need for our 25 percent match and we're suppose to do that with capital outlay gross receipt taxes. And I'll stand for questions.

CHAIR STEFANICS: Thank you. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Madam Chair, I have a question.

CHAIR STEFANICS: Yes, Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. I don't know if you can answer this exactly, Teresa, but do you know when the work might begin on these projects?

MR. MARTINEZ: Madam Chair, Commissioner Holian, we will start these projects in spring. Our chip-sealing season doesn't start until May so we will start with the subgrade and base probably around March, April.

COMMISSIONER HOLIAN: Okay, great. Thank you, very much, Robert, and thank you for applying for the grant. This is a big help to my community.

MR. MARTINEZ: You're welcome.

CHAIR STEFANICS: Any other comments from the Commission or a motion?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, Ms. Martinez, this is great that we apply for this grant and will receive it but what other grants are we applying for for all of Santa Fe County? Are we prioritizing how them go into the hopper –

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, this particular grant is called LGRF Grant, Local Government Road Fund, which is administered through the NMDOT. We typically circulate it between the Commission districts on applying for

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grants for roads within the respective Commission district. But we also apply for grants such as the one we received for County Road 98 that was an SHWA grant for over \$1 million in your district. We're applying for every single grant that we become aware of.

COMMISSIONER MAYFIELD: Thank you and, Madam Chair, Mr. Martinez, would just let me see like historically the list where we can go after those grants. Maybe I can try pull some in for District 1 also.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, we will do that.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Mr. Martinez.

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

COMMISSIONER MAYFIELD: Second.

CHAIR STEFANICS: Thank you. There's been a motion and a second.

The motion passed by unanimous [5-0] voice vote.

- A. 2. **Resolution No. 2012-14, a Resolution Requesting an Increase to the Fire Operations Fund (244) to Budget New Mexico Fire Protection Grants Awarded through the State Fire Marshal Division for Various Fire Districts to Replace Outdated SCBA Equipment / \$347,200 (Public Safety/Fire/Teresa Martinez)**

CHAIR STEFANICS: Okay, Chief or Ms. Martinez.

MS. MARTINEZ: Madam Chair, I will stand for questions.

CHAIR STEFANICS: Any questions, comments, motions?

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

COMMISSIONER VIGIL: Second.

CHAIR STEFANICS: No further questions? All those in favor.

The motion passed by unanimous [5-0] voice vote.

- A. 3. **Discussion of Possible Support Resulting in an Increase to the General Fund (101) to Establish a Budget for the County's Contribution to the Regional Coalition of Los Alamos National Laboratories (LANL) for Fiscal Year 2012 (Finance/Teresa Martinez)**

CHAIR STEFANICS: I'd like to point out that this is a discussion item and after the discussion we probably would make a recommendation for the February 14th agenda for a decision. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Martinez, thank you. I

asked that staff put this on. Madam Chair, last year being my first year on the Commission I was serving as an alternate on the Regional Coalition LANL Communities. This year I believe after we settled everything that I am now the member. With that being said, we had some brief discussion about this at our first meeting of the year, this year, there was a JPA that Santa Fe County engaged in with our neighboring municipalities and county governments as far as coalitions. Santa Fe signed onto that JPA and there was also some discussion about how the funding mechanism would work with the coalition. I believe at that time, at least from the research that I have done, and I would defer to Commissioner Holian if she has anymore historic knowledge on it, that Santa Fe County did not at the time commit to a funding but I think and just in principle and in the discussions that were there that all of the communities came together and indicated that there be some component of initial funding until this project – excuse me, until this coalition took off and they were hopefully able to secure additional funding maybe through the federal government.

With that being said, I know we have Councilwoman Sharon Stover here, I believe there are also a few other individuals and I apologize if I don't have the name but I'm going to defer to them in one second.

But we've also received letters from our partnering communities, Madam Chair, Commissioners, I think I have handed them out to you the ones that I have received. We have one from the County of Taos, I believe County Commissioner Andrew Chavez sent us a letter. Also from the County of Rio Arriba with I believe County Commissioner Alfredo Montoya sent us a letter. We have one from Councilwoman Stover with Los Alamos County who sent us a letter. And I also believe that the City of Española, Mayor Lucero, I hope that letter is included and if not I'll get you all a copy of it. I'm basically just acknowledged the importance of this coalition and what it means as us to collaborate as community, understanding the different benefits that we have of being able to engage and talk with our national laboratory representatives and just our individual interests and issues that we have that may be effective with Los Alamos, with the economic development, the positive and benefits of that, and also to talk amongst ourselves of some ideas for definitely economic development, sustainability and maintaining the current jobs that we have that Los Alamos does generate for us in a positive way.

Also the biggest undertaking that I have been involved with on this coalition recently is the discussion of about our environment needs. I know that I was in a board meeting earlier today, around 11 o'clock, and Councilwoman Stover had a meeting with other coalition members and Secretary Martin with our Environment Department about – and Commissioner [inaudible] on a later note – but about us going to DC and asking as a coalition of the importance of our environmental cleanup and the oversight and that's something that they discussed and maybe Councilwoman Stover can share a little bit with us. We did have a representative come from [inaudible] attending that meeting today.

With that being said, Madam Chair, I just want to continue moving forward with the support of this coalition. I think it provides us great insight in what is going on with our

neighboring, the laboratory. We've had multiple presentations given to us by senior authorities at the laboratory, with NSSA, they have let us know what they believe is happening with funding at the federal level, as much as they can tell us. They've let us know as far what is going on with environmental cleanup letting us know what's going on with any other type of development going on at the laboratory.

Madam Chair, with that, I believe that, and speaking also with Ms. Martinez there was not a specific budget amount but I think Santa Fe arguably, and I'm going to say arguably, may have committed to about \$10,000 of, I don't want to say committed, entertained if they were going to commit to any money it could possibly be \$10,000 for this fiscal year. After the last coalition meeting talking with Councilwoman Stover and other members of the coalition that would be pro rata for this year in looking at funding for the next year as far as a contribution and then hopefully securing some funding from the federal level. I believe there is a huge economic benefit for Santa Fe County to provide this funding. It gives us entrée again to talk to laboratories at a one-to-one level. These meetings are open. They're open to the public. Anybody can come and attend these meetings. Arguably anybody can ask questions. They provide us invaluable insight as to what's going on or what our questions that we might ask. It allows us to partner as a true coalition with our neighboring governance. You know, we have the City of Los Alamos, County of Los Alamos, City of Española, County of Española, Rio Arriba, excuse me, Taos, I know the Town of Taos township right now is not in this JPA and there's an option for them to move into it. Also I believe the Northern Pueblos are not currently in this JPA but there's an opportunity for them to move into it.

With that, Madam Chair, I'll stand for any questions. I'll defer to Commissioner Holian as she was a prior representative and she has some insight on this or respectfully even Councilwoman Stover if she cares to articulate this any better than I.

CHAIR STEFANICS: Before we go to comments or questions from the Commission, Councilwoman Stover, would you like to come up and say a few words about this?

SHARON STOVER (Los Alamos County Councilor): Thank you, Madam Chair. It's a pleasure to be here. The last time I was here I think the TV cameras were here and again we hear good stories and being in these nice chambers about what's going in Santa Fe County. So it's good to be here.

I can't really add anymore to what Commissioner Mayfield, I think a lot of us know that speaking with one voice at both the federal level and the state level as a coalition has some value to it. I know we've had, as he said, speakers talk to us. I even know one time that Commissioner Holian wanted to learn about disaster and of course that – just sharing that presentation that we had here in Santa Fe in lieu of the fire helped me get better prepared for that. So all of us together working together I think it's an important voice. Everybody is affected by LANL. One thing I see for us particularly for both Los Alamos and Santa Fe County is that we are probably more affected just given the number of folks that are working

up there. We have a high interest, as I know you do in the environment and also for economic development. I see this coalition as being something that we all can work together on. With me today is Seth Kirshenberg who is the executive director of the Energy Communities Alliance. He just happens to be here in New Mexico, timing was perfect. And so he is seeing these entities work in other what I would call DOE communities and he can speak to their importance as well. In addition, former council chairperson Mike Wheeler who kind of with myself worked to get the coalition kind of going and he is here to speak as well. And we have some staff, Brian Bosser, who can answer some questions that you may have. Thank you for entertaining this, thank you.

CHAIR STEFANICS: Thank you everyone for coming. And if we have more questions, I am sure we will call on you. But thank you for taking the time to come to visit Santa Fe County. Commissioner Vigil.

COMMISSIONER VIGIL: I just wanted to say the seeds for this coalition was planted way before any of the elected officials here were and it was Jim, I can't remember Jim's last name, city councilor who is now deceased, who came to Santa Fe County when he was alive and worked – yes, Jim West, he was a wonderful, wonderful man. I actually miss him very much.

Madam Chair, I think we've heard plenty support to move forward with this and I'd just like to suggest that this come to us as a budget item at our next meeting for action. Today it has just been noticed as discussion and unless there's any opposition to this, I think we can move forward as an action item for this at our next meeting.

CHAIR STEFANICS: So, Commissioner Vigil, Commissioner Mayfield Commissioner Holian, I don't know if you have any words, are you recommending a certain amount for this fiscal year and a certain amount for next fiscal year?

COMMISSIONER VIGIL: I actually think Commissioner Mayfield's recommendation that it be pro rated for the year works fine for me. And I think we probably should match the \$10,000.

CHAIR STEFANICS: Thank you. Commissioner Holian, did you have any comments since you were a member?

COMMISSIONER HOLIAN: Thank you, Madam Chair. Well, I think that Commissioner Mayfield summed it up pretty well. I certainly agree with the goals of this coalition. I'm not really sure that they've quite gotten going except for having various presentations to the community on issues of interest and so on and so forth. So I think it's worthwhile to give it a chance and then to re-evaluate at the end of the year or next year to see if it is indeed following through on these goals.

COMMISSIONER VIGIL: And, Madam Chair, I just need to add one more thing.

CHAIR STEFANICS: Yes, Commissioner Vigil.

COMMISSIONER VIGIL: Those of you who are serving in the Buckman Direct Diversion Board now this would be an excellent opportunity to bring up the issues that

have been brought before that board. There's a huge coalition of Santa Fe citizens and Santa Fe County residents who are very interested in the cleanup issues with regard to Los Alamos and are particularly focused on it as a result of the Buckman Direct Diversion. I think this information needs to be brought to that board. Thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Mayfield, Commissioner Anaya.

COMMISSIONER MAYFIELD: Madam Chair, on that point that Commissioner Vigil just brought up and I haven't brought this up with the coalition yet but I believe there might be an opportunity dovetailing into what's going on with the BDD that we can get some independent testing going on maybe through the coalition and not through laboratory but through the coalition of trying to secure an independent tester up there, for what's that worth.

CHAIR STEFANICS: Thank you. Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, simply shared commitment, shared responsibility. I think it's a good coalition. It needs to continue. Commissioner Vigil I appreciate you bringing up Councilman West. He had his hands in a lot of things, regionally and NCRTD as the chair and many other things. Thank you, Councilwoman Stover and the guests that came today. But I fully support this moving forward.

CHAIR STEFANICS: Thank you. The one comment I would make is that the JPA, the most recent JPA that we could find did not have signatures of all entities on it. So I had asked our County manager to try and track that down. I would be very interested in knowing if there are any other – and we don't have to discuss that today – but I would like to know if there are any other entities that have not fully agreed to participate besides the Town of Taos. And I know that they've made that decision. But I think we need to bring that up when we make the final decision about funding.

So it seems to me that we have some agreement about bringing this back on the next agenda for a decision about pro rata funding for this fiscal year and \$10,000 for next fiscal year. Is that correct, Commissioners?

COMMISSIONER MAYFIELD: Madam Chair, yes, that's where I'm at. And, I'll know after the 10th. Unfortunately, I did disclose to I believe this board and also to the coalition board that I will not be able to make the 10th meeting as I have a conflict, a conflicting engagement already to be a judge for the Boys & Girls Club on the 10th.

CHAIR STEFANICS: I think Commissioner Vigil said she might serve as the alternate. But I'll talk with her about her availability during the legislative session. We'll get it covered sometime but she I think has said she might be interested in being an alternate; is that right?

COMMISSIONER VIGIL: Yes, I'm happy to.

CHAIR STEFANICS: Okay, thank you. Did you have something else?

COUNCILOR STOVER: -- just that the meeting today that Duncan was representing Commissioner Mayfield in terms of going to DC and trying to get some more money for cleanup. That meeting got changed because the President's budget won't be out until after the 7th and we were going to meet the 10th so it's now the 17th is the meeting. So maybe Commissioner Mayfield, that was just done within the last couple of hours, that new information. So the next coalition meeting will be hosted by the City of Santa Fe at the Convention Center at 9 o'clock on February 17th which is a Friday.

COMMISSIONER MAYFIELD: Great. Madam Chair, Councilor Stover, on that point, and I hate to do it but for the mechanics of it, we might not be able to approve funding of it until our first meeting or second meeting in February.

COUNCILOR STOVER: That'll be fine.

CHAIR STEFANICS: Okay, thank you.

COMMISSIONER MAYFIELD: So maybe we can --

COUNCILOR STOVER: You said you were going to take this up on the 14th?

CHAIR STEFANICS: February 14th. Well, I'm asking Katherine, there's no reason we can't put it on the agenda; correct?

COUNCILOR STOVER: Okay, well, I'm actually going to be out of town that day but if there's any question we can maybe have some folks here as well to answer those.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair, just for Ms. Miller, I guess I just don't know what the true appropriation will be if we don't meet with the coalition first.

CHAIR STEFANICS: I'm going to just put it out there. I would suggest 5,000 for this fiscal year and 10,000 for next fiscal year. It's a little more than pro rata.

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I like that. This is like the Iowa caucus here we're just doing the straw poll today and we'll vote next time.

CHAIR STEFANICS: That's right.

COMMISSIONER MAYFIELD: And, Madam Chair, thank you, and on that point, though what was discussed at the last coalition meeting because I think other governments are in the same predicament knowing that whatever funding mechanism did go in place if it was approved by local government is that if it's not spent it's still going to roll back to the perspective bodies and then they can rebudget that later if they wanted to or not.

CHAIR STEFANICS: Thank you. And if you would please add Commissioner Vigil as the alternate so she can get noticed along with Commissioner Mayfield about the meetings. Thank you so much.

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A. 4. Review and Discussion of the Quarterly Financial Report for the Quarter Ending December 31, 2011 (Teresa Martinez)

MS. MARTINEZ: Madam Chair, Commissioners, we have the same format that you're used receiving. We basically have total revenues through the quarter ending December 31st at 58.7 million and that's all sources so that's inclusive of property taxes at 18.7 million and gross receipts tax at 22.5 million. On December 31st our [inaudible] across all funds were 81.3 million. Of those we had recurring of 42.8 million. So operational expenditures of 42.8. So we compare recurring to recurring we have recurring revenue of 51.4 million, recurring expenditures of 42.7 and we have a net positive, if you will, of 8.6 million. And that's reflective of the fact that a good chunk of the property taxes come in in December and January so we're catching up in our revenue cycle now.

I gave you a summary of the property taxes so as you can see month by month how they materialize. We had an actual collection of 14.6 million. Our budget through December was established at 12.2. We collected just about 2 percent better than budget and we're about 800,000 better than the previous fiscal year.

Our GRTs are also beyond the property taxes and you can see that the countywides are holding their own at 2 to 3 percent better than budget each month. Where we're seeing a downfall and not materializing at the budgeted levels is the unincorporated GRTs. More than likely we will forecast at least another 2 to 5 percent decrease next fiscal year. We'll have a better idea as we see how this fiscal year ends. But unincorporated GRTs are not materializing at the level that we budgeted.

COMMISSIONER ANAYA: Madam Chair, on that point.

CHAIR STEFANICS: Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, on that point. Ms. Martinez, I've asked this before and I think you may have responded but refresh my memory. We have presumptive annexation that's occurred but it's not official yet. Are any of those unrealized gross receipt tax in the presumptive area of the city?

MS. MARTINEZ: Madam Chair, Commissioner Anaya, I won't be able to answer that for you today but I could go back and look that up and get the answer to you. I can look that up for you.

COMMISSIONER ANAYA: Madam Chair, Ms. Martinez, if we could because I think that may affect that downside because I know we were planning and preparing as a County for that annexation but the City hasn't acted on that annexation yet. So if you could I would appreciate that.

MS. MARTINEZ: Okay, we can do that.

COMMISSIONER ANAYA: Ms. Miller did you have something?

MS. MILLER: Madam Chair, Commissioner Anaya, I think what occurred in the annexation of Phase I which was kind of the infill stuff and all of those should now be reporting within the incorporated area and their tax would change. Now that area that is in Phase II, the presumptive area, actually the City has not moved forward with that so they

have to take the next step in order for any of that to change. And I believe that is a component of our settlement agreement with them and they should have taken some action by the end of December of 2011 and have not taken that yet.

COMMISSIONER ANAYA: Thank you, Madam Chair, Ms. Miller. Ms. Martinez and Ms. Miller on that particular point do we have any justification or thought process then if that's the case based on what Ms. Miller said, is there any – because I can't think of any primary businesses that have gone under, could we look at that a little closer to see where we had higher unincorporated GRT and now we don't.

MS. MARTINEZ: We can do that.

COMMISSIONER ANAYA: Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. That actually brings me to the question about the business licenses. We had this discussion in the past and it was primarily directed to Mr. Kolkmeier's division but I'm interested in whether or not we have some kind of system set in place for renewal of any fees for licenses and permits, et cetera that we should be collecting. And I've never been assured that we have something in place about that.

MS. MARTINEZ: Okay, I can tell that in coordination with the business licenses, finance has a small component in that dealing with the Treasurer's Office so there is an annual renewal notification on that. But we can look at it countywide for all licenses and fees.

CHAIR STEFANICS: Thank you. Ms. Miller.

MS. MILLER: Madam Chair, Commissioners, actually this business license issue has come up between – I just had a conversation with the City on this issue because in the presumptive area a piece that does happen is that they've taken over some of the code enforcement and the land use side of things on approvals and permitting and that. That business licensing is the part that is a little bit confusing because it's in our land use code but I believe it's not in the City's. So I think there has been some confusion and I've asked that Penny and our land use staff and the treasurer's office get with the City's so that we have clarity on how to handle businesses within that presumptive area because I do believe there's been some confusion for business owners and they come to the County because they're still in the County and then they go to the City. So I think it's an area that we definitely need to clarify and make sure that we're clear to those businesses in that presumptive area.

CHAIR STEFANICS: I am talking about much more than just business licenses. For example, a year or two ago when we were talking about the contract with the Animal Shelter to assist the County with animal sheltering there was suppose to be some outreach efforts about animal licenses. I have never seen that happen since they've had that contract. That's another example of not collecting some fees that might support one of our facilities. So I'm just wondering if there are other entities within the County that have gone off the grid that we need to revisit. That's all.

Have you finished? I kind of piggybacked – are there other comments or questions? Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair and thank you,

Teresa. I like the way that you're presenting this information. It's very easy to understand. So this is probably not a question that you really want to hear but if you were to project out the first six months of this year, you know with our revenue and our income – our revenue and our expenditures, do you have any feeling for how much of our expenditures would have to be, total expenditures, would have to be covered by our reserves?

MS. MARTINEZ: Madam Chair, Commissioner Holian, we just conducted mid-year reviews and in looking at the expenditures and we didn't go with a mode of cut but we did go in with a mode of where are the areas that need additional funding or can you live within your budget/be budget neutral. We do have a couple of areas where we'll be bringing a mid-year resolution to you. We will propose that we may have to use some cash reserves but based on that I think it will be minimal because there were a lot of areas where we could live within the budget and make it work. So I do believe we will have to use some of those cash reserves this year.

We're firming up the number right now and the needs and we'll have a full report for you in January [sic].

COMMISSIONER HOLIAN: Okay, thank you. But it sounds like fairly good news. Thank you.

MS. MARTINEZ: Yes.

CHAIR STEFANICS: Thank you. Anything else on the budget or the review? Thank you very much. Do you need any kind of action on this?

MS. MARTINEZ: No, ma'am.

CHAIR STEFANICS: Thank you very much for presenting.

X. B. Human Resources

1. Request Approval of a \$300.00 Temporary Salary Adjustment and Additional Personal Day as a Retention Incentive for Non-Union Employees (Bernadette Salazar)

BERNADETTE SALAZAR (Director HR): Madam Chair, members of the Commission, Santa Fe County, management is committed to evaluating options within our budgetary means to retain qualified and experienced employees with this I am requesting temporary salary adjustment in the amount of \$300 to be paid over two pay periods in March of 2012 and to include an additional personal holiday for non-union employees and this will exclude temporary employees, casual employees, employees who do not have 12 months or more service with Santa Fe County and will also exclude the County manager.

COMMISSIONER ANAYA: Madam Chair.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Bern, Ms. Miller, you guys are fast. This item has been in discussion, I brought it up at the last meeting and I know that Commissioners have talked about it but I brought it up at the last meeting that the negotiating

teams – we entered into good-faith negotiations with management. Those negotiations occur with those employees but the non-union people are not part of those negotiations so I fully support this moving forward.

MS. SALAZAR: Thank you.

COMMISSIONER ANAYA: Thank you, Bern.

MS. SALAZAR: Thank you.

CHAIR STEFANICS: Thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Salazar, quick question.

This is again for this fiscal year, correct, and it's not for, say the folks that do meet their anniversary date are we going to re-evaluate that to see if they would receive that?

MS. SALAZAR: Madam Chair, Commissioner Mayfield, this is for this fiscal year and during the budget process we will evaluate for the following fiscal year on any salary adjustment.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair, Ms. Salazar some folks though could receive their anniversary date within this fiscal year, correct, making them eligible also?

MS. SALAZAR: Madam Chair, Commissioner Mayfield, the temporary increases will occur in March so if they don't meet that deadline to become a regular employee or meet the 12 month threshold they will not receive it in this fiscal year.

CHAIR STEFANICS: So on that point, there would be nothing to keep us from looking at something later in the year as well.

COMMISSIONER MAYFIELD: Yeah, Madam Chair, just for the folks that come off probationary status and get their annual year and if they're in the fiscal year but after March we have a window to afford them that little dollar increase also.

MS. SALAZAR: Madam Chair, Commissioner Mayfield, we'll evaluate it when we get closer to the new budget fiscal year.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, and Ms. Salazar, thank you.

CHAIR STEFANICS: Commissioner Vigil.

COMMISSIONER VIGIL: I am happy to make a motion to approve this. Thank you for bringing it forward. I love the idea that we're as equitable as we can be with all of our employees. I move we approve, thank you.

COMMISSIONER ANAYA: Second.

CHAIR STEFANICS: There's a motion and a second and I have a comment. I would really like to thank all of our employees. They have been working sometimes double duty, not a lot of salary increases and I think that we want, the Commission wants everybody to know we really appreciate their work. We have been negotiating with the unions. They have their contracts but we wanted all employees to know that we value their work. So on that note, all in favor.

REC'D
CLERK
RECORDED
03/01/2012

The motion passed by unanimous [5-0] voice vote.

C. Public Works Department

- 1. Resolution No. 2012-15, A Resolution Amending Resolution No. 2011-52 (Establishing The Road Advisory Committee) to Delete References to Alternate Committee Members, to Delete Exhibit A and Reference to Geographic District Boundaries and to Specify the Number of Committee Members Required from Each Commission District (Transportation & Solid Waste Division/Robert Martinez)**

MR. MARTINEZ: Madam Chair, on April 12, 2011, the BCC adopted Resolution 2011-52 which created the Santa Fe County Road Advisory Committee. Since the resolution was adopted the County Commission redistricting had taken place which resulted in road advisory districts crossing into multiple commission districts. As per the direction of the Commission, we were directed not to have road advisory districts cross into multiple Commission district. So typically in the past road advisory districts did cross Commission districts but as per the direction we went back to the table, drawing table, and came up with another alternative. We are recommending to eliminate the 15 geographical boundaries, eliminate the 15 alternates and appoint members by Commission district, not by road advisory district. These appointments are based on road mileage in Commission district and also the area served. Commission District 1 would have three appointments based on the 113 miles of road within Commission District 1. Commission District 2 would have two appointments based on 61 miles of county road. Commission District 3 would have five appointments based on the 253 miles of road in that district. Commission District 4 would have two appointees based on 61 miles of county road and Commission District 5 would have three appointments based on 119 miles of county road within that district.

The Commissioners would have the discretion to appoint members from anywhere within the district not just within a certain boundary. But I would encourage to seek representation from more than one area within their Commission districts. In the past it was difficult to obtain quorums at these Road Advisory Committee meetings because there was I believe four or five areas in the county that did not have representation. So we were limited to the amount of meetings we could have because of the quorum not being achieved. So we feel that this would make it simpler to obtain quorums and also give the Commission flexibility to appoint people within their district-wide.

Public Works is requesting approval of the amended resolution and I would stand for questions.

CHAIR STEFANICS: Thank you, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I had the privilege to serve on

this committee for several years myself. I want to say that those individuals on that committee are dedicated and work in a collective manner to provide recommendations that make sense and that they're practical to the citizens of Santa Fe County. I would only add that alternates did serve a good purpose and I think we don't pay anything to the members on the committee so I would suggest having alternates and each one wouldn't hurt anything but it's not something I would lay on a railroad track over but I don't think it would hurt to have alternates but I support the general amended concept. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you, Commissioner. Any other comment?
Yes, Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Thank you, Robert, for bringing this forward. I think that this is a good solution for the current situation and so on. I understand that probably the reason for not having alternates was it was really difficult to get 30 people to apply for this so I'm fine with the way it is.

My question is how often are the meetings going to be held?

MR. MARTINEZ: Madam Chair, Commissioner Holian, I believe that for this resolution, the original resolution, I believe it said quarterly or every other month. Prior to the Road Advisory Committee being recreated by the resolution when it was done by ordinance we were meeting once a month. But I believe this is -- I believe this is every other month but I don't see it jumping out of me here.

COMMISSIONER HOLIAN: So that might help with getting quorums as well, I would think.

MR. MARTINEZ: That is correct. We had discussions prior to the Road Advisory Committee being terminated through the ordinance and the committee felt that once a month was too much and that either quarterly or every other month was sufficient.

COMMISSIONER HOLIAN: And, also, do you have enough applicants right now or should we try to get more people to apply for this?

MR. MARTINEZ: Madam Chair, Commissioner Holian, I still have approximately about 18 letters of interest from residents that had submitted those back when we thought we were ready to make appointments. I still have those and I will be forwarding them to the Commissioners so they can look at those. But we will be advertising because we still need some more members.

COMMISSIONER HOLIAN: Thank you, Robert.

CHAIR STEFANICS: Thank you and if we can move on those as quickly as possible. Commissioner Vigil and then --

COMMISSIONER VIGIL: I'd like to make a motion to approve this and if it's alright with you Commissioner Anaya I think alternates are good but I think that this is such a new sort of structure for our Road Advisory, I'd like to see how it works. For example, you have five people that need to be represented and I have two -- I'd like to see how it works before we even look to the alternate situation and I'm not sure whether or

current rules under the new Road Advisory allow for alternates. I guess it could be amended but because it's such a new structure, I'd like to move that we approve as presented by staff today.

COMMISSIONER HOLIAN: And I'll second that.

CHAIR STEFANICS: Okay, so we have a motion and a second.
Commissioner Mayfield you had some comments.

COMMISSIONER MAYFIELD: Madam Chair, respecting everybody's position up here but just my thoughts as far as an alternate: if there has been some issues of establishing a quorum in the past regardless of we go with the 15 appointees, I believe it's 15 appointees, that we have or not, I would look at alternates as a huge plus. I mean if an alternate shows up, an alternate shows up and they have that voting authority. Respectfully, if an alternate from District 1 and District 3 doesn't show up, well then that District 1 alternate arguably can vote and I won't have a problem if we say who is alternate 1 through alternate 5, 10 or 15 because I think you can still run in the same pickle with a quorum not showing up.

On that vein, the other thing I'd like to see not just for this commission but all boards that we appoint, before I appoint anybody, I want to see past attendance record if they've served on any of our boards before, please for me. Because if that puts us in a pickle and I know everybody has their own personal circumstances going on but especially with this board, Madam Chair, Mr. Martinez, if they're going to meet arguably quarterly or you know, I don't know how often they're going to meet, and if a majority miss a couple of meetings, they're never going to meet. That's how I look at it. I could be wrong and that's why I think it will be a huge benefit of alternates and I know spoke to Mr. Ross about this but if people are missing two consecutive meetings disrupting things from moving forward, well then maybe that's the time where they just are kicked off or asked to show up to the next meeting.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the County does have and I'm not sure what it was called, if it's a policy regarding meetings and attendance and in that policy I believe if a member missed three consecutive meetings the Board could remove that member from the committee.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Mr. Martinez, but my worry is that this board only meets four times a year and you know if seven of them decide to miss three consecutive meetings they're never going to meet.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, as Commissioner Holian or Commissioner Vigil stated, if we see that there's an issue of obtaining a quorum we could always come back to you and amend the resolution to include alternates if we feel we're having a problem obtaining a quorum we can do that.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, thank you.

