

SANTA FE COUNTY
BOARD OF COUNTY COMMISSIONERS
REGULAR MEETING

February 10, 2009

Michael Anaya, Chair – District 3
Harry Montoya, Vice Chair – District 1
Kathy Holian – District 4
Liz Stefanics – District 5
Virginia Vigil – District 2

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This regular meeting of the Santa Fe Board of County Commissioners was called to order at approximately 3:05.m. by Chair Mike Anaya, 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 Mike Anaya, Chair
Commissioner Harry Montoya, Vice Chair
Commissioner Kathleen Holian
Commissioner Liz Stefanics
Commissioner Virginia Vigil

Members absent:

[None]

V. INVOCATION

An invocation was given by Anna Rodriguez from the Legal Department.

VI. APPROVAL OF THE AGENDA

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- B. Tabled or Withdrawn Items**

ROMAN ABEYTA (County Manager): Thank you, Mr. Chair. We have several amendments this afternoon, the first coming under X. Matters from the Commission. We added C, A resolution recognizing and celebrating February 14 as Love Your River Day. We added D, discussion and possible approval for an expenditure of community service funds in the amount of \$5,000 to Santa Fe County Growth Management, Public Works Division for the provision of acequia funds. We added an item E, which is a resolution

supporting HB 19 extending the authority of the Office State Engineer to regulate aquifers below 2500 feet. And we added an item F, which is discussion and possible approval for an expenditure of community funds in the amount of \$5,000 to the La Puebla Community Ditch for the provision of acequia improvements.

Under the Consent Calendar, Mr. Chair, XII. A. Findings of Fact, 1. LCDRC Case #MP/S 06-5212, staff is requesting that that be tabled.

On the next page of the agenda, page 3, XIV. Public Hearings, A. Growth Management Department, 1, Consideration and adoption of an emergency interim development ordinance, staff is withdrawing that ordinance. Item number 3, CDRC Case #MO 08-5440, Tierra Bello Subdivision, has been tabled. Item number 4, CDRC Case #MP 08-5430, Spirit Wind Ranch Subdivision is tabled. And finally, Mr. Chair, item number 5, Commonweal Conservancy, Inc. proposed public improvement district, we received a request by the applicant that that be tabled also. Those are the staff amendments to today's agenda, Mr. Chair.

CHAIRMAN ANAYA: Any other changes to the agenda, Commissioners?

COMMISSIONER MONTOYA: Move for approval as amended.

CHAIRMAN ANAYA: Motion by Commissioner Montoya.

COMMISSIONER STEFANICS: Second.

CHAIRMAN ANAYA: Second by Commissioner Stefanics. Any further discussion?

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

VII. APPROVAL OF CONSENT CALENDAR

A. Consent Calendar Withdrawals

CHAIRMAN ANAYA: Let's go to withdrawals first. Hearing none, is there a motion to approve?

COMMISSIONER HOLIAN: So moved.

CHAIRMAN ANAYA: There's a motion by Commissioner Holian. Second by Chairman Anaya. Any further discussion?

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

XII. CONSENT CALENDAR

B. Miscellaneous

- 1. Request Approval of Grant No. 2008-DJ-BX-0502. The Edward Byrne Memorial Justice Assistance Grant Program (JAG) Offers State, Tribal and Local Governments With Funding to Prevent and Control Crime Based on Their Local Needs and Conditions**

- \$11,644.00 (Sheriff's Office)**
- 2. Request Approval of Grant PA# 08-HE-64-P04A Between NMDOT, Transportation Programs Division, Traffic Safety Bureau and the Santa Fe County Sheriff's Office \$12,000.00 (Sheriff's Office)**
 - 3. Consideration and Approval of the Purchase Agreement By and Between Santa Fe County and Robert Montoya for 58.8 Acres-Feet of Pre-1907 Water Rights from the Middle Rio Grande (Legal Department)**

VIII. APPROVAL OF MINUTES

A. January 9, 2009

COMMISSIONER VIGIL: Move to approve.

CHAIRMAN ANAYA: Motion by Commissioner Vigil. Second by Chairman Anaya. Any further discussion?

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

B. January 13, 2009

COMMISSIONER VIGIL: I have a correction, Mr. Chair.

CHAIRMAN ANAYA: Is that a motion and a correction?

COMMISSIONER VIGIL: No. I don't have a –

CHAIRMAN ANAYA: Okay. What's your correction?

COMMISSIONER VIGIL: And I will make a motion unless there are further corrections. Just Virginia Vigil, Vice Chair is no longer. It's Harry Montoya Vice Chair, on the cover page and in the front of the meeting.

CHAIRMAN ANAYA: Okay. There's been a motion and a correction. Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Motion and second by Commissioner Holian.

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

IX. MATTERS OF PUBLIC CONCERN –NON-ACTION ITEMS

CHAIRMAN ANAYA: Is there anybody out there that wants to talk to the Commissioners. Matters of Public Concern.

X. MATTERS FROM THE COMMISSION

CHAIRMAN ANAYA: And I'm not going to talk about what's on the agenda. I want to talk about what's on your mind. Commissioner Holian.

COMMISSIONER HOLIAN: I have something, Mr. Chair. Last week I attended a workshop that was hosted by Sonoma County and it was on or had a strong orientation towards talking about green jobs and what we do. The workshop was attended by elected officials from counties and municipalities all over the country. It was attended by county and city staff. There were business owners there. There were even some staff members from Los Alamos who attended the meeting. The focus of it was on how do we create green jobs? Which projects make sense to do? How do we help each other, different communities and counties and municipalities, how do we help each other in coming up with ideas of what to do and for finding funding for providing for those green jobs.

Just as an aside, Sonoma County itself with the seven municipalities within the county came up with \$100 million of their own money. They are using that money to provide up front funding for home energy efficiency retrofits and probably also for public buildings as well. And so that would include the installation of any kind of additions to houses that would save energy, and they'd have to be attached to the house because the payback of this up front funding is through property taxes. So I am very interested in looking into doing something like that in our own county. I think that there's a coalescing around the country that everybody agrees that retrofitting homes for increased energy efficiency is a good thing to do.

So I thought highly enough of this collection of people that I actually signed up for helping organize the next meeting in Santa Fe, New Mexico.

CHAIRMAN ANAYA: Thank you, Commissioners. Commissioner Stefanics, do you have anything?

COMMISSIONER STEFANICS: Not at this time. Thank you.

CHAIRMAN ANAYA: Okay. Commissioner Vigil.

COMMISSIONER VIGIL: I do. Roman and our Land Use staff and our water staff and everyone, all staff who are participating in the planning process, I want you to know how impressed I was with at least the part that I attended which was last night. The elected officials component I thought had some useful information. The meeting in the evening was well attended. I actually really enjoyed it. It was pretty exciting. Jack, you did a stellar job. I was particularly impressed with the education that I received on our missed opportunities. So I hope to be able to attend tonight's meeting. I know that there are quite a few participants that were there last night and I think we're going to have more focus groups tonight. It is the El Centro area. It's at 6:00 at Santa Fe Community College in the Jemez Room, and those people who are interested in annexation, because that's a huge part of this area. Those people who are interested in the Santa Fe River restoration project, it's a part of this area. The Rail Runner is a part of this area. Everything north of 599, it includes three traditional villages, Tesuque, La Cienega and Agua Fria. That's a component of the planning process in this area.

I'm incredibly in awe how challenged we are with this, but I'm also quite respectful and hopeful of the process. And excited. Thank you very much to all the staff who participated in that. And I wish you success in all your other planning areas.

CHAIRMAN ANAYA: Thank you, Commissioner. Commissioner Montoya.

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Just a couple on that note. I just wanted to thank staff also for their facilitation of the El Norte region last week. I think it went fairly well. I think certainly the facilitators were given an El Norte welcome, that's for sure. So they know exactly what the Commissioner in that area deals with on a daily basis – a myriad of issues which are certainly unique probably to a lot of the other Commission districts in Santa Fe County and really throughout the country.

I attended this last Friday, the North Central Regional Transit District had its meeting and also had a retreat in the afternoon. We'll continue to have these retreats to determine kind of what the board organizational structure is going to look like. Staff responsibilities. A lot of real basic things that have been and are being discussed. I would invite – because I'm not going to be able to be at the next meeting on March 6th – any Commissioner that might be able to be there to at least offer whatever comments, suggestions, you may have in terms of our participation.