CHAIR STEFANICS: I have a question and a comment. So the intention is to have meetings, Mr. Martinez, quarterly.

MR. MARTINEZ: Madam Chair, I don't have the entire resolution here but it was either quarterly or every other month.

CHAIR STEFANICS: Okay. So in the past it was every month?

MR. MARTINEZ: Madam Chair, that is correct.

CHAIR STEFANICS: Okay. So you're going to bring us back clarification about whether it's quarterly or every other month. What I'm wanting to request, regardless of how we go today with the vote, is that we have a report back here after two meetings with success or failure or frustrations. So that would be before May or June, correct?

MR. MARTINEZ: Madam Chair, we will bring to the Commission the request to make these appointments at the end of February so our meeting that we could conduct would be March. So it would be March, April and we would come back to you after the April meeting and notify you of the attendance.

CHAIR STEFANICS: But I'm requesting after two meetings we know how it's going. So depending upon whether it's – before the end of this fiscal year, we should get a report from you.

MR. MARTINEZ: Madam Chair, that's correct. I was thinking we were still on a monthly schedule, but that's correct. I believe it's either quarterly or every other month.

CHAIR STEFANICS: Okay, thank you. Is there any – yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, just again, for the quarterly meeting. Madam Chair, Mr. Martinez, in talking to you and talking to the Public Works Director, talking to the manager, could there be a position where you guys say Look, we can't move forward on that. It has to go in front of the Road Advisory Committee and oh by the way they just met and they're not going to meet for another three months?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the Road Advisory Committee doesn't make those types of decisions. It's an advisory committee. It's not a board to take action like the CDRC or some of these other committees. It's an advisory committee.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, at least my understanding of the Road Advisory Committee on this short time on this Commission and talking with folks is that anytime there is a request – and I know there's funding that goes behind some certain request if we're going to take over a road or put chips seal on a road or something, I know that you have within your discretion to do projects – I also have heard that that folks say you need to get in front of the Road Advisory Committee before that's even entertained.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, the Road Advisory Committee acts as a buffer between you and the general public. So if there is a request for a resident or homeowners association for the County say to take over a road for acceptance or a certain county-maintained road that this HOA may want to improve, the Road

Advisory Committee just basically works as a buffer. We ask them to meet with the Road Advisory Committee members just to see what their priorities are within your commission district. I don't see any time sensitive issue relative to the Road Advisory Committee and getting routine maintenance or any projects complete.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, I'm just going to use a specific example in my district out by Chupadero, Vista Redondo. I know we've been to meetings. We've spoken to those folks. They want to see about – and you guys do a great job, there are a lot of dirt roads with steep grades to maintain in that area – they want to look at the County maybe bringing in some asphalt or doing something; would that be a project that we would say Wait a minute, this needs to go in front of the Road Advisory Committee first?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, no. As a matter of fact Vista Redondo is already on our ICIP. So I know you're using that as an example, but no, that would not hold it up. With modern technology, email, whatever we encourage the Road Advisory Committee members that if they have an issue that they need to discuss with us, not to wait until the next meeting. They can contact us directly. And like I said, they are not a committee that makes decisions. They just provide input.

COMMISSIONER ANAYA: Madam Chair, on this point.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, Mr. Martinez, I appreciate the comments that you're making. This morning we just had an essentially a multi-million dollar decision that we provided the opportunity of our Health Policy & Planning Commission in that case to have the opportunity to absorb, look at this issue because they deal with those issues on a more regular basis than we do, and then provide us some feedback for us to consider. It doesn't mean that we're going to absolutely adopt it. But I look at the Road Advisory Committee in the same vein that I look at the DWI Planning Council, the Health Policy & Planning Commission, or any of the Commissions. And, my general take on committees is that I would rather use them more than less. And so when I ask the Commission to consider appointments for this or any other committees I truly want them to have an active involvement in some of those very difficult decisions and even up to prioritizing fiscal decisions on what might work best in District 3 given the multitude of roads that you know are in District 3.

So I know that you've been working off of a premise and maybe there's some shift that is occurring where their role may be expanded but I'm speaking for myself to say, I don't – I see roads, and I know that you've been listening to the conversation and dialogue of the Commission, but I've heard more than a majority of the Commission talk about roads becoming a higher priority especially as we start talking about general obligation bonds, in particular. So I can see them having a lot of work in the short-term to help and provide some feedback. So I know we had a discussion on the ordinance – when was the last time they met?

MR. MARTINEZ: Madam Chair, Commissioner Anaya, I believe it's probably been about a year.

COMMISSIONER ANAYA: That's what I thought. So, I'm 13 months into a Commission seat where I haven't had the opportunity, at all, to have their participation. So quarterly is not good enough. I mean, if we need to make an amendment, and I would ask for support from the Commission, to go at minimum bi-monthly, but given the decisions that we're going to have as a Commission especially as it relates to budget and roads, I can see those guys being real busy. So maybe I have a little bit different – I agree with what Commissioner Mayfield is saying, but I don't think any of the Commission, I mean I've heard this Commission say in the last four months in particular that roads is going to be a priority that we're going to look to, so what are your thoughts on that because we're going into a phase now where we haven't had anybody and now we have all these other decisions that we're going to start making to help us. So would that be okay or do you see that as a reasonable path?

MR. MARTINEZ: Madam Chair, Commissioner Anaya, if I understand your question, I agree they are a component to planning our road projects. As a matter of fact we're still trying to complete what was called the five-year road improvement plan that the Road Advisory put together back in 2004 and this Commission adopted in 2006. We still have roughly about 30 projects left on that plan and probably total about \$15 million that we still need to complete.

COMMISSIONER ANAYA: So just on that point alone. For me as a Commissioner and a new Commissioner, I want to know what some of those priorities are and I want to make sure that the full Road Advisory Committee gets acclimated with what those projects and priorities were and things going forward. That in itself is going to take some time so my vision is that they may need to meet more often not less often initially in the beginning. So why don't you come back and tell us the ordinance but I'm here to voice my opinion that they should every month especially since they haven't met at all in a year and we should figure out how we get them updated with what's occurred and then how do we engage them as a Commission on other things we may ask them to do for us.

MR. MARTINEZ: Madam Chair, Commissioner Anaya, even if we were meeting monthly, myself and staff is available anytime for any of the Road Advisory Committee members to meet outside of a meeting. So we're always available for them.

CHAIR STEFANICS: Thank you for every comment. As you can see, Mr. Martinez, people are really interested in the roads committee and we'd like to see it get going and move. We have a motion and second.

The motion passed by majority [4-1] voice vote with Commissioner Mayfield voting against.

COMMISSIONER MAYFIELD: Madam Chair, I'm going to vote no. For

one I believe that they should be meeting at the minimum of every month and also I do believe there should be alternates in case there's not a quorum. That's my reasons for voting no, otherwise I do think that this is an invaluable committee for this Commission.

CHAIR STEFANICS: Thank you very much, Commissioner. We would like a report back after you've had a couple meetings about attendance and the Commissioner would to, sounds like even if it's not monthly, it's going to be at least every other month. We'd like to know how you're going to assign duties. We want to review the ordinance, et cetera. So thank you very much.

MR. MARTINEZ: Madam Chair, you're welcome and you're always welcome to attend the meetings also.

X. C. 2. Request Authorization to Publish Title and General Summary of an Ordinance to Amend Ordinance No. 2010-17, "to Expand the List of Roadways within Santa Fe County Where Engine Retarders Are Prohibited" (Transportation & Solid Waste Division/Robert Martinez)

MR. MARTINEZ: Madam Chair, Public Works is requesting authorization to publish title and general summary so we can move forward with amending the current engine retarder ordinance that will allow us to prohibit engine retarders on some additional roads. These roads that we're proposing to be included in the amended ordinance were brought forward to us from the Commission, from your constituents and from staff. The additional roads are a portion of I-25, a portion of New Mexico 14, all of County Road 42, all of County Road 45, portions of County Road 70, or West Alameda as it is called, and a portion of New Mexico 344. I stand for questions.

CHAIR STEFANICS: Thank you. Questions, comments? Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Madam Chair, Mr. Martinez, help me real quick, and I understand the community's concerns with the noise and I don't appreciate the noise either. I want everybody to know that. But are these jake brakes – engine retarders – used also for the safe operation of vehicles or are they just an alternate means that they need to slow down a vehicle. Is it discretion or is there a reason for these jake brakes on these trucks?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, they're used for two reasons. They're used basically to use a different mechanism to slow down the vehicle as opposed to your brakes. So it saves on brake maintenance on these vehicles. But it is also used to enhance the braking distance, or shorten the braking distance in the event of an emergency. So this ordinance allows engine brakes to be used in the event of an emergency.

COMMISSIONER MAYFIELD: Okay. Great. Madam Chair, second question. Looking at the original resolution of 1999, just so I know, and I think I'm on page – Section 5 at

least, A. Can the County restrict jake brake use on a US highway?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, yes. Actually, the NMDOT is responsible for placing these signs prohibiting engine brakes on state roads, including US 285, I-25, but they can only do it after the Commission adopts an ordinance.

COMMISSIONER MAYFIELD: And I respect that, Madam Chair, Mr. Martinez, but this is United States road. This is not a state road; this is a federal road.

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is true but it is under the jurisdiction of the NMDOT.

COMMISSIONER MAYFIELD: So the County can impose this based on –

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, that is correct.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Thank you, Mr. Martinez.

CHAIR STEFANICS: Commissioner Vigil.

COMMISSIONER VIGIL: These are in addition to roads that we're already accepted this legislation on, correct?

MR. MARTINEZ: Madam Chair, Commissioner Vigil, that is correct. We are just adding these additional roads.

COMMISSIONER VIGIL: So, this is – if you can, just remember the ones that we currently have. I do remember it's 599, it's –

MR. MARTINEZ: Madam Chair, the ordinances that are attached, 1999-12, lists those roads in Section 5, in addition to the ones that we are currently recommending, which is 84/285, 599, 344, County Road 56, and then there's another in 2010-17 that also added some roads.

COMMISSIONER VIGIL: Right. Thank you, Madam Chair. Thanks for reciting those, Robert.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to vote for this to approve but in the future can we write down the simple process so if somebody comes in and says, I want my road to stop jake brake use. We don't put it on just because a constituent brought it up but we say, okay, great. Submit your request in. We send that to the Road Advisory Committee and then the Road Advisory Committee will send a recommendation to the committee. Because if there's any decisions being made just off of a phone call or on I may not be aware, I think that could potentially pose an issue of maybe I have a concern with it. So I would just ask that we institute some simple process to do that so that everybody is doing the same thing.

MR. MARTINEZ: Madam Chair, Commissioner Anaya, we are currently working on a road policy that will be inclusive of criteria and the process for traffic calming, road acceptance, engine retarders. So we are currently working on that.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Martinez, who enforces

this? Our sheriffs? Our State Police? Our BIA officials law enforcement?

MR. MARTINEZ: Madam Chair, Commissioner Mayfield, it would be every law enforcement that patrols that particular area. Based on the ordinance number that will be on the sign posted they will be able to enforce it based on the ordinance that you are going to adopt in about a month.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Mr. Martinez.

CHAIR STEFANICS: Thank you. What's the pleasure of the Commission?

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER HOLIAN: Second.

CHAIR STEFANICS: Okay, so there's a motion for approval to authorize publishing title and general summary, and there's a second. This does not require a roll call.

The motion passed by unanimous [5-0] voice vote.

- X. C. 3. Resolution No. 2012-16, a Resolution Authorizing the Filing of Application to the US Department of the Interior Bureau of Land Management for a Patent Under the Recreation and Public Purposes Act for the Santa Fe River Greenway Trail and Authorization of the County Manager to Execute the Application. (Projects, Facilities, & Open space/Adam Leigland)**

ADAM LEIGLAND (Public Works Director): Madam Chair, this is an opportunity to get a critical piece of land in our Santa Fe greenway trail for free. Federal law allows us to acquire the land for free since it's for public use.

COMMISSIONER ANAYA: Move for approval.

COMMISSIONER HOLIAN: Second.

CHAIR STEFANICS: Okay, there's a motion and a second. Any further discussion?

COMMISSIONER MAYFIELD: Madam Chair, quick question.

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you. What Madam Chair, what item again is that? Well, I read it. C. 3. Mr. Leigland, at least what I read, there's something that we've already issued the bonds of this? Have we not issued the bonds. Because I think it said that it carried out for many, many years. That's item C. 3? Thank you.

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, are you referring to the development plan in your packet?

COMMISSIONER MAYFIELD: Yes. I believe, Mr. Leigland, that's what I was looking at in here.

MR. LEIGLAND: Yes. This is just to explain the total Santa Fe Greenway plan, how we're going to develop it. The item under consideration here is just to acquire one piece of land to execute this plan.

CHAIR STEFANICS: So Commissioner Mayfield's question is is this an application for something or is this moving ahead on more bonds?

MR. LEIGLAND: No. This is an application to BLM just to acquire some land so there's no money involved.

COMMISSIONER MAYFIELD: Okay. Madam Chair, Mr. Leigland, then let's go to your summary memo, or maybe it wasn't your summary memo, but it's the proposed Santa Fe River extension and the development plan and then – there's not page numbers on this but I'm on the very last page before the map, and it's telling me that funding will come from the County's general obligation bonds, total cost of project \$3 million. Now is this future bonds or is this something the Commission has already approved?

MR. LEIGLAND: I believe these are bonds that have already been approved. I could be mistaken but I believe the money is already there.

CHAIR STEFANICS: Ms. Miller, can you answer that?

MS. MILLER: What was the question again?

CHAIR STEFANICS: The question is is this money in bonds that have already been approved and he's indicating he thinks so.

MS. MILLER: Madam Chair, anything that we have on open space bonds or trails that would be – if we're budgeting anything or going forward with anything it's on something we currently have.

COMMISSIONER MAYFIELD: We currently have it. Okay. Madam Chair, that – and then again, Madam Chair, the management of the plan, the maintenance of the trail and extension of the park will be funded by the County's general fund. So how – we're just incorporating that in our budget for the future, Madam Chair? Because our GO bonds can't include deferred maintenance, can they?

MS. MILLER: Madam Chair, Commissioner Mayfield, no they cannot. As we've gone forward with a lot of the priorities that the Commission has already indicated, either through resolution or whatever, we're trying to bring forward into this next year's budget, incorporating things like our open space and trails maintenance, road maintenance and the things that you have indicated are priorities for you to make sure that we address that, as opposed to just having all these one-time projects without ongoing maintenance.

COMMISSIONER MAYFIELD: And Madam Chair, Ms. Miller, Mr. Leigland, I support this. I want you to know that. But knowing that we're going out asking for the grants and saying, okay, but there's a component of deferred maintenance. I mean, when does that get brought to us and say, look, it's going to cost us – and I think there's only three people that work within your department that help us with the maintenance of open space. We're here talking about maintaining a whole river? How is that possible without us incorporating something and saying, look, this department either needs to expand. We need to put in some money for future deferred maintenance. Because right now we're asking for the money but we don't have a plan on how we're going to go forward after that money. At least in my view.

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, yes, I understand what you're saying. First, to remind you, there's no money involved in the item under

consideration right now.

COMMISSIONER MAYFIELD: Okay.

MR. LEIGLAND: But yes. You bring up a really good point. We have a lot of open space we need to develop and yes, we definitely need to maintain it. We are looking at ways of beefing up the staff to maintain it so I'll just say I understand completely what you're saying and it's definitely something we need to worry about.

COMMISSIONER MAYFIELD: Okay. Thank you, Madam Chair. Thank you, Mr. Leigland.

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

CHAIR STEFANICS: Thank you. Is there a second? I will second it. There is a motion and a second for Resolution No. 2012-16.

The motion passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

- X. C. 4. Request Approval of Cooperative Project Agreement with the New Mexico Department of Transportation to Provide Federal Highway Administration (FHWA) Funds in the Amount of \$150,750 to the County for Construction of a Portion of the Santa Fe Rail Trail (Projects, Facilities, & Open Space/Adam Leigland)**

MR. LEIGLAND: Madam Chair, this is another open space item and in this particular case we want to leverage funds from the federal government to develop part of the trail we already have. The rail trail, in this case.

CHAIR STEFANICS: And have we already appropriated a portion of the funds?

MR. LEIGLAND: Yes, it's already provided for, Madam Chair.

CHAIR STEFANICS: Okay. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

COMMISSIONER ANAYA: Second.

CHAIR STEFANICS: There's a motion and a second.

The motion passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

- X. C. 5. Request Approval of Cooperative Project Agreement with the New Mexico Department of Transportation to Provide Federal Highway Administration (FHWA) Funds in the Amount of \$75,000 to the County for Design of the New Mexico Central Rail Trail (Projects, Facilities & Open Space/Adam Leigland)**

MR. LEIGLAND: Madam Chair, this is a similar item to what you just looked

at an opportunity to leverage federal funds for our open space program. And yes, the matching share has already been budgeted. I stand for questions.

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

CHAIR STEFANICS: Thank you. Is there a second?

COMMISSIONER ANAYA: Second.

CHAIR STEFANICS: There's a motion and a second.

The motion passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

X. D. Public Safety Department

1. Presentation and Discussion on Legal Obligations of ICE Holds at County Detention Facilities (Legal/Steve Ross) [*Exhibit 1: Local Government Obligations under the Immigration Reform and Control Act of 1986, dated 1/31/12*]

CHAIR STEFANICS: I specifically asked our County Attorney to do a formal presentation to us so that the public could see him at the podium. We could have a handout. We could see what we are required to do in terms of our jail obligations and see what we are doing and what process we have in place. So for those of you who've never seen in public Mr. Steve Ross, our County Attorney, here he is. He usually is sitting at the sidebar but we made him stand up today.

MR. ROSS: It's weird up here.

CHAIR STEFANICS: That's why we wanted to give you the opportunity.

MR. ROSS: Madam Chair, members of the Commission, I'm happy to run through – I've put together some slides concerning some rather arcane statutes and regulations that we deal with when we deal with immigration matters, particularly at the County detention center. And I'll run through them rather quickly. I think there's 22 or 25 slides. I'm trying to anticipate your questions, so maybe I should just kind of go through these fairly quickly and then we can have questions.

CHAIR STEFANICS: Yes. I would appreciate that. This is an important topic, and rather than us interpret the law for ourselves, that's why I asked you to do this, so that we all understand. And so if we would give Steve the opportunity to present everything before we move to questions. Thank you.

MR. ROSS: This stuff is very arcane and it goes back actually to the beginning of our republic. Some of the earliest statutes that Congress enacted were immigration statutes. Some of the earliest cases the Supreme Court heard were immigration statutes. But what we're talking about today are statutes that date from the 1950s in particular, the Immigration and Naturalization Act and subsequent enactments, such as IRCA, which is the Immigration Reform and Control Act, the anti-terrorism and effective death penalty act, the Patriot Act and two or three other statutes that have been enacted between 1986 and the present that affect this issue.

Most relevant to what we're talking about today is previous to 2002 with the enactment of the Patriot Act, INS, which is the former Immigration and Customs Enforcement arm, was attached to the Department of Justice and the Attorney General. Those functions were all transferred to the Homeland Security Department in the Patriot Act and INS was renamed ICE, Immigration and Customs Enforcement.

So obviously, this is an introductory slide. This describes where we are currently. When any local government runs a jail you interact obviously with the federal immigration laws because of the phenomenon of holds or detentions of persons suspected of not being in the country lawfully. So our detention center has lots of experience with this topic and since 2008 when this issue came up previously we've maintained a very low level of cooperation. We think the minimum level of cooperation that's required by law on the topics of identification interview or detention of aliens. And recently this level of cooperation that we currently maintain provoked criticism in the newspaper and television stations concerning our policies.

So as the chairman mentioned earlier, we're going to put some legal context on the issue and find out why we're here and why we're doing what we're doing.

So that brings up the topic what's required? What's optional, and it's a topic that's debated a lot concerning this issue.

CHAIR STEFANICS: Steve, could I ask you, will this be posted on our website later?

MR. ROSS: Oh, it could be.

CHAIR STEFANICS: Yes. So I think for everybody's who's trying to take notes we will have this posted on our website. Thank you.

MR. ROSS: Okay. So I'm going to give you a preview of the conclusions. These are two of the four conclusions that appear at the end of this presentation, and it's kind of to frame where we're going by looking at the statutes. Number one, the obligation of local government to detain a person pursuant to a detainer issued by the Immigration and Customs Enforcement Department is not optional. Two, the obligation to cooperate with an inquiry directed at the immigration status of a person is not mandatory, but it is unlawful to prohibit or restrict communication between local officials and ICE concerning the immigration status of any person. Boiled down, these are the major conclusions that I've reached after looking at all this stuff for four or five years.

So, what is a detainer? We hear about an ICE holds; a detainer is an ICE hold. A detainer is a notice that's issued by the appropriate law enforcement agency, in this case an officer, either employed or deputized by the Immigration and Customs Enforcement Bureau that is directed to a law enforcement agency that's holding somebody in their custody but who plans to release that person in some point in the future. The detainer requires the local government to hold that person for up to 48 hours and there's some qualifiers on that, pending assumption of custody by ICE or release of the hold or the passage of time without any of the above occurring.

These detainers are authorized by federal law, specifically the statute United States Code, 1226 (a)(a) which of course provides an alien may be detained pending decision on

whether the alien is to be removed from the United States, or an alien may also be arrested pending a decision whether the alien is to be removed or released on bond or parole pending disposition. Same statute, different section.

Some detainers are required. You notice the use of the “may” in the previous two statutory sections. Detainers are required to be issued by ICE for criminal aliens. Persons in that category are persons who’ve been sentenced to a term of imprisonment for at least a year, crimes of moral turpitude, things like fraud, any aggravated felony, high speed flight from an immigration checkpoint, serious crimes involving drug addiction or abuse, fire arms offenses, domestic violence, child abuse, violation of protective orders, trafficking – both human and drugs, security identification issues, terrorist activities and a host of other offences that are listed in the statutes.

The statutes, particularly IRCA, sorry about the typo there, permits the United States Attorney General and now ICE through the Department of Homeland Security to promulgate regulations in support of activities under the statutes. You can see the quote there, right from the statute there. At least two other statutory sections within the immigration statutes that provide the Attorney General with authority to promulgate regulations on a variety of topics.

So the relevant regulation was promulgated in 1987 and it’s 8 C.F.R. 287.8. It fulfilled a requirement in the statute that I just showed you on a previous slide, that required the Attorney General at that time to describe which officers are permitted to exercise authority under the immigration statutes, and 287.7 describes that in detail. And here’s just a summary of persons who are permitted to serve those functions and they include border control officers, obviously agents of Immigration and Customs Enforcement, deportation officers and persons chosen by the Assistant Secretary for ICE, and then there’s quite a few other people including agents by agreement with state and local governments.

Here’s the mechanics of detainers. I attached this detainer, the most recent form of detainer to your packet there. I don’t have a picture of it but there’s an actual form that’s in the back of your materials there. It’s called a Form-I-247. It’s the form that’s sent to a state or a local lockup by ICE to indicate that they would like us to detain the person pending their action after the person is released from our custody. Obviously, it can be issued to any federal, state or local enforcement agency pursuant to the regulations. And finally, the issuance of the form requires us to take action.

Okay. Detainers in the regulations have at least three purposes. Number one, notification. A detainer is a request – and I italicize that word – to help us parse through what’s required and what’s optional here. The detainer is a request that the agency advise Homeland Security prior to the release of an alien in custody in order for DHS to arrange to assume custody of that person.

The second purpose, obviously, is the temporary detention, what we’ve been talking about, and that regulation is important. I’ll just read it. Upon a determination by the Department of Homeland Security to issue a detainer for an alien not otherwise detained by a criminal justice agency such agency shall – and I italicized that word – shall maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays and holidays in order to

permit assumption of custody by the Department. So that's obviously – the word “shall” is mandatory. This is a requirement and this as it turns out is the sole piece of this that contains a requirement, a mandatory item that state and local government must follow.

The third purpose of a detainer is information. Local law enforcement agencies are permitted to provide documentary records and information available that reasonably relates to the alien's status in the United States or tends to show that the alien has been convicted of a crime or has committed some other act that renders the alien inadmissible or removable. The use of the “may” once again indicates that this is an optional – this is not a requirement. This is something we may do but are not required to do.

Okay. This is just to reiterate what is probably now obvious is that the obligation to detain on receipt of a detainer is not optional and that's because of the word shall. Notification and information sharing are not requirements and our jail has not since 2008 notified Immigration of a release, a pending release, or have not shared information with Immigration concerning incarcerated persons and have not permitted Immigration to enter our facility and interview persons in custody to determine their immigration status. Our behavior since 2008 is consistent with the law.

Okay. So how does Immigration function given that situation? Well, Immigration, as is obvious from the news coverage isn't too happy about the status quo because it makes their job very, very difficult. This is how they've worked around the current situation. Number one, they use our website where we publish intake records –

COMMISSIONER ANAYA: Madam Chair, on that previous point?

CHAIR STEFANICS: Yes.

COMMISSIONER ANAYA: Could you go back? Could you go back to the previous slide?

CHAIR STEFANICS: The information may...?

COMMISSIONER ANAYA: So just clarity on this point. We haven't had a requirement in policy and as such ICE has had to use alternative methods to obtain information that they need?

MR. ROSS: Correct. Commissioner Anaya, ICE has I think three large nationwide databases that they consult. They match up names on our intake list against that list and it yields hits. And they work those hits to try to determine whether the person is a criminal alien or any of the other people –

COMMISSIONER ANAYA: I want to respect the chair. [inaudible] to the presentation but I think this is a huge point. Earlier in the presentation, I think the second slide, you said it wasn't required but it was unlawful to do that. So quantify that and clarify that for me.

MR. ROSS: What is unlawful is where the County or for example the jail itself to have a policy that would restrict employees of the jail from speaking about the immigration status with ICE.

COMMISSIONER ANAYA: I got you. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. So we're back on the detainer page that starts

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with “the obligation” or are we on the next page?

MR. ROSS: I think we’ve covered that. So here’s what the current situation is. Immigration reviews our intake records on the web, I understand. They match it up against the nationwide database that I spoke about a second ago. They try and determine whether there’s a person that meets their criteria, which I’ll talk about in a second because there’s some new information on that topic. And then if there’s reasonable suspicion on the part of the ICE agent during the inquiry that a person is – meets the qualifications then a detainer is issued. It’s very similar to the issuance of a warrant for somebody’s arrest. You have to have reasonable suspicion. It’s the same basic criteria here to determine whether somebody should be subjected to a hold and if that criteria is met then a hold is issued.

So they send the detainer to us. When that person comes up for release we hold the person 48 hours subject to the rules about Saturdays and Sundays and after the normal release date. There’s a mistake on this slide; it says that we notify ICE that we are holding the person. We don’t do that as a general rule. My understanding the practice is that Immigration comes to the jail and asks if anybody is to be released that day who is subject to a hold. If there is, then they assume custody of that person and then their normal process for processing the person consistent with their administrative procedures and the rights of those persons who are held takes over and we don’t have any other role in the whole thing.

There’s been some new developments in the last eight or nine months on this subject and that is the manner in which Immigration exercises its prosecutorial discretion. Although the scope of their bailiwick is fairly limited the Immigration folks operate very much like a law enforcement agency and they exercise discretion whether to take custody to people or question people concerning their immigration status. They’ve issued recent guidelines that show that they intend to focus their discretion on aliens who are a danger to national security or a risk to public safety based on some criteria we’re going to get into.

The guidance documents imply that this decision was made for the purely budgetary reasons because of the scope of their problem, so they’re trying to apparently, according to these documents I’ve reviewed, more closely attach the serious risks that some of these people present and ignore some of the normal functioning of Immigration which is identification and deportation of persons who are not here legally.

So you see the first priority under the new guidelines are aliens suspected of terrorism or espionage, or who pose a danger to national security.

Also high priority are persons convicted of crimes and these are quotes right out of the new guidelines. Persons – well, the particular focus of Immigration is going to be persons who are violent criminals, felons and repeat offenders, persons not younger than 16 who participate in organized criminal gangs, persons subject to outstanding warrants, and aliens who “pose a serious risk to public safety.”

Also given priority are level one and level two offenders defined by the Secure Communities Program. This includes persons convicted of aggravated felonies, two or more crimes punishable by more than one year of prison, aliens convicted of three or more misdemeanors.

In addition to identifying the priorities for action by Immigration they also describe some of the mitigating factors that Immigration is now to consider when they are making these decisions. I just listed just a few of them here; there's actually a whole page of these things that are similar in tone and content to what I'm about to describe. So some of the things that immigration is now going to take into consideration that they haven't in the past are the circumstances of the person's arrival in the United States, the person's ties and contributions to the community, including any relevant family relationships, the person's ties to the home country, and that means whether their ties are maybe not even present because they arrived here at a very young age, whether the person has a US citizen or permanent resident spouse, child or parent. This is a classic problem that we've addressed for years here in Santa Fe, as well as numerous other factors.

This is the fine line, exactly what Commissioner Anaya was talking about a minute ago. There's been litigation about these two sections. This is what I described earlier. It's actually unlawful to restrict communication between persons employed by us who have, who desire to communicate with Immigration concerning the Immigration status of persons. We don't do this, but just to point out that some jurisdictions have attempted this and there's been litigation over this very subject. And it's probably part of the fine line that we should be fairly careful about.

Reimbursement: This is an interesting topic. It's interesting that we get, still, reimbursement for our holding people for 48 hours because under the new Immigration guidelines we probably shouldn't be receiving any funds for this because we are listed by Immigration as a non-cooperating community, the only one in New Mexico. But, as an artifact existing from the Homeland Security Act period the program under which these grants are made still resides at the Department of Justice and Homeland Security and Justice don't talk about this. So as a result we're still receiving reimbursement for detainees. Last year it was about \$75,000. That's about average.

The last time we talked about this, in 2008 we talked about the constitutionality or not of this requirement. *Printz v. United States* is one of two United States Supreme Court cases concerning the constitutional ability of the federal government to impose federal regulatory programs on local government. *Printz* concerned the Brady Bill, which oddly enough in this context concerned the requirement that local law enforcement personnel administer the Brady Bill and provide a federal regulatory program at the state level to regulate handguns. It was held unconstitutional by the Supreme Court. These grounds, that Congress was without authority to compel the states to enact or enforce a federal regulatory program or circumvent that prohibition by conscripting the states officers directly. As you'll remember, the Brady Bill applied to sheriffs and chief law enforcement officers of the relevant local government, trying to circumvent a case out of New York where Congress attempted to impose a requirement on the state as a whole. So the Brady Bill attached individual state officers. The court held this unconstitutional.

Periodic questions are raised about this whole program, particularly the detainer program, whether this is constitutional under *Printz*. I think that's unlikely that that's the case because unlike the Brady Bill, this program doesn't require local officials to do anything more

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than hold the person. The statutes were carefully drawn to ensure that some of the information gathering and other issues that surround this topic are optional, not mandatory. So detainers are probably constitutional under the theory outlined in *Printz*.

Questions asked periodically have been raised whether the regulation is being interpreted right. In order to address that problem directly I showed you the regulation earlier. It's a standalone regulation, 287.7(a), it's very clear – I'm sorry. I think it's (d). 287.7(d) is very clear that local jurisdictions shall comply with a detainer but other items are optional. The structure of those regulations shows that the notion of reimbursement or entering into agreements with the federal government on these topics are independent of the obligation to hold.

So I'll cut right to the conclusions here. These are the four conclusions that you can draw from all of this I think. Number one, the obligation of a local government to detain pursuant to a detainer is not optional. We looked at this earlier. The obligation to cooperate with an inquiry directed at the immigration status of a person is not mandatory, but it is unlawful to prohibit or restrict communication between local officials and immigration authorities concerning the immigration status of any person. Three, enforcement guidelines recently promulgated by ICE clarify when a detainer will be issued and provide the discretion to issue a detainer will be exercised according to the priorities established by Immigration, with top priorities assigned to issues of national security and persons with significant criminal convictions, and four, a cooperating local government is reimbursed for its expenses detaining persons pursuant to the regulations.

With that, I'll stand for questions.

CHAIR STEFANICS: Before we go into questions or comments from the Commission, the other item that I was hoping you would address is what process we have in place to document what we're doing.

MR. ROSS: Well, Mr. Sedillo has been working on that. Our documentation is not the best at this point. He might be able to address that more directly. We don't have really good statistics on how many people have been subject to detainers. We don't have very good numbers on how many have been picked up. And we don't have very good numbers on how many detainers have expired without a person being picked up. The immigration authorities have probably better numbers than we do and I don't know if I – I don't have them myself.

CHAIR STEFANICS: Well, I'm not asking for numbers. I was asking for a process, and if we are developing a process, that's fine, but I would assume that as our County Attorney that in fact, until you receive any other directive you will help us meet what's required but not further until so directed.

MR. ROSS: Absolutely.

CHAIR STEFANICS: So a process is being developed if it hasn't been already.

MR. ROSS: Correct. Correct.

CHAIR STEFANICS: Questions, comments from the Commissioners?

CHAIR STEFANICS: Commissioner Mayfield, then Commissioner Anaya.

COMMISSIONER MAYFIELD: Madam Chair, I guess the question that stood

out to me the most, Steve, is on the fifth to last – the fourth to last slide. Reimbursement detainees. You said we're not listed as cooperating. Why are we not listed as cooperating?

MR. ROSS: Because the only thing we're – we're only participating in the mandatory item in the program, which is holding people pursuant to a detainer. We're not providing information. We're not calling. We're not providing the opportunity for immigration officials to interview persons within our jail to determine their immigration status.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, isn't that subjective, if we're meeting the mandates of law, how is that not cooperating?

MR. ROSS: Well, the requirements of the program are that we do more than just do the minimum level of cooperation.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, where was that in this slide presentation, that we do more?

MR. ROSS: I didn't show that particular stuff.

COMMISSIONER MAYFIELD: Do you have that stuff, that we're supposed to do more? Do you mind kind of letting me know what more we're supposed to do?

MR. ROSS: I can. Well, those are the principle ones. Number one, informing immigration officials when somebody is ready for a hold, ready to be picked up, or acknowledging a hold, or – it's basically, it comes down to communication. If we're not communicating with the immigration authorities which we're not then they list us as non-cooperating.

COMMISSIONER MAYFIELD: And again, Madam Chair, Mr. Ross, respectfully, that's just why I'm confused. Either we're following the law or we're not following the law and if there are additional requirements that are requested of us, that's great, but I'd like to see those in writing coming from the federal government of what else we're asked to do.

MR. ROSS: Madam Chair, Commissioner Mayfield, I have that. I can show you a letter from them and some other documents.

COMMISSIONER MAYFIELD: Would it be hard to see it now?

CHAIR STEFANICS: On that point, one of your slides says notification and information sharing are not requirements.

MR. ROSS: Correct. They are not requirements. These are things that we're not doing; we're not required to do, but in order to be listed as a cooperating agency you have to do them. In other words if you expect money from the program you need to do more than what's absolutely required.

COMMISSIONER MAYFIELD: So Madam Chair, Mr. Ross, on that point, I'm just going to take the money issue out of the equation. I'm glad to know they're reimbursing us for those holds, but is that just what the issue is about, whether you receive money or not. I just want – with all the news media accounts and your presentation, just to hopefully clarify for the record that Santa Fe County is doing what we're mandated to do by federal law. And I'll be the first proponent to say I want to comply with federal law. But also I want to know if the feds, respectfully are asking us to do additional stuff that's – I don't want to say subjective, but that's

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what they're asking other counties to do that other counties are doing it, and if there's a law that says we have to do it or we don't have to do it. That's just the understanding I want to get, because for them – or give a definition of what non-cooperating means. It means like you're not going above and beyond but you are meeting federal law?

MR. ROSS: Madam Chair, Commissioner Mayfield, the whole purpose of this presentation was to illustrate what's absolutely required, what's mandatory, and what's optional. And that's a different issue than what's required to be a cooperating agency under things like the Community Action program and other programs. We're doing what's statutorily required at this point so we can't be hauled into federal court under injunction or something like that because there's no grounds for it at this point. We are meeting the basic statutory minimum. In order to be cooperating in the program and technically at least, to receive reimbursement for the assistance we're providing we have to do more. But what we have to do more of is completely voluntary. We can choose not to do it. Which we have up until this point.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Ross, we don't have any policies or procedures of what we are doing and what we aren't doing, right? Are we subjective of what we're doing? I mean, what are we doing? That's what I want to say.

MR. ROSS: Madam Chair, Commissioner Mayfield, I think we have detention center policies that put all this stuff in writing.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, when will those be presented to us?

MR. ROSS: Well, I can get you a copy. They are in existence. They're part of the detention center's policies.

COMMISSIONER MAYFIELD: Madam Chair, thank you. That's all I had for now.

CHAIR STEFANICS: Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I've six points I'll go through them quickly but clearly. Number one, we need to detain the offenders of serious crime regardless of color, race, ethnicity or immigration status within the scope of the law and policies and procedures applied to that law. Number two, the Sheriff of this and all counties, the chief law enforcement officer for our county, he and his office and staff should be involved and treated as such as the chief law enforcement officer both inside and outside of the jail.

Number three. A path to citizenship – absolutely for illegal immigrants. A path to crime – absolutely not. Number four. As it relates to serious crime and felonies we need more stringent policies that afford complete cooperation and coordination with ICE. Number five. If you're committing any felonies and aggravated crime, we don't want you here, I don't want you here if you're an illegal immigrant doing that. Number six. We need to document and accurately track detainees consistent with the law and the regulations set forth by ICE. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Any other questions or comments?
Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Thank you, Mr. Ross,

for the presentation. This was very instructive and informational for me. So I guess I just have one question. So if a hold is put on an inmate for 48 hours, and then at the end of the 48 hours, ICE does not come to retrieve that person, then if that person, then if there's no legal reason to continue to keep them in jail, they are released. Correct?

MR. ROSS: Madam Chair, Commissioner Holian, yes. That's correct.

COMMISSIONER HOLIAN: Okay. Thank you.

CHAIR STEFANICS: Thank you. Anything, Commissioner Vigil? Yes.

COMMISSIONER VIGIL: Thank you very much. This really was very beneficial to me. At what point in time and by whom is probable cause identified?

MR. ROSS: Madam Chair, Commissioner Vigil, probable cause is identified by the officer who's making the inquiry.

COMMISSIONER VIGIL: That would be the –

MR. ROSS: He has to have reasonable suspicion that the person is either in the country without permission or has committed a crime that's described in the statutes.

COMMISSIONER VIGIL: And that probable cause is expressed in the detainee form? I just looked at it really quickly.

MR. ROSS: It is not, I don't think.

COMMISSIONER VIGIL: Okay. So I guess the probable cause would be probable in court.

MR. ROSS: They'll have a probable cause statement. And there's not a court per se. There's court review. There's more of an administrative process for aliens that are processed through the system and there's the opportunity to go into federal court but it's basically an administrative process.

COMMISSIONER VIGIL: Okay. So the ICE officer who believes he has probable cause makes a probable cause statement and that probable cause statement is attached to the detainee form. Does any judge or anyone like that sign off on it or is that just what's presented to the detention facility?

MR. ROSS: No judge, or the judges don't, like in the state or federal system sign off on like a search warrant or something like that. No, they don't do that in that system. It's a purely administrative process. I don't know the involvement. I don't know that process very well. I don't know the involvement of the at-law judge who's supervising the process.

COMMISSIONER VIGIL: Okay. And so it really has to be that form that's presented to our jail administration before any action can be even deciphered. Correct?

MR. ROSS: Immigration authorities are not permitted to issue a detainer until they have probable cause.

COMMISSIONER VIGIL: Okay. Thank you very much. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Thank you, Mr. Ross. Commissioner Anaya, you had another comment?

COMMISSIONER ANAYA: Yes, Madam Chair. I'd like to make a motion that we strengthen our policies within the context of the law. It has been set forth that we could have

better policies, stronger policies, and policies that are better in line with communicating and coordinating with ICE. So I make that in the form of a motion.

CHAIR STEFANICS: Is there a second?

COMMISSIONER MAYFIELD: Madam Chair, I'll second that.

CHAIR STEFANICS: Is there discussion? If not we'll vote.

COMMISSIONER HOLIAN: Madam Chair, well, first of all, I don't feel like I know enough about the issue to be able to vote at this point. And secondly, I don't know that this was actually an action item.

CHAIR STEFANICS: it was not set up as an action item. Would you like to refer it to the next agenda as an action item?

COMMISSIONER ANAYA: Madam Chair, Mr. Ross, you're our counsel. It wasn't – it doesn't say we couldn't take action either.

MR. ROSS: That's true. Madam Chair, Commissioner Anaya, what I would suggest is maybe you and I get together and I'll review the issues that ICE has with our policies and I can formulate that into a resolution with specific action points that will be concrete and people can appreciate.

COMMISSIONER HOLIAN: I'd like to see a resolution.

COMMISSIONER ANAYA: Madam Chair, yes, Mr. Ross. That'll work. For me, Madam Chair, I'm concerned. I'm concerned that we have violent people that are being released, potentially violent people maybe that haven't gone through complete due process yet, but I'm concerned about it and it bothers me. So sooner rather than later would be good as far as I'm concerned.

COMMISSIONER VIGIL: And Madam Chair, if I might.

CHAIR STEFANICS: Yes.

COMMISSIONER VIGIL: Commissioner Anaya, on the other side of the coin of that are people who are being detained wrongfully. So I do think we need to look at this from a resolution perspective in terms of our policy.

CHAIR STEFANICS: So I hear that you're willing to wait and to work with the County Attorney on developing something. I do see this as similar to our not voting on an amount of money for a regional coalition because it wasn't noticed, so I'm happy to get it noticed as soon as possible once you all have it developed. But thank you very much, Mr. Ross for doing that presentation and I would suggest that Commissioners, if you want to have individual conversations with Mr. Ross in depth further, please make the time to do it before a resolution comes forward. Thank you very much for your time today.

MR. ROSS: Thank you.

- X. E. **Community Services Department**
1. **Request Approval of Resolution No. 2012-17, Authorizing the County Manager to Execute and Submit to the New Mexico Department of Finance and Administration Two DOH Assurances and Cooperative Agreements Pertaining to Local DWI Funding From the State of New Mexico Together with the Required Statement of Assurances and Two Memorandums of Understanding Between Santa Fe County and the New Mexico Department of Finance and Administration for Fiscal Year 2013 and Two Department of Health Cooperative Agreements for Fiscal Year 2013 (Health & Human Services/Steve Shepherd)**

CHAIR STEFANICS: Is there discussion or can we vote on it.

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

COMMISSIONER MAYFIELD: Second, Madam Chair.

The motion passed by unanimous [5-0] voice vote.

- X. E. 2. **Approve Resolution No. 2012-18, Creating a Santa Fe County Senior Advisory Committee for the Santa Fe County Senior Services Program (Senior Services/Ron Pacheco)**

COMMISSIONER MAYFIELD: Madam Chair, move for approval. Long overdue. Thank you for bringing it forward.

COMMISSIONER HOLIAN: Second.

The motion passed by unanimous [4-0] voice vote. [Commissioner Vigil was not present for this action.]

COMMISSIONER MAYFIELD: Madam Chair, since we have Mr. Pacheco at the podium, could we also see a resolution coming forward for establishing a protocol for our community centers, please.

RON PACHECO (Senior Services): Madam Chair, Commissioner Mayfield, I believe that today there's a deadline for people to submit for interest on that committee, to serve as community center committee members, and I believe, Madam Chair and Commissioner Mayfield, that in February we will be coming forward with many of those committees. In all honesty, Commissioner, at this point I'm very concerned that we're not getting enough people to step up and submit applications, so I'm going to recommend we extend the deadline, probably tomorrow, so that I can get more people. Because I did check prior to this meeting, Madam Chair and Commissioners, and I don't think we've gotten too many.

So we do have Cundiyo already established. I've had three people bring me applications

that have submitted and I'm concerned that some of the centers may not get enough so we may extend that deadline.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Mr. Pacheco. Respectfully, I don't think we have this issue in Eldorado or at the Nancy Rodriguez Center. So are they primarily at the northern centers?

MR. PACHECO: Madam Chair, Commissioner Mayfield, we may have this issue at the Nancy Rodriguez Center. I've had one guy bring me an application, to me. Now there may be others submitted without my knowledge, and I will follow up on that, but Eldorado is not a functioning community center, Madam Chair, Commissioner Mayfield. Eldorado is considered just a senior center. So that will matter in terms of this resolution you just approved for advisory committee, but in terms of an actual community center committee, that center's not functioning in that category, so we won't have any there.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, I guess a question for you. Would there be an issue if I go out there, at least for my community centers and try to shake the trees to get some folks to sit on these boards?

MR. ROSS: Madam Chair, Commissioner Mayfield, absolutely not.

COMMISSIONER MAYFIELD: Thank you, Madam Chair and Mr. Pacheco, on that note, can we arguably put Nambe Community Center on line even though it hasn't been completed yet? By the timing it's going to happen we could have active members.

MR. PACHECO: Madam Chair, Commissioner Mayfield, I'll stand for direction to get people to serve on the Nambe Center in light of the fact that it hasn't been built yet, but if I'm told to do so, yes.

COMMISSIONER MAYFIELD: I just think all community centers, even if we have one going in Eldorado eventually, that would be great. Thank you, Madam Chair. Thank you, Mr. Pacheco.

CHAIR STEFANICS: Thank you very much.

XI. Matters From the County Manager

1. Introduction of New County Employees

Madam Chair, we have several new County employees but many of them are detention officers, volunteer firefighters, emergency communications specialists, but I want to make sure that when we do have new employees that are not in the 24/7 staffing that we try to get them in here, or if they're not remote from the County Admin Building, so we can get them in and introduce them to you in person, particularly since you'll be interacting with several of them.

So the three that have been hired just in the last month in our IT Division and I was going to ask Sam if he would introduce them, and he can tell you what they'd be doing, but I think you've already see a couple of them. It's Daniel Fresquez, Robert Martinez, and Jim Cisneros. But Sam, could you get up and introduce them and let the Commission know what they'll be doing?

CHAIR STEFANICS: So are these all techies?

SAM PAGE (IT Director): Madam Chair, members of the Commission, I'm Sam Page, Director of the IT Division. The IT Division has been understaffed for some time now. We've had about three vacancies. A lot of them were vacancies that took us a while to fill them because of promotions from within, we've cascaded the vacancy. But I'm pleased that we're now up to full staffing since January of this year with three new employees. Jim Cisneros is our system administrator supervisor. He comes to us from the New Mexico Public Education Department. He takes over the position that was held previously by Omar Salah. He was one of the ones who was promoted when Jim Hemphill left that position. Then Omar was promoted to that and he subsequently left to create another vacancy and we finally got Jim here.

Daniel Fresquez came to us from the County Clerk's office. He's actually a transfer, not a new County employee. He has been with us for a while, with the County.

And Robert Martinez comes to us from the private sector. Both Daniel and Robert will be –

CHAIR STEFANICS: Is there a relation in the back?

MR. PAGE: Yes. Robert Martinez is the son of our Public Works – I'm not sure what his title is now. That's not why he was hired; he was hired because of his qualifications. He impressed us tremendously and he's a very sharp, very talented individual. Both Daniel and Robert will be IT desktop support personnel.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you for the acknowledgement and recognition of these employees. I just want to say something. I want to say it for the record. Because there are certain family relationships that happen within northern Santa Fe County or within the State of New Mexico, that's not a bad thing. They are very competent, talented individual who I am very privileged to say are related to one another also. I believe through our HR Department, through our Manager's Office that we do a hiring process based on strictly merit and based on each individual's ability to apply and qualify and be qualified for that position. So again, just out there, because there's a relationship with somebody, two million people is not a lot of people in the state. And what is it? 140,000 for Santa Fe County? That's not too big in the state, and some of those families do have family relationships. Just so everybody knows that. Thank you.

CHAIR STEFANICS: Thank you very much. And welcome to Santa Fe County. We're very glad that we have more people that can help us with all our computers here.

XI. 2. Legislative Update (Rudy Garcia, General. Gary Perez, SB145 Tax Lightening) [*Exhibit 2: Senate Legislative Items; Exhibit 3: House Legislative Items; Exhibit 4: SB 145*]

MS. MILLER: Madam Chair, I have Rudy here to give you an update on what's happening over at the legislature. In addition, we're going to be providing you with – call it a

cheat sheet, so to speak of all of the legislators within the County as well as House Appropriations and Senate Finance, because there's been several emails updating you on what's happening with the detention center funding, the teen court funding. That way you'll also know what all of our County priorities were, what each capital outlay item was, and if you're over at the Roundhouse and what to have five minutes to talk to different legislators you have a list of who is the appropriate group of legislators to talk to on each one of the issues that the County has put forward as a priority, as well as knowing what has been requested in the capital outlay area, countrywide, in your district, and each others' districts so you have an opportunity to lobby on behalf of the County.

CHAIR STEFANICS: Thank you. Yes, Commissioner Anaya.

COMMISSIONER ANAYA: Madam Chair, I'm going to take the Giants by six in the Super Bowl. Rudy's a diehard Giants fan.

CHAIR STEFANICS: Well, I have to say I enjoyed an early Souper Bowl last Saturday. The Food Depot Souper Bowl raised \$80,000. If you wanted to meet anybody who is anybody in Santa Fe County, they were there. But they weren't talking, they were eating. The soup was so good from all the different restaurants. Okay. Go ahead.

RUDY GARCIA (Projects Division): Madam Chair, Commissioners, as you know, today is the half-way point. There's about 15 days left of the session. In my opinion, it's a little bit slow. Seems like it's picking up very fast. There are some bills that are actually going to some committees. The committees are actually stalling these bills. There's several of you Commissioners that actually have been there and know exactly what I'm talking about. They've gotten up to about 300 bills for introduction up to today, which is very low.

Actually, Hvtce Miller handed out a copy of bills that affect Santa Fe County as well as the 12 resolutions that the County as a whole passed in support of the resolutions. Also on the capital outlay, I've heard from several legislators that they're going to have roughly – the Senate may have up to \$1 million each on capital projects. The House will probably have approximately \$700,000 to \$750,000 each for individual legislators. As you all know that's still kind of moving for, up in the air. There have been several capital bills introduced. There's a general obligation bond that's been introduced. Myself as well as Hvtce and the County Manager have been trying to get a couple of design projects for libraries in there as well as a couple of senior projects in there, not for full construction, but however to at least get some design monies in the GOB projects. We are working with Senator Rodriguez and Senator Cisneros as well as our Representative Trujillo on that.

We have another bill that kind of was important, Senate Bill 165, which is teen court. Senator Rodriguez is carrying that bill. It did go to judiciary last Friday evening. And I just would like to commend Jennifer Romero from teen court; she actually did a very excellent job in front of the committee. She actually had three or four teens there, lawyers. They actually did a very good job. The committee asked them several questions and they did an excellent job.

So as the County Manager mentioned, we'll actually in the next day or two we'll be getting you a copy of all the bills that do affect the resolutions that we passed, a copy of the committees they're going to, as well as the numbers to the State Legislators, their office and

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their assistants. And I stand for any questions.

CHAIR STEFANICS: Thank you. Are we also going to have a presentation on the tax lightening? So Rudy, let's hold questions for you until we have Gary come up. Thank you. I see that there's several bills now on tax lightening.

GARY PEREZ (Deputy Assessor): Good afternoon, Madam Chair, Commissioners. There's only actually one tax lightening bill right now that we know of and it's this one. There's other tax, probably tax related bills but only one that really deals with the tax lightening issue.

CHAIR STEFANICS: Okay.

MR. PEREZ: So if I may, what I have before you is an example of how this bill works. I think you have the handout that we had given to you and you also have a copy of the actual text of the bill if you want to read it later. I wasn't planning on going over the text of the bill. But to explain to you how this would impact our County, the bill would apply to all residential improved properties that were sold between 2004 to 2012. What it would require is for us to – for the Assessor to recalculate the value and if it's passed it would be for 2013. So we would have to go find all those properties that sold between this time period and recalculate their values to come up with that new final value.

Here's an example of how one would work. Let's assume that the Assessor's value on a property was \$200,000 in 2003. In 2004, the property sold for \$300,000. So we would have to go back to the 2003 date. We would say that at that time it was valued at \$200,000 and we would start recalculating the capped value on it. So we would add six percent. Actually, three percent. So the value would be \$206,000 for 2004. In the real – the way we do it today, the property sells in 2004, in the following year it would be valued at more or less the sale price, close to the sale price. So it would be valued at \$300,000. And then today, in 2012 we may or may not be at \$300,000, depending on what the market value of that property is. Right now, since the market is down we may or may not be close to that value. But the way that bill requires us to recalculate, you can see below the white line we would begin recalculating the 2004 value would be \$206,000, then \$212,180 and so forth, until we get to the 2013 value of \$268,783.

So that would be what this property would be revalued at. It would be lower than what it actually sold for two years prior. So you can see here we have about – probably over 15,000 properties that would be affected by this bill in our county alone, that we'd have to recalculate.

Another aspect of the bill deals with property that was newly constructed during that same time period. So if a new house was built between 2004 and 2012 we would have to go back to the first year it was assessed and we'd have to apply a pre-sales ratio as defined in the bill. So here's an example. And then we would have to recalculate to the current market value for 2013.

So let's assume in this case that this property was built in 2004. It was built in 2003 but it was first assessed in 2004 for \$300,000. That's what we were assessing it for. If we were assessing the rest of the houses in the county at a pre-sales ratio of 75 percent, meaning they were only on at 75 percent of their true value then we would have to apply it to this \$300,000 in

this case. In other words we would adjust this value, the base value to \$225,000 for that first year, and then we would add three percent to each of the years thereafter, bringing us to a value of \$293,576 for this property in 2013.

So we would have to do this again to all of these types of properties and find all of them and recalculate these values for 2013.

So the bill really only deals with properties that were sold or properties that were newly constructed. If you owned your house prior to 2004, and you did not do either one of these things then you're not going to be affected by this bill in one way. You will be affected because when we lower values, more than likely we're going to end up lowering values tremendously, and that's going to end up making the tax rate go up, unless everyone who collects property taxes cuts their budgets and ends up lowering their requirement for property taxes.

So the real effects of the bill would be that we would have a tremendous loss to the tax base, and that we have not calculated yet. We did calculate this last year and it was over a billion dollars to our tax base. In residential value, right now in taxable value we have a little over \$5 billion in residential value. This is what it would be affecting. So we are estimating that could lower that by one billion dollars or about 20 percent.

So this would cause tax rates to increase for all properties not receiving any adjustment in valuation. Actually, it's going to make all property tax rates increase, except these people that are affected by the bill would probably see a tax rate decrease, but everyone else is probably going to see a property tax increase. This would also affect bonding capacity. It could be reduced for all the entities that rely on property tax.

It also further complicates the method for the Assessor to defend residential property values. There will be no rhyme or reason as to how we got to the number that we got. Ten years down the road we have a number, this is what we're assessing you at, but it's not based on market value; it's based on how we capped it 15 years ago, 20 years ago. Right now, our goal is to value property at market value using standard methodology. This completely throws it out the door. It would also be more difficult for the average property owner to understand how the Assessor derived the value.

The Assessor believes that we would probably have more protests that would be filed, especially by tax consultants who can challenge the pre-sales ratio, who can challenge the way that we capped it and the value that we used, and it just opens the door to more protests.

There's one other question. The Appellate Court has convened on this issue, late last year in the fall. We asked what happens if the Appellate Court rules that the cap is constitutional. And the arguments that we heard when we were there that day, it sounded as if the judges believed it was already constitutional, that it was not unconstitutional. So if the current statute is not broken do we really need a fix? And just to let you know, the NMAC board of directors has voted to oppose this bill, and the majority of the Assessors have voted to oppose this bill. It's already gone through one committee on the Senate side and it received a no-recommendation. It was in Senate Judiciary and it's not scheduled for another hearing yet.

CHAIR STEFANICS: Gary, I was asking Julia to bring me something from my office. I'm not sure the board of directors opposes. I sit on the board and we voted to support a

fix, not a specific fix. But we have not taken a position against a particular bill. There is a meeting on February 4th of the board of directors to reassess bills as they stand and to review that.

MR. PEREZ: Madam Chair, I was told that they did vote to oppose; I may be wrong.

CHAIR STEFANICS: Okay. We would have to look back at the priorities that we passed, but we, at our last board meeting did not take a position. That's why there is a special board meeting coming up this Saturday.

MR. PEREZ: Madam Chair, the meeting that I was told they voted against that was last Friday, I believe. It was after the Association of Counties Legislative Conference. I believe there was a meeting that day where Clyde Ward, the vice chair of the Assessors Affiliate made a presentation and they voted on that day.

CHAIR STEFANICS: Not to the board. Because I sit on the board and the board met on Tuesday afternoon.

MR. PEREZ: All right.

CHAIR STEFANICS: So we will look at it again on this Saturday. Okay? Great.

MR. PEREZ: Any other questions?

CHAIR STEFANICS: Okay. Let's do questions for both Gary and Rudy and Hvtce and everybody. Commissioner Vigil.

COMMISSIONER VIGIL: Senate Bill 145, I noticed it was also referred to Senate Finance. Is there a companion bill on the House side or is this just the start of it and trying to get it through both houses for this session?

MR. PEREZ: Madam Chair, Commissioner Vigil, no I don't believe there's a companion bill.

COMMISSIONER VIGIL: Okay, I guess it could move fast. It could die.

MR. PEREZ: Last year it died at the last minute. The Speaker of the House, I believe, was against it last year. He did not like the provision for the new construction and that was one of the things he tried to change. This bill is almost identical – it is identical to last year's SB 108, except it's a different number. There's a strong lobby against it by the Assessors and I really don't think it's going to go forward. It received no recommendation in its first hearing because of the fact the Court of Appeals has it in their hands right now. So that's what we're anticipating. Who knows?

COMMISSIONER VIGIL: Who is in favor of this? You don't have to name names, but –

MR. PEREZ: The Senator who's proposing it is in favor of it.

COMMISSIONER VIGIL: Eichenberg.