Again, I will say that my fear is that they're going to attempt to dismantle what it is that we have done to get to this point in terms of at least the voting process, which is a weighted voting process, of which I had not anticipated that this would be – or even perceived this to be a problem but apparently there are some board members who feel that the weighted process is not, I guess, an equitable way to determine how we do business, when the fact of the matter is Santa Fe County certainly has more population than all of the other entities combined. So I would just caution that that is, I believe in the works in terms of trying to dismantle the voting weighted process.

I just wanted to inform and invite the Commission, February 18th is DWI Day at the roundhouse. We do have bills that we're following there in terms of specifically local option. And then I believe, Mr. Chair, that 21st is also a board meeting for the Association of Counties that we have to I think further discuss some of the legislation that we have and will be following throughout the rest of the legislature.

That's all I have right now, Mr. Chair, and just I am planning a jail walk-through at some point. I do want to do that and that is part of the responsibilities that we have also as Commissioners to do that, I believe, what? Twice a year, Roman? So I'll be scheduling that soon. And scheduling other meetings also with pueblo governors. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner. I have a three items. The first one is our advisory committees for the County. I had a meeting today with some of the advisory committee members from the Jail Advisory Committee or Correctional Advisory Committee, and they seemed to be concerned, and I am too, on how and what our advisory committees are supposed to be doing. Some of our advisory committees are directly in contact with our – well, our Jail Advisory Committee is directly in contact with our warden, and I don't think that's the way it should be set up. I think the advisory committees are to

advise the Commission and then the Commission let's Roman know what to do with the director or the warden or whatever the committee is supposed to be advising. I don't think they advise, for example, the Road Department. They need to advise the Commission and then the Commission advised the Manager.

That's the way I always thought it should work. And then me and Roman talked about possibly having the Road Advisory or our advisory committees come to the Board and talk to us and let us know what is happening in their committee. That way we can give clear direction to Roman so Roman can give clear direction to the director or the warden or whoever it may be, and then there won't be any confusion. Some of our advisory committees, they haven't even elected a vice chair. I think it's important that they go through the same procedures we do. They follow the same procedures. And that they have a structure to follow. That way they can take votes on the advisory committee and they can come before this Board and advise us on what they think.

I wanted to bring that up because I wanted to know if that's how the rest of the Commissioners felt or do they feel that our advisory committees are supposed to speak directly to the directors? I open that up for discussion.

COMMISSIONER STEFANICS: Mr. Chair, while I was campaigning it actually came to my attention that volunteers who are on some of advisory committees would like to occasionally – not every month – but occasionally come before the Board of County Commissioners and do some small report. And while they might be represented by staff, they also would like to be seen and heard by us as well. So I would encourage a process to be set up, if we don't have one already, for all of our different advisory committees to maybe rotate through during the year, once or twice.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: Thank you, Mr. Chair. I read the resolution for at least the Jail Advisory Board recently, but I can't recall if in the resolution it allows or requires for the advisory book to give a presentation on an annual, semi-annual or quarterly basis. Do you recall, Steve, at all, or Roman?

MR. ABEYTA: Mr. Chair, Commissioner Vigil, I believe that requires an annual report to the Commission, but I'll review that. Along with all the other committees. We need to take a look at – first of all, we've got to compile a list, as one of the Commissioners suggested last meeting of all our committees. I don't know that we know how many committees we actually have, and then we need to look at the resolutions that created the committees and see if it's still applicable or if conditions have changed. The Jail Advisory Committee is a good example. That committee was set up because they jail was being run by a private company, and that was the purpose of that committee was so that there was that interaction with the public. But their focus or their charge may have changed now over the years since we're no longer having private corporations running our facilities and we're running them ourselves. It will be a good exercise for us to gather all the information we have on our committees, take a look at their charge and see whether or not we need to amend that, and then get them on a schedule so that they do report on a regular basis to the

Commission.

COMMISSIONER VIGIL: Mr. Chair, I actually think that that's true of some of the other committees but I'm not recalling exactly. I agree. A process or procedure should be put in the place. One of the benefits of them coming before the Commission is we're all hearing the same message, and I think that's important to have. I also think it's important that we have staff input somehow in this process, because – and I'm not sure how that will be designed, but part of the problem I at least had with advisory members is I would hear a complaint and then I would contact staff and after the resolution was already in place or had been done. Most of the complaints that we will hear isn't something that staff is not addressing, so as long as we have an appropriate input of staff throughout the process of reporting I think that there should be something structured.

CHAIRMAN ANAYA: So does all the Commission feel the same? Is that a bunch of heads nodding? So Roman, give us the list of the advisory committees and then let's try to come up with their duties, and then we can probably hear from them maybe, I don't know, I'll throw it out, three times a year. Each committee, the chairman comes or somebody from that respective committee comes and reports to us on what the Board thinks that we should be doing. Okay? Thank you.

And then, on this emergency interim development committee ordinance, that has been tabled a couple times and then it's been withdrawn. What does withdrawn mean?

MR. ABEYTA: Mr. Chair, withdrawn means that it will not be considered by the Commission.

CHAIRMAN ANAYA: Okay. So those people out there that are in the audience that are wondering, do we have to come back next week? Or can we continue with our projects? Can we continue with our investors? Can the investors feel comfortable coming back into business with me – not me but them? They're okay to do that?

MR. ABEYTA: Mr. Chair, yes. We will put out a press release or information that explains that and makes that clear. One thing though, as we go through this growth management plan and we continue to work through that we will keep an eye on the number of applications that are getting submitted and if we think that there is a need to have the discussion with the Commission again we will do that, but we will give plenty of notice to both the Commission and the public. But for now it's withdrawn.

CHAIRMAN ANAYA: Okay. I wanted to get that clear. And then Robert Martinez, when I was coming into my meeting I got a call from Daniel C de Baca from La Cienega who had an issue with County Road 54 by Las Golondrinas. He said something about the culvert wasn't finished or the guardrails aren't up. Can you tell me what's going on there?

ROBERT MARTINEZ (Public Works Director): Mr. Chair, that is correct. We finished paving County Road 54 a few months back but there still is some items lacking like the guardrail. We do have a project in that area to do some bank stabilization to allow for more bank area to install the guardrail but we realize it's not complete and we're moving on that. But I will call Mr. C de Baca.

CHAIRMAN ANAYA: And you'll let him know?

MR. MARTINEZ: Will do.

CHAIRMAN ANAYA: Thank you, Robert.

X. A. A Resolution in Support of Domestic Partner Rights and Responsibilities at the State Legislature (HB21/SB12) (Commissioner Stefanics) [Exhibit 1: Resolution Text]

COMMISSIONER STEFANICS: Thank you, Mr. Chair and Commissioners. Doña Ana County recently passed this resolution supporting domestic partner rights in the legislature with the bills proceeding through the legislature. Representative Mimi Stewart has a bill. Senator Cisco McSorley has a bill. Our own senator Peter Wirth has a bill and there might be some others before this is all over with. The Santa Fe City Council has also taken a position supporting these bills, and so I bring it to the Commission to ask the Santa Fe Board of Commissioners to support the domestic partner bills in the legislature.

Santa Fe County has recognized sexual orientation in its anti-discrimination policies since 2000. I recently learned that about 10 percent of our County employees are registered as domestic partners at the Human Resource Department so that they can access benefits. So I believe that if we can take a position on this that our employees would feel supported, and that we could say to the legislature that we support those bills. I can read the resolution and then I can answer any questions that the Commissioners have.

Whereas, the Santa Fe County Board of County Commissioners is tasked to represent and address the needs of its residents; and

Whereas, the New Mexico Legislature will likely consider domestic partner legislation in the 2009 session that would allow both committed heterosexual and homosexual partners to formally register their partnerships at any County Clerk's office and subsequently enjoy all the benefits and assume all the legal obligations granted to married partners in the State of New Mexico; and

Whereas the Santa Fe County Board of County Commissioners has included sexual orientation in its anti-discrimination policies since 2000.

Now therefore be it resolved that the Board of County Commissioners of Santa Fe County does hereby strongly encourage the New Mexico Legislature to pass legislation related to domestic partners that will create true equality under the law in New Mexico for all its residents.

I'll so move.

CHAIRMAN ANAYA: There's been a motion by Commissioner Stefanics. Is there a second?

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: A second by Commissioner Holian. Any discussion?
Commissioner Vigil.

COMMISSIONER VIGIL: Commissioner Stefanics, is this the same resolution that the City passed and Doña Ana? And are any other counties and cities considering it?

COMMISSIONER STEFANICS: This is the same resolution that Doña Ana County passed. I don't know the exact language that the City of Santa Fe passed. We did add here at Santa Fe County the last whereas, because of our sexual orientation in our anti-discrimination policy since 2000. That's the only thing we've added to the Doña Ana County resolution. Other counties are looking at this matter. Some are supporting it and some are opposing it. And so I bring it to you for your consideration today. This is not – the domestic partners bill in the legislature, Commissioners, is not a marriage bill. And they're very clear they're not entering into marriage. They're not entering into a religious situation. It's strictly around domestic partner benefits that could be acknowledged in the state of New Mexico. It would not affect federal benefits either.

CHAIRMAN ANAYA: What about state?

COMMISSIONER STEFANICS: It would affect state. If the domestic partner bill passed in the state any state right that people can have that are not tied to the IRS rules they could have similar to a married couple. They would not be married but they would be similar rights and benefits. They also would have the same debt and obligations under this domestic partner bill as well.

CHAIRMAN ANAYA: Any other questions, comments?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Commissioner Stefanics, you said they will not have federal benefits. What would be some of the federal?

COMMISSIONER STEFANICS: Mr. Chair, Commissioner Montoya, the IRS has either 115 or 151 federal benefits that are afforded to married couples, and those are not – those federal benefits are not ones that could be given to domestic partners. The most common one is Social Security. So domestic partners would not be entitled to Social Security for their partner because it is not a marriage.

COMMISSIONER MONTOYA: And then my understanding was also the IRS does not recognize filing as a couple as I currently do, so that wouldn't be mandated or required for these domestic partners either.

COMMISSIONER STEFANICS: That's correct, Mr. Chair and Commissioner. The federal laws and rules would not allow domestic partners to take part in that. So nothing in the federal tax code could be affected by a state domestic partner law. Our state tax law is tied into the federal tax law, so even our state tax laws cannot be changed. It is only the other rights. It would be around community property. It might have to do with debts and obligations. It would have to do with the raising of children. It would have to do with insurance.

COMMISSIONER MONTOYA: Okay. So then for tax filing purposes it actually benefits someone or a couple to be domestic partners rather than married in terms of

income tax returns and –

COMMISSIONER VIGIL: It depends on your income.

COMMISSIONER STEFANICS: So Mr. Chair, I cannot answer that since I'm not married. I don't know the benefits to married couples under the federal laws.

COMMISSIONER MONTOYA: There aren't a lot.

COMMISSIONER VIGIL: And Liz, basically – are you done?

COMMISSIONER MONTOYA: Well, I guess that was just my point, Mr. Chair, was that as I understand it the IRS does not recognize any such relationship in terms of reporting for tax purposes so there would be really some benefits or whatever you might want to call it, maybe inequity might be a better terminology in terms of married couples filing for income tax purposes under the federal regulations and I think some of the federal tax laws should probably be, if we're looking for equality this is certainly one aspect that needs to be amended as well in terms of these types of recognized partnerships also as far as IRS tax law, federal tax laws go. That was my comment on that, Mr. Chair.

CHAIRMAN ANAYA: Thank you, Commissioner Montoya. Commissioner Vigil.

COMMISSIONER VIGIL: Thank you. Liz, basically, this just allows partners to receive health and retirement benefits, correct?

COMMISSIONER STEFANICS: That's correct, Mr. Chair and Commissioner, but it also gives legal responsibilities in terms of property, in terms of raising children and in terms of debt, here in the state of New Mexico.

COMMISSIONER VIGIL: Does it consider them a community property couple?

COMMISSIONER STEFANICS: In the state of New Mexico it would affect the way the laws are written that are being put forward. It would affect that, yes.

COMMISSIONER VIGIL: I see. Thank you. Thanks for that clarification. Mr. Chair, I just see this as an equal right/equal protection.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: Commissioner Stefanics, how are domestic partnerships formed and how are they dissolved?

COMMISSIONER STEFANICS: Mr. Chair and Commissioner, right now, domestic partnerships are ad hoc and informal, so a person just indicates that they're in a domestic partnership, and for HR benefits under the state system it's an affidavit that indicates that people are either sharing some debt together, sharing a domicile, have been together for a year or period of time, and so on. But right now, under state law there are no rules – there are no statutes. I shouldn't say rules. There are no statutes that delineate how you become a domestic partner. The bills that are in the legislature would delineate that.

CHAIRMAN ANAYA: Commissioner Holian, you okay? Okay, so the question that you asked, I think Steve – I don't know if I heard an answer. There's no rules.

COMMISSIONER STEFANICS: Right now in the state there are no statutes related to domestic partners. There is an executive order, Mr. Chair, that the Governor passed

for employee benefits for domestic partners. Because the County is part of the state of New Mexico's benefit package we offer benefits to our domestic partners' insurances – health insurance, vision, dental, etc.

CHAIRMAN ANAYA: But the dissolving part? I think Steve might have that answer. Do we have that answer Steve? Or that's in another state?

MR. ROSS: Dissolving a domestic partnership? I looked at Senator Stewart's bill and it looks like there's a dissolution procedure through district court in that bill. I didn't look in any of the others.

COMMISSIONER STEFANICS: If it passes, yes.

CHAIRMAN ANAYA: Okay. Any further discussion?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Being that it's tabled right now, is this something that is going to be of any significance?

COMMISSIONER STEFANICS: Mr. Chair, only one bill is tabled. There are three bills live and moving through the legislature. So Senator McSorley's bill is tabled in Judiciary. Representative Mimi Stewart's bill is progressing in the House and Senator Peter Wirth's bill is progressing.

COMMISSIONER MONTOYA: Okay. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Thank you. And I want to just read something that the Governor said during his State of the State Address and it's kind of the way I feel. He said this, "If we are to be fair in how we treat our workers, then we must also be fair in how we treat our families and fully intend domestic partnership rights to people who agree to spend their lives committed to each other deserve to have same legal protections for their families as any other." So I just wanted to run that by. Any further discussion?

COMMISSIONER HOLIAN: I would just like to make a comment.

CHAIRMAN ANAYA: Go ahead.

COMMISSIONER HOLIAN: Well, I believe that this is a pro-family resolution and that families come in all shapes and sizes and configurations these days and that any two people who decide to be the nucleus of a family should be afforded the same rights and benefits as a married couple has.

CHAIRMAN ANAYA: Thank you, Commissioner. Any further discussion?

The motion passed.

COMMISSIONER STEFANICS: Thank you, Commissioners.

X. B. Resolution 2009-35. A Resolution to Support an Act That Recognizes the Inherent Authority of Municipalities and Counties to Regulate Oil and Gas Operations Within their Jurisdictions at the State Legislature (Commissioner Stefanics) [Exhibit 2: Resolution Text]

COMMISSIONER STEFANICS: Thank you, Mr. Chair and Commissioners. In support of an act that recognizes the inherent authority of municipalities and counties to regulate oil and gas operations within their jurisdiction at the State Legislature.

Whereas, the New Mexico Legislature has an opportunity to adopt legislation confirming the County's authority to protect the health, safety and welfare of its citizens through adoption of ordinances that regulate oil and gas development and operations; and

Whereas, Santa Fe County has already exercised such authority in adopting an ordinance which regulates oil and gas development and operations;

Now, therefore be it resolved that the Board of County Commissioners of Santa Fe County hereby strongly encourages the New Mexico Legislature to pass legislation recognizing the County's authority to regulate oil and gas development and operations.

Mr. Chair, Commissioners. This came to us from Representative Egolf and all of the Santa Fe delegation has signed on to his bill, and basically his bill does protect cities' and counties' rights and works against pre-emption. So based upon his request I'm bringing it to the County Commission so that we can step forward and say Santa Fe County is supporting his bill.

CHAIRMAN ANAYA: Okay. And I'd like to recognize Bill Heinbach in the audience from the national labs, Los Alamos lab. Thanks, Bill, for being here. He's our die-hard customer. Okay, is there any discussion on that?

COMMISSIONER VIGIL: Question.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: I fully support this. I just want to know – I'm looking at my calendar. Is this the bill that will be heard tomorrow early in the morning, House Bill 471? Liz, do you know? Don't know. But this is generic enough that it can be utilized to support the bill. I just know that when we spoke to Representative Egolf he had given us a date and time and I thought –

COMMISSIONER STEFANICS: Mr. Chair, Commissioner Vigil, that's a different bill. That had to do with solar credits. This bill has to do the pre-emption and that we support counties maintaining their own rights.