MR. PEREZ: And I think some of the realtors are in favor or it.

COMMISSIONER VIGIL: Okay. Thank you. And have you heard testimony as to the basis of their favoring this is?

MR. PEREZ: Madam Chair, Commissioner Vigil, no, I have not heard testimony. I was not there that day.

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COMMISSIONER VIGIL: Okay. Thank you very much. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Thank you, Mr. Perez, for the presentation. So have the Assessors ever drafted a bill that they support and think would actually solve the tax lightening problem in what they consider a sensible way?

MR. PEREZ: Madam Chair, Commissioner Holian, yes, we did last year. We presented it. It was sponsored by Representative Sandoval and it didn't get very far.

COMMISSIONER HOLIAN: And I gather it's not being considered this year.

MR. PEREZ: It's not being considered this year, and actually what the Assessors really want I think is the most equitable for everyone is to go back to true market value, especially now, the way the market is. The market is down and we believe that this is now the time to reappraise everything and just base it on market value instead of capping everything.

COMMISSIONER HOLIAN: Okay. And then I have a comment for Rudy.

CHAIR STEFANICS: I'm going to make a point though before Gary moves away. On that point, if the Assessors don't like this bill and they have their own ideas, why haven't the Assessors found a sponsor to move ahead with what they want?

MR. PEREZ: Madam Chair, because the Assessors have been told that they'll never go back to market value. They will not remove the cap. The sponsor of the bill that passed it, the Speaker of the House is the one who passed this back in 2001 and he's in favor of it, capping residential properties and he will not let it return to any other way.

CHAIR STEFANICS: Okay. Commissioner Holian, you still have the floor.

COMMISSIONER HOLIAN: Thank you, Madam Chair. So Rudy I just wanted to alert you that there's a Senate Bill 200 which is being sponsored by Senator Griego, and it has to do with conservation easement incentives, and it kind of contradicts a resolution that we passed in support of being able to put conservation easements on small, agricultural parcels. And so I just wondered if you would keep an eye on that bill.

MR. GARCIA: Madam Chair, Commissioner, we sure will.

COMMISSIONER HOLIAN: Thank you.

CHAIR STEFANICS: Thank you. There's a couple bills. Senate Bill 258, the one on sole community provider, we had a very short discussion in Indigent Board meeting this morning about whether – if that bill passed and if other governmental entities added funds to sole community provider, whether that would increase a county's base. And this would be of concern, probably, to not only Santa Fe County but other counties.

The other one that I noticed when I was going through the whole introduction package is there's one on County home rule. There's actually two Senate memorials on creating some study groups with Local Governments Division to look at our authority to do what we need to do as counties, and if in fact that moves ahead Santa Fe County would definitely want to have a place at the table, at the study. I don't think it would be a bad idea unless there's something in the bill or memorial that is squashing our authority. But the way I read it is that there's at least

two memorials that are looking at that. Okay. Commissioner Mayfield, anything?

COMMISSIONER MAYFIELD: No, Madam Chair. I was listening from the side room. But thank you for the opportunity.

CHAIR STEFANICS: Thank you. Anything else, Commissioner Vigil?

COMMISSIONER VIGIL: No.

CHAIR STEFANICS: Thank you, gentleman, very much for being here today and hanging with us and doing all of this work. We appreciate it.

XI. 3. Projects Update

MS. MILLER: Yes, Madam Chair. We're going to try to bring every meeting some updates on different projects that have been kind of in the forefront in different Commission districts so Adam's going to be giving that on a few of the projects that have been brought up recently.

MR. LEIGLAND: Madam Chair, Commissioners, I have six projects that I wanted to talk about that I think have been important to you. The first two are kind of related. They're both projects that are important to you and to Commissioner Anaya that have been stalled. One is the Stanley Wellness and Agricultural Center, and one is the Eldorado Library expansion. The update I wanted to give you on those while we're waiting for the big pot of money to fund the large facilities. We've gotten some portable buildings from the Eldorado School and we're going to move those as temporary facilities.

We actually went out on Friday, identified some suitable portables and the portables will be available in April from the school to move. We'll move one down to Stanley to be the temporary wellness center, and then we'll move one to be the temporary library expansion. In both cases we'll need to do a little bit of site work, some concrete work to set these portables on and hook them up to utilities and what not.

CHAIR STEFANICS: Okay. So my immediate question on this is that I've been told that even though the portables were available that there's going to be a cost to this project that we didn't have available for all the hookups and the accessibility.

MR. LEIGLAND: Madam Chair, there will be some costs. For instance, the Stanley Wellness Center, we estimate the cost will be about \$80,000 when you look at relocation and that sort of thing, and then Eldorado Library will be the same. [inaudible] is to try to find that money. We can move them very inexpensively and maybe set them on them and maybe do the connections later. So we can do it phased. Maybe the funding won't be available until FY 13, but –

CHAIR STEFANICS: Okay, well, my position on this is we really shouldn't be talking about this if it's not going to happen. Because I've heard this story for three years. And the people in Eldorado have heard this story for three years. So if we're talking about it today and it doesn't happen again, it's really going to make the County look bad.

MS. MILLER: Madam Chair, one of the barriers he had to making those happen before was that the portable that was there for Eldorado was not suitable to be moved. It was

going to cost us more to move it than it was worth, and to set it up. Additionally, we did not have – the quarter cent gross receipts capital outlay was not eligible to be used for things like this. We do have funding and one of the things that I had discussed with the Commission previously was closing out BDD, which we have an update also I want to give to you on that. Because it will drop some funding to be able to address these issues that have been kind of hanging out there and underfunded. And that will be part of what we bring back to you on an overall capital outlay proposal probably at the end of February and March. So it will be up to the Commission to appropriate those funds but I do believe we'll have the funding available.

CHAIR STEFANICS: Okay. So why don't you go on with the other projects please.

MR. LEIGLAND: The next one is in District 1. This is the County Road 72-A parking situation. The materials have been ordered to definitize the parking. We estimate we'll get eight to ten formal parking spots there. Those should be delivered in the next 10 to 14 days. Then we estimate the installation will be probably another week after that. We're hoping to do installation in-house. One other thing as part of that was we're going to fabricate a sign, if you remember, to place at the junction of 72-A and Bishop's Lodge Road. We just finalized the language on that sign today. We will construct that in-house and then we'll place that, and that sign just basically says Parking is very limited. Enforcement is enforced at the trailhead.

And then the finally thing on that is is we have already coordinated with the Forest Service to change the language on their website, because if you remember we saw how they direct people to that trail head with no discussion of how limited the parking is. And we've already contacted them and they're going to change that and they actually said that they will coordinate with other people who direct trail users to that trail head to make the same notification. So, I think we're in good shape there.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Madam Chair, Mr. Leigland, thank you.

MR. LEIGLAND: Also, speaking about the Nambe Center, the Nambe Center is about 80 percent complete. We just have a few minor items. We are asking to increase the insulation of it to make it a little bit more energy efficient. That's something that staff wants to do. The big thing there is improving the access, because as you know, the access is not ideal. So we're working on a plan but that will require getting an easement where the elevation difference there is. So I believe it's next week we are going to be starting working to get a hold of that easement.

COMMISSIONER MAYFIELD: Madam Chair. Madam Chair, Mr. Leigland, I happened to be in the area yesterday so I stopped by and spoke with Mr. Trujillo. I think he's the project manager there. They're moving, they're doing great. I don't know if you and I spoke about it or me and Mr. Hogan spoke about it, but there's an issue with the header there on the fire access that they needed to have addressed. I'm sure you guys are keeping on top of that. That project looks great. They've preserved as much of the historic significance that they could for that building. I just want to thank staff and again the project manager and the people that are out there doing the work. Thanks so much.

MR. LEIGLAND: Madam Chair, [inaudible] as our authority master plan. I know you've been interested in that. I just wanted to update you as to where we were with that. We're actually in the process of compiling inventory and also doing a condition assessment of everything that we own. We estimate that we'll be done with the assessment – right now we think we'll be done probably by mid-March, and then from that, we'll bump what we have against a needs survey, so we're also concurrently looking at what our needs are. So we estimate that probably by the end of April we'll have a good match of needs and what we have.

We'll plug that into a financial analysis and come up with some alternatives. So we think we'll have a final product by the end of May or June. So we can come up to you with periodic updates if you'd like or we can wait for the final product. I just wanted to assume you that we're well working on that.

And the final thing I wanted to mention was what came up last meeting was that there was a question about the Pojoaque waste treatment plant. A constituent asked just what the nature of the County's involvement is at. We had signed an agreement, a memorandum of understanding in January of 2007 where we would give \$1 million to contribute to the construction of a wastewater treatment plant. We did that construction. The plant is operational. We amended that agreement to say that when the plant achieved 50 percent of its capacity that the County would take over operation and maintenance of that.

I was just up at the plant about a week and a half ago and the plant is currently operating at about 18 percent of its capacity. It's a state of the art plant, by the way and the two staff members who gave me a tour are top-notch. They work for the Pueblo Public Works. But I estimate that that plant is not going to achieve 50 percent capacity for probably 15 or 20 years, just based on current rates. So that is an update on the Pojoaque.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Leigland, on that point.

You said 18 percent?

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, yes.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Leigland, maybe this is a question, excuse me, for Mr. Guerrerortiz. What are we doing to try to bring in non-pueblo users also into that facility? And currently, are there non-pueblo users going into that facility?

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, I don't think we've done anything to bring in non-pueblo users but when I was out there the staff told me that the pueblo has efforts. To be honest, off the top of my head I can't remember what they were talking about, what they described to me. But even with what they described to me at the time it wouldn't bring it up to 50 percent. They're talking about maybe bringing in the – I don't want to speak out of line, so I don't want to speculate but –

COMMISSIONER MAYFIELD: Madam Chair, Mr. Leigland, is the Pojoaque Schools using that facility or no?

MR. LEIGLAND: Madam Chair, Commissioner Mayfield, I believe yes. In fact one of the stations is right near the school. So I think they're currently hooked up, yes.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Leigland or Ms. Miller, there's also an issue, I believe we spoke briefly about it, about a commitment that we have for the road going to our transfer station site with the JPA. Is that something we need to discuss yet, Ms. Miller, or do you want to wait on that?

MS. MILLER: Madam Chair, Commissioner Mayfield, it's not actually in the JPA that we will improve the road. It says in that JPA, and we need to extend it, but on the Jacona transfer station that we had committed \$500,000 to improvements, and I think it says to potentially include an entrance. But I think that the pueblo also has a different idea that they would like the road improvements to extend beyond the transfer station. So that's not something that's actually in the JPA but it's something that they have requested.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, as far as our lease agreement for the Jacona transfer station, is that like timing out now in June? Are we okay with that?

MS. MILLER: Madam Chair, Commissioner Mayfield, I don't think that the agreement to locate the facility there, the lease agreement expires but there is an agreement with the pueblo to do \$500,000 worth of improvements. Part of the issue is what improvements would be appropriate, and secondly, that our funding was in a bond issue for San Marcos and Jacona and we don't have enough money to do both projects. So we're going to need to address how we would get additional funding to do that or to determine whether another site would be a better investment of funds. We need to work with the pueblo on that.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Ms. Miller. Hard question. We're not in a position where our gate is going to be locked, right? Come June?

MS. MILLER: No. I don't think that, Madam Chair, Commissioner Mayfield, that that's the case. We're working on actually an extension of that commitment with the pueblo.

COMMISSIONER MAYFIELD: Thank you. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you very much. Thank you for presenting today.

XI. 4. Low Income Property Tax Rebate

MS. MILLER: Madam Chair, the Commission a couple of years ago passed an ordinance that allows for the statutorily available tax rebate based upon an individual owning property within Santa Fe County and having an income, I believe between \$8,000 and \$24,000. But when they've filed their income taxes and paid property taxes in Santa Fe County they can get – I believe it's up to \$350 of a rebate on their income tax, based upon paying their property taxes.

We do not administer that. It's administered by Tax & Rev as people file their income taxes, and at the end of the calendar year or tax year the Tax & Rev sends us a notification as to how much that is. And we just received that notification for tax year 2011 and it's about \$420,000. Last year was the first year that the County had it and it was about \$330,000, I believe, and we estimated and put into the budget – I'm sorry. It was about \$320,000 and we put

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into the budget \$350,000 this year. So in order to pay that obligation to Tax & Rev we'll be taking \$70,000 out of contingency.

We can't get a lot of data out of Tax & Rev because it's confidential data but we did get from them that it's about 1,442 tax returns at an average of about \$292 per tax return. We can't even get to date – the information does not tell us what tax year that is, whether those are all for 2011 or 2010, or both. So we have requested additional data from them but it's very difficult to get that because they consider a lot of that information confidential tax information.

I bring that to your attention because when the Commission actually put this in place we had no way of knowing how much it would be, because we don't have specific incomes to property owners. And so we've just been kind of ballparking what we think it might be. Obviously, that's about a 30 percent increase over last year's so it's a fairly significant increase and the ordinance also states that we should look at the ordinance on an annual basis and see if you'd like to do something with that, because it's very difficult for us to know what that obligation is going to be until after the fact.

CHAIR STEFANICS: Thank you, Ms. Miller. The reason I'd like for us to think about this is whether or not we want to react, whether we want to do a sunset, whether in so many years future, whether or not we want to continue it, or whether or not we want to wait and see how the hold-harmless bills pass. If the hold-harmless bills pass, doing away with, or phasing the counties out of hold-harmless we will be losing another amount of money. This \$300,000 that we're paying to the state went to \$420,000. It will probably go to half a million or more and it will continue to rise. So Commissioners, I think that we need to think about our future and how we want to handle this. Commissioner Vigil.

COMMISSIONER VIGIL: I'd actually like to see this brought forth in a manner that we could take action on it. I actually think that we need to consider our options. [inaudible] Madam Chair, whether or not we sunset this, whether or not we reconsider and how we need to move forward. I do recall when I took action on this particular item it really was a leap for me, wanting to help out taxpayers but not having the cost impact to the County. We also did it at a time that we had to deal with the economic downturn as we have. I'm also curious, and I don't know if we could get this information from any other counties that have enacted this. Did they have – what kind of action they maybe considering.

MS. MILLER: Madam Chair, to my knowledge, there's only one other county and that's Los Alamos County and I will check with Los Alamos County and see what their historical experience and what they see – if they've had an extreme growth and what they're doing relative to it.

COMMISSIONER VIGIL: Thank you.

CHAIR STEFANICS: On this same point, I believe that we did put this in place before we did the option for the ten property payments. And we are very cognizant of the economy and how it's hitting everybody's pocketbooks. And it was a stretch for the Treasurer's Office to handle the payments coming in piecemeal. But we are trying to look at how people could make property tax payments more affordable. So as we look at this in the future and we can keep that in mind that we have taken other action as well. Any other comments?

Commissioner Mayfield, then Commissioner Holian.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, Manager Miller, if I recall we had a conversation last year about this. To things, a rate payer, a property taxpayer has to prove their income eligibility downstairs to qualify for that \$350 credit, don't they?

MS. MILLER: Madam Chair, Commissioner Mayfield, no. It happens when they file their income taxes. So they have to prove to Tax & Rev that they pay property tax. So they pay their property taxes, and then when they file their income taxes they apply for the income tax rebate based upon their income level and having paid property taxes.

COMMISSIONER MAYFIELD: Okay. So Madam Chair, Ms. Miller, it's not an offset of their property taxes that they have to pay.

MS. MILLER: It's essentially a rebate on their property taxes.

COMMISSIONER MAYFIELD: And then Madam Chair, Ms. Miller, and I'll look at past meeting minutes. But didn't we also discuss talking to the public schools, talking maybe to the City of Santa Fe, other municipalities within our jurisdiction? Because by the tax rates that they assess – we're basically incurring all the rebate for it on our end?

MS. MILLER: Madam Chair, Commissioner Mayfield, the problem is the statute – there's only a very narrow way to implement this within the statute, and it doesn't allow for us to hit the other entities for that, because we don't even know where in the county – so for instance, whether the person lives in Pojoaque School District, or the Santa Fe School District or Edgewood. We don't have that information. That's not provided to us by Tax & Rev.

COMMISSIONER MAYFIELD: Thank you. And Ms. Miller, one last point. Last session, I believe that Commissioner Anaya was instrumental in asking that we support a memorial or a bill to address some flexibility for Santa Fe County or other Class A, B counties. That didn't pass, correct?

MS. MILLER: Madam Chair, Commissioner Mayfield, we did take a bill forward to try to make it so that we had an option to reduce it. We actually met with quite a bit of resistance from the Bernalillo County legislators. They didn't want to see that change. I'm not really sure why they have such an issue with it but I think it was also partly getting wrapped up in this whole tax lightening issue. So that they really just didn't even want to deal with anything other than – on property taxes – other than tax lightening. So I think we passed maybe two committees and then it kind of stalled. And the feedback that I got from legislators that were in those committees is that they just didn't want to deal with it relative to all the other tax lightening stuff going on.

COMMISSIONER MAYFIELD: Madam Chair, a question. Ms. Miller, would it be possible to entertain it this session or is there not enough time, it wasn't on the call?

MS. MILLER: Madam Chair, Commissioner Mayfield, it wouldn't have been considered germane unless we had a message from the Governor on it and in light of the 30-day session we didn't put it forward.

COMMISSIONER MAYFIELD: Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. Well, I just want to

comment that this actually turned out to be a larger hit to the County budget than I had anticipated I guess, so I'm willing to certainly consider sunsetting it or capping it in some way. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. So, Commissioner Vigil, how would you like to see it appear?

COMMISSIONER VIGIL: I think, however, and I defer to Legal, possible action on the tax code. I think the language is – I don't think we have to be very specific in terms of what action that will be. Do we, Steve?

MR. ROSS: Madam Chair, Commissioner Vigil, we have to do a repeal ordinance or some sort of an ordinance to amend the previous ordinance, and I'll work with the Manager and come up with a proposal.

COMMISSIONER VIGIL: In that case I would suggest that we notice it with regard to notification to the public that we will be taking action repealing or amending Ordinance so and so and so.

MR. ROSS: Yes. We'll work through the details and get you something that works.

COMMISSIONER VIGIL: Thank you.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, on that point, Mr. Ross, depending on what this Commission does through the public process, but we've got to do that sooner rather than later because these folks already – if we decide to take some action and there's already the rebate that's offered, going into the next property tax assessment here, I believe they would be – again, depending on what we do, say, hey, we're eligible for this. I don't think we can negate it mid-year, can we, Steve?

MR. ROSS: Madam Chair, Commissioner Mayfield, it's a bi-annual deal, so you make adjustments to the low-income property tax every other year in odd numbered years. So we'll look at it and see if it's possible to do – to take action now that's not effective until next year. We'll look into all those details and let you know how it works.

MS. MILLER: Madam Chair, Commissioner Mayfield, to your point, yes. We would have to honor – because this is in effect currently and people are filing their income taxes. So I don't think that it could even be repealed at the moment no matter – we're going to have an obligation for tax year 2011 because it's already – you have to change the tax forms and everything, with Tax & Rev. So it won't go away immediately, I guess is the way I should state it.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, on that point, if Tax & Rev is not giving you the information, how do we know that we can pay it out of current year monies if it was for a prior year indebtedness?

MS. MILLER: Madam Chair, Commissioner Mayfield, that's how it actually works. It's a rebate on their income tax. So based on the money, the state funds that rebate to the taxpayer based upon them filing their taxes along with proof that they paid their property

taxes here in Santa Fe County. They rebate it and what they do is send us, at the end of the tax year or calendar year, the bill for all of those for people who had filed their taxes in last year. So that's actually by law how it works and by regulation or rule that the Tax & Rev does it. The stuff that they cannot give us is confidential taxpayer information, because it's based on income tax. That's not information that is publicly available or even between entities.

COMMISSIONER MAYFIELD: Thank you.

CHAIR STEFANICS: Thank you. Anything else, Ms. Miller?

MS. MILLER: Madam Chair, yes. There's one thing that I just want to bring up because it's going to come up at this week's BDD meeting, which Commissioner Mayfield and Commissioner Holian will be at, and then it will be coming back to the full County Commission, and that is that over the last year there's been an effort to close out the capital project of BDD. In other words, the entire capital budget. The City and County and Las Campanas are all partners in that, construction of that project and there's a JPA that guides how that – how the costs are allocated and funds coming into that project will be allocated.

We have been working with the City and BDD to finalize those figures and there are a few action pieces that still need to take place at the BDD board as well as at the County Commission to memorialize the – what I'll say is kind of a final settlement or agreement between the City and County that we are done. And these are the final costs and supplemental budget and loans and grants and what not into the project, and we all agree, and this is what's left.

It looks like the County will be receiving about a \$390,000 credit towards a contingency budget that needs to still be established by the BDD as well. So we would have that and then whatever that budget is determined to be we would need to set aside our share of that based upon the JPA. I did want to let you know that this is going to come up. We've been working for several months with the City to reconcile those figures and I believe that we finally have got all of that detail and it will be coming forward to you.

So it looks like the County will not be needing to continue to pay towards the construction of it, other than the final carve-out or contingency budget that needs to be set forward.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, I know we spoke about this subject, so we're getting credit for that grant then, correct?

MS. MILLER: Madam Chair, Commissioner Mayfield, yes. That was one of the issues that was kind of outstanding, that we were not receiving credit for one of the grants. They've agreed as per the JPA that we should be, and then also, another component is that they would be getting credit, the City, for their fiscal agent services and all of the components that they put forward pre-JPA and during the administration of the grant, that there would be some credit given to to the project on that as well. So there were kind of three pieces that need to be looked at an approved by the BDD and the respective bodies.

COMMISSIONER MAYFIELD: Madam Chair, Ms. Miller, Mr. Ross, just a

smaller-dollar fourth item. We recently approved acquisition of an easement that was deeded over there by the BDD. I know I kind of brought it up. Either we get the credit from them from authority, or else we charge some easement fees to the authority. [inaudible] Thank you.

CHAIR STEFANICS: Thank you. So on the BDD you'll have the final settlement agreement and the figures that you would like for the people attending to look at before the meeting.

MS. MILLER: Madam Chair, Commissioner, we have a draft settlement agreement that we put together. We're working back and forth with the City to make sure that that's okay, and also trying to finalize their recovery, \$200,000 to \$300,000 worth of outstanding bills. We want to make sure that those are accounted for or that there is a statement in that agreement that after those are settled out and paid it's the remaining figure.

So yes, we have to have it to the penny, but the City is the fiscal agent and we have to rely on them reconciling those small bills that are still outstanding.

CHAIR STEFANICS: Well, the reason I'm asking this is that we – I – have held this up at the BDD for several months and I've been asked to ask our colleagues to move it ahead if they have all the information. So I just want to make sure that we're not getting in there without the information presented to the members who will be there.

MS. MILLER: Madam Chair, I can tell you that everything that the County can possibly provide and all of the accounting that we have on every component, we have provided to the City. It is a matter of the City giving us final numbers on one outstanding bill with Las Campanas and a couple of other outstanding bills. And I think they have that nailed down but that is, as fiscal agent we do have to relay on them giving us that data. But we can get those numbers to you. As I said, it's a matter of out of the \$220 million project, maybe \$300,000 that we would have to wait until those bills, and that's the remaining amount after that.

CHAIR STEFANICS: Okay. Thank you. Anything else, Commissioners, on that? Anything else, Ms. Miller? Okay. Thank you.

XII. Matters from the County Attorney

A. Executive Session

1. Discussion of Pending or Threatened Litigation

2. Limited Personnel Issues

CHAIR STEFANICS: Madam Chair, do we need an executive session?

MR. ROSS: Madam Chair, we need an executive session to discuss pending or threatened litigation and limited personnel issues.

CHAIR STEFANICS: Okay. And could we please change this – this should be “or”. For three years we've been looking at this.

MR. ROSS: You're right.

CHAIR STEFANICS: Okay. So is there a motion?

COMMISSIONER HOLIAN: Madam Chair, I move that we go into executive session where we will discuss pending or threatened litigation and limited personnel issues.

CHAIR STEFANICS: Is there a second?
COMMISSIONER VIGIL: Second.

The motion passed by unanimous [4-0] roll call vote with Commissioners Holian, Mayfield, Vigil and Stefanics voting in the affirmative.

CHAIR STEFANICS: How much time will we need?
MR. ROSS: Madam Chair, we don't need a lot of time. I'd say a half an hour.
CHAIR STEFANICS: Okay. Let's say that we're going for the audience, we'll be back here at 5:45. We are temporarily adjourned for the people on radio and TV. Thank you.

[The Commission met in closed session from 4:45 to 5:55.]

CHAIR STEFANICS: Could we have a motion to come out of executive session?

COMMISSIONER HOLIAN: I move that we come out of executive session where we discussed pending or threatened litigation and limited personnel issues. Present were County Attorney Steve Ross, County Manager Katherine Miller, Deputy County Manager Penny Ellis Green, Commissioners Stefanics, Vigil, Mayfield and I.

COMMISSIONER MAYFIELD: Second, Madam Chair

CHAIR STEFANICS: Thank you.

The motion passed by unanimous [3-0] voice vote. Commissioners Anaya and Vigil were not present for this action.

XIII. MATTERS OF PUBLIC CONCERN – NON ACTION ITEMS

CHAIR STEFANICS: We are now onto item XIII. These are matters of public concern, non-action items, things that are not on our agenda that anybody in the audience would like to comment on. Is there anybody who wishes to comment on any subject to the Commission that is not on the agenda. Okay. Thank you for coming.

[A discussion occurred with audience members and it was established their topic of interest was in fact on the agenda.]

XIV. MATTERS FROM THE COMMISSION

A. Appointments/Reappointments

- 1. Re-Appoint Mr. Tony McCarty and Mr. Mark Winne to the Santa Fe City and County Advisory Council on Food Policy (Community Services/Health & Human Services/Steve Shepherd)**

STEVE SHEPHERD (HHS Director): Madam Chair, staff requests

reappointment of Tony McCarty and Mark Winne. Mr. McCarty is the executive director of Kitchen Angels and Mr. Winne is a nationally recognized expert on food councils.

CHAIR STEFANICS: I know both of the gentlemen quite well and I think they're excellent choices and they've been serving already. What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Madam Chair, I move that we reappoint Mr. Tony McCarty and Mr. Mark Winne to the Santa Fe City and County Advisory Council on Food Policy.

COMMISSIONER MAYFIELD: Madam Chair, a quick question before I second that. Madam Chair, Mr. Shepherd, as far as the council members, I think we have 13 in total, correct:

MR. SHEPHERD: That's correct.

COMMISSIONER MAYFIELD: And just kind of looking over some of your notes with the appointments, there's also suggested member types. Do we have an individual from the WIC program, from the Food Stamps program, the County Extension Agent or Santa Fe School Districts?

MR. SHEPHERD: Madam Chair, Commissioner, right now we don't.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Shepherd, I know it's not for lack of trying. I'm probably pretty sure of that but does this – do these two appointments take us back up to the 13?

MR. SHEPHERD: Madam Chair, Commissioner, this takes us back up to 12. There's another appointment directly following that would fill us to 13, get us back to 13.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Shepherd, what have you respectfully done for outreach, like the WIC program? Do you send people that are participating in the WIC program a letter saying, Hey, do you have an interest in sitting on this Food Policy Advisory Council? Folks that are on the Food Stamp program?

MR. SHEPHERD: No, we haven't directly done that, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Shepherd, why don't we have a County Extension agent on this?

MR. SHEPHERD: Madam Chair, Commissioner, the County Extension Agent was an original member of this and he resigned, telling us he didn't have enough time to perform his job and be on the council as well and attend the meeting.

COMMISSIONER MAYFIELD: And Madam Chair, Mr. Shepherd, don't we have more than one County Extension Agent?

MR. SHEPHERD: Not to my knowledge. He's got staff. It's just Pat Torres.

COMMISSIONER MAYFIELD: And Madam Chair, couldn't staff be considered a County Extension Agent?

MR. SHEPHERD: We'd be happy to consider that at any time.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Shepherd, Santa Fe School District. Now is that an individual who lives in that district or is that an employee of that district?

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MR. SHEPHERD: Madam Chair, Commissioner, that would essentially – I think what the intent of the resolution was that it was referring to an employee of the district.

COMMISSIONER MAYFIELD: Okay. Madam Chair, I don't want to stand in the way of these two appointments. I think they're both great individuals who are serving on the present council, but if we could do some more outreach and respectfully through attrition or some of these members who are there, at least for the County side, if we could look into getting the suggested member types I think that would be a huge benefit. Also, respectfully, also if we could get a little more ethnicity on this food council I think that would be a very positive thing to do also.

MR. SHEPHERD: Yes, sir.

COMMISSIONER MAYFIELD: I second Commissioner Holian's request to appoint these folks.

CHAIR STEFANICS: So now that brings up a question for me. I think the two gentlemen are excellent but following up that comment, and we will not have any vacancies to appoint new people for over a year. Is that correct?

MR. SHEPHERD: That is correct.

CHAIR STEFANICS: And Mr. Shepherd, do you believe that there's diversity on this Food Policy Council?

MR. SHEPHERD: Madam Chair, not necessarily, if you're talking about ethnic diversity, no.