COMMISSIONER VIGIL: I would just report that at the first hearing of a bill that came before, it was Senator Leavell's bill on really depriving counties to have any regulatory authority. It really got tabled as quickly as it possibly could. There was some incredible testimony in the audience and it didn't necessarily come from counties. It came from acequia associations, from conservancy districts, from coalitions. All who participated, many of whom participated in our oil and gas ordinance process. And frankly, the committee said they had problems with Senator Leavell's bill so it gave me a sense of hope that there's a

real strong sentiment there not to create this division that's being pushed forth at the legislature right now. So keeping that tabled I thought was a statement as such and I think this will be helpful there.

CHAIRMAN ANAYA: Any other comments? Is there a motion?

COMMISSIONER HOLIAN: Move for approval.

CHAIRMAN ANAYA: Motion by Commissioner Holian.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Second by Commissioner Montoya. Any further discussion?

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

CHAIRMAN ANAYA: If we can just jump around a little bit I know that the Clerk has some appointments they have to get to.

XI. APPOINTMENTS/REAPPOINTMENTS/RESIGNATIONS

A. Appointment of Board of Registration (Clerk's Office)

DENISE MANN (Elections Bureau): Mr. Chair, this should take about two minutes, maybe even less. This is our sixth time back. We come back every few years and this is how we maintain our list of registered voters in this most accurate fashion. The federal law requires that voters that we know have moved by running a list of voters against the national change of address program, who haven't responded to any of our mailings in four years, and have not appeared to vote in any election, after a period of four years those voters under both federal and state law must be removed from the voter file.

They can of course appear and register to vote again any time thereafter if they're at a new address and if they're still in Santa Fe County. So as part of this process the state law requires the County Commissioners at this meeting, every two years, to appoint a Board of Registration who are citizens from each political party who will review the list of voters who are to be deleted, and then basically take official action to direct the Bureau of Elections and the County Clerk's office to do so. We are required also to contact the chairs of both political parties to get recommendations of names of people to serve on that board. In the past what the Commission has done is they have appointed a total of three members, two usually have been from the Democratic Party and one from the Republican Party, and then there is an alternate for each of those members. So there's a total of six that need to be appointed to the Board of Registration. And I'll certainly stand for any questions you might have.

CHAIRMAN ANAYA: So we need to pick from the list we have?

MS. MANN: That is correct.

CHAIRMAN ANAYA: To appoint three Democrats, three Republicans.

MS. MANN: No.

CHAIRMAN ANAYA: Or two Democrats, two Republicans, and one alternate from each.

MS. MANN: That is correct.

CHAIRMAN ANAYA: You all have your names in front of you. Commissioner Vigil.

COMMISSIONER VIGIL: I'd just like to bring for the name of Rebecca Frenkel who has an excellent reputation with the County, who has served in other capacities and I know she would do a job. I don't know the other candidates on the Democratic side, so I would defer to my colleagues here for another recommendation on the Democratic side.

CHAIRMAN ANAYA: So do we want to take one at a time or – Commissioner Montoya.

COMMISSIONER MONTOYA: I'll offer Ernesto Baca as well.

CHAIRMAN ANAYA: Okay. So put that in the form of a motion for both of those people and maybe if we could pick – I'd put out Richard Ellenburg as an alternate.

COMMISSIONER VIGIL: Do we need two alternates, Denise?

CHAIRMAN ANAYA: Okay, so the motion would be that Ernesto Baca, Rebecca Frenkel, and Richard Ellenburg as alternate be on the Democratic Party.

COMMISSIONER VIGIL: Does that work? I'll second.

CHAIRMAN ANAYA: Okay, there's a second. Any further discussion?

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

CHAIRMAN ANAYA: Okay, somebody give me some more names here.

COMMISSIONER MONTOYA: Mr. Chair, I'd nominate J.R. Damron.

CHAIRMAN ANAYA: J.R., and I'd like to throw Bruce Walker in. I think I know that guy.

COMMISSIONER STEFANICS: As the alternate?

CHAIRMAN ANAYA: As one of the main.

COMMISSIONER STEFANICS: Okay, so I think I'm confused. Is there, Mr. Chair and Denise, is there one Republican or two Republicans?

MS. MANN: There's usually just one.

COMMISSIONER STEFANICS: One Republican and one alternate.

MS. MANN: Yes.

COMMISSIONER STEFANICS: Okay, so we could have both names but one be an alternate.

CHAIRMAN ANAYA: Okay.

MS. MANN: But they can all come to the meeting. It's just if someone isn't able to come, the members get to vote but the alternates often come and are present and review the list as well.

CHAIRMAN ANAYA: So, Commissioner Montoya, what name did you throw?

COMMISSIONER MONTOYA: Dr. J.R. Damron.

CHAIRMAN ANAYA: Okay, J.R., and the Bruce will be alternate. How do we feel about that?

COMMISSIONER STEFANICS: I'll second that motion.

CHAIRMAN ANAYA: Okay, there's a second. Any further discussion?

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

CHAIRMAN ANAYA: Thank you, Denise. I'd also like to recognize a long-time friend in the audience. Is that you, Donna? Good to see you.

X. C. Resolution 2009-36. A Resolution Recognizing and Celebrating February 14 as Love Your River Day (Commissioner Vigil)

COMMISSIONER VIGIL: Thank you, Mr. Chair. Mr. Chair, this Commission has consistently supported the Santa Fe River. It is one of the top ten endangered rivers in the nation. We have a coalition of representatives from throughout the community who have put in a significant amount of work to revitalize this river. This coming Saturday, February 14th, there will be a clean-up day. I think there'll be a crew along Camino Alire under the bridge. There will be another crew along the San Ysidro Santa Fe River Park there. I hope to attend that and I think that the river cleaning will be done starting about ten o'clock this coming Friday. It really is these kinds of events that have created more of a focus for the significance for the Santa Fe River, and with that, Mr. Chair, I move that we recognize and celebrate February 14th as Love Your River Day and announce to the community to please help and participate by assisting in cleaning up this coming Saturday. That is my motion.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion by Commissioner Vigil, second by Commissioner Montoya. Any discussion? Commissioner Holian.

COMMISSIONER HOLIAN: Commissioner Vigil, do you know where we meet or where they meet for the cleanup? Or did you say?

COMMISSIONER VIGIL: There's two spots that I'm familiar with. The first one is Camino Alire, the crossing there, the new bridge between Alameda and Agua Fria. And the second, the one that I hope to attend is San Ysidro River Crossing.

COMMISSIONER HOLIAN: Okay.

COMMISSIONER VIGIL: Okay?

CHAIRMAN ANAYA: Any further discussion?

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

X. D. Discussion and Possible Approval for an Expenditure of Community Service Funds in the Amount of \$5,000 to Santa Fe County Growth Management, Public Works Division for the Provision of Acequia Improvements for the Acequia de los Herreras in Santa Cruz (Commissioner Montoya) [Exhibit 3: Memo]

COMMISSIONER MONTOYA: Thank you, Mr. Chair. This would be for the acquisition for some pipe that would be needed for a desagüe in this particular acequia as well as excavation work that needs to be done, and I move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Second by Commissioner Vigil. Any further discussion?

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

X. E. Resolution 2009-37. A Resolution Supporting HB 19 Extending the Authority of the Office State Engineer to Regulate Aquifers Below 2500 Feet (Commissioner Vigil)

COMMISSIONER VIGIL: Thank you, Mr. Chair. House Bill is processing itself through the New Mexico State Legislature. I was not even aware that the Office of the State Engineer did not have authority over 2500 feet. This came to my attention through a meeting held at the Buckman Direct Diversion Board. And part of the problem that I saw with that is all of the effort that we put into the regulating of oil and gas in our community through our ordinance which I think is a fine and model ordinance, could be forlorn if the Office of the State Engineer does not have that regulatory authority. So with this, I think we would be not only supporting our efforts towards moving forward on our initiative and are care of our aquifers and I think it would make another statement to the legislature that we're highly concerned about the regulation of each entity and the authority that they all have to remain with them.

With that, Mr. Chair, I move that we support this resolution.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Vigil, second by Commissioner Holian. Any further discussion? Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Chair, I have a question for Mr. Ross, and that is how much authority would we at the County, as with oil and gas drilling, have to be able to regulate deep water drilling in our county?