CHAIR STEFANICS: Okay. So there's a motion and a second. Any further discussion?

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XIV. A. 2. Appoint William Beardsley to the City and County of Santa Fe Advisory Council on Food Policy (Community Services/Health & Human Services/Steve Shepherd)

MR. SHEPHERD: Madam Chair, we did receive Mr. Beardsley's application within the prescribed time period and have brought him forward for appointment. Pursuant to the last discussion you may want to not pursue this appointment and we can go ahead and try and recruit another member if you'd like.

CHAIR STEFANICS: What's the pleasure of the Commission?

COMMISSIONER HOLIAN: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER HOLIAN: I move that we investigate finding another possible – other possible members to the Food Policy Council and look for ethnic diversity.

CHAIR STEFANICS: Thank you, Commissioner Holian. I think it's more than that one type of diversity. I think since there is recommended Santa Fe Public Schools, the food

stamps, the WIC, the extension – I think there are some outreach members that we want. And I know that the Food Policy Council works very hard and does really good work but somebody who works within a system like the Santa Fe Public Schools can take back to the schools the efforts and the initiatives too. So that might be another reason to look at some further outreach.

COMMISSIONER HOLIAN: Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER HOLIAN: Well, perhaps we could have a list of the current members of the Food Policy Council and what their affiliations are.

MR. SHEPHERD: Madam Chair, the only thing that's missing is their affiliations and I can get that to you by tomorrow.

COMMISSIONER HOLIAN: So it would be the affiliations, so we could see what kind of gaps there might be.

CHAIR STEFANICS: Well, for example, I see that both Duncan Sill and Steve Shepherd are on from the County. Correct?

MR. SHEPHERD: Correct.

CHAIR STEFANICS: So if we found some outstanding outreach volunteers we could put somebody different in in place of one of the County members.

MR. SHEPHERD: That would be fine. Yes.

CHAIR STEFANICS: So I think that there's different ways of looking at how we could look at this. The City has members, the County has members, then there's other categories. So the motion was made to send this back for further consideration. Is that all right?

COMMISSIONER MAYFIELD: Madam Chair, that's fine with me.

CHAIR STEFANICS: Is there a second?

COMMISSIONER VIGIL: I'll second it.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

CHAIR STEFANICS: Thanks, Steve, very much. And I'm sure the applicant is excellent. And so please extend to the person that it's not about that person.

MR. SHEPHERD: We'll do that.

CHAIR STEFANICS: Okay. I know it's very hard to do that.

XIV. A. 3. Appoint Members to the Santa Fe Health Policy and Planning Commission (Steve Shepherd)

CHAIR STEFANICS: I think you have quite a few people, don't you?

MR. SHEPHERD: We've made one recommendation for each vacancy that exists, with the exception of District 3. We didn't get a response from the Commissioner's office on District 3. I did talk to him this morning and he'd like us to further investigate some other membership or other members. Other applicants, I should say.

CHAIR STEFANICS: Okay. So would you go ahead and present your recommendations?

MR. SHEPHERD: Yes. Staff requests appointment of Mr. Richard Rodriguez to District 2, Dr. Bertha Blanchard for District 4, Ms. Catherine Kinney and Ms. Shirlee Davidson for District 5.

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER HOLIAN: Second.

CHAIR STEFANICS: Okay. So now, let's go back to diversity before we take this vote. Are we going to end up with enough diversity with new and old members?

MR. SHEPHERD: Madam Chair, we will have –

CHAIR STEFANICS: And by diversity we're talking about everything. We're talking about race, culture, sexual orientation, age, male/female.

MR. SHEPHERD: I think the male/female, we're getting there on the ethnicity. We'll now have one, two, three Hispanic members. I think we're getting there. I think it's a step in the right direction. But to be honest with you we are attracting a lot of – how do I put this nicely? People who have retired to Santa Fe and they're looking for some community involvement, and they tend to be retired professionals. We're attracting a lot of folks like that.

CHAIR STEFANICS: So there is a motion and a second. Commissioner Vigil.

COMMISSIONER VIGIL: I just had a question. Richard Rodriguez, my appointee in District 2 is very new to this, isn't he?

MR. SHEPHERD: Yes.

COMMISSIONER VIGIL: So I'm anxious to see what diversity he might bring as manager for the Department of Health, Women, Infants and Children program. Look forward to his representation.

CHAIR STEFANICS: Okay. So after we would appoint these individuals, how many vacancies would be left?

MR. SHEPHERD: There would be one more vacancy in District 3.

CHAIR STEFANICS: Okay. So we have a motion and a second. Is that correct?

COMMISSIONER VIGIL: Yes. District 3, our memo has two applicant vacancies. Are we appointing one of those?

MR. SHEPHERD: No, we're not.

COMMISSIONER VIGIL: It's just one?

CHAIR STEFANICS: There's one vacancy.

MR. SHEPHERD: There's one vacancy. In talking to Commissioner Anaya this morning he asked us to hold off on an appointment for his district.

COMMISSIONER VIGIL: I see.

CHAIR STEFANICS: Okay, so all those in favor of the motion to appoint Mr. Richard Rodriguez from District 2, Dr. Bertha Blanchard from District 4, Ms. Catherine Kinney from District 5 and Ms. Shirlee Davidson from District 5, please say aye.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XIV. A. 4. Appoint Members to the Maternal & Child Health Planning Council (Community Services/Health & Human Services/Steve Shepherd)

MR. SHEPHERD: Madam Chair, we bring you three appointments today, and I'd like to – I notice this is a nine-member council; we've got three more pending applications that we'd like to bring to you. We're recommending Mr. Elias Ponton for District 3, Ms. Lori Pearson-Kramer for District 4, and Ms. Bonnie Keene for one of the county-wide positions.

CHAIR STEFANICS: Okay, what is the pleasure of the Commission?

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER HOLIAN: Second.

CHAIR STEFANICS: Okay. Any further discussion?

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XIV. A. 5. Appoint Members to Santa Fe County Ethics Board (Manager's Office/Penny Ellis-Green)

PENNY ELLIS-GREEN (Deputy County Manager): Thank you, Madam Chair, Commissioners. Last November the Board amended the Code of Conduct to increase the County Ethics Board from three members to five members. Currently we have three members and one alternate sitting on that board. At the June Ethics Board meeting they had consensus to recommend that the alternate, David Mittle, serve as an active board member. So we're bringing today Mr. Mittle's appointment forward. For the fifth position we have advertised. We're in the process of interviewing and Common Cause is reviewing applications.

COMMISSIONER MAYFIELD: Madam Chair, move for approval of staff's recommendation.

COMMISSIONER VIGIL: Second.

CHAIR STEFANICS: Okay, there's a motion and a second.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

CHAIR STEFANICS: And we really thank all the volunteers who are retiring

and those who have applied. I know that in my district for one of these positions six people, maybe seven people applied. So I know that there's more interest in volunteering for the County and I really thank the public for considering volunteering for us.

XIV. C. Resolutions

- 1. Resolution No. 2012-19, a Resolution Supporting the Assessment of the Feasibility, Commercialization and Deployment of Microgrid Systems within Santa Fe County to Support Economic and Workforce Development, Broad Renewable Energy Penetration, and Effective Energy Conservation Solutions at the Consumers Level (Commissioners Holian and Vigil)**

COMMISSIONER HOLIAN: So, I have to say that with regard to our current electric grid, from the point of view of technology, our electric grid technology really has not advanced in the last 70 or 80 years. We still use the same technology we did quite a while ago. So the situation that we have are huge power stations, and then the electric energy that it produces is taken by high voltage power lines into the population centers, and that high voltage has to be stepped down via substations. And finally it hits 24 volts and it goes into residences and other buildings and so on.

What's happening now though is something that's sort of new and that is a lot of people are putting on small-scale renewable energy systems, both on their homes as well as in areas between homes and near these substations. And the truth of the matter is, our grids are actually not equipped to handle a whole bunch of small-scale energy inputs from a lot of different sources. So this where the idea – you may have heard the term before – smart grids. And this is where the idea of smart grids comes in. Smart grids are able to deal with a number of complex inputs.

Now the problem is that even though they're being implemented in Europe they're just in their infancy here now, smart grids. And we haven't really determined exactly how to implement them. We have not really determined standards for implementing them, how to hook them into a larger grid or how to hook them together. So the idea is to create small-scale versions of electric grids for research purposes so that we know the best ways to implement this and also that we can actually create standards across the country.

Now, this is where the microgrid Research Development Demonstration and Deployment Lab comes in. This has been proposed by the Santa Fe Innovation Park, and David Breecker is here and he'll say a few words, and in connection with Santa Fe Community College. And the point is that they plan to do research to bring our grids into the 21st century finally. So what this resolution does is it supports the assessment of the feasibility, commercialization and deployment of microgrid systems within Santa Fe County to enhance economic and workforce development, broad renewable energy penetration, and effective energy conservation solutions that benefit and further the region's sustainability effort. I and I will just add that the Energy Task Force, which is a subgroup of the Regional

Planning Authority supports this concept and actually requested that the City and County pass resolutions in support of this. Also, our congressional delegation signed a letter last November in support of the efforts by the Santa Fe Innovation Park and the Santa Fe Community College to establish this national research center.

And I think it's important to realize that if we did establish a research center here it could be a huge job creator, and not just of jobs but of really good, technical jobs in our community. And it's entirely possible that we here in Santa Fe could become the research center for the entire country if we do this right. So in any event I move for approval and if there's a second I would like to ask David Breecker to say a few words and then be available for questions if anybody has any.

CHAIR STEFANICS: We have a motion on the floor. Is there a second?

COMMISSIONER VIGIL: I second it.

CHAIR STEFANICS: Okay. So why don't you identify yourself for the record please.

DAVID BREECKER: I'm David Breecker, the president of the Santa Fe Innovation Park and the project manager for the microgrid center.

CHAIR STEFANICS: Thank you. Go ahead.

MR. BREECKER: Madam Chair, Commissioners, I just want to read a very short description of what microgrids are. Commissioner Holian did an amazingly good job of getting the basics down. Just to get them into one concise form. Microgrids are modern, small-scale versions of the centralized electricity system. They achieve specific local goals, such as reliability, carbon emission reduction, diversification of energy sources and cost reduction established by the community being served. Like the bulk power grids smart microgrids generate, distribute and regulate the flow of electricity to consumers but do so locally. Smart microgrids are an ideal way to integrate renewable resources on the community level and allow for customer participation in the electricity enterprise.

And I think these ideas go to the heart of why this is good for Santa Fe County. Beyond that, the economic development impacts, as Commissioner Holian indicated, are substantial. We've begun conversations with some significant corporations who have an interest in the facility and we see strong potential for new businesses and high-wage jobs spinning out of this. There is also a significant international potential. The United Nations is launching a major sustainable energy initiative to address energy poverty in the developing world, estimated at 1.4 billion people who are without a reliable source of energy. Microgrids are likely to be an important part of this and we have a strong connection to the UN foundation and expect to be supporting that initiative as well.

So in sum, we can position the Santa Fe region as an international center of excellence for what gives strong evidence of being the next necessary new technology in the evolution of our energy systems.

CHAIR STEFANICS: Thank you very much. Are there any questions or comments from the Commission? Commissioner Vigil?

COMMISSIONER VIGIL: Thank you very much. I'm so happy to support this

initiative. I also have been reading a lot of literature lately on solar microgrids specifically, which I've always maintained New Mexico should be a leader, not only in solar but in wind technology. One of the greater benefits that I first saw with the solar microgrids is the fact that as a Commission, we dealt with through the subcommittee and the Regional Planning Authority the complaints from folks that solar panels on roof tops are something that are eyesores that aren't welcome. With the grid model that rids the problem and beyond that the benefit of that is it's conduit ways are close to neighborhoods or wherever the energy can be channeled and it also has panels – not the panels but the utility delivery system is on a much smaller scale. The carbon print is affected positively. It's just wonderful.

CHAIR STEFANICS: Thank you very much. Anything else, Commissioners? Okay, we have a motion and a second to approve Resolution No. 2012-19?

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XIV. C. 2. Resolution No. 2102-20, a Resolution in Support of Senate Bill 9 of the 2012 Regular Session of New Mexico Legislature, Closing the Corporate Tax Loopholes and Lowering Rates (Commissioners Holian and Vigil)

COMMISSIONER HOLIAN: Thank you, Madam Chair. Commissioner Vigil is a co-sponsor on this resolution. Now, SB-9 embodies legislation that is being sponsored by Senator Wirth, and this is the eighth year now that he has sponsored this legislation and I think maybe it's an idea whose time has come this year. New Mexico is the last remaining western state that does this. It gives multi-state corporations a special tax loophole. These multi-state corporations can choose to file what's called a separate return, and what that means is that they can expense profits earned in New Mexico to a state like Delaware where there is no corporate tax. That means that they pay no taxes on profits that they made in the state of New Mexico.

So obviously this is not a level playing field for those businesses that are totally based in New Mexico. I think another important point is that our top tax rate is higher than most other western states. So what SB-9 would do would be to, one, it would close this separate return tax loophole, and it would also reduce the top tax rate for all businesses from 7.6 percent down to 7 percent. So this resolution urges the New Mexico Senate and the House of Representative to pass S-9.

Now, I would like to move for approval and if there's a second – well, first of all I would like to ask how many people are here in support of this resolution?

CHAIR STEFANICS: Commissioner, we have a motion. Let's get the second.

COMMISSIONER VIGIL: Second.

CHAIR STEFANICS: Okay. We have a motion and a second. Now go ahead.

COMMISSIONER HOLIAN: And then I would like ask maybe two people,

max, to come forward if they would like to say a few words in support of this.

COMMISSIONER VIGIL: Madam Chair, can I make a comment as a co-sponsor?

CHAIR STEFANICS: Yes.

COMMISSIONER VIGIL: You know, I think I would describe, because I've been at the legislature for the last eight years when Peter Wirth initiated this. We always say that America as a whole is run on small business and small businessmen. What has happened in New Mexico is that this tax loophole has put the burden of taxes on the small businessman so that a small location, a beauty shop owner, anyone else, pays more taxes than actually a Walmart does. That's how inequitable this loophole has been in many cases. And for New Mexicans I think it's hard that we haven't done anything about this and I think, like Commissioner Holian does, we are at a place where this may go through the legislature. My concern is whether or not it will get vetoed.

CHAIR STEFANICS: Thank you. So are there a few people in the audience who want to come up? If so, please come up to the front and we need you to identify yourself for the record and let's take three people because three people are coming.

GAIL GILES: My name is Gail Giles. I'm a citizen of Santa Fe. I've been here about 2 1/2 years. I'm a self-employed artist as well as a certified para-legal, not working as a para-legal at present but have learned about this bill a year and a half ago when I worked on Get Out the Vote New Mexico and realized what a disparity there was between the taxes. It's not only for New Mexico businesses; it's also for New Mexico citizens. If we're citizens and we're paying our taxes and we don't have a choice as to whether you would like to pay your taxes or not, obviously, we all would say no. But we aren't given that choice, and neither are New Mexico businesses.

And for multi-state corporations to come into our state and do business and to reap all of the benefits and profits and not pay their fair share is simply not fair. Millions of dollars - \$74 million were cut from the budget for education alone by Governor Martinez even though she campaigned to support education. Whether this bill raises \$5 million, \$10 million, \$1 million, that's money in the coffers. It's not raising taxes, which I spoke with her personally in the last several months, actually in August, and she said I'm for smaller government and not raising taxes. I said this, Governor, is about revenue. And her duty as governor is to raise revenue for the people in New Mexico.

If you're not collecting the tax you're not raising anything. And for her to even suggest, what she did to me personally that she would veto something like this is to me not doing her duty as a governor, or a duty as representatives or the Senate. This bill is about bringing money into the state of New Mexico. If they want to be here and do business here they should pay their fair share. That's all it's about: close the loophole. And then we'll find out how much it is. It's not the amount. Any amount of money coming in, especially since federal funds are going to be cut significantly, so whatever we're short is going to be doubled. So I ask for your support in helping us, Senator Wirth to get this passed. After eight years, it's time. And then we can go forward from there and find out what other monies need

to come in. But please support Senate Bill 9. Thank you.

CHAIR STEFANICS: Thank you very much. Next, please.

JUDY WILLIAMS: Madam Chair, Commissioners, good evening. My name is Judy Williams. I'm the president of the League of Women Voters of Santa Fe County. The state league has also studied this issue and has been up in the legislature the last two weeks. The League of Women Voters believes that a fair tax system must be equitable. We don't believe this system is equitable at the moment because of the fact that out of state corporations don't have to pay taxes. So we support S-9 in the state legislature and we support the resolution here. We hope it will go a long way towards promoting success with it.

The other thing, the other brilliant thing this current bill does is it lowers the tax rate for corporations. So it makes it more equitable and fair and it lowers the tax rate. Hopefully, she can't veto that. Thank you.

CHAIR STEFANICS: Thank you very much. Next.

FARON DANCER: Hi. My name is Faron Dancer. I'm executive director of Unicopia, which is a non-profit here in Santa Fe. I'm also a small business owner, Sun Dancer Creations Custom Builders. I had the opportunity to view this issue from different perspectives. I've interviewed Peter Wirth on several occasions, so I'm pretty up to speed on the issue. I would just like to give a real world example of how this impacts small businesses right here in Santa Fe. I have a friend who just opened a coffee shop over at Solano Center. It's called Better Day Coffee Shop, and he is paying 7.6 percent more to be in business than Starbucks, and of course Starbucks has all their huge corporate discounts and everything else. So just in terms of starting out business-wise he's 7.6 percent upside down. And the guy's working probably 16 hours a day to get his business launched. And that's what we're talking about here in terms of leveling the playing field and making it a realistic issue for somebody starting out and how they can really succeed here in business locally. So I just wanted to share that example and I encourage you all to vote for this amendment in support of Peter Wirth's bill.

CHAIR STEFANICS: Thank you for coming. I'd like to thank everyone in the audience who stuck around for this evening's session on this. The resolution – we probably all think it is pretty important but before I say that I should say are there any questions, comments, from Commissioners? We have a motion and a second.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

XIV. D. Commissioner Comments

CHAIR STEFANICS: As you can see it's at the end of the meeting. Not quite at the end – late in the meeting. Commissioner Vigil, you're next. Nothing?

COMMISSIONER VIGIL: No comments. Not at this point.

CHAIR STEFANICS: Okay. Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, thank you. Just a couple comments. One comment that I want to bring up until Steve cuts me off, Mr. Ross cuts me off, is an issue going on right now in my district right now that I know all of us have received emails on just based on the cc's. It's Jardin de los Ninos. Mr. Ross, I continually run into many community members, what their thoughts are. I just let them know there will potentially be a case filed with the Santa Fe County Commission. I don't believe there is a development case filed as of yet, but that that could put me in a position where I may or may not want to be.

I know that you've talked to me about drafting a letter to let the constituency know I want to hear them, but what I am hearing, and I don't know if staff can do this before a filing is going to take place or not, if at least staff can go out into the community and have a community meeting with all of the folks, with maybe the proposed applicants for the proposed development and maybe get comments. I don't know if that's protocol, if that's something we've done or we haven't done. Maybe you could establish a record that this whole Commission could look on without putting me in a position that I'm spearheading the community meeting out there, unless you tell me I can have a community meeting out there on this issue.

MR. ROSS: Madam Chair, Commissioner Mayfield, no, it would not be a good idea for you to have a community meeting, because you'd be receiving information outside the context of the hearing that will eventually happen on the application. But what I can do is I can talk to Land Use staff and make that suggestion. It sounds like a good idea to me and a productive one. We can see what they think about it. It's perfectly appropriate for staff to go out there and engage in that kind of mediation directed process in advance of an application being followed. Indeed, the new Land Development Code is going to formalize a process like that where there has to be some community input, community meetings, formalized, recorded, advertised, prior to an application being filed. So in cases like this hopefully at least some of the square edges can be pounded off before the application gets filed.

So why don't I talk to them and report back to you what the feeling is on the part of Land Use staff. It's probably the planners who need to do this.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, Thank you. Again, I'm getting a lot of email and I don't want the constituency to think that I don't want to answer their emails, I don't want to get back to them. If I do run into somebody here or there, on the street, this is pretty much the position I'm taking. I really don't want to hear anything. I want to hear what you have to say; I'm just not in a position to hear it right now because it's not officially on the record and I think that could be a disadvantage to everybody. So thank you for at least, Mr. Ross, Manager Miller, if you can try to have some sort of public outreach meeting out there.

CHAIR STEFANICS: On that point, could I ask staff, Kristine or somebody, to try to get something in the newspaper to this effect. I think all of us are getting several emails a day regarding this particular project. And I don't necessarily think that the public

understands our reticence to communicate with them about this, since we'll be making decisions later. But if there could be some clarification. I don't know, Steve. Maybe it's even one of your staff members who writes a little letter to the editor in a legal context, that we've advised our County Commissioners to wait until it comes before them, or something like that.

MR. ROSS: Madam Chair, we have materials already developed from long experience here with controversial cases we have taken on in the past, the job of writing back to constituents on your part and explaining the process, explaining why you have to stay neutral and keep an open mind. So we have lots of material. I could work with Kristine and a letter to the editor sounds like a good way –

CHAIR STEFANICS: Well, why don't you think about some strategy. I'm just putting that out, whatever you all decide. Sorry. You still have the floor.

COMMISSIONER MAYFIELD: Madam Chair, on that point, thank you for bringing that up. I was also I guess approached by a news media outlet that asked me to do an on-camera interview and respectfully I referred them to your office, Mr. Ross. Not because I didn't want to do that but it probably wasn't in my best position to go on camera, on an on camera interview.

COMMISSIONER VIGIL: Madam Chair.

COMMISSIONER MAYFIELD: I'm done. Thank you, Madam Chair.

COMMISSIONER VIGIL: I find when someone tries to approach me on that it's very easy for them to understand when I explain to them we cannot speak about any kind of application or development that may come before us because it's considered *ex parte* and it would be unfair to hear one side of the story and not the other. We're supposed to be untainted when we hear that. This hasn't even come before us. It will go to CDRC. I can give you procedural information but I can't tell you anything else. And I find that most people are very responsive to that and will thank you, because oftentimes they want to know that they've at least made contact.

So they're perfectly willing to – I have not had any pushback when I explain we are not allowed to have *ex parte* communication. And of course your concerns will always be addressed and the case will be heard in a fair and objective matter. And most people are happy to know about that.

CHAIR STEFANICS: Thank you, Commissioner. Are you finished?

COMMISSIONER MAYFIELD: Yes, ma'am. Thank you.

CHAIR STEFANICS: Commissioner Holian.

COMMISSIONER HOLIAN: Thank you, Madam Chair. First of all, I would like to recognize that a number of our employees are taking advantage of the New Mexico Edge Program, which is to further their knowledge and capabilities in a number of different areas and would like to especially recognize and congratulate Erle Wright. He earned a designation – oh, well, maybe we'll talk about this next month. But anyway, I would just like to say congratulations Erle, and Richard.

Okay. I would also like to thank Robert Martinez. I know he isn't here but hopefully

he'll hear this later in some way. He finally, after 13 years got the easement for the Glorieta Fire Station Road from the Burlington Northern Santa Fe Railroad. And now, we can actually take care of the road that leads to our fire station, where, by the way – which by the way, is also a polling place. So anyway, I would just like to say a big thank you to Robert. This certainly has been a big issue in the entire time I've been a Commissioner and I'm glad to have it resolved.

I would also like to thank our County Manager, Katherine Miller. I have to say that her expertise and hard work are really paying off for our County, and just one example is that our budget situation has improved tremendously, and that's been in spite of the fact that it's been in really hard times. Also, Katherine has made changes in the management structure that I believe have really improved the capabilities and efficiency of our County. So I would just like to say – and I'm just scratching the surface at all the things you've done. So just my sincere thank you to Katherine.

Finally, I would like to especially thank and commend our Sheriff's Department. I know that in my district there was a lot of worry and fear out there with regard to the suspect in the two murders who was on the loose and I am particularly pleased that they were able to resolve that situation without any further bloodshed or anybody else getting hurt. I think our Sheriff's Department did a fantastic job. I would also like to though send my condolences, my deep condolences to the family and friends of Teresa Vigil and Austin Urban, whose lives were cut tragically short. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. We're back to Commissioner Mayfield, because I cut him off.

COMMISSIONER MAYFIELD: Oh, no, Madam Chair. Thank you. And just to echo Commissioner Holian's sentiments to our local law enforcement and to all the other agencies that were involved. I think they did a phenomenal job for our constituency and the citizens.

Madam Chair, Manager Miller, just two quick points. One, I know I've asked in the past and I think you were trying to work on it but just to bring it up formally. Patricio Velarde who is a teacher with Pojoaque Public Schools, he said that nobody has contacted him or his student body about a recycling program, and I thought that staff said somebody did get in touch with him. I do not recall who. Maybe there was some miscommunication happening. Patricio also works at our State Legislation, if somebody could kind of just pop over, let him know what we can afford or offer assistance with Pojoaque Schools in their endeavor to start up the recycling program. I'd really appreciate that.

MS. MILLER: Madam Chair, Commissioner Mayfield, Jennifer has been trying to get in touch with somebody now because Public Works, Solid Waste Division Director, Robert Martinez and the Solid Waste Director have both offered and they have some actual suggestions of how they might be able to assist the school. We haven't gotten a response back so maybe we just don't have the right people.

COMMISSIONER MAYFIELD: I think that might be –

MS. MILLER: So do you have the name and number of who's trying to

actually implement the program at the school?

COMMISSIONER MAYFIELD: Patricio Velarde, Pojoaque Public Schools, and he also works at the New Mexico State Legislature with the House of Representatives. It serves a dual purpose.

MS. MILLER: You know what? Is he in the administration of the schools?

COMMISSIONER MAYFIELD: He's a teacher at the Pojoaque Schools and I think he also works as a sergeant at arms or security with the House of Representatives, I believe in the evening hours.

MS. MILLER: Okay. Thank you.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Manager Miller. Madam Chair, Manager Miller, last week or two weeks ago we spoke about some funding for Shoot Santa Fe. I thought that was going to come back to us formally. Maybe I'm wrong.

CHAIR STEFANICS: Are you talking, Commissioner Mayfield, about the money for the Sundance marketing?

COMMISSIONER MAYFIELD: Madam Chair, yes. And I see Shoot Santa Fe as a positive thing. I don't know if I necessarily like the title we have, but yes, it's for the marketing efforts.

MS. MILLER: Madam Chair, Commissioner Mayfield, what I had stated was that if we did not have any funding in existing budget in economic development or in any of our media areas of the budget then we would need to bring it back, but if we could find it, because of the timeliness of it we would try to participate without bringing a budget adjustment back. So I'd have to ask Teresa – we did have some in our economic development fund? Other media fund.

COMMISSIONER MAYFIELD: Madam Chair, Manager Miller, that's great but I just want to look at if they continue to ask for additional funding. I haven't been to one of those meetings lately or ask what other type of projects we can use those dollars for. And I'm appreciative to know that we can find money within Santa Fe County because I think it was a worthwhile project for us to move on but I'm sure there's a lot of other projects we might want to see about moving forward and if the County can find money to assist with other endeavors or other projects. I think that's a positive thing too.

MS. MILLER: Madam Chair and Commissioner Mayfield, and I would encourage them to actually contact us now as we're moving into doing our budget for next year because it's a lot easier if we have advanced notice instead of trying to stitch together a few dollars here and there out of left over budget. So if they have a plan a thing they want to see going forward it is much better that they submit those requests to us kind of in whole and we can make sure that we incorporate that as the budget requests for fiscal year 13.

So for the Commissioners who have been working with that group if you can have somebody provide that information at least to Duncan or to our – Duncan Sill or to our Finance Department that would be helpful.

COMMISSIONER MAYFIELD: And Madam Chair, Manager Miller, Duncan attends those meetings so he should already – and again, I'm just going to go back. I do think,

and looking at what you've just done – I know you went through that, but maybe this Commission could look at trying to put some money for economic development. That's something that I would ask for when it comes to us, a request for funding for next fiscal year, so we have some dollars that could be moved there.

Manager Miller, and Madam Chair – excuse me, Manager Miller. Excuse me. My funding request, you may have this in place. It's the pilgrimage to the santuario. I don't know if last year we built in the budget to have some portable, I guess portable facilities for individuals. I also spoke with the Sheriff's office. Maybe they need it in their budget or we could try to help them, but they do do a DWI checkpoint along State Road 76, maybe Juan Medina Road. But maybe if they could have some private facilities for just their exclusive use because I think what happens is there's a lot of walkers on the pilgrimage want to stop off at those facilities and I think we might just need some facilities for our local law enforcement.

And if we could also, just one thing that has come up with the community out in Chimayo. It was that – this is a pilgrimage that very many people participate in from statewide, out of the state, in Santa Fe County. If they could have some assistance with the traffic that is generated along that route. I think we may have a truck that kind of has a controlled gate. I don't know if that would be a possibility. I would also bring this up with the SWMA board to see if they would accept that trash at the SWMA board or if we could maybe look at at least accepting that trash into our local dump site because again, many people are producing a lot of trash on this pilgrimage and right now it's falling, they believe, the sole responsibility of the community of Chimayo to dispose of that trash. So if you could look into that I'd really appreciate it. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. At the next meeting we will be acknowledging our employee safety committee, because at the New Mexico Association of Counties meeting we did receive a Workers' Compensation award for reducing our rate of Workers' Compensation claims, and as Commissioner Holian said, we also will be recognizing two staff who did graduate from some of the County Edge courses and receive certificates. And so we'll be putting that on the agenda. We don't want people to think that we've forgot them during this particular meeting.'

Ms. Miller, I have received two emails from private firms, and I've also heard from the Santa Fe Chamber of Commerce concerning a local vendor preference when we do procurement. And I am asking when we could come back to the Commission with any recommendations or discussion about our procurement code.

MS. MILLER: Madam Chair, Commissioners, this is something that came up in one of our previous solicitation RFPs for engineering services I believe and I also talked to Procurement and Legal about the steps that we need to take in order to have a local preference. One thing that we need to make sure that we do in our RFPs is include a state preference along with the local preference because the law recently changed for that. So we need to actually change our Procurement Ordinance that was enacted, I don't know, about a year and a half ago as a result of issues dealing with Public Works procurement. I think it would be an ideal place to actually address that. We have a couple of things in that ordinance

that we would recognize changes to that would be more workable, and we also think that that is a good place that we put it in our ordinance, because we are not a home-rule entity like a city. So we would want to make sure that we comply with state law and have what you'd call kind of a local ordinance as opposed to just policy to solidify any kind of local preference that you'd want to make it more substantive and not able to challenged.

CHAIR STEFANICS: So the question was, Ms. Miller, when will we be able to bring this back to the Commission?

MS. MILLER: Madam Chair we could – we'd need to request authorization to public title and general summary. I think that we could put that on the next agenda or on the end of February. And then we would need a public hearing and then enact an ordinance with that.

CHAIR STEFANICS: Okay. So we will be hearing when we are asked to authorize title and general summary, we will be hearing the recommendations that would go into the ordinance changes.

MS. MILLER: Madam Chair, yes.

CHAIR STEFANICS: Okay. Thank you very much. So that we can report that back. Yes, Commissioner.

COMMISSIONER MAYFIELD: Madam Chair, thank you. And Manager Miller, on that point, you're more versed on this than I definitely am but doesn't the state allow a provision for local preference under the Procurement Code?

MS. MILLER: Madam Chair, Commissioner Mayfield, what they did, there was always a state preference on bids, so construction bids, and last year in the legislative session they actually kind of cleaned that up because it also had a preference for New York businesses, and they added that it could be applied to RFPs. And that's kind of different because it's not based not just bottom dollar. So what we need to do is enact a state preference, and that is actually administered by state – I think there's a certification by state Tax and Rev that says what entities qualify for a state preference. We would then need to refine that a little bit more to include that, plus have both businesses within Santa Fe County have an additional qualification and preference above and beyond that. And that's what we would do by ordinance.

COMMISSIONER MAYFIELD: Thank you, Madam Chair, Ms. Miller, and kind of like the resolution that we just supported a little earlier from Senator Wirth, even within Santa Fe County we have a local Walmart or we could have a local mom and pop store. Could we give preference to purchasing also within this ordinance?

CHAIR STEFANICS: If the primary office was identified in the procurement code as being within the county.

MS. MILLER: It would be, Madam Chair, Commissioner Mayfield, we would have to do it in the way we define a resident business. So, for instance, what the state defines as a resident business of New Mexico might be different than what you define as a resident business of Santa Fe County. And we could work to clarify that to apply to entity that has an office located within Santa Fe County. And we can work on giving you different options of a

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local resident business.

COMMISSIONER MAYFIELD: Thank you, Madam Chair.

CHAIR STEFANICS: Thank you. Anything else from Commissioner Comments before we move on to public hearings?

XV. PUBLIC HEARINGS

A. Ordinances

1. Growth Management Department

- a. **Ordinance No. 2012-1, an Ordinance Concerning the County's Affordable Housing Program; Repealing Specified Portions of Ordinances No. 2006-02, 2009-01 and 2010-09; Enacting Replacement Provisions That Reduce the Amount of Affordable Housing From 30% to 15% of the Total Housing Provided in a Major Project, and Reducing From 16% to 8% the Affordable Housing Provided in a Minor Project; Amending the Affordability Lien to Provide for Amounts Contributed to the Affordable Unit By the County Pursuant to Ordinance Nos. 2009-14, 2010-03, and 2011-6; and Providing for the Remainder of the Affordability Lien to Decline to Match the Appreciation Share Lien to Protect Long-Term Affordability (Affordable Housing/Darlene Vigil) FINAL PUBLIC HEARING**
[Exhibit 5: Revised Ordinance Text]

CHAIR STEFANICS: Darlene Vigil will do the presentation, then we will open this up to comments from the public, and then we will go to a possible vote. Ms. Vigil.

DARLENE VIGIL (Affordable Housing Administrator): Thank you, Madam Chair. To provide the Commissioners with a bit of the background, the Board had directed staff to refine the Inclusionary Zoning Ordinance due to the existing economic conditions. The Board established an Affordable Housing Task Force for recommendations of the Inclusionary Zoning amendments. Staff also met with affordable housing organizations and the public through the development of the Sustainable Growth Development Plan, in addition to the Santa Fe Association of Realtors Affordable Housing Task Force.

The existing ordinance, as stated in the caption, has indicated that yes, we are looking to reduce the requirement for major projects from 30 to 15, minor projects from 16 to 8. In addition to that we have elaborated and expanded the alternative means of compliance to provide for affordable units in a manner that is consistent with the goals and objectives of the Inclusionary Zoning Ordinance and expand long-term affordability, providing the developer subsidy and reducing the affordability time at .10 percent from the sale of the original purchase.

At today's Affordable Housing meeting there were a couple of recommendations, or one in particular, to include a rental piece or segment within the alternative means of compliance, and I have those for your review at this point in time. [Exhibit 5] In addition to that we also did clear up on page 2 –

CHAIR STEFANICS: Let me get some clarification first. Steve, even if we're all on board with adding the rental housing, this is not noticed as part of this. So how would we handle this?

MR. ROSS: Madam Chair, I think that's okay. When an ordinance comes up for adoption there are inevitably changes made at the time of adoption and the change that we've added to paragraph 4 under Section 16 there really only clarifies the foregoing language, which was you can alternatively meet your obligation by otherwise providing affordable units that's consistent with the goals and objectives of the ordinance, which could include rental of homes to affordable renters, if you will. We just clarified to make it clear from the discussion this morning that that is the case. But clearly, providing rental housing is consistent with what was already there in paragraph 4. So I don't see it as a big change. It's just an example or a clarification of what came before.

CHAIR STEFANICS: Thank you. So Darlene, why don't you finish?

MS. VIGIL: Thank you, Madam Chair. Therefore, what we have presented before you is just that one minor change with the rental component and again on page 2, just a clarification on the – if we didn't feel it was necessary we could take out some language regarding the other ordinances that helped to support this, and that is the affordable housing assistance.

CHAIR STEFANICS: Okay. Questions for staff from the Commission, before we go to public hearing?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Commissioner Mayfield.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Thank you, Darlene. Have you all had any other public comment outside this public hearing on this?

MS. VIGIL: Madam Chair and Commissioner Mayfield, yes, we have. We received an email from Scott Hoeft, that I could read to you at this point in time. He does indicate, This does not appear to be a temporary ordinance like the City's version, so each project that has affordable housing at 30 percent will have to replat and re-master plan to account for the reduction to the 15 percent. Is this true and correct?

COMMISSIONER MAYFIELD: Madam Chair, Ms. Vigil, I don't think it prevents anybody from keeping the 30 percent in place if they want to, correct?

MS. VIGIL: I would refer that to Steve.

MR. ROSS: Madam Chair, Commissioner Mayfield, I think what he's referring to is the fact that these persons are bound by an affordable housing agreement, where they agreed to provide 30 percent and of course their development has been approved consistent with that agreement. So what we're saying is is it going to be permitted for people to come back and ask for revisions to the affordable housing agreement and maybe even their

developments if the affordable housing agreement is amended. And I think the answer to that is yes.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, wouldn't that be the case on anything this Commission does? Individuals have the opportunity to come back and ask for reconsideration if they want to go through that whole process again, correct?

MR. ROSS: Madam Chair, Commissioner Mayfield, you don't really have the right to reconsideration but if we were going to make a change and prohibit people from taking advantage of the change we would have clearly put it in here and we did not. So I think it's fair game for people to make those applications. It's a lot of work and pretty expensive for them to do it. They'll have to weigh all those factors when they decide whether to come in or not. But we didn't prohibit it in this draft, unless we are otherwise it is not prohibited.

COMMISSIONER MAYFIELD: Thank you, Madam Chair. Thank you, Ms. Vigil.

CHAIR STEFANICS: Thank you. Other questions, comments from Commissioners, before we go to – yes, Commissioner Vigil.

COMMISSIONER VIGIL: Actually, when we originally spoke about this I thought we were going to look at it based on the economic downturn. It was going to provide a window of opportunity, and that we would have a sunset on this. Not a strict sunset, but an ability to revisit this and see if in fact we needed to realign our thinking. When we initially passed the 30 percent we had no idea that it was going to go into an economic downturn situation and this is another one of those initiatives that we've undertaken to in effect incentivizing subdevelopments. Now, what we learned this morning from our guest speaker, the president of Los Alamos National Bank, is that that may not necessarily be the case. So we don't know that. I think this is going to be received, at least when I initiated the request to bring it forward for title and general summary it was after we had spoken to Rancho Viejo. I think they're going to be the most positively impacted by this.

But there are subdevelopments out there who have come to us for approvals under the 30 percent requirement. I think it would be unfair for us to say everyone now can come before us and get a 15 percent, because my fear was that that would occur, and what does that mean to the timeline with regard to when the subdevelopment actually occurs? And where will we be in terms of our economics? So I always thought, and I didn't see it in the ordinance that we were going to create a sunset clause in this. So I guess my question is why didn't we?

MS. VIGIL: Madam Chair, Commissioner Vigil, that is something that could be up for discussion at this meeting if in fact Legal feels that that is another possibility without it being not having been noticed in that regard, but I would again refer to Steve Ross to see if in fact that is a provision.

COMMISSIONER VIGIL: It would be the same argument we have with regard to what the amendment we have before us now. I don't know. Maybe I need to throw that to my fellow Commissioners. Is this something that you want to occur on a permanent

basis or is this something that you prefer we place a window of opportunity. In my mind you sunset something only to see whether or not it's working and then you continue it or you don't.

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, on that point, Commissioner Vigil, just for clarification, would it sunset back to the 30 percent or would it sunset back to zero?

COMMISSIONER VIGIL: It would sunset back to 30 percent. Or it would sunset for reconsideration.

COMMISSIONER MAYFIELD: And Madam Chair, and I appreciate having sunset provisions on a lot of things. But let me ask this, Madam Chair, Commissioner Vigil, we could just re-enact the ordinance again, couldn't we, to say let's amend the 15 percent, either up or down again, couldn't we? Just as easy?

COMMISSIONER VIGIL: We could, but it's more difficult to do that than it is to discuss something under a sunset clause.

COMMISSIONER MAYFIELD: Thank you, Madam Chair.

CHAIR STEFANICS: Commissioner, I had assumed this was going to be permanent, and I'm willing to listen to my fellow Commissioners. We also can take, after we go to public hearing, we also can carry this over for a final vote at the next meeting, as opposed to doing the final vote today. So we have options based upon what the group would like to do. Commissioner Holian, do you have a position on this sunset or not?

COMMISSIONER HOLIAN: No, Madam Chair. I can go either way depending on the consensus of the Board.

COMMISSIONER VIGIL: I think it's important that we recognize that the City Hall actually has a sunset clause. I don't know what other inclusionary ordinances have done. Whether they're dealing with these from the perspective of motivation, the incentive to make this happen actually occurred because of the economic downturn. Now, does that mean that once the market value in Santa Fe starts being established at the level that we knew it to be when we enacted this 30 does that mean that we do need to revisit this? Because part of the incentive for creating affordable housing incentive programs such as this is, well, the policy issues were we were losing a lot of folks who couldn't afford to deal with the escalating market prices.

So I'm concerned about locking in future Commissioners to something that they might have to reconsider and would have a more difficult time reversing. And I'm happy to defer to Katherine on this for her comments, because I know she worked with the Mortgage Finance Authority actually quite a bit on the affordable housing projects. I'd really like your feedback on this, Katherine.

MS. MILLER: Madam Chair, Commissioner Vigil, I think a couple things. There was another ordinance and we've been talking about some of these kind of overlaps. The other one that we put in place that did have a very specific timeframe referencing

economic downturn was the ability to resurrect a master plan that had already been approved by the Commission. We did say in that one that we should very narrowly define that timeframe in which that would be effective. So in that ordinance, which unfortunately had all these kind of discussions over the top of each other. So in that particular one we did have a clear timeframe of the economic downturn and when a master plan could come back for resurrection.

So I think that might be the area where you were thinking about that issue. And then on this one, you were – one of the concerns was, well, do we do this forever? And I think some of our discussions were about looking always as this ordinance is in place. Maybe it can go back to 30, it needs to go to 20. Maybe it needs – depending on the different economic environment. So I think in one of our discussions we said, well, we should put it here and then as we see if that's actually producing more affordable homes, because we were getting nothing out of our 30 percent over the last couple of years just because of the economy and we couldn't say when or when that wouldn't change, but that we would try at this level based upon that task force.

So I think what we probably would want to do is see what the results of this change, see what this does, see if it actually produces more affordable housing under our ordinance, and then if that starts to ramp up that we are not addressing the needs, we would go back and try to hit the next section.

So that was kind of how I think the staff approached it, between those two different ordinances.

COMMISSIONER VIGIL: So that begs the question. Say Suerte del Sur, who has how many homes? 280?

MS. VIGIL: 240 lots.

COMMISSIONER VIGIL: 240 lots, has to come back for us, or desires to come back for us for the master plan window of opportunity that we created a sunset clause for. The Scott question, as to whether or not these master plans do have to come back to us qualify that particular development as the lack of knowing another development to be able to come to us for that master plan redevelopment within that window of time?

Commissioner Stefanics: Madam Chair, Commissioner Vigil, and Steve, correct me if I'm wrong but my understanding is that as long as that master plan is effective and if they want to come back under this revised ordinance, they would have to come back to your for master plan to meet the requirements in this ordinance.

COMMISSIONER VIGIL: Okay.

MS. MILLER: And under that previous ordinance that you changed it was for master plans like – what was it? Turquoise Trail? Turquoise Trail where there's had completely expired during the economic downturn. They also have to come back to you to get that resurrected. And if they want to come back to you under provisions of this ordinance they would also have to adhere to – they'd have to apply for those changes as well.

COMMISSIONER VIGIL: Okay. So that perhaps the best way to approach this and the message that I got very loud and clear from the presentation this morning is that

it's probably more preferable to allocate affordable housing when it's project specific. At least that was the understanding I gained from that hearing. The gentleman who spoke to us about that said it's really difficult to implement and even loan dollars across the board when you have an inclusionary zoning that's supposed to fit all developments, and his desire was for us to consider developments independent and on their own merits.

So even that allows us to look at the opportunity of reconsidering this at some point in time. So I'm open to further discussion. It just seems to me – and I'm the advocate for the lowering to the 15 percent, but I do not want to do that without knowing that if that needs to be changed at some point in time, maybe even lower, maybe even looked at per project per merit. We need to reconsider that. I guess there are other options we have. We could probably rescind the ordinance. We could do other things. I'm open to other options. I just don't want to lock us in to not be able to have the opportunity to be able to continue to evaluate. And frankly, I'm particularly sold that we need to look at project-specific affordable housing units. I don't know how that would occur but it made a lot of sense to me. Thank you, Madam Chair.

CHAIR STEFANICS: Thank you, Commissioner Vigil for your opinion. We're going to go to the public hearing because we'd like to hear what the public thinks about this and then we can come back to our comments and dialogue and discussions. So this is a public hearing. Anyone who is interested in testifying please come forward. Thank you for hanging out and being a part of our process. So if you could just identify yourself for the record.

DEBORAH HAGEY: My name is Deborah Hagey. And I am chair of the Santa Fe Association of Realtors' Government Affairs Committee. Good evening, Madam Chair and Commissioners. With over 700 members including realtors and other affiliated real estate businesses the Santa Fe Association of Realtors works to protect property rights and encourage fair land use policies. Inclusionary zoning is a technique that originated in the 1970s to generate affordable housing with the help of private development. It can be an effective tool to address access to housing, delayed home ownership and loss of community by requiring housing developers to dedicate a certain percentage of their projects to low or moderate income housing.

In light of the current housing market the Santa Fe Association of Realtors supports the proposed changes in the ordinance under consideration today that will, number one, reduce the affordable housing requirement from 30 to 15 percent in major projects and from 16 to 8 percent in minor projects. Number two, add language to promote through other means of meeting the goals and objectives of the ordinance. And thirdly, provide that the affordable lien held on the property will decline over time to match the appreciation on the property.

We do have one clarifying question and we've discussed that a little bit. Does the ordinance cover all development, new as well as existing? Thank you for the opportunity to offer our views.

CHAIR STEFANICS: Thank you.

BILL ROTH: My name's Bill Roth. I'm a small developer in Santa Fe, Dry

Creek Development. I actually spoke when the City considered this, and I'm not a big developer. I build anywhere from between two to maybe five houses at a time. And they're small houses. They're around 1500, 1300 square feet, so the profit margins are very small. So anything that the County can do in this period of time whether it's a two-year sunset period or something that you're going to reconsider when the economy gets better, I just wanted to voice my support for it. Anything we can do to kind of keep smaller builders building, versus the Centexes and to Pultes, I think is a good thing. Smaller builders tend to use local help, not Albuquerque help, so you're helping employ county residents. So I'm just here – I actually came in support of Peter Wirth's bill and found myself here and figured I would voice my support. So thanks for your time.

CHAIR STEFANICS: Thank you. Anyone else who would like to comment on the Affordable Housing Ordinance? Okay. This public hearing is now closed. Commissioners, other comments, discussion, what's the wishes?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, I know Commissioner Anaya is not with us but he did mention this in a prior meeting that we had today that he is definitely in support of this resolution. Also he did ask for consideration to allow in Section 16, number 4, to include providing rental homes in this provision. So I just wanted to state that for Commissioner Anaya please. Thank you.

CHAIR STEFANICS: Thank you. So Commissioners, do we want to consider this this evening for a final vote? Do we want to carry it over? What's your pleasure?

COMMISSIONER VIGIL: Madam Chair, let me make an attempt at a motion here. I move we approve Ordinance No. 2012-1 as amended with the recommendation on the rental language amendment that we have before us. I would also like to include amended language in that ordinance that allows us to review this in four years.

COMMISSIONER HOLIAN: I'll second that.

CHAIR STEFANICS: Okay. Further discussion? I'm afraid I'm going to vote against it, and the reason is because of the sunset. I would prefer that we just enact an ordinance, so I support what we're doing and so the vote is really about a date. Commissioner Mayfield.

COMMISSIONER VIGIL: May I ask why?

COMMISSIONER MAYFIELD: Madam Chair, on that point, and maybe just for my clarification, I didn't hear a sunset in that I just heard that we would review it again in four years.

CHAIR STEFANICS: That's a date.

COMMISSIONER MAYFIELD: But is that saying that it's going to revert back to a 30 percent, because I didn't hear that. I just heard that we would review it.

CHAIR STEFANICS: A date, when you put a date into a bill it's an action. If you want to review it in four years you can just revisit it in four years, but when you put a date in a bill, that's an action.

COMMISSIONER VIGIL: Let me ask a question along those lines. Currently the ordinance requires an annual review. Is that not correct?

MR. ROSS: Madam Chair, Commissioner Vigil, yes.

COMMISSIONER VIGIL: Okay. So I guess I'm asking that we review it rather than annually in four years. Is there a need to review it annually, Steve?

MR. ROSS: Madam Chair, under the current ordinance, and Commissioner Vigil, under the current ordinance the Affordable Housing Administrator reviews the ordinance annually and brings recommendations to you based on things she's heard, things she thought about and the like. So there's already this annual review process built into the system.

COMMISSIONER VIGIL: So that in effect is a sunset capability. So I'm fine with that. I'll withdraw the four-year. I think if we review it annually and we stick to that and have the recommendations brought forth by the Land Use Administrator we're probably going to be able to not only get the issue of inclusionary zoning into the percentage but other issues that arise. So I'm fine with that. I'll withdraw the four-year review. So the motion would state that I move 2012-1 as amended by past.

COMMISSIONER HOLIAN: And the seconder is fine with that as well.

CHAIR STEFANICS: Okay. Further discussion on this?

MR. ROSS: Madam Chair.

CHAIR STEFANICS: Yes.

MR. ROSS: A technical issue. When I deleted the language on the bottom of Section 3 I did not delete the parallel language in the title, so I'd like the latitude of the Commission if this ordinance passes to delete the parallel language that's in the title of the ordinance. It wouldn't make any sense otherwise.

COMMISSIONER VIGIL: My motion would include clerical clarifications to be brought forth, or to be placed in the ordinance.

CHAIR STEFANICS: Okay. Thank you. Any further discussion?

Upon roll call vote the motion passed by unanimous [4-0] voice vote, with Commissioners Holian, Mayfield, Vigil and Stefanics all voting in the affirmative. [Commissioner Anaya was not present for this action.]

XV. 2. Public Works

- a. Approval of Ordinance No. 2012-2, Authorizing the Execution and Delivery of a Water Project Fund Loan/Grant Agreement Between the New Mexico Water Trust Board, the New Mexico Finance Authority and Santa Fe County. The Loan/Grant is for the Sole Purpose of Financing the Costs of Planning, Designing and Implementing a Vegetative Management and Bank Stabilization Plan on the Rio Quemado (Public Works/Adam Leigland) FINAL**

ADAM LEIGLAND (Public Works Director): Good evening, Madam Chair and Commissioners. This is another open space item. This is an opportunity to get \$46,000 from the state in the form of a grant, and then also loan components. They would loan us at zero percent with a small admin fee and then we would in turn pay that back using our GRT that we've already allocated towards this open space project.

COMMISSIONER VIGIL: Move to approve.

CHAIR STEFANICS: This is a public hearing requirement, so are there any questions, comments to the staff regarding this ordinance?

COMMISSIONER MAYFIELD: Madam Chair.

CHAIR STEFANICS: Yes, Commissioner Mayfield.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Leigland, thank Ms. Karen Torres for her work on this please.

MR. LEIGLAND: Yes, I will.

COMMISSIONER VIGIL: I'll allow the public to come forth. All of you out there.

CHAIR STEFANICS: This is a public hearing, so seeing no one in the public to speak we're closing the public hearing.

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

COMMISSIONER VIGIL: I'll second it.

CHAIR STEFANICS: Okay, so we have a motion to approve Ordinance No. 2012-2. Any further discussion?

Upon roll call vote the motion passed by unanimous [4-0] voice vote, with Commissioners Holian, Mayfield, Vigil and Stefanics all voting in the affirmative. [Commissioner Anaya was not present for this action.]

XV. B. Resolutions

1. County Attorney's Office

- a. Resolution No. 2012-21, a Resolution Granting Baja Broadband a Certificate and Acceptance of a Cable Franchise to Operate a Cable System within the Northern Part of Santa Fe County and Approving the Transfer of a Cable Television Franchise From US Cable of Coastal Texas to Baja Broadband (Steve Ross)**

MR. ROSS: Madam Chair, US Coastal Cable, or US Cable of Texas currently provides cable service within an area of southern Espanola within Santa Fe County. They have sold their business to Baja Broadband and to be consistent with our ordinances we need to recognize the sale and grant Baja Broadband a franchise in the area previously served by

US Cable. We do need a public hearing to vet this but aside from that it's just the franchise is granted by resolution.

CHAIR STEFANICS: So the public hearing is required by --

MR. ROSS: Federal statutes.

CHAIR STEFANICS: This is a public hearing. Is there anyone who'd like to testify? Seeing no one, the public hearing is closed.

COMMISSIONER HOLIAN: Madam Chair, I move for approval.

CHAIR STEFANICS: Is there a second?

COMMISSIONER VIGIL: Second.

CHAIR STEFANICS: There is a motion and a second for Resolution No.

2012-21.

COMMISSIONER MAYFIELD: Question, Madam Chair.

CHAIR STEFANICS: Yes.

COMMISSIONER MAYFIELD: Madam Chair, Mr. Ross, we do receive a franchise fee from this also, correct?

MR. ROSS: Yes.

COMMISSIONER MAYFIELD: Do you know what we're receiving from the Texas company by chance?

MR. ROSS: It's around \$700 a quarter.

COMMISSIONER MAYFIELD: They don't provide us very much cable service out there I take it.

MR. ROSS: I don't know how much they provide but it doesn't yield us very much money.

COMMISSIONER MAYFIELD: Competition is not a bad thing. Thank you, Madam Chair. Thank you for bringing this forward, Mr. Ross.

CHAIR STEFANICS: Thank you. Okay, we're on a motion to approve.

The motion passed by unanimous [4-0] voice vote. [Commissioner Anaya was not present for this action.]

CHAIR STEFANICS: There is one item.

COMMISSIONER MAYFIELD: Madam Chair, just a quick follow-up comment. And I know -- thank your our citizen who is out there in the back row, but we are on television. We are on the radio and I do get comments that people do watch us and they do listen to us on the radio, so we do have a lot of watchers and listeners out there.

CHAIR STEFANICS: Right. Thank you very much.

XVI. ADJOURNMENT

Having completed the agenda and with no further business to come before this body, Chairwoman Stefanics declared this meeting adjourned at 7:20 p.m.



Valerie Espinoza
VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Approved by:

Liz Stefanics

Board of County Commissioners
Liz Stefanics, Chairwoman

Respectfully submitted:

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

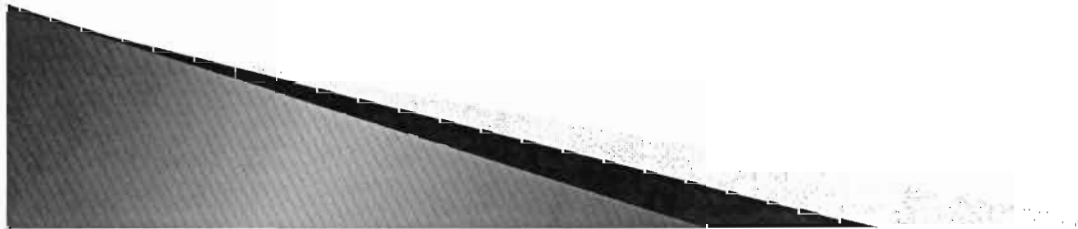
Local Government Obligations Under the Immigration Reform and Control Act of 1986

Presentation to the Santa Fe County Board of County Commissioners

Stephen C. Ross, County Attorney
January 31, 2012

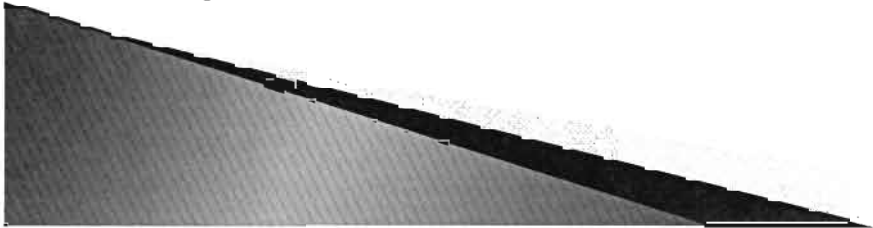
Background

- ▶ The Immigration Reform and Control Act (IRCA), also known as the Simpson–Mazzoli Act, was enacted in 1986 after a period of frustration with the Immigration and Naturalization Act, which had been in existence since the 1950s.
- ▶ Most of the present system of immigration control and enforcement dates from the 1986 Act.
- ▶ The Antiterrorism and Effective Death Penalty Act of 1996 made minor changes to the system.
- ▶ The Patriot Act (2002) made no changes but transferred the functions of the INS to the Homeland Security Department.
- ▶ INS became “Immigration and Customs Enforcement” (ICE).



Background

- ▶ One area where local government frequently interacts with the federal immigration laws is the area of incarceration and detention.
- ▶ As a result, the Santa Fe County Adult Detention Facility (SFCADF) has extensive experience with federal immigration laws but since 2008 has had a very low level of cooperation with ICE concerning the identification, interview or detention of aliens.
- ▶ This minimal level of cooperation has periodically provoked criticism of the SFCADF and its policies.



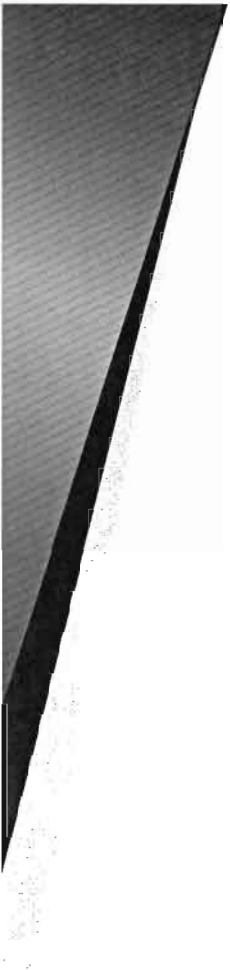
Background

- ▶ Purpose of this presentation is to put a legal context on this issue.