MR. ROSS: Mr. Chair, Commissioner Holian, probably similar authority. I'm not sure that the deleterious effects that could result from water well drilling are quite as

severe as with oil and gas drilling. There's not the fracking, there's not the same or similar compounds used in water well drilling as there is in oil and gas drilling. But these deep wells use a very similar rig. They have very similar impacts aside from that that probably could be regulated by the County.

COMMISSIONER HOLIAN: Thank you.

CHAIRMAN ANAYA: Any further discussion?

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

X. F. Discussion and Possible Approval for an Expenditure of Community Funds in the Amount of \$5,000 to the La Puebla Community Ditch for the Provision Acequia Improvements (Commissioner Montoya) [Exhibit 4: Memo]

COMMISSIONER MONTOYA: Thank you, Mr. Chair. Again, very similar in terms of the request from the previous allocation of funds that would help in terms of improvements, excavation that needs to be done on certain parts of this long-standing acequia in the La Puebla area and I move for approval.

CHAIRMAN ANAYA: Motion by Commissioner Montoya.

COMMISSIONER STEFANICS: Second.

CHAIRMAN ANAYA: Second by Commissioner Stefanics. Any further discussion?

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

XI. B. Appointment of Janet Amtmann to the Division of Senior Services Advisory Board of Directors to Represent the Eldorado Senior Center

JOSEPH GUTIERREZ (Community Services Director): Mr. Chair, Commissioners, I understand that there's no packet materials for this. This is a letter that came from the City that we don't have at this point, so my recommendation – because I have no information – is to table it till the next meeting.

CHAIRMAN ANAYA: Table it?

COMMISSIONER VIGIL: I move to table, Mr. Chair.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Move to table by Commissioner Vigil, second by Commissioner Montoya.

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

XIII. STAFF AND ELECTED OFFICIALS' ITEMS

A. Community Services Department

1. Resolution No. 2009-38. Authorizing Publication of a Notice of Sale of Santa Fe County, New Mexico General Obligation Bonds, Series 2009 in the Principal Amount of \$17,000,000 (Community Services Department) [Exhibit 5: Power Point on Projects]

MR. GUTIERREZ: Mr. Chair, today in front of you is a resolution authorizing the publication of notice of sales for the \$17 million. This is a result of the \$33.5 million of voter-approved general obligation bonds in November. Paul just put something in front of you just to show you the projects that are on schedule for the \$17 million. It's basically, if you look at the second and third page of this handout, and I know there's new Commissioners and they weren't here last time we discussed this, but it outlines the projects that we'll be covering with the \$17 million the first two years, and in approximately another 24 months we'll be coming to you for authorization for another sale of the balance of the bonds which would be \$16.6 million.

Most of this money is going to be used for road projects, as you can see. I think between \$12 and \$13 million. There's one water project. There's a transfer station, and a couple of fire projects that are slated for the \$17 million. And to explain the actual resolution and the process, Peter Franklin, the County's bond advisor is here to discuss that. If you have questions on the dollars and the allocations I can answer those questions, hopefully.

CHAIRMAN ANAYA: Joseph, you have under transfer stations, you have Jacona?

MR. GUTIERREZ: Jacona and San Marcos, but with this \$17 million bond sale San Marcos is slated to be completed first. Jacona would be out of the next bond sale which is the \$16.5 million, which would happen, I would say in approximately 24 months.

CHAIRMAN ANAYA: Where's the fire training facility?

MR. GUTIERREZ: The fire training facility is approximately 20 acres. It's in the Edgewood area. This is a facility that Stan Holden has identified as a possible training center. Right now they conduct that in Socorro. The facility has been appraised. It has infrastructure in place. It has buildings on site and right now it looks like it would work for that training facility. We would probably have to make some improvements. We would probably have to get a reappraisal on it, but right now I think the approximate value of that property is about \$1 million for 20 acres. It's 20 acres and two buildings and it was actually a training center for an industrial use facility.

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER HOLIAN: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Holian.

COMMISSIONER HOLIAN: I have a question, Joseph, about the Cañoncito/Eldorado water line. I take it that that would not be started for about two years.

Correct?

MR. GUTIERREZ: Mr. Chair, Commissioner Holian, that is correct. In terms of the expenditures, the Water Department should be working on that in terms of getting the design and all the steps that need to take place so when the next bond is sold, the next bond sale, this should be ready to go at this point. So it doesn't mean that they won't be doing nothing in the next two years, but in terms of actual expenditures that's when that would come.

COMMISSIONER HOLIAN: And can you tell me where, or do you have an idea of where exactly that's going to run, from where to where?

MR. GUTIERREZ: Mr. Chair, Commissioner Holian, I'm not the water expert so I'd hate to give you misinformation on that. I can get back to you. I don't think the Water Department is here to speak to that.

COMMISSIONER HOLIAN: No, I guess not.

MR. GUTIERREZ: But I can get that information back to you, Commissioner.

CHAIRMAN ANAYA: Thank you. Any other questions? Commissioner

Vigil.

COMMISSIONER VIGIL: On the fire facility, has the City moved forward in getting their fire training facility in place? Do you know, Joseph?

MR. GUTIERREZ: Mr. Chair, Commissioner Vigil, I don't know. I know at one point there was talk of a joint effort but that effort has been disbanded based on a facility that was going to be in the state pen area with state monies and federal monies, and that all fell through, is my understanding.

COMMISSIONER VIGIL: Roman, do you have any kind of an update on that?

MR. ABEYTA: Mr. Chair, Commissioner Vigil, no, I do not.

COMMISSIONER VIGIL: It still doesn't make sense to me that the City and the County build separate training facilities for the same purposes, so it might not be a bad time to connect with the City with regard to what their plans are, where they were and where they might need to move forward. Currently all the trainings do have to go to Socorro, I believe, and part of the mission behind getting a training facility in this area is to keep all the trainings here. It should be, in my mind a joint effort.

MR. GUTIERREZ: Mr. Chair, Commissioner Vigil, you're correct. I think some of the training that the City does is occurring in the Siler Road area, in that facility over there, I believe. But I'll get with the Fire Chief and get back to you on that.

COMMISSIONER VIGIL: I think that's been pretty much shut down because of the neighborhoods around there. There may be some minimal training but it isn't a full-fledged training facility.

MR. GUTIERREZ: Right.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Joseph, when a neighborhood needs

streetlights, is that a large enough project that it requires planning for a few years out, or is that something that's absorbed as ongoing maintenance?

MR. GUTIERREZ: Mr. Chair, Commissioner Stefanics, the person that could answer that best would be Robert Martinez from the Road Department and I don't know if he's still here.

COMMISSIONER STEFANICS: Okay. I just didn't know if it was a large enough project that it would fall to you or not. So, Mr. Martinez.

MR. MARTINEZ: Mr. Chair, Commissioner Stefanics, depending on the type of lighting you're talking about, I'm not sure if you're talking about traffic signals or luminaires. Are you referring to Avenida Eldorado possibly?

COMMISSIONER STEFANICS: No. Valle Vista just contacted me and they don't have any streetlights whatsoever. So in terms of whether it's a large project or a small project, I didn't know where it fit in. The money.

MR. MARTINEZ: Mr. Chair, Commissioner Stefanics, typically we don't have any streetlighting on County roads. Typically they're on state roads. If you're looking at the intersection, maybe that corridor on 14 in front of the Valle Vista Subdivision, that would be a state project that the state would have to initiate, but the County would be responsible for maintenance and responsible for electrical payment of the monthly bill. But we can always look at luminaires inside the Valle Vista Subdivision if you'd like us to do that.

COMMISSIONER STEFANICS: Thank you. I'll talk to Dodi and see you later about this. Thank you.

CHAIRMAN ANAYA: Any other questions?

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Joseph, regarding the transfer station, you have \$1.5 million there. Is that going to be split between Jacona and San Marcos?

MR. GUTIERREZ: Mr. Chair, Commissioner Montoya, that's correct.

COMMISSIONER MONTOYA: Okay. So then where's the other \$1.5 million going?

MR. GUTIERREZ: Mr. Chair, Commissioner Montoya, that's the fire training facility. It's \$1.5 for the two transfer stations.

COMMISSIONER MONTOYA: Okay. You have \$8 million, \$1.5, \$1.5 is \$3, plus \$3.5 is \$6.5, leaving \$1.5, and I wasn't good at math, but –

COMMISSIONER VIGIL: You're good today.