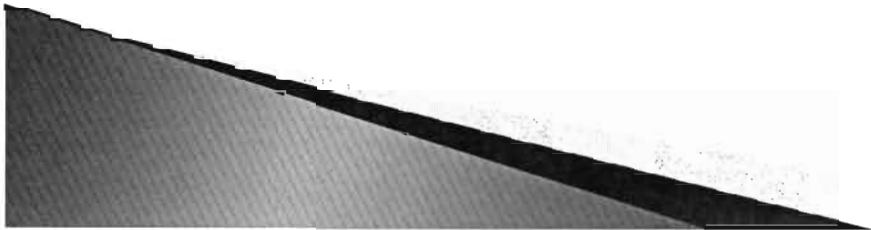
Background

- ▶ What is required and what is optional?



Background

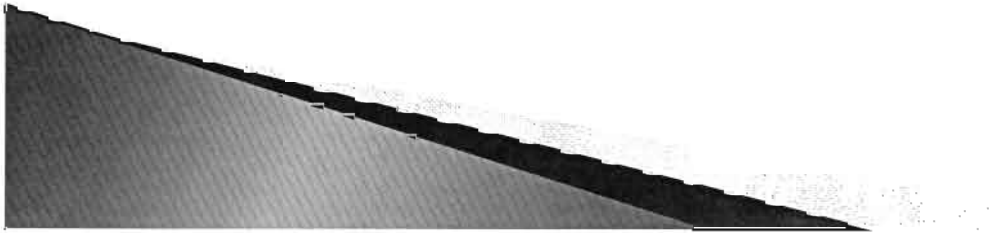
- ▶ The obligation of a local government to detain a person pursuant to a detainer issued by ICE is not optional.
- ▶ The obligation to cooperate with an inquiry directed at the immigration status of a person is not mandatory, but it is unlawful to prohibit or restrict communication between local officials and ICE concerning the immigration status of any person.



Detainers – Background

What is a detainer?

A detainer is a notice to a federal, state or local law enforcement agency to temporarily detain a person being held by a law enforcement agency after a person is scheduled to be released so that Immigration and Customs Enforcement may assume custody of that person.



Detainers – Authorization

- ▶ Detainers are authorized by federal law, specifically 8 U.S.C. § 1226(a)(a) (“... an alien *may* be arrested and detained pending a decision on whether the alien is to be removed from the United States ...”).
- ▶ An alien *may* also be arrested pending a decision of whether the alien is to be removed and released on bond or parole pending disposition. 8 U.S.C. § 1226(a)(2)(A).



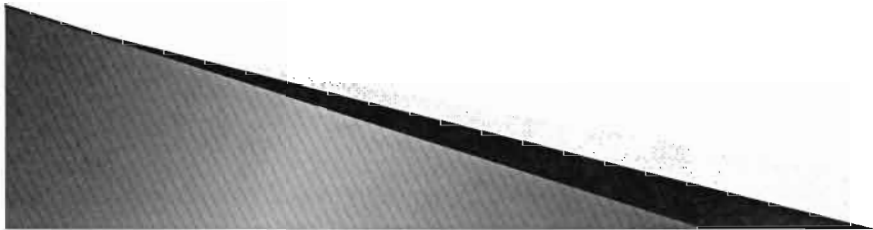
Detainers – Criminal Aliens

- ▶ Detainer *shall* be issued for any criminal alien (“The Attorney General *shall* take into custody any alien who [has committed certain enumerated crimes].”).
- ▶ Among crimes that this section applies to are crimes for which the alien has been sentenced to a term of imprisonment for at least one year, crimes of moral turpitude (e.g. fraud), any aggravated felony, high speed flight from an immigration checkpoint, serious crimes involving drug addiction or abuse, firearms offenses, domestic violence, child abuse, violation of protective orders, trafficking (human and drugs), security and identification issues, terrorist activities and many other offenses.



Detainers – Regulations

- ▶ ICRA permits the United States Attorney General and the Department of Homeland Security to promulgate regulations in support of activities under the immigration statutes. 8 U.S.C. § 1357(a) (“Under regulations prescribed by the Attorney General, an officer or employee of [ICE] may ... execute and serve any order, warrant, subpoena, summons or other process issued under the authority of the United States [so long as regulations are promulgated that describe in detail which officers possess this authority.]”).



Detainers

- ▶ 8 C.F.R. § 287.7, first promulgated in 1987, serves that function.
- ▶ Describes which officers may exercise authority described in 8 U.S.C. § 1357(a), including border control officers, immigration enforcement agents, deportation officers and others chosen by the Assistant Secretary for ICE (among others).



Detainers

- ▶ Mechanics:
- ▶ An authorized immigration officer may issue a Form I-247, Immigration Detainer—Notice of Action.
- ▶ May be issued to any federal, state or local law enforcement agency.
- ▶ Issuance of the form requires local authorities to detain the person who is the subject of the form pending further action by ICE.



Detainers

Detainers have several purposes:

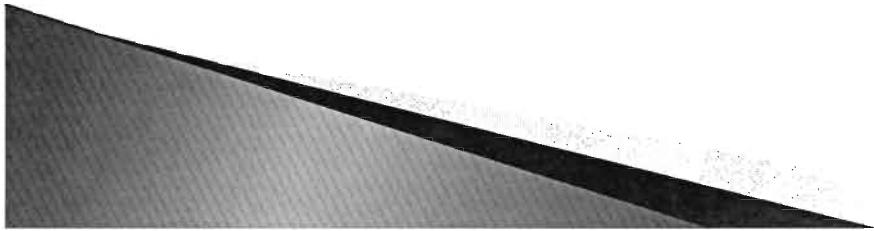
1. Notification: “The detainer is a *request* that [the] agency advise [DHS] prior to release of [an alien in custody], in order for [DHS] to arrange to assume custody ...” 8 C.F.R. § 287.7(a).



Detainers

Detainers have several purposes:

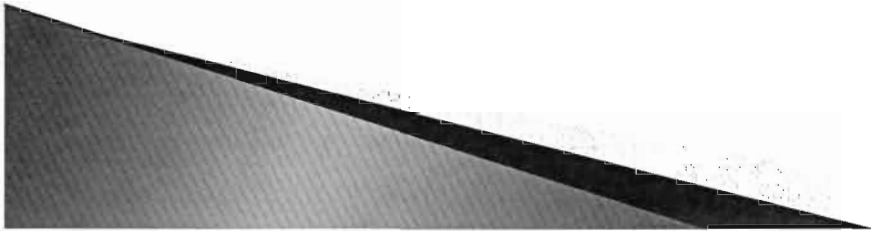
2. Temporary detention: “Upon a determination by [DHS] to issue a detainer for an alien not otherwise detained by a criminal justice agency, such agency *shall* maintain custody of the alien for a period not to exceed 48 hours, excluding Saturdays, Sundays, and holidays in order to permit assumption of custody by [DHS].” 8 C.F.R. § 287.7(d).



Detainers

Detainers have several purposes:

3. Information: Local law enforcement agencies *may* provide “documentary records and information available from that agency that reasonably relates to the alien’s status in the United States” or that tends to show that an alien has been convicted of a crime or committed some other act “that renders the alien inadmissible or removable.” 8 C.F.R. § 287.7(c).



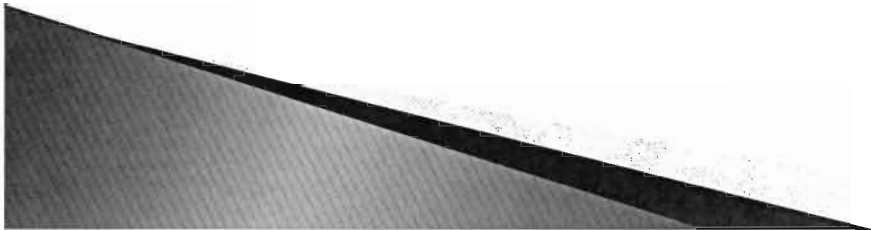
Detainers

- ▶ The obligation to detain upon receipt of a detainer is not optional (“upon issu[ance] of a detainer ... such agency *shall* maintain custody of the alien ...). 8 C.F.R. § 287.7(d).
- ▶ Notification and information sharing are not requirements, and the SFCADF has not, since 2008, notified ICE of a release or shared information with ICE concerning incarcerated persons.



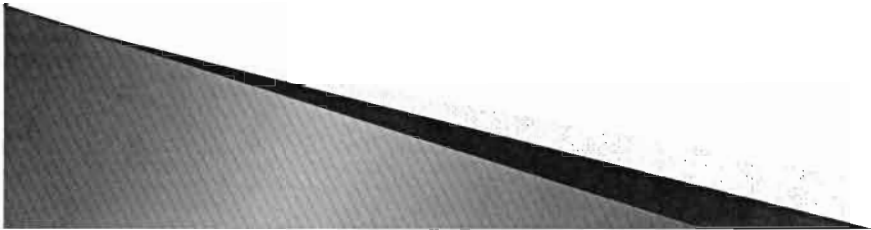
Detainers -SFCADF

- ▶ ICE reviews the intake records of the SFCADF daily to determine whether persons of interest to ICE are incarcerated in the facility.
- ▶ Once a person of interest is identified and ICE verifies that the person consults its databases and determines the person meets its criteria, a detainer is issued to SFCADF.
- ▶ SFCADF holds the person no more than 48 hours after the normal release date and ~~notifies ICE that it is holding the person.~~
- ▶ ICE assumes custody of the person, and its normal process for processing persons under its custody proceeds.



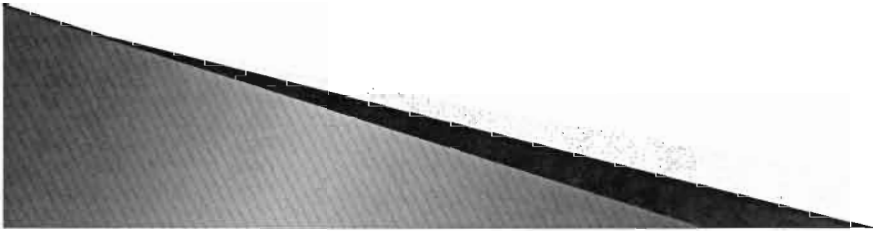
Prosecutorial Discretion

- ▶ ICE has discretion whether to issue a detainer.
- ▶ Recent guidelines issues by ICE show that ICE intends to focus its discretion on aliens who pose a danger to national security or are a risk to public safety.
- ▶ First priority under the new guidelines will be aliens suspected of terrorism or espionage or who pose a danger to national security.



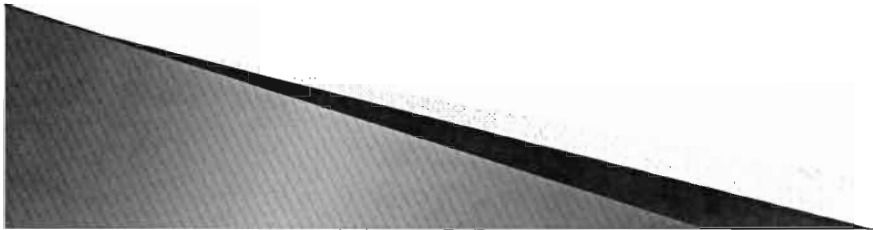
Prosecutorial Discretion

- ▶ Also given priority are persons convicted of crimes, “with a particular emphasis on violent criminals, felons and repeat offenders;” “persons not younger than 16” who participate in “organized criminal gangs;” persons subject to outstanding warrants; and aliens who pose a “serious risk to public safety.”



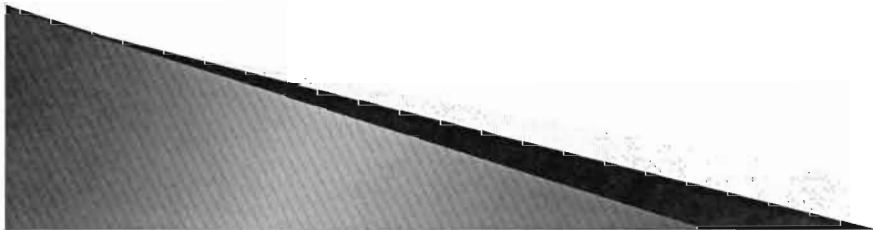
Prosecutorial Discretion

- ▶ Also given priority are Level 1 and Level 2 offenders defined by the Secure Communities Program, which include aliens convicted of aggravated felonies, two or more crimes punishable by more than one year in prison, and aliens convicted of three or more misdemeanors.



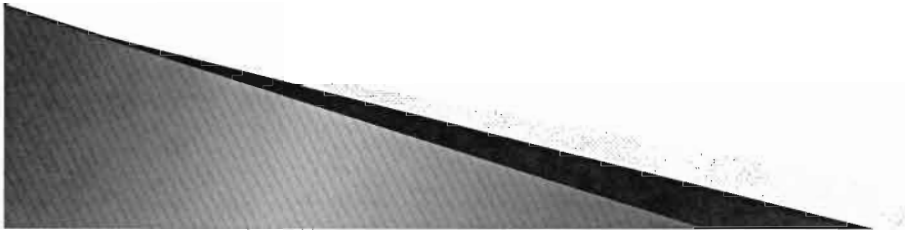
Prosecutorial Discretion

- ▶ Numerous factors are to be considered, including “the circumstances of the person’s arrival in the United States,” the person’s “ties and contributions to the community,” including relevant family relationships, the person’s “ties to the home country,” whether the person has “a U.S. citizen or permanent resident spouse, child or parent,” as well as numerous other factors.



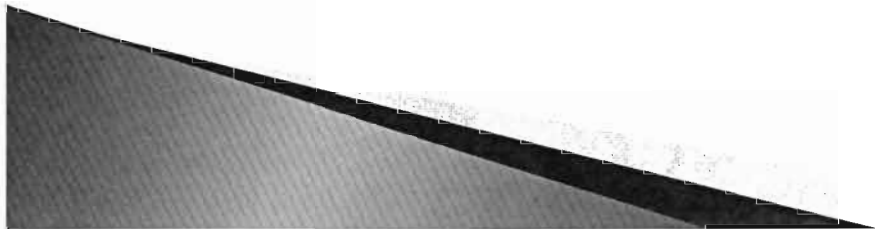
The Fine Line

- ▶ 8 U.S.C. § 1373(a) (1996) (IRCA) states that a “... local government entity or official *may not prohibit, or in any way restrict*, any governmental entity or official from sending to, or receiving from [ICE] information regarding the citizenship or immigration status, lawful or unlawful, of any individual.”
- ▶ 8 U.S.C. § 1644 (1996) states that “... no ... local government entity *may be prohibited, or in any way restricted*, from sending to or receiving from [ICE] information regarding the immigration status, lawful or unlawful, of an alien in the United States.”



Reimbursement – Detainers

- ▶ SFCADF is partially reimbursed for holding persons pursuant to detainers. Last fiscal year, the County received over \$75,000 from USDOJ.



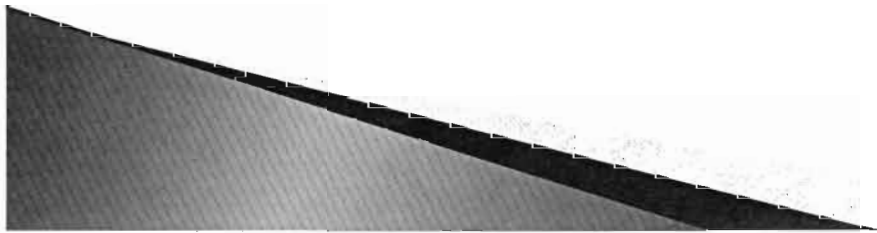
Are Detainers Constitutional?

- ▶ *Printz v. United States*, 521 U.S. 898 (1997).
- ▶ *Printz* concerned the “Brady Bill” which required local law enforcement agencies to administer the handgun registration requirements of that law.
- ▶ It was held unconstitutional by the United States Supreme Court on the grounds that Congress was without authority to “compel the States to enact or enforce a federal regulatory program ... or circumvent that prohibition by conscripting the State’s officers directly.”
- ▶ Detainers are the only mandatory aspect of IRCA and do not require a local officer to enforce a federal regulatory program. ICE enforces the program, through its personnel.
- ▶ It is likely that detainers are constitutional under *Printz*.

Are Detainers Lawful?

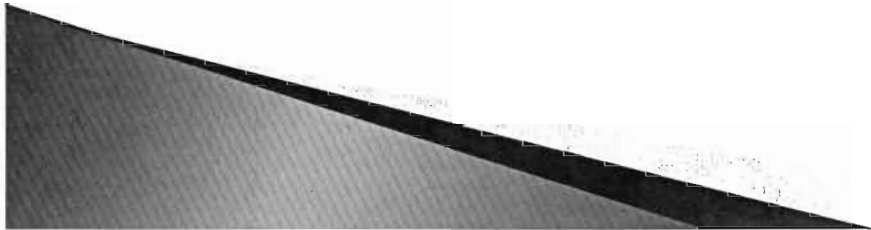
Questions have periodically been raised whether 8 C.F.R. § 287.7(d) applies absent a cooperative agreement or other relationship with ICE:

- ▶ The structure of immigration statutes shows that duty of local government to adhere to 8 C.F.R. § 287.7(d) exists independently of an agreement.
- ▶ While 8 U.S.C. § 1357(g)(1952, as amended) authorizes the United States to enter into an agreement with a local government to apprehend aliens, this is independent of the responsibility of local governments to detain aliens as ordered by the appropriate government officials.



Conclusions

- ▶ The obligation of a local government to detain pursuant to a detainer issued by ICE is not optional.
- ▶ The obligation to cooperate with an inquiry directed at the immigration status of a person is not mandatory, but it is unlawful to prohibit or restrict communication between local officials and ICE concerning the immigration status of any person.
- ▶ Enforcement guidelines recently promulgated by ICE clarify when a detainer will be issued, and discretion to issue a detainer will be exercised according to priorities established by ICE, with top priority assigned to issues of national security and persons with significant criminal convictions.
- ▶ A cooperating local government is reimbursed for its expenses detaining persons pursuant to 8 C.F.R. § 287.7(a).



DEPARTMENT OF HOMELAND SECURITY
IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID:
Event #:

File No:
Date:

TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)

FROM: (Department of Homeland Security Office Address)

MAINTAIN CUSTODY OF ALIEN FOR A PERIOD NOT TO EXCEED 48 HOURS

Name of Alien: _____

Date of Birth: _____ Nationality: _____ Sex: _____

THE U.S. DEPARTMENT OF HOMELAND SECURITY (DHS) HAS TAKEN THE FOLLOWING ACTION RELATED TO THE PERSON IDENTIFIED ABOVE, CURRENTLY IN YOUR CUSTODY:

- Initiated an investigation to determine whether this person is subject to removal from the United States.
- Initiated removal proceedings and served a Notice to Appear or other charging document. A copy of the charging document is attached and was served on _____ (Date)
- Served a warrant of arrest for removal proceedings. A copy of the warrant is attached and was served on _____ (Date)
- Obtained an order of deportation or removal from the United States for this person.

This action does not limit your discretion to make decisions related to this person's custody classification, work, quarter assignments, or other matters. DHS discourages dismissing criminal charges based on the existence of a detainer.

IT IS REQUESTED THAT YOU:

- Maintain custody of the subject for a period **NOT TO EXCEED 48 HOURS**, excluding Saturdays, Sundays, and holidays, beyond the time when the subject would have otherwise been released from your custody to allow DHS to take custody of the subject. This request flows from federal regulation 8 C.F.R. § 287.7, which provides that a law enforcement agency "shall maintain custody of an alien" once a detainer has been issued by DHS. **You are not authorized to hold the subject beyond these 48 hours.** As early as possible prior to the time you otherwise would release the subject, please notify the Department by calling _____ during business hours or _____ after hours or in an emergency. If you cannot reach a Department Official at these numbers, please contact the Immigration and Customs Enforcement (ICE) Law Enforcement Support Center in Burlington, Vermont at: (802) 872-6020.
- Provide a copy to the subject of this detainer.
- Notify this office of the time of release at least 30 days prior to release or as far in advance as possible.
- Notify this office in the event of the inmate's death, hospitalization or transfer to another institution.
- Consider this request for a detainer operative only upon the subject's conviction.
- Cancel the detainer previously placed by this Office on _____ (Date)

(Name and title of Immigration Officer) (Signature of Immigration Officer)

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to the Department using the envelope enclosed for your convenience or by faxing a copy to _____. You should maintain a copy for your own records so you may track the case and not hold the subject beyond the 48-hour period.

Local Booking or Inmate # _____ Date of latest criminal charge/conviction: _____
Last criminal charge/conviction: _____
Estimated release date: _____

Notice: Once in our custody, the subject of this detainer may be removed from the United States. If the individual may be the victim of a crime, or if you want this individual to remain in the United States for prosecution or other law enforcement purposes, including acting as a witness, please notify the ICE Law Enforcement Support Center at (802) 872-6020.

(Name and title of Officer) (Signature of Officer)

SFC CLERK RECORDED 03/01/2012

SENATE LEGISLATIVE ITEMS

SB1 - Mortgage Fair Foreclosure Act

Sponsors Sen. Michael S. Sanchez (D)

Summary (Similar to 2011's SB406, passed in Senate) Proposes the Mortgage Fair Foreclosure Act, which provides notice requirements to and requires loss mitigation efforts on behalf of homeowners allegedly in default.

Complete 12/16/2011 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Corporations and Transportation

01/18/2012 - S - Also referred to Senate Judiciary

01/25/2012 - S - Reported germane by Senate Committee on Committees

01/30/2012 - S - Reported without recommendation by Senate Corporations and Transportation

SB5 - Fireworks Regulation

Sponsors Rep. Nate Gentry (R)
Sen. Dede Feldman (D)

Summary Authorizes the governor to proclaim a 30-day state of emergency to ban the sale or use of fireworks in an area where the fire rating is deemed high, very high or extreme under the national fire danger rating system. The governor may extend, modify or rescind the ban if conditions warrant.

Complete 12/15/2011 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Public Affairs

01/18/2012 - S - Also referred to Senate Corporations and Transportation

01/25/2012 - S - Reported germane by Senate Committee on Committees



SB9 - Corporate Income Tax—Rate Cuts—Mandatory Combined

Sponsors Sen. Peter Wirth (D)

Summary (Similar to 2011's SB-6, 2010's HB62 & SB90, 2009's SB389 and 2008's HB51) Reduces the three corporate income tax bracket rates, from 4.8% to 4.2% (lowest bracket), 6.4% to 5.8% (middle bracket) and 7.6% to 7.0% (top bracket). Unitary corporations are required to file combined returns if they do not file on a consolidated basis. Two or more corporations are defined as "unitary" if they are under common ownership and are in the same line of business. Both changes are effective for the 2013 tax year (returns filed in 2014).

Complete 12/15/2011 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees
01/18/2012 - S - Also referred to Senate Corporations and Transportation
01/18/2012 - S - Also referred to Senate Finance
01/23/2012 - S - Reported germane by Senate Committee on Committees

SB38 - Foreclosure Mitigation Counseling and Homebuyer Education Program

Sponsors Sen. Gerald Ortiz y Pino (D)

Summary (Endorsed by the Mortgage Finance Authority Act Oversight Committee) Appropriates \$1 million (GF) to the Department of Finance and Administration for FY2013 New Mexico Finance Authority expenditures providing foreclosure mitigation counseling for at-risk homeowners and implementation of a homebuyer education program.

Complete 01/09/2012 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees
01/18/2012 - S - Also referred to Senate Public Affairs
01/18/2012 - S - Also referred to Senate Finance
01/23/2012 - S - Reported germane by Senate Committee on Committees
01/25/2012 - S - Reported Do Pass by Senate Public Affairs

SB52 - PERA Retirees Employed as Election Poll Workers

Sponsors Rep. Luciano Varela (D)
Sen. George K. Munoz (D)

Summary Authorizes a retired member under the Public Employees Retirement Act to be employed temporarily as a precinct board member for a municipal election or an election covered by the Election Code without affecting pension benefits. Those employed as precinct board members are designated as seasonal employees for purposes of determining eligibility for membership in PERA.

Complete 01/12/2012 - S - Pre-filed in the Senate
History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees
01/18/2012 - S - Also referred to Senate Rules
01/18/2012 - S - Also referred to Senate Judiciary
01/26/2012 - S - Reported germane by Senate Committee on Committees

SB65 - Severance Tax Bond Appropriations, State Agencies and Statewide

Sponsors Sen. Carlos R. Cisneros (D)

Summary Authorizes the issuance of severance tax bonds with proceeds appropriated for approximately 46 major projects throughout the state that include state park renovations, state water engineer projects, Bernalillo County Metro Court, the purchase of school buses statewide, information technology, State Road Fund, game and fish projects, Indian Water Rights Settlement, wastewater facilities, Santa Teresa port of entry southbound road, and more.

Complete 01/13/2012 - S - Pre-filed in the Senate
History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees
01/18/2012 - S - Also referred to Senate Finance
01/23/2012 - S - Reported germane by Senate Committee on Committees

SB66 - 2012 Capital Projects Bonds

Sponsors Sen. Carlos R. Cisneros (D)

Summary Cited as the "2012 Capital Projects General Obligation Bond Act," the bill provides funding for 169 capital projects through the issuance and sale of GOBs for senior citizen facility improvements, library acquisitions, construction and capital improvements, acquisitions at institutions of higher learning and state special schools. Also provides a tax levy for payment of the principal, interest and costs on related bonds. The authorization is subject to voter approval at the 2012 General Election.

Complete 01/13/2012 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Finance

01/23/2012 - S - Reported germane by Senate Committee on Committees

SB70 - Foreclosure Maintenance Act

Sponsors Rep. Eleanor Chavez (D)
Sen. Timothy M. Keller (D)

Summary Proposes the Foreclosure Maintenance Act to require the legal owner of a foreclosed residential real property to maintain the property.

Complete History 01/13/2012 - S - Pre-filed in the Senate

01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Public Affairs

01/18/2012 - S - Also referred to Senate Judiciary

01/25/2012 - S - Reported germane by Senate Committee on Committees

SB75 - Foreclosure Mediation Act

Sponsors Sen. Stephen H. Fischmann (D)

Summary Proposes the Foreclosure Mediation Act to provide for foreclosure mediation programs to assist homeowners and creditors and to require good faith loss mitigation review. \$2,000,000 (GF) is appropriated to the Administrative Office of the Courts to establish the foreclosure mediation program.

Complete 01/13/2012 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Judiciary

01/18/2012 - S - Also referred to Senate Finance

01/25/2012 - S - Reported germane by Senate Committee on Committees

SB79 - PERA Retirees Employed as Election Poll Workers

Sponsors Sen. Nancy Rodriguez (D)

Summary Authorizes a retired member under the Public Employees Retirement Act to be employed temporarily as a precinct board member for a municipal election or an election covered by the Election Code without affecting pension benefits. Those employed as precinct board members are designated as seasonal employees for purposes of determining eligibility for membership in PERA.

Complete 01/13/2012 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Rules

01/18/2012 - S - Also referred to Senate Judiciary

01/25/2012 - S - Reported germane by Senate Committee on Committees

SB145 - Property Tax Valuation of Residential Properties

Sponsors Sen. Tim Eichenberg (D)

Summary (Similar to 2011 SCORC/SB108) Changes the rules for valuing residential property for property taxation purposes, both for newly-constructed properties and existing properties.

Complete 01/23/2012 - S - Introduced and referred to Senate Committee on Committees

History 01/23/2012 - S - Also referred to Senate Judiciary

01/23/2012 - S - Also referred to Senate Finance

01/25/2012 - S - Reported germane by Senate Committee on Committees

01/30/2012 - S - Reported without recommendation by Senate Judiciary

SB165 - Santa Fe Teen Court

Sponsors Sen. Nancy Rodriguez (D)

Summary Appropriates \$50,000 (GF) to the First Judicial District Court to provide operational support for the Santa Fe Teen Court.

Complete History 01/23/2012 - S - Introduced and referred to Senate Committee on Committees

01/23/2012 - S - Also referred to Senate Judiciary

01/23/2012 - S - Also referred to Senate Finance

01/25/2012 - S - Reported germane by Senate Committee on Committees

01/30/2012 - S - Reported Do Pass by Senate Judiciary

SB168 - Repeals Film Production Tax Credit Cap

Sponsors Rep. Brian F. Egolf Jr. (D)

Sen. Phil A. Griego (D)

Summary Repeals the \$50,000,000 aggregate cap on the Film Production Tax Credit, thereby allowing the credit to be claimed in unlimited amounts.

Complete History 01/23/2012 - S - Introduced and referred to Senate Committee on Committees

01/23/2012 - S - Also referred to Senate Corporations and Transportation

01/23/2012 - S - Also referred to Senate Finance

01/25/2012 - S - Reported germane by Senate Committee on Committees

SB235 - Limits Issuance of Driver's Licenses to Immigrants

Sponsors Sen. Timothy Z. Jennings (D)

Summary Limits the issuance of driver's licenses to foreign nationals; limits the duration and provides for cancellation of such licenses; requires additional identification and proof of residency for foreign nationals; increases existing penalties and imposes new penalties.

Complete 01/26/2012 - S - Introduced and referred to Senate Committee on Committees

History 01/26/2012 - S - Also referred to Senate Public Affairs

01/26/2012 - S - Also referred to Senate Judiciary

01/30/2012 - S - Reported germane by Senate Committee on Committees

SB247 - Heavy Rail Mass Transit System Excise Tax Act

Sponsors Sen. George K. Munoz (D)

Summary The Heavy Rail Mass Transit Excise Tax Act would provide a dedicated funding source for the operation and maintenance costs of heavy rail mass transit systems, and impose these costs on the persons and locales primarily served by the systems. Defines a "heavy rail mass transit system" as an intercity passenger system for which the state is financially responsible in whole or in part, operating on dedicated or partially dedicated track separated from other traffic, and following gentle grades and curves.

Complete 01/27/2012 - S - Introduced and referred to Senate Committee on Committees

History 01/27/2012 - S - Also referred to Senate Corporations and Transportation

01/27/2012 - S - Also referred to Senate Finance

01/30/2012 - S - Reported germane by Senate Committee on Committees

SB258 - New Sources of Sole Community Provider Hospital Funds Funding

Sponsors Sen. Phil A. Griego (D)

Summary Authorizes the Sole Community Provider Fund established in Sec. 27-6-5.1 to include certified public expenditures made by public entities other than counties. County and other public entity expenditures are made to this fund in order to match federal funds for Medicaid sole community provider hospital payments. Adds a definition for "certified public expenditure" meaning an expenditure made by any public entity (including a county) that the Human Services Department can certify as an allowable Medicaid expense. Adds a definition for "public entity" including all state, local or tribal governments. Alphabetizes existing definitions in the section.

Complete 01/27/2012 - S - Introduced and referred to Senate Committee on Committees

History 01/27/2012 - S - Also referred to Senate Public Affairs

01/27/2012 - S - Also referred to Senate Finance

SB271 - Phases Out Municipal and County Save-Harmless Provisions; Road Funds

Sponsors Sen. John Arthur Smith (D)

Summary (Similar to 2011 SB 452) Eliminates over 15 years of the state's distributions to municipalities and counties of amounts equivalent to what the municipalities and counties would have received had the gross receipts deductions at 7-9-92 (retail sales of food) and 7-9-93 (certain medical services) not been enacted in 2004. Cuts the amount of the make-up distribution by either six or seven percent (in alternating years) each July 1 beginning July 1, 2012 until it reaches zero on July 1, 2026.

Complete 01/30/2012 - S - Introduced and referred to Senate Committee on Committees

History 01/30/2012 - S - Also referred to Senate Corporations and Transportation

01/30/2012 - S - Also referred to Senate Finance

HOUSE LEGISLATIVE ITEMS

HB2 - General Appropriations Act of 2012

Sponsors Rep. Henry Kiki Saavedra (D)

Summary A shell for a more comprehensive HB 2 that will surface later in the process. Cited as the General Appropriation Act, authorizes funding to various state agencies from the General Fund, Internal Services and Transfers, Other State Funds and Federal Funds in fiscal year 2013 as follows:

Complete 01/17/2012 - H - Introduced and referred to House Appropriations and Finance
History

HB9 - Appropriation for Wildfire Assistance

Sponsors Rep. Ben Lujan (D)

Summary HGAC amendment to HB09 changes the intent of the original bill by directing the appropriation for wildfire assistance to the Pueblos of Acoma, Cochiti, Jemez, Santa Clara and San Ildefonso instead of providing for statewide assistance.

Complete 01/18/2012 - H - Introduced and referred to House Health and Government Affairs
History 01/18/2012 - H - Also referred to House Appropriations and Finance
01/24/2012 - H - Reported Do Pass as amended by House Health and Government Affairs

HB35 - Public Meeting Agendas: 72-Hour Posting Requirement

Sponsors Rep. James E. Smith (R)

Summary Requires agendas for all public meetings subject to the notice provision of the Open Meetings Act to be made available to the public at least 72 hours prior to the meeting, rather than 24 hours as required under current law. Does not apply to emergency matters that may arise due to unforeseen circumstances, nor does it affect the 10 existing exceptions in the act for personnel and other confidential hearings.

Complete 12/27/2011 - H - Pre-filed in the House
History 01/18/2012 - H - Introduced and referred to House Rules
01/24/2012 - H - Committee referrals changed
01/24/2012 - H - Referral withdrawn from House Rules
01/24/2012 - H - Referred to House Consumer and Public Affairs
01/24/2012 - H - Also referred to House Health and Government Affairs



HB36 - Drug Courts: Liquor Tax Distribution

Sponsors Rep. Bill B. O'Neill (D)

Summary (For the Revenue Stabilization and Tax Policy Committee) (Identical in substance to HB38). Establishes a distribution from the Tax Administration Suspense Fund of 3.5 percent of the net receipts of the Liquor Excise Tax, exclusive of penalties and interest, to the Administrative Office of the Courts to supplement Drug Court funding.

Complete 12/29/2011 - H - Pre-filed in the House

History 01/18/2012 - H - Introduced and referred to House Business and Industry

01/18/2012 - H - Also referred to House Taxation and Revenue

HB38 - Liquor Excise Tax to Drug Courts

Sponsors Rep. Bill B. O'Neill (D)

Summary (Endorsed by the Courts, Corrections and Justice Committee and the Revenue Stabilization and Tax Policy Committee) (Identical in substance to HB36). Establishes a distribution from the Tax Administration Suspense Fund of 3.5 percent of the net receipts of the Liquor Excise Tax, exclusive of penalties and interest, to the Administrative Office of the Courts to supplement Drug Court funding.

Complete 01/04/2012 - H - Pre-filed in the House

History 01/18/2012 - H - Introduced and referred to House Business and Industry

01/18/2012 - H - Also referred to House Taxation and Revenue

01/27/2012 - H - Reported Do Pass by House Business and Industry

HB61 - Wildlands Fire Prevention Fund

Sponsors Rep. Ray Begaye (D)

Summary Earmarks 60 percent of the gross receipts attributable to the state gross receipts tax (but not local option taxes) for the Wildlands Fire Prevention Fund. Money in the fund is appropriated to the Forestry Division of the Energy, Minerals and Natural Resources Department for wildlands fire prevention projects.

Complete 01/13/2012 - H - Pre-filed in the House

History 01/18/2012 - H - Introduced and referred to House Business and Industry

01/18/2012 - H - Also referred to House Taxation and Revenue

HB75 - Restores Cigarette Tax Distribution to Local Governments

Sponsors Rep. Zachary J. Cook (R)

Summary Distributes to the county and municipal recreational fund 0.83 percent of the revenues from the cigarette tax. This distribution was terminated in 2010 by Governor's veto.

Complete 01/18/2012 - H - Introduced and referred to House Rules
History 01/30/2012 - H - Committee referrals changed
01/30/2012 - H - Referral withdrawn from House Rules
01/30/2012 - H - Referred to House Health and Government Affairs
01/30/2012 - H - Also referred to House Taxation and Revenue

HB85 - Repeals Annual Limit on Film Production Tax Credits

Sponsors Rep. Al Park (D)

Summary Repeals the \$50 million cap on the total amount of film production tax credits that may be approved annually. Remaining in place are the limitations on how fast the claim of an individual film production company may be credited. Credit claims totaling under \$2 may be granted in the year in which approved; claims equaling from \$2 million to \$5 million are granted in two equal annual installments; claims of \$5 million and more must be divided into three equal annual installments.

Complete 01/18/2012 - H - Introduced and referred to House Business and Industry
History 01/18/2012 - H - Also referred to House Taxation and Revenue

HB102 - Assessors to Issue Notice of Estimated Property Tax

Sponsors Rep. Alonzo Baldonado (R)

Summary HHGAC amendment to HB102 changes the bill by requiring tax assessors to include the prior year's valuation and assessment on all notice of valuation of residential property. Goes to HTRC.

Complete 01/19/2012 - H - Introduced and referred to House Health and Government Affairs
History 01/19/2012 - H - Also referred to House Taxation and Revenue
01/26/2012 - H - Reported Do Pass as amended by House Health and Government Affairs
01/31/2012 - H - Reported Do Not Pass but Do Pass as substituted by House Taxation and Revenue

HB103 - Social Security Number Required for Driver's License

Sponsors Rep. Andy Nunez (I)

Summary HLC substitute for HB103 has been compared line by line and is exactly the same as the original. The only change being that the bill, which was formerly sponsored by a host of Republican legislators, is now hosted by the House Labor and Human Resources Committee.

Complete 01/19/2012 - H - Introduced and referred to House Labor and Human Resources

History 01/19/2012 - H - Also referred to House Judiciary

01/27/2012 - H - Reported Do Not Pass but Do Pass as substituted by House Labor and Human Resources

HB117 - Phases out Film Production Tax Credits

Sponsors Rep. Dennis J. Kintigh (R)

Summary (Related to HB85) Eliminates over 20-25 years the film production tax credit. Replaces the limitations on amounts of approved claims that may be paid in a year with issuance of negotiated instruments in the full amount of the approved tax credit but redemption of these instruments is capped at no more than \$45 million per year.

Complete 01/19/2012 - H - Introduced and referred to House Business and Industry

History 01/19/2012 - H - Also referred to House Taxation and Revenue

HB143 - Foreclosure Fairness Act

Sponsors Rep. Brian F. Egolf Jr. (D)

Summary Requires a court to award reasonable attorney fees and costs to a defendant who prevails in a claim of foreclosure on a mortgage note secured by the defendant's primary residence, provided that the plaintiff is not an individual bringing the claim on his or her own behalf or on behalf of a sole proprietorship owned by the plaintiff.

Complete 01/23/2012 - H - Introduced and referred to House Rules

History

HB171 - Restrictions on Issuing Drivers' Licenses

Sponsors Rep. Bill B. O'Neill (D)

Summary (Related to HB103) Amends the Motor Vehicle Act to require that drivers' license issued on or after January 15, 2013 be acceptable by all federal agencies and be designed to be easily distinguishable from those not acceptable by federal agencies. Requires that all drivers' licenses issued on or after January 15, 2013 that are not acceptable to federal agencies be clearly labeled as such and carry the designation "J".

Complete
History 01/24/2012 - H - Introduced and referred to House Rules

HB188 - Counties: Classifications, Salaries

Sponsors Rep. Al Park (D)

Summary Eliminates five classifications of counties — first class through fifth class, with classes A, B, and C and H (Los Alamos only) remaining. Increases the salaries of elected officials in Class A, B and C Class counties. Those formerly in the eliminated classes would now be classified as Class C counties, which are those with final, fully assessed property valuations of less than \$75 million and a population of less than 100,000.

Complete 01/25/2012 - H - Introduced and referred to House Labor and Human Resources
History 01/25/2012 - H - Also referred to House Health and Government Affairs

HB191 - Capital Project Funding Changes

Sponsors Rep. Jim R. Trujillo (D)

Summary (Same as SB65) Authorizes the issuance of severance tax bonds with proceeds appropriated for approximately 46 major projects throughout the state that include state park renovations, state water engineer projects, Bernalillo County Metro Court, the purchase of school buses statewide, information technology, State Road Fund, game and fish projects, Indian Water Rights Settlement, wastewater facilities, Santa Teresa port of entry southbound road, and more.

Complete 01/25/2012 - H - Introduced and referred to House Taxation and Revenue
History 01/25/2012 - H - Also referred to House Appropriations and Finance

HB224 - State Fees on Distribution of GRT to Local Government

Sponsors Rep. Luciano Varela (D)

Summary Amends Sec. 7-1-6.41 of the Tax Administration Act to set the fee imposed by the Taxation and Revenue Department for administering the food and medical gross receipts tax deductions and distributing the monthly "hold harmless" offsets to municipalities and counties pursuant to Sec. 7-1-46 and Sec. 7-1-47. These distributions are to insulate the cities and counties from reductions in their gross receipts taxes due to food and medical deductions. Sets the fee at three and one-fourth percent of the net amounts distributed. Authorizes the fee to be withheld from the distributions and retained by the department, and appropriates the fees to the department for audit and collection purposes.

Complete 01/26/2012 - H - Introduced and referred to House Health and Government Affairs
History 01/26/2012 - H - Also referred to House Taxation and Revenue

HB244 - Guest Driver's Permits for Undocumented Persons

Sponsors Rep. David C. Chavez (R)

Summary Provides that foreign national applicants for New Mexico driver's licenses must have documentation issued by the federal government authorizing the applicant's presence in the United States. Persons without such documentation are not eligible for a driver's license or permit. Driver's licenses previously issued to foreign nationals who did not provide valid federal documentation shall all expire on December 31, 2012, even those with a different expiration date on the license. Foreign nationals holding such licenses may surrender them and apply for a guest driver's permit.

Complete 01/27/2012 - H - Introduced and referred to House Rules
History

SB35 - Appropriation for County and Tribal Health Councils

Sponsors Sen. Linda M. Lopez (D)

Summary (For the Legislative Health and Human Services Committee) Appropriates \$1.9 million (GF) to the Department of Health for FY2013 expenditures in the state's 38 county and tribal health councils.

Complete 01/06/2012 - S - Pre-filed in the Senate

History 01/18/2012 - S - Introduced and referred to Senate Committee on Committees

01/18/2012 - S - Also referred to Senate Indian and Cultural Affairs

01/18/2012 - S - Also referred to Senate Finance

01/23/2012 - S - Reported germane by Senate Committee on Committees

01/27/2012 - S - Reported Do Pass by Senate Indian and Cultural Affairs [Listen]

Senate Bill 145

Applies To All Residential Improved Properties That Sold Between 2004 to 2012

EXAMPLE

2003
\$ 200K
Assessor's Value

2004
\$206K
Assessor's Value

2005
\$ 300K +-
Assessor's Value

Property Sells
for \$ 300,000

2004	2005	2006	2007	2008	2009	2010
\$206,000	\$212,180	\$218,545	\$225,101	\$231,854	\$238,810	\$245,974

2011	2012
\$253,353	\$260,954

2013
\$268,783

EXHIBIT
4

Senate Bill 145

Applies To All Newly Constructed Residential Improved Properties Built Between 2004 to 2012

$$\begin{array}{rcccl} \$ 300,000 & \times & .75 & = & \$225,000 \\ \text{2004 Assess Value} & & \text{Pre-Sales Ratio} & & \text{Adjusted base value} \\ \text{\& First Year Assessed} & & & & \end{array}$$

2004	2005	2006	2007	2008	2009	2010
\$225,000	\$231,750	\$238,703	\$245,864	\$253,240	\$260,837	\$268,662

2011	2012
\$276,722	\$285,024

2013
\$293,576

Effects of Senate Bill 145 To Santa Fe County

- Tremendous loss to the tax base.
- Tax rates would increase for all properties not receiving any adjustment in valuation.
- Bonding capacity could be reduced for all entities relying on property tax.
- Further complicates the method for assessor to defend residential property values.
- More difficult for the property owner to understand how assessor derived value.

Senate Bill 145

The Appellate Court has convened on this issue.
What happens if the appellate court rules that
the cap is constitutional?

If the current statute is not broken
do we need a fix?

NMAC Board of Directors has voted to oppose this bill

The Majority of the Assessors have voted to oppose this bill.

SENATE BILL 145

50TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2012

INTRODUCED BY

Tim Eichenberg

AN ACT

RELATING TO TAXATION; EXTENDING THE THREE PERCENT LIMIT ON ANNUAL VALUATION INCREASES TO RESIDENTIAL PROPERTIES REGARDLESS OF WHETHER A CHANGE IN OWNERSHIP OCCURRED IN THE PRIOR TAX YEAR; PROVIDING FOR A REDUCTION IN RESIDENTIAL PROPERTY VALUE BEGINNING IN THE YEAR THE PROPERTY HAS A CHANGE OF OWNERSHIP OR IS VALUED AS NEW CONSTRUCTION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 7-36-16 NMSA 1978 (being Laws 1973, Chapter 258, Section 18, as amended) is amended to read:

"7-36-16. RESPONSIBILITY OF COUNTY ASSESSORS TO DETERMINE AND MAINTAIN CURRENT AND CORRECT VALUES OF PROPERTY.--

A. County assessors shall annually determine values of property for property taxation purposes in accordance with the Property Tax Code and the regulations, orders, rulings and instructions of the department. Except as limited in Section 7-36-21.2 NMSA 1978, they shall also implement a program of updating property values so that current and correct values of property are maintained and shall have sole responsibility and authority at the county level for property valuation

SFO CLERK RECORDED 03/01/2012

maintenance, subject only to the general supervisory powers of the director.

B. The director shall implement a program of regular evaluation of county assessors' valuation activities with particular emphasis on the maintenance of current and correct values.

C. Upon request of the county assessor, the director may contract with a board of county commissioners for the department to assume all or part of the responsibilities, functions and authority of a county assessor to establish or operate a property valuation maintenance program in the county. The contract shall be in writing and shall include provisions for the sharing of the program costs between the county and the department. The contract must include specific descriptions of the objectives to be reached and the tasks to be performed by the contracting parties. The initial term of any contract authorized under this subsection shall not extend beyond the end of the fiscal year following the fiscal year in which it is executed, but contracts may be renewed for additional one-year periods for succeeding years.

D. The department of finance and administration shall not approve the operating budget of any county in which there is not an adequate allocation of funds to the county assessor for the purpose of fulfilling [~~his~~] the county assessor's responsibilities for property valuation maintenance under this section. If the department of finance and administration questions the adequacy of any allocation of funds for this purpose, it shall consult with the department, the board of county commissioners and the county assessor in making its determination of adequacy.

E. To aid the board of county commissioners in determining whether a county assessor is operating an efficient program of property valuation maintenance and in determining the amount to be allocated to ~~[him]~~ the county assessor for this function, the county assessor shall present with ~~[his]~~ the county assessor's annual budget request a written report setting forth improvements of property added to valuation records during the year, additions of new property to valuation records during the year, increases and decreases of valuation during the year, the relationship of sales prices of property sold to values of the property for property taxation purposes and the current status of the overall property valuation maintenance program in the county. The county assessor shall send a copy of this report to the department."

SECTION 2. Section 7-36-21.2 NMSA 1978 (being Laws 2000, Chapter 10, Section 2, as amended) is amended to read:

"7-36-21.2. LIMITATION ON INCREASES IN VALUATION OF RESIDENTIAL PROPERTY.--

A. Except as required in this section, residential property shall be valued at its current and correct value in accordance with the provisions of the Property Tax Code; provided that for the ~~[2001]~~ 2012 and subsequent tax years, the value of ~~[a]~~ property in any tax year shall not exceed ~~[the higher of]~~ one hundred three percent of the value in the tax year prior to the tax year in which the property is being valued ~~[or one hundred six and one-tenth percent of the value in the tax year two years prior to the tax year in which the property is being valued]~~. This limitation on increases in value does not apply to:

(1) a residential property in the first tax year that it is valued for property taxation purposes;

(2) any physical improvements, except for solar energy system installations, made to the property during the year immediately prior to the tax year or omitted in a prior tax year; or

(3) valuation of a residential property in any tax year in which

~~[(a) a change of ownership of the property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined; or~~

~~(b)] the use or zoning of the property has changed in the year prior to the tax year.~~

~~[B. If a change of ownership of residential property occurred in the year immediately prior to the tax year for which the value of the property for property taxation purposes is being determined, the value of the property shall be its current and correct value as determined pursuant to the general valuation provisions of the Property Tax Code.]~~

B. Residential property in the first tax year that it is valued for property taxation purposes shall be valued by multiplying the market value of the property by the presales assessment ratio generated for the tax year.

C. In 2012, all residential property that had a change of ownership in or after the 2004 tax year and before the 2012 tax year shall be valued at the value of the property in the year immediately preceding the year the change of ownership occurred and that value shall be increased by no more than three percent for each year following the transfer through the 2011 tax year; provided that the value of the

property for the 2012 tax year shall not exceed its current and correct value.

D. In 2012, all residential property that had been valued as new construction in or after the 2004 tax year and before the 2012 tax year shall be valued by multiplying the market value of the property in the first tax year that the new construction is valued for property taxation purposes by the presales assessment ratio for the tax year for the county in which the new construction is located and that value shall be increased by no more than three percent for each year following the first year for which the property was valued through the 2011 tax year; provided that the value of the property for the 2012 tax year shall not exceed its current and correct value.

[~~C.~~] E. To assure that the values of residential property for property taxation purposes are at current and correct values in all counties prior to application of the limitation in Subsection A of this section, the department shall determine for the 2000 tax year the sales ratio pursuant to Section 7-36-18 NMSA 1978 or, if a sales ratio cannot be determined pursuant to that section, conduct a sales-ratio analysis using both independent appraisals by the department and sales. If the sales ratio for a county for the 2000 tax year is less than eighty-five, as measured by the median ratio of value for property taxation purposes to sales price or independent appraisal by the department, the county shall not be subject to the limitations of Subsection A of this section and shall conduct a reassessment of residential property in the county so that by the 2003 tax year, the sales ratio is at least eighty-five. After such reassessment, the limitation on increases in valuation in this section shall apply in those counties in the earlier of the 2004 tax year or the first tax year following the tax year that the county has a sales ratio of

eighty-five or higher, as measured by the median ratio of value for property taxation purposes to sales value or independent appraisal by the department. Thereafter, the limitation on increases in valuation of residential property for property taxation purposes in this section shall apply to subsequent tax years in all counties.

~~[D.]~~ F. The provisions of this section do not apply to residential property for any tax year in which the property is subject to the valuation limitation in Section 7-36-21.3 NMSA 1978.

~~[E.]~~ G. As used in this section:

(1) "change of ownership" means a transfer to a transferee by a transferor of all or any part of the transferor's legal or equitable ownership interest in residential property except for a transfer:

~~[+1]~~ (a) to a trustee for the beneficial use of the spouse of the transferor or the surviving spouse of a deceased transferor;

~~[+2]~~ (b) to the spouse of the transferor that takes effect upon the death of the transferor;

~~[+3]~~ (c) that creates, transfers or terminates, solely between spouses, any co-owner's interest;

~~[+4]~~ (d) to a child of the transferor, who occupies the property as that person's principal residence at the time of transfer; provided that the first subsequent tax year in which that person does not qualify for the head of household exemption on that property, a change of ownership shall be deemed to have occurred;

[+5] (e) that confirms or corrects a previous transfer made by a document that was recorded in the real estate records of the county in which the real property is located;

[+6] (f) for the purpose of quieting the title to real property or resolving a disputed location of a real property boundary;

[+7] (g) to a revocable trust by the transferor with the transferor, the transferor's spouse or a child of the transferor as beneficiary; or

[+8] (h) from a revocable trust described in [~~Paragraph (7)~~] Subparagraph (g) of this [~~subsection~~] paragraph back to the settlor or trustor or to the beneficiaries of the trust;

(2) "presales assessment ratio" means a ratio generated annually by the department for each county and found in the annual sales ratio study of the property tax division of the department derived by dividing current year property assessments by current and correct values generated from arm's length sales transactions; and

[~~F. As used in this section~~] (3) "solar energy system installation" means an installation that is used to provide space heat, hot water or electricity to the property in which it is installed and is:

[+1] (a) an installation that uses solar panels that are not also windows;

[+2] (b) a dark-colored water tank exposed to sunlight; or

[+3] (c) a non-vented trombe wall."

SECTION 3. APPLICABILITY.--

A. The provisions of Section 1 of this act apply to property tax years beginning on or after January 1, 2012.

B. The provisions of this act apply to valuation of residential property for tax year 2012 or succeeding tax years.

SECTION 4. EFFECTIVE DATE.--The effective date of the provisions of this act is January 1, 2013.

THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY

ORDINANCE NO. 2012-_____

AN ORDINANCE CONCERNING THE COUNTY'S AFFORDABLE HOUSING PROGRAM; REPEALING SPECIFIED PORTIONS OF ORDINANCES NO. 2006-02, 2009-01 AND 2010-09; ENACTING REPLACEMENT PROVISIONS THAT REDUCE THE AMOUNT OF AFFORDABLE HOUSING FROM 30% TO 15% OF THE TOTAL HOUSING PROVIDED IN A MAJOR PROJECT, AND REDUCING FROM 16% TO 8% THE AFFORDABLE HOUSING PROVIDED IN A MINOR PROJECT; AMENDING THE AFFORDABILITY LIEN TO PROVIDE FOR AMOUNTS CONTRIBUTED TO THE AFFORDABLE UNIT BY THE COUNTY PURSUANT TO ORDINANCE NOS. 2009-14, 2010-03 AND 2011-6; AND PROVIDING FOR THE REMAINDER OF THE AFFORDABILITY LIEN TO DECLINE TO MATCH THE APPRECIATION SHARE LIEN TO PROTECT LONG-TERM AFFORDABILITY.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SANTA FE COUNTY THAT SPECIFIED PORTIONS OF ORDINANCES NO. 2006-02, 2009-01 AND 2010-09 ARE HEREBY REPEALED AND REPLACEMENT PROVISIONS ENACTED AS FOLLOWS:

Section One. Subsections 4(A) and 4(B) of Ordinance No. 2006-02 ("Affordable Housing Requirements") shall be and are repealed and new subsections 4(A) and 4(B) enacted as follows:

"Section Four. Affordable Housing Requirements.

"A. Of the total housing provided in any Major Project, no less than fifteen percent (15%) shall be Affordable Housing as defined herein. Of the total housing provided in any Minor Project, no less than eight percent (8%) shall be Affordable Housing as defined herein.

"B. The distribution of the Affordable Units provided in connection with a Major Project shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (3.75%), Income Range 2 (3.75%), Income Range 3 (3.75%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (3.75%). The distribution of the Affordable Units provided in connection with a Minor Project, except as otherwise set forth in Section Five of this Ordinance, shall include Affordably Priced Housing Units provided equally to Eligible Buyers in Income Range 1 (2%), Income Range 2 (2%), Income Range 3 (2%), and Entry Market Housing Units provided to Entry Market Buyers in Income Range 4 (2%)."

Section Two. Subsection 16(A) of Ordinance No. 2006-02 shall be and hereby is repealed and a new subsection 16(A) enacted as follows:

"Section Sixteen. Alternate Means of Compliance.

"A. A Project may alternatively meet all or a portion of its obligation to provide Affordable Housing by:

"1. providing Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Attachment A, subject to the provisions of Section Sixteen (D) of this Ordinance;

"2. making a cash payment that is equal to or greater value than would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing Regulations;

"3. dedicating property suitable for construction of Affordable Units outside the Project but within central and northern Santa Fe County, as shown on Attachment A, whose value is equal to or greater than that which would have been required if the Project had been constructed or created Affordable Units as provided in this Ordinance, applying the methodology set forth in the Affordable Housing Regulations; or

"4. otherwise providing Affordable Units in a manner that is consistent with the goals and objectives of this Ordinance (including providing rental homes in lieu of homes for purchase, so long as the initial market value rental payments do not exceed that which an affordable buyer would have to pay to purchase a home in the income ranges specified in the affordable housing regulations).

Section Three. Section One of Ordinance No. 2009-01 (amending subsection 18(A) ("Long-term Affordability") of Ordinance No. 2006-02) shall be and hereby is repealed together with Ordinance No. 2010-09 and a new subsection 18(A) of Ordinance No. 2006-02 shall be adopted as follows:

"A. Each Affordable Housing Agreement shall include a form of lien, mortgage or other instrument (hereinafter referred to as "the Affordability Mortgage or Lien") that shall be executed and recorded along with the deed conveying the Affordable Unit to the first buyer, and that instrument shall create a mortgage or lien in favor of the County ~~in the amount of the assistance provided pursuant to Ordinance Nos. 2009-14, 2010-03 and 2011-6 as specified in Ordinance Nos. 2009-14 and 2010-03, and a mortgage or lien in favor of the County~~ in the amount of the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the

Affordable Unit at the time of initial sale, as determined by an appraisal approved by the County which specifies that the value of the mortgage or lien is calculated at any given point by multiplying the number of full years that have elapsed from the date of first sale of the Affordable Unit by 0.10 and then multiplying that result by the difference between the Maximum Target Housing Price and ninety-five percent of the unrestricted fair market value of the Affordable Unit at the time of initial sale. The liens, mortgages or other instruments shall be duly executed and recorded in the Office of the County Clerk.

Section Four. All other provisions of Ordinances No. 2006-02, 2009-01 and 2010-9 shall remain in force.

PASSED, APPROVED AND ADOPTED this 31st day of January, 2012.

**THE BOARD OF COUNTY COMMISSIONERS
OF SANTA FE COUNTY**

By: _____
Liz Stefanics, Chair

ATTEST:

Valerie Espinoza, Santa Fe County Clerk

APPROVED AS TO FORM:

Stephen C. Ross, Santa Fe County Attorney

SFC CLERK RECORDED 03/01/2012