COMMISSIONER MONTOYA: But it's working today.

MR. GUTIERREZ: Mr. Chair, Commissioner Montoya, that is confusing. What it is is we're splitting that \$1.5 in half. Half of that would be under this bond sale, approximately, towards the San Marcos station. And then the Jacona, half of that would be in the second sale under the \$16.5 million sale which wouldn't occur for a couple years from now. But between the two, in terms of what went to the voters it was \$1.5 million that we had to identify to the voters for usage of those funds. But only half of that is going to be covered

under this bond sale, approximately, for the San Marcos transfer station. It's \$500,000 out of the \$17 million is what's going to be used for the San Marcos.

COMMISSIONER MONTOYA: Oh, \$500,000.

MR. GUTIERREZ: So the million dollars that's left would be used for Jacona.

COMMISSIONER MONTOYA: Oh, okay.

CHAIRMAN ANAYA: They get a bigger one? What's going on?

MR. MARTINEZ: Mr. Chair, the current design for the San Marcos transfer station is more of an outdoor type of facility. It does have an enclosed office and bathroom facilities. The Jacona transfer station would probably be more of a design like the Eldorado transfer station, an enclosed facility, like Stanley.

CHAIRMAN ANAYA: Okay. Any other questions?

COMMISSIONER VIGIL: I have one.

CHAIRMAN ANAYA: Commissioner Vigil.

COMMISSIONER VIGIL: There's \$3.5 million for the Santa Fe River Corridor. I know we have to allocate these according to how we actually took this out to the voters, correct? Are we talking about – never mind. The question would be is that \$3.5 million for Santa Fe River Corridor, is that specifically for that project or will open space and trails be bidding for some of these dollars for some of the space purchases?

MR. OLAFSON: Mr. Chair, Commissioner Vigil, the way the bond is worded it's for open space and trails. The way we've outlined and identified these funds, this \$3.5 million is specifically for the Santa Fe River Corridor. So the idea is, and as you're aware, there's that ongoing project to build this corridor from Camino Alire basically out to 599, and this would be largely for the area from approximately Siler west or downstream. It's also matching some of the City funds that have already been put in as well as some of the joint City-County regional GRT funds.

COMMISSIONER VIGIL: And I know that you're moving forward on connecting those pearls that we once sort of witnessed. And I think if, Roman, if we could in the future, perhaps even the next meeting or our presentation meeting, just get an update on what's going on, not only with the Santa Fe River Corridor but with all the other open space and trails purchase. And I know there's going to be a site visit to, I believe it's the Thornton Ranch and we might be able to get some information on that. I will not be able to attend so I'd like to be able to schedule that in the future. It's such a viable and important program to our community and I think it's important that we stay updated and protected as much as we possibly can.

CHAIRMAN ANAYA: Is there a motion?

MR. GUTIERREZ: Mr. Chair, I'd like to have Peter Franklin speak to the actual process.

CHAIRMAN ANAYA: Okay, Peter. Come on up.

PETER FRANKLIN (Bond Counsel): Thank you, Mr. Chair and Commissioners. I'm not to be confused with the financial advisor who is actually at home sick in bed and asked me to convey that he wishes he could be here now instead of home in

bed. Before you is a resolution, as Joseph said, authorizing the publication of a notice of sale of the first series of the general obligation bonds which were authorized by the voters on November 4, 2008. And basically what this resolution does is direct that a notice be published in both the *New Mexican* and basically financial newspapers which are mostly on line, announcing that these bonds will be awarded to the best bidder at a sale on March 10th, the date of your next meeting. Basically, what would happen if you approve this resolution is that the notice would be published, we would take bids electronically on the morning of March 10th, we'd calculate which bid is the best bid, meaning the lowest cost to the County, lowest total interest cost, and we would then put before you what's called an award resolution, basically awarding the bonds to the best bidder.

Do you have this resolution in front of you? Okay. If you go to page two of the resolution you can see there's a table which indicates what amount of bonds was authorized by the voters for each different purpose, and then if you go to the far right column you'll see the amount of proceeds that would be allocated from this bond issue to those projects.

What you have is a draft where those amounts have not yet been filled in, and if you'll allow me, what I'll do is read you the allocated amounts, and I apologize for that. It's a function of where we were at the time the draft resolution had to be put in the packets. The first one, which is open space and trails, the amount to be issued is \$500,000. The second one, acquisition, construction, design – the roads, is \$12,350,000. The third one, fire safety facilities is \$2,650,000. The water project item, which is second from the bottom is \$1 million. And the last one, the waste transfer station is \$500,000.

And basically these amounts were arrived at based on how far the projects are along and how quickly the money can be spent once the bonds have been issued, because there are federal requirements for spending the money within three years. So that's where those come from.

The issuance of these bonds will not raise property tax rates in the county. Kevin Powers, the County's financial advisor asked me to point out a couple things. He indicates that the bond market – it's a good time to sell bonds. Interest rates are pretty favorable for tax-exempt, highly rated municipal bonds, which these are. The other thing that in President Obama's stimulus package there is a proposed change to federal rules which would allow up to \$30 million in municipal bonds per year to be what are called bank qualified. And for these types of bonds that means the interest rate on the bonds would probably be significantly lower than it would otherwise be without that bank qualification. This rule is supposed to be in place for the next two years if Congress passes it. What it does is it raises the annual limit from \$10 million to \$30 million. So that's another favorable thing for the County and for other local government issuers.

I'd be happy to answer any questions about this.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTROYA: Mr. Chair, so the way we figured out the amounts is based on the memo of the project readiness?

MR. FRANKLIN: Mr. Chair, Commissioner Montoya, that's correct. Basically we got these amounts from Joseph and Paul. It's essentially, what we always ask, what I always

ask as bond counsel is how quickly can this money be spent, because it's problematic to issue bonds and then basically just sit on the proceeds.

COMMISSIONER MONTOYA: Okay. So then the balance, when would we look at the – is there a projected schedule for the balance of the funding and the projects we've been given.

MR. FRANKLIN: Mr. Chair, Commissioner Montoya, there is. The estimated timeframe for selling the balance would be in about two years. One of the reasons or the main reason is that's when we think the balance of the projects will be far enough along to justify selling bonds. The other thing is as at least the three Commissioners, starting from the middle know, and we haven't had a chance to talk to Commissioners Stefanics or Holian, this is part of the County's sort of, I'd say, ten-year capital finance plan and basically the sales are scheduled in such a way that it would avoid the property tax rates going up. It would keep a level tax rate through the issuance of these bonds.

COMMISSIONER MONTOYA: Okay. Thank you.

CHAIRMAN ANAYA: Thank you. Commissioner Holian.

COMMISSIONER HOLIAN: I was just wondering, you mentioned this favorable treatment of bonds due to this economic stimulus package, but it hasn't actually passed yet, or it hasn't been reconciled between the House and the Senate. Would this \$17 million bond then, if it were issued in the next couple weeks, the bid for it, that wouldn't fall under that new treatment, would it?

MR. FRANKLIN: Actually, the way the legislation is drafted right now, under the prior law the bonds have to be declared what's called bank qualified, at the time they are issued. And the issuance is actually the closing date, which is approximately mid-April, April 15th. The new legislation actually provides that any bonds issued that qualify, in other words up to \$30 million in tax-exempt bonds per issuer per year don't have to be stated to be bank qualified. What that means is if the legislation passed, the bonds are bank qualified. The problem is that to take advantage of the bank qualification we need that status to be in place at the time we're taking bids, because we want banks to bid on the bonds in order to get a lower interest rate.

COMMISSIONER HOLIAN: So would it be best to wait for a couple weeks to see whether the legislation passes?

MR. FRANKLIN: Well, I can't really say. I think these bonds are going to be issued – well, actually, now that I'm thinking about it, that is possibly correct. In other words, if we know the bonds are bank qualified before we take the bids that would be an advantage. I guess the flip side is that banks may very well be assuming that the legislation is going to pass; this is not a controversial part of the stimulus bill. Not to say we can be sure that it will pass, but banks are probably relying on that bank qualification rule to be changed and it would be changed – if they buy the bond they'll get the advantage of it and their bidding may be affected in a good way by that. You raise a good point.

COMMISSIONER HOLIAN: Okay. What do you all think? I'm asking the rest of the Commission. Should we wait for a couple of weeks to see whether the legislation passes

or is it not that important.

COMMISSIONER VIGIL: I would just ask what the risks would be of doing that, Peter.

MR. FRANKLIN: Mr. Chair, Commissioner Vigil, we're always – this is always when I'm happy that Kevin Powers is here to field questions about exactly what's going to happen in the future so that I don't have to. The disadvantage of waiting is that we have a favorable market right now. We don't know – the bond market has been less volatile than the stock market, for example, or the corporate securities, corporate debt market. But we don't know where interest rates will be if we wait. One thing that this resolution permits, which Paul just reminded me of is that we can change the date of the sale if at the time we're about to go forward with the sale market conditions warranted. That's something that authority is delegated to the County Manager to do in this resolution. I don't have – it's a judgment call. I think what Kevin Powers would say is the market is good now and we probably ought to go forward now.

COMMISSIONER VIGIL: Mr. Chair, perhaps the way to move forward on this is to take action on it and give the discretion to the County Manager as the resolution does to consult with the financial advisor on this and if there's some compelling reason to move forward with it presently or in the future, I think it's the – it should be – the information from our financial advisor should be a part of that decision making process. So if the resolution gives us the room to do that I'm happy to move to adopt this resolution and include in my motion that our County Manager consult with our financial advisory and our bond attorney with regard to the most appropriate time for the sale of these bonds.

CHAIRMAN ANAYA: There's a motion by Commissioner Vigil.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: Second by Commissioner Holian. Any further discussion?

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

XIII. A. 2. Authorization to Publish Title and General Summary of Ordinance No. 2009-___, An Ordinance Amending Ordinance No. 2006-02 (the Affordable Housing Ordinance) to Provide an Affordability Mortgage or Lien in the Amount of Santa Fe County's Contribution Pursuant to the New Mexico Affordable Housing Act for Infrastructure, Down Payment Assistance, or Property (Community Services Department/Housing)[Exhibit 6: Ordinance Text]

DODI SALAZAR (Housing Director): Mr. Chair, Commissioners, good afternoon. In February of 2006 the Board of County Commissioners passed an ordinance that was 2006-02, and that was the Affordable Housing Ordinance. Today we are before you to

request to publish title and general summary for an amendment to that ordinance. The amendment will allow non-profits and developers and possibly homeowners to realize third party subsidy, which will be deducted from the County's affordability lien, and I'll let our County Attorney speak further to that. But also in your packet there was an amendment, but there's been an amendment to that amendment, which I'd like to distribute at this time.

MR. ROSS: Mr. Chair, a couple of weeks ago in the Housing Board meeting we heard from Habitat for Humanity. You know there's federal assistance available to support affordable housing efforts and Habitat has received federal funding to assist affordable buyers. The only problem is that the federal funding, at least home funds require that a lien be placed on the affordable house in the amount of the subsidy and as you may recall, our ordinance, 2006-2, provides for something called an affordability lien. That lien is imposed by the County at the time the purchaser of the home first buys it and it's measured by the difference between the price the person buys the home for, which is an artificially low price set by our ordinance, and the actual market value of the home at the time of the sale. Actually 95 percent of that market value.

So the problem is that there's no room for a lien that would represent the amount of federal assistance brought into the transaction. So the amendment to the Affordable Housing Act is intended to address that issue to avoid the law of avoidable consequences the amendment that Dodi passed out represents some additional thinking on my part in conjunction with some of the folks who worked on the Affordable Housing Task Force that created this ordinance two years ago. One of the objectives of this section of the ordinance as to preserve the long-term affordability of homes that are sold through this program and the first draft opened up the possibility that someone could cash in on the equity in the house at the time of sale, which is not at all what we intended and in fact was a goal of the ordinance originally.

So the amended draft that we passed out today fixes that problem. How it works is that there would be a lien but it would be measured by the difference between the price paid for by the buyer of the home plus any third-party subsidy that comes in through the home program or from some other source, and the 95 percent of the appraised value at the time of the sale. So the affordability lien would be far smaller than it used to be, but it would still exist. We also have addressed a future amendment that's contemplated to the act which is to provide for housing assistance grants. This is the ordinance we've been talking about for some time whereby the County can bring funds itself to these transactions and provide down payment assistance, provide property on which affordable houses can be built, or assist with the development of infrastructure that benefits affordable houses.

So we've put a place-holder in this amendment to address those matters when they do become a part of our ordinance. So with that I think I'll stand for questions. I'm sure Dodi is available also.

CHAIRMAN ANAYA: Any questions of Steve? Hearing none, what's the pleasure.

COMMISSIONER VIGIL: Move to approve.

COMMISSIONER MONTTOYA: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any further discussion?

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

XIII. B. Growth Management Department

1. Request Approval of Resolution Accepting A Portion of Nancy's Trail for County Maintenance (Growth Management Department)

MR. MARTINEZ: Mr. Chair, the residents of Nancy's Trail are requesting for the Board to accept the remaining portion of Nancy's Trail for County maintenance. The first quarter mile of Nancy's Trail was accepted back in 2004 by the Board through Resolution 2004-9. An evaluation of Nancy's Trail have been done and it does not meet County standards, but there is currently a legislative appropriation in the amount of \$100,000 to bring this road up to County standards. Public Works requests that if the Board does accept this road for maintenance that the improvements must be made prior to Public Works maintaining this road. I stand for questions.

CHAIRMAN ANAYA: Robert, so we have \$100,000 to put on Nancy's Trail, and you're asking them to bring it up to County standards before we accept it?

MR. MARTINEZ: Mr. Chair, the way it will work is that the County will either contract this out or pave it in-house. But we don't want to start maintaining this road until after these improvements are made.

CHAIRMAN ANAYA: Okay. Got you.

MR. MARTINEZ: It may be a year or so before we can actually get to the work

CHAIRMAN ANAYA: Okay. We just don't want to lose the funding.

MR. MARTINEZ: That is correct.

CHAIRMAN ANAYA: Okay. Any other questions?

COMMISSIONER MONTTOYA: Mr. Chair, where is Nancy's Trail?

MR. MARTINEZ: Mr. Chair, Commissioner Montoya, it is in La Cienega off of County Road 54.

COMMISSIONER MONTTOYA: Okay.

CHAIRMAN ANAYA: And Robert, we've already paved some of Nancy's haven't we?

MR. MARTINEZ: Mr. Chair, that is correct. The first quarter mile was done this way also. The residents went to the legislature and acquired enough funding to pave the first quarter mile. This will finish up the last half mile.

CHAIRMAN ANAYA: Okay.

COMMISSIONER MONTTOYA: Mr. Chair, move for approval.

CHAIRMAN ANAYA: There's a motion by Commissioner Montoya.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: Second by Commissioner Vigil. Any further discussion? Are there people – Donna, I was wondering why you were here and I thought she's probably for this. Come on up. All these residents. Do you want us to vote first?

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

CHAIRMAN ANAYA: Donna, come on up. Good to see you.

DONNA MEDINA: There is, as Mr. Martinez said, there is money appropriated for it, and Representatives King and Wallace are wanting to know, if this did pass, when it would be done, the work will be done, and if so, if we're going to need more money so we can request it this legislative session.

CHAIRMAN ANAYA: Okay. Good question. I would say, yes, we need more money, but Robert can answer that.

MR. MARTINEZ: Mr. Chair, it's all dependent on whether we do this in-house or out by contract. I believe there's enough funding if we do it with County crews. If we cannot squeeze it into our schedule within a reasonable amount of time and the residents want us to go out to contract it would not be enough funding to pave this road with contract work.

CHAIRMAN ANAYA: So if they go look for more money and they get more money we could possibly go out to contract and get it done sooner. If they go out to seek funding and don't get funding we still have money to do it in-house but we might do it a little later down the line.

MR. MARTINEZ: Mr. Chair, that is correct. We are still working on projects that have expiration dates that expire a lot sooner than this agreement. So that is why it would be kind of difficult for us to bump this ahead of some other projects.

CHAIRMAN ANAYA: So, Donna, you can go to your legislators and reps and tell them that we did adopt the road and that we are seeking more funding, and let's see what happens. Any other comments, Donna? Is everybody else here from that area? Did you want to say anything, or are you okay? You're fine? Thank you all for coming. Donna, thank you. Thank you, Robert.

XIII. C. Matters from the County Manager

1. Update on Various Issues

MR. ABEYTA: Thank you, Mr. Chair. The only thing I have is that we concluded our mid-year budget reviews with the various elected officials offices and County department and we are preparing a presentation for February 19th, which is a week from this

Thursday. And that will be from 10:00 to 12:00 here in the chambers. That's all I had, Mr. Chair.

XIII. D. Matters from the County Attorney

1. Executive Session

A. Discussion of Pending or Threatened Litigation

MR. ROSS: Mr. Chair, we don't necessarily need a closed executive session unless you have some questions about pending or threatened litigation. I do have one item, D. 2, that we need to discuss, but we can discuss it out here.

CHAIRMAN ANAYA: Do we have food? So we should go in and talk about it.

MR. ROSS: So in that case the motion should be we need to go into closed executive session to discuss pending or threatened litigation and item here listed, possible intervention into the PRC proceeding concerning the two water companies.

COMMISSIONER STEFANICS: I'll so move.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Stefanics, second by Commissioner Holian.

The motion passed by 4-1 roll call vote with Commissioners Holian, Stefanics, Vigil and Anaya voting in favor and Commissioner Montoya voting against.

CHAIRMAN ANAYA: Okay, we'll be back at 5:00.

[The Commission met in executive session from 4:40 to 5:05.]

COMMISSIONER MONTOYA: Move to come out of executive session.

COMMISSIONER HOLIAN: Second.

CHAIRMAN ANAYA: There's a motion and a second. Any discussion?

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

XIII. D. 2. *Consideration of Possible Intervention as an Interested Party in Thunder Mountain Water Company, Inc. v. New Mexico Water Company, Inc., Public Regulation Commission Case No. 08-00254UT*

COMMISSIONER STEFANICS: So under Matters from the County Attorney, Steve do we need to move on D. 2?

MR. ROSS: Mr. Chair, yes, I think we need a motion on D. 2 to approve the proposed intervention.

COMMISSIONER STEFANICS: I'll so move that we serve as an intervener, Santa Fe County.

COMMISSIONER MONTOYA: Second.

CHAIRMAN ANAYA: Motion and a second. Any discussion?

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

XIV. PUBLIC HEARINGS

A. Growth Management Department

- 1. BCC Case #MIS 09-5010 the Hollar, LLC Restaurant License. The Hollar, LLC, Applicant Requests a Restaurant Liquor License to Serve Beer and Wine with Meals. The Subject Property is Located at 2849 N. State Highway 14, in Madrid, Within Section 25, Township 14 North, Range 7 East. (Commission District 3). Jose Larrañaga, Case Manager**

JOSE LARRAÑAGA: Thank you, Mr. Chair. The Hollar, LLC, applicant requests a restaurant liquor license to serve beer and wine with meals. The subject property is located at 2849 N. State Highway 14, in Madrid, within Section 25, Township 14 North, Range 7 East.

Ordinance 2002-1, Section 4.7.1 states commercial uses within the planning area shall be permitted on property adjacent to New Mexico Highway 14. Commercial development shall conform to Article III, Section 4 of the Santa Fe County Land Development Code. This property is adjacent to New Mexico Highway 14 and complies with the criteria set forth in Article III, Section 4, Commercial and Industrial Non-Residential Districts.

The Hollar Restaurant, formerly known as Tocatoro Café has changed ownership and the prior owner was in possession of a beer and wine license at this location. The applicant is requesting approval of a restaurant liquor license. The Hollar Restaurant will not have a bar but will serve beer and wine with meals. The issuance of a restaurant liquor license will not increase the intensity of the restaurant as there is not any proposed expansion of the existing site.

The State Alcohol and Gaming Division granted preliminary approval of this request in accordance with Section 60-6B4 NMSA of the Liquor Control Act. Legal notice of this request has been published in the newspaper. The Board of County Commissioners is required to conduct a public hearing on the request to grant a restaurant liquor license at this location.

Recommendation: The applicant's request for a restaurant liquor license to serve beer and wine at the existing Hollar Restaurant complies with the Santa Fe County Land

Development Code and has met the State of New Mexico requirements for noticing and distance from schools and churches. Therefore staff recommends approval of this request.

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: I will move approval of the request.

CHAIRMAN ANAYA: Okay, let me go to the applicant and public hearing. I think we've got to go to a public hearing, and then I'll come back to you. Applicant, Representative, how are you doing?

BRIAN EGOLF: Fine, Commissioner. Thank you. My name is Brian Egoal. I represent the Hollar, LLC. This is a fine-dining restaurant. Josh Novak, the owner is here. He is a graduate of the Cordon Bleu School and has really transformed this property. The menu is outstanding. It's gotten some great write-ups in the *New Mexican*. And it's a real community restaurant and nice and quiet and they just want to have the opportunity for some beer and wine service with dinner. But this is an absolutely fine dining, nice restaurant and it's going to add a lot to the community. And with a beer and wine license I think it's going to help them with the business, which is important right now.

CHAIRMAN ANAYA: Okay, any questions of the applicant? Commissioner Holian.

COMMISSIONER HOLIAN: Mr. Egoal, how soon will they be able to start serving beer and wine when they get the license.

REP. EGOLF: From here the license goes back up to the state, and the Alcohol and Gaming Division has, I believe 45 days to issue the license if you approve it here today. It's not immediate, but we'll be following up to try and make them, urge them to issue this very, very quickly. We started with an initial commitment from Alcohol and Gaming – this was going to be expedited because of the location and the business plan, so we were hoping for 90 days and that was, what? seven months ago? So we're hoping that this will go quickly because we want to get this going. They are open, so I invite all of you to come out for dinner. Enjoy the food. There's no beer and wine, obviously, being served right now. But they are open for business.

COMMISSIONER MONTOYA: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Montoya.

COMMISSIONER MONTOYA: Brian, so this isn't the transfer of a liquor license. This is a new liquor license to serve beer and wine.

REP. EGOLF: That's right, Mr. Chair, Commissioners. This is a new application, so we started from scratch and it's gone through all of the vetting process, the background checks, the background check of the registered agent, fingerprinting, all of the reviews of the State Alcohol and Gaming Division, started from scratch.

COMMISSIONER MONTOYA: Okay. Mr. Chair, Brian, how many other liquor licenses are there within, say a one-mile radius of this?

REP. EGOLF: Mr. Chair, Commissioner, I know there's at least one across the street at the Mine Shaft Tavern, but that is a full dispenser permit, so they sell hard liquor as

well, by the drink, and I believe that is the only other liquor license within a mile. So this would be the second.

COMMISSIONER MONTOYA: Okay. Thank you. Thank you, Mr. Chair.

CHAIRMAN ANAYA: Any other comments. Okay, this is a public hearing. Is there anybody in the audience that would like to speak either for or against this? Okay. This public hearing is closed and I will entertain a motion, Commissioner Stefanics.

COMMISSIONER STEFANICS: Thank you, Mr. Chair. I would move approval of the request.

COMMISSIONER VIGIL: Second.

CHAIRMAN ANAYA: There's a motion by Commissioner Stefanics, second by Commissioner Vigil. Any discussion? I have a question. That's my district. You said nice and quiet restaurant? Aren't those restaurants supposed to be rowdy in Madrid?

REP. EGOLF: Mr. Chair, I think that was the problem with the previous.

CHAIRMAN ANAYA: Too rowdy.

REP. EGOLF: We're going to let all the rowdiness go on elsewhere and we have a nice, quiet, family place under this license.

CHAIRMAN ANAYA: I think that will be very nice. I'll have to drop in and visit you all. Any further discussion?

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

COMMISSIONER STEFANICS: Mr. Chair.

CHAIRMAN ANAYA: Commissioner Stefanics.

COMMISSIONER STEFANICS: Just a story. The very first year I lived in Madrid, woke up at 1:00 in the morning. Somebody had been shot at the Mine Shaft Tavern. So the town has calmed down quite a bit since then.

CHAIRMAN ANAYA: Good.

COMMISSIONER MONTOYA: How long ago was that?

COMMISSIONER STEFANICS: Eighty-nine.

COMMISSIONER MONTOYA: Twenty years.

CHAIRMAN ANAYA: All right. Well, congratulations.

XV. ADJOURNMENT

Chairman Anaya declared this meeting adjourned at 5:14 p.m.


Approved by:

Board of County Commissioners
Mike Anaya, Chairman

ATTEST TO:

VALERIE ESPINOZA
SANTA FE COUNTY CLERK

Respectfully submitted:


Karen Farrell, Wordswork
